

COLORADO DEPARTMENT OF REGULATORY AGENCIES
Public Utilities Commission

4 CODE OF COLORADO REGULATIONS (CCR) 723-1

PART 1
RULES OF PRACTICE AND PROCEDURE

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[indicates omission of unaffected rules]

1207. Utility Notice.

- (a) A utility, other than a rail carrier or motor carrier, ~~filing tariffs~~ shall provide notice in accordance with the requirements of § 40-3-104(1)(c)(I), C.R.S. or, ~~when it files tariffs if filing~~ on less than statutory notice, ~~as allowed by in accordance with~~ § 40-3-104(2), C.R.S., when filing:
- (I) an advice letter accompanied with tariffs;
 - (II) an application that would change any rate, fare, toll, rental charge, classification, or service;
 - (III) an application that seeks to change any rate, fare, toll, rental charge, classification, or service in a subsequent advice letter filing if the application is approved, such as a request in an application to implement a rider or an adjustment clause; or
 - (IV) any other filing that seeks to change any rate, fare, toll, rental charge, classification, or service.
- (b) A utility may also file a request for an alternative form of notice pursuant to § 40-3-104(1)(c)(I)(E), C.R.S. Such request shall be in the form of a motion filed as a separate pleading within the proceeding in which the utility is proposing a change to its rates or schedules. The utility's motion shall address each of the forms of notice set forth in § 40-3-104(1)(c)(I)(A)-(D), C.R.S., and explain why the utility seeks an alternative. Before filing a motion requesting an alternative form of notice, the utility shall make a reasonable, good faith effort to confer with Commission staff. No responses to such motions shall be allowed, except if Commission staff opposes a motion requesting an alternative form of notice after the conferral required by this paragraph. Commission staff may file a response within two business days of the filing of the motion.
- (c) A utility that files an application to make a refund shall, within three days of filing the application, publish notice of the application in a newspaper of general circulation. The notice shall include the following information:
- (I) the name and address of the utility;
 - (II) a statement that the utility has filed an application with the Colorado Public Utilities Commission for approval of its proposed refund plan;

- (III) a statement summarizing the amount of the refund, the date for making the refund, the date the refund is anticipated to be completed, and the manner in which the refund is proposed to be made;
 - (IV) a statement that the application is available for inspection at each local office of the utility and at the Colorado Public Utilities Commission;
 - (V) a statement that any person may file with the Commission a written objection to the application, or may file to intervene to participate as a party, and an explanation that a mere objection without an intervention shall not be adequate to permit participation as a party; and
 - (VI) a statement that written objections and interventions must be filed by the time listed in the notice separately given by the Colorado Public Utilities Commission.
- (d) All persons who are required to provide notice shall, within 15 days of providing notice, file an affidavit with the Commission stating the date notice was completed and the method used to provide it, accompanied by a copy of the notice or notices provided.
 - (e) The Commission may order an applicant or a petitioner to provide such additional notice as the Commission deems appropriate as provided pursuant to § 40-3-104, C.R.S.
 - (f) In all cases, notice shall contain adequate information to enable interested persons to be reasonably informed of the purpose of the matter noticed.
 - (g) Unless the Commission orders otherwise, a utility shall be permitted to file tariffs complying with a decision of the Commission or updating adjustment clauses previously approved by the Commission on not less than two business days' notice. A tariff filing is considered to be a compliance filing when it is the subject of a Commission decision and agrees in both substance and timing determined in that decision. All compliance filings shall be made as a new advice letter proceeding. A notification shall also be filed on the same date as the compliance filing in the proceeding authorizing the compliance filing that identifies the compliance filing (e.g., advice letter number and date). No additional notice shall be required.

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[indicates omission of unaffected rules]

1400. Motions.

- (a) Except for oral motions made during hearing, or where the Commission orders otherwise, any motion involving a contested issue of law shall be supported by a recitation of legal authority incorporated into the motion. Before filing a motion, moving counsel shall make a reasonable good faith effort to confer with all parties about the motion and report when the requested relief is unopposed. If no conference has occurred, the reason why shall be stated.
 - (I) Conferral is not required for motions made in accordance with rule 56 of the Colorado Rules of Civil Procedure; motions made in accordance with ~~Commission~~ paragraph 1308(e); motions to strike; motions for an alternative form of notice, except as required by paragraph 1207(b); or motions for an attorney to withdraw from a proceeding.
 - (II) If a motion is unopposed, it shall be entitled "Unopposed Motion for _____."

- (b) Except for motions filed in an accelerated complaint proceeding and motions for permissive intervention, the responding party shall have 14 days after service of the motion, or such lesser or greater time as the Commission may allow, in which to file a response.
- (c) In accelerated complaint proceedings, responses to motions shall be due within seven days of the date of service of the motion.
- (d) The Commission may deem a failure to file a response as a confession of the motion.
- (e) A movant may not file a reply to a response unless the Commission orders otherwise. Any motion for leave to file a reply must demonstrate:
 - (I) a material misrepresentation of a fact;
 - (II) accident or surprise, which ordinary prudence could not have guarded against;
 - (III) newly discovered facts or issues, material for the moving party which that party could not, with reasonable diligence, have discovered at the time the motion was filed; or
 - (IV) an incorrect statement or error of law.
- (f) A motion for summary judgment may be filed in accordance with rule 56 of the Colorado Rules of Civil Procedure.