Decision No. C07-0383

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 06R-501W

IN THE MATTER OF THE PROPOSED RULES REGULATING WATER UTILITIES, 4 CODE OF COLORADO REGULATIONS 723-5.

ORDER LIFTING STAY, AND ADOPTING RULES

Mailed Date: May 11, 2007
Adopted Date: April 25, 2007

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission for consideration of Recommended Decision No. R07-0138. That decision sets forth the history of this rulemaking docket, and proposed rules.

2. On March 7, 2007, we issued Decision No. C07-191 which stayed the effective date of the recommended decision. Now after having considered the recommended decision and the proposed rules, we lift the stay and adopt that decision as a decision of the Commission, with several minor changes, and set an effective date of August 1, 2007. We make the changes on our own motion.

3. The ALJ adopted rules that contained the Commission's old address. We will update the rules to reflect the Commission's new address: 1560 Broadway, Suite 250, Denver, Colorado 80202.

4. We also correct various typographical errors.

5. In the parallel gas and electric rulemaking dockets, we made changes to language relating to contracts and tariffs. We make the corresponding change in this docket to proposed Rule 5108(a). Reasoning that the definitions of "rate" and "tariff" contained redundancies, the ALJ deleted the terms "tolls," "rentals," "charges," and "contracts" from the definition of "tariff." Even though the ALJ modified the term "contracts" to "forms of contracts," the term "contract" continues to appear in the definition of "rates," effectively reincorporating the term "contract." This could have the effect of requiring utilities to file specific, executed contracts (including contracts executed by all customers, suppliers, and vendors). Such a requirement would be contrary to the Commission's historic practice. There are hundreds of these contracts executed on an annual basis, and many problems could arise, including internal conflicts in the rules, the necessity of waiver requests to protect specific contracts from public disclosure, and uncertainty of contract approval. We believe that the definition of "rate" should be modified to delete the word "contract."

6. However, because the term "contract" is specifically derived from statute (*see* § 40-3-103, C.R.S.), and because of the Commission's broad audit power (*see* § 40-6-106, C.R.S.), our ruling should not be construed to mean that the Commission has no discretion to mandate the filing of specific, executed contracts on a case-by-case basis. More generally, this decision should not be construed to affect the Commission's jurisdiction over utility contracts in any fashion.

B. Conclusion

7. We adopt Recommended Decision No. R07-0140 as a decision of the Commission with the changes discussed above. We adopt the rules in Attachment A, set an effective date of August 1, 2007, and lift the stay issued in Decision No. C07-191.

II. ORDER

A. The Commission Orders That:

1. We lift the stay ordered in Decision No. C07-191.

2. Recommended Decision R07-0140 is adopted as a decision of the Commission with the changes discussed above.

3. The rules regulating water utilities appended to this Order as Attachment A are hereby adopted.

4. The rules shall become effective on August 1, 2007.

5. The 20-day time period provided by § 40-6-114(1), C.R.S. to file an application for rehearing, reargument or reconsideration shall begin on the first day after the effective date of this Order.

6. The opinion of the Attorney General of the State of Colorado shall be obtained regarding the constitutionality and legality of the rules.

7. A copy of the rules adopted by the Order shall be filed with the Office of the Secretary of State for publication in The Colorado Register. The rules shall be submitted to the Office of Legislative Legal Services, for review by the Committee on Legal Services as to whether the adopted rules conform with § 24-4-103, C.R.S.

8. This Order is effective upon its Mailed Date.

B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING April 25, 2007.

(S E A L)

ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

RON BINZ

POLLY PAGE

CARL MILLER

Commissioners

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COLORADO DEPARTMENT OF REGULATORY AGENCIES

Public Utilities Commission

4 *CODE OF COLORADO REGULATIONS* (CCR) 723-5

PART 5
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BASIS, PURPOSE, AND STATUTORY AUTHORITY.

The basis and purpose of these rules is to generally set forth rules describing the service to be provided by jurisdictional water utilities to their customers. The rules address a wide variety of subject areas including, but not limited to application requirements, operating authorities, facility requirements, cost allocation and assignment, simplified regulatory treatment, service interruption, meter testing and accuracy, ~~safety,~~ customer information, customer deposits, rate schedules filings and tariffs, discontinuance of service, water quality, and water pressure.

The statutory authority for these rules can be found at §§ 40-2-108, 40-3-102, 40-3-103, 40-3-104.4, 40-4-101, 40-4-108, and 40-4-109, C.R.S.

GENERAL PROVISIONS

5000. Scope and Applicability.

Absent a specific statute, rule or Commission order which provides otherwise, ~~A~~all rules in this Part 5, the "5000" series, shall apply to all jurisdictional water utilities and to all Commission proceedings and operations concerning water service.~~utilities, unless a specific statute or rule provides otherwise.~~

5001. Definitions.

The following definitions apply throughout this Part 5, except where a specific rule or statute provides otherwise:

(a) "Affiliate" of a public utility means a subsidiary of a public utility, a parent corporation of a public utility, a joint venture organized as a separate corporation or partnership to the extent of the individual public utility's involvement with the joint venture, a subsidiary of a parent corporation of a public utility or where the public utility or the parent corporation has a controlling interest over an entity.

(b) "Aggregate water service provider" means a person ~~that~~who:

(I) ~~p~~Purchases water service from a serving utility for the purpose of deliveringy ~~of such~~ that service to end users whose aggregate usage is to be measured by a composite measurement device;

(II) ~~d~~Does not charge end users for any costs in addition to the actual cost billed to such person for water service, including without limitation, costs of construction, maintenance, financing, administration, metering, or billing for the distribution system owned by such person;

(III) ~~i~~If billing end users separately, does not bill the end users, in the aggregate, more than the amount billed to such person for water service; and

(IV) ~~i~~If billing end users separately, passes on to the end users any refunds, rebates, rate reductions, or similar adjustments such person receives for water service.

(c) "AWWA" means the American Water Works Association.

(d) "Basis ~~P~~point" means one-hundredth of a percentage point (100 basis points = 1~~%~~ percent).

(e) "Customer" means any person who is currently receiving utility service. Any person who moves within a utility's service territory and obtains utility service at a new location within 30 days shall be considered a "customer." Unless stated in a particular rule, "customer" applies to any class of customer as defined by the Commission or by utility tariff.

(f) "Distribution Line Extension" means any construction of distribution facilities (excluding meters and meter installation facilities) necessary to supply service to one or more additional customers.

(g) "Local office" means any Colorado office operated by a utility at which persons may make requests to establish or discontinue utility service. If the utility does not operate any office in Colorado, "local office" means any office operated by a utility at which persons may make requests to establish or discontinue utility service in Colorado.

(h) “Past due” ” means the point at which a utility can affect a customer’s account for regulated service due to non-payment of charges for regulated service.

(i) “Principal place of business” means the place, in or out of the State of Colorado, where the executive or managing principals that directly oversee the utility's operations in Colorado are located.

(j) “Service Line Extension” means any construction of distribution facilities (including meters and meter installation facilities) necessary to supply service to a single customer household or a single multi-unit dwelling.

(k) "Utility" means any public utility as defined in ~~"water corporation" as that term is used in~~ § 40-~~-~~1-103(1)(a), C.R.S~~., including but not limited to any person furnishing~~ providing water to ~~domestic, commercial, or industrial~~ customers in the State of Colorado.

(l) “Utility service” or “service” means a service offering of a public utility, which service offering is regulated by the Commission.

5002. Applications.

(a) Any person may seek Commission action regarding any of the following matters through the filing of an appropriate application:

(I) For the issuance or extension of a certificate of public convenience and necessity for a franchise, as provided in rule 5100.

(II) For the issuance or extension of a certificate of public convenience and necessity for service territory, as provided in rule 5101.

(III) For the issuance of a certificate of public convenience and necessity for construction of facilities, as provided in rule 5102.

(IV) For the amendment of a certificate of public convenience and necessity ~~amendments~~ to change, extend, curtail, abandon, or discontinue any service or facility, as provided in rule 5103.

(V) To transfer a certificate of public convenience and necessity, to obtain a controlling interest in any utility, to transfer assets within the jurisdiction of the Commission, or stock, or to merge a utility with another entity, as provided in rule 5104.

(VI) To amend a tariff on less than statutory notice, as provided in rule 510~~8~~9.

(VII) For simplified regulatory treatment, as provided in rule 5112.

(VIII) For approval of meter and equipment testing practices, as provided in rule 5303.

(IX) For approval of meter sampling program, as provided in rule 5304.

(X) For approval of refund plan, as provided in rule 5410.

(XI) For any other matter ~~provided by statute or rule but~~ not specifically described in this rule~~.~~ ~~For any other matter not specifically described in this rule,~~ unless such matter is required to be submitted as a petition under rule 1304, as a motion, or as some other specific type of submittal.

(b) In addition to the requirements of specific rules, all applications shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attached exhibits:

(I) The name and address of the applying utility.

(II) The name(s) under which the applying utility is, or will be, providing service in Colorado.

(III) The name, address, telephone number, facsimile number, and e-mail address of the applying utility's representative to whom all inquiries concerning the application should be made.

(IV) A statement that the applying utility agrees to answer all questions propounded by the Commission or its Staff concerning the application.

(V) A statement that the applying utility shall permit the Commission or any member of its Staff to inspect the applying utility's books and records as part of the investigation into the application.

(VI) A statement that the applying utility understands that, if any portion of the application is found to be false or to contain material misrepresentations, any authorities granted pursuant to the application may be revoked upon Commission order.

(VII) In lieu of the separate statements required by subparagraphs (b)(IV) through (VI) of this rule, a utility may include a statement that it has read, and agrees to abide by, the provisions of subparagraphs (b)(IV) through (VI) of this rule.

(VIII) A statement describing the applying utility’s existing operations and general service area in Colorado.

(IX) For applications listed in subparagraphs (a)(I), (II), (III), (V), and (VI) of this rule, a copy of the applying utility's or parent company’s and consolidated subsidiaries’ most recent audited balance sheet, income statement, statement of retained earnings, and statement of cash flows ~~so long as they~~ that provide Colorado specific financial information.

(X) A statement indicating the town or city, and any alternative town or city, in which the applying utility prefers any hearing ~~s~~ be held.

(XI) Acknowledgment that, by signing the application, the applying utility understands that:

(A) The filing of the application does not by itself constitute approval of the application.

(B) If the application is granted, the applying utility shall not commence the requested action until the applying utility complies with applicable Commission rules and any conditions established by Commission order granting the application.

(C) If a hearing is held, the applying utility must present evidence at the hearing to establish its qualifications to undertake, and its right to undertake, the requested action.

(D) In lieu of the statements contained in subparagraphs (b)(XI)(A) through (C) of this rule, an applying utility may include a statement that it has read, and agrees to abide by, the provisions of subparagraphs (b)(XI)(A) through (C) of this rule.

(XII) An attestation ~~statement~~ which is made under penalty of perjury; which is signed by an officer, a partner, an owner, an employee of, an agent for, or an attorney for the applying utility, as appropriate, who is authorized to act on behalf of the applying utility; and which states that the contents of the application are true, accurate, and correct. The application shall contain the title and the complete address of the affiant.

(c) In addition to the requirements of specific rules, all applications ~~either shall include the following items or shall incorporate the following items by referring to information on file with the Commission in a miscellaneous docket created for that purpose. Applying utilities choosing to keep an item on file with the Commission in such miscellaneous docket shall keep the most current version on file and shall state in the application when the item was last filed with the Commission. Applying utilities choosing to include an item with the application shall include it in the following order and specifically identified either in the application or in appropriately identified attached exhibits:~~ shall include the information listed in subparagraphs (a)(I) through (V) of rule 1310. Applying utilities may either include the information in the application itself, or incorporate the information by reference to the miscellaneous docket created under rule 1310.

~~(I) A copy of the applying utility's applicable organizational documents (e.g., Articles of Incorporation, Partnership Agreement, Articles of Organization).~~

~~(II) If the applying utility is not organized in Colorado, a current copy of the certificate issued by the Colorado Secretary of State authorizing the applying utility to transact business in Colorado.~~

~~(III) The name, business address, and title of each officer, director, and partner.~~

~~(IV) The names and addresses of affiliated companies that conduct business with the Colorado utility.~~

~~(V)The name and address of the applying utility's Colorado agent for service of process.~~

(d) Customer notice. Except as required or permitted by § 40-3-104, C.R.S., if the applicant is required by statute, Commission rule, or order to provide notice to its customers of the application, the applicant shall, within seven days after filing an application with the Commission, cause to have published notice of the filing of the application in each newspaper of general circulation in the municipalities impacted by the application. The applicant shall provide proof of such customer notice within 14 days of the publication in the newspaper. Failure to provide such notice or failure to provide the Commission with proof of notice may cause the Commission to deem the application incomplete. The applicant may also be required by statute, Commission rule, or order to provide additional notice to its customers of the application by first-class mailing or by hand-delivery. Both the newspaper notice and any additional customer notice(s) shall include the following:

(I) The title "Notice of Application by [Name of the Utility] for [Purpose of Application]".

(II) State that [Name of Utility] has applied to the Colorado Public Utilities Commission for approval to [Purpose of Application]. If the utility commonly uses another name when conducting business with its customers, the "also known as" name should also be identified in the notice to customers.

(III) Provide a brief description of the proposal and the scope of the proposal, including an explanation of the possible impact upon persons receiving the notice.

(IV) Identify which customer class(es) will be affected and the monthly customer rate impact by customer class, if customer rates are affected by the application.

(V) Identify the application's proposed effective date.

(VI) Identify that the application was filed on less than statutory notice or if the applicant requests an expedited Commission decision, as applicable.

(VII) State that the filing is available for inspection in each local office of the applicant and at the Colorado Public Utilities Commission.

(VIII) Identify the docket number of the proceeding, if known at the time the customer notice is provided.

(IX) State that any person may file written comment(s) or objection(s) concerning the application with the Commission. As part of this statement, the notice shall identify both the address and e-mail address of the Commission and shall state that the Commission will consider all written comments and objections submitted prior to the evidentiary hearing on the application.

(X) State that if a person desires to participate as a party in any proceeding before the Commission regarding the filing, such person shall file an intervention in accordance with the rule 1401 of the Commissions Rules of Practice and Procedure or any applicable Commission order.

(XI) State that the Commission may hold a public hearing in addition to an evidentiary hearing on the application and that if such a hearing is held members of the public may attend

and make statements even if they did not file comments, objections or an intervention. Identify that if the application is uncontested or unopposed, the Commission may determine the matter without a hearing and without further notice.

(XII) State that any person desiring information regarding if and when hearings may be held shall submit a written request to the Commission or, alternatively, shall contact the External Affairs section of the Commission at its local or toll-free phone number. Such statement shall also identify both the local and toll-free phone numbers of the Commission's External Affairs section.

5003. [Reserved].

5004. Disputes and Informal Complaints.

(a) For purposes of this rule, "dispute" means a concern, difficulty, or problem which needs resolution and which a customer or a person applying for service brings directly to the attention of the utility without the involvement of Staff or the Commission.

(b) A dispute may be initiated orally or in writing. Using the procedures found in rule 1301, a utility shall conduct a full and prompt investigation of all disputes concerning utility service.

(c) In accordance with the procedures in rule 1301, each utility shall conduct a full and prompt investigation of all informal complaints concerning utility service.

(d) A utility shall comply with all rules regarding the timelines for responding to informal complaints.

(e) If a current customer, or an applicant for service that is not a current customer, is dissatisfied with the utility's proposed adjustment or disposition of a dispute, the utility shall inform the person, customer or applicant for service of the right to make an informal complaint to the External Affairs section of the Commission and shall provide to the person, customer or applicant for service the address and toll free number of the Commission's External Affairs section.

(f) Each utility shall keep a record of each informal complaint and of each dispute. The record shall show the name and address of the initiating customer or person applying for service, the date and character of the issue, and the adjustment or disposition made. This record shall be open at all times to inspection by the person who initiated the informal complaint or dispute, by the Commission, and by Staff.

5005. Records.

(a) Except as a specific rule may require, ~~E~~every water utility shall maintain for a period of not less than three years and shall make~~required records,~~ available for public inspection at its principal place of business during regular business hours, the~~as~~ following~~s~~:

(I) Records concerning disputes and informal complaints, which records are created pursuant to rule 5004.

(II) Instrumentation records, which records are created pursuant to rule 5201.

(III) Purity and pressure records required under rule 5202, for at least two years, except as may be required for longer periods by AWWA or applicable federal, state, county, or municipal codes, regulations, or rules.

(IV) The results of all tests made by the Water Quality Control Division of the Department of Public Health and Environment, indicating when, ~~and~~ where, and by whom each test was conducted.

(V) All records made with respect to meter testing equipment and facilities, meter testing upon request, and records of meter tests under rules 5303, 5305 and 5306.

(VI) All customer billing records, which records are created pursuant to rule 5401(a).

(VII) All customer deposits, which records are created pursuant to rule 5403.

(b) A utility shall maintain at each of its local offices and at its principal place of business all tariffs filed with the Commission and applying to Colorado rate areas. If the utility maintains a website, it shall also maintain its current and complete tariffs on its website.

(c) Each utility shall maintain its books of account and records in accordance with the provisions of the 1996 editions of the Uniform System of Accounts for Class A, B, and C Water Utilities, published by the National Association of Regulatory Utility Commissioners. No later amendments to or editions of the Uniform System of Accounts are incorporated into these rules. A utility must maintain its books of account and records separately from those of its affiliates.

(d) Each utility shall preserve its records as follows:

(I) All General and Subsidiary Ledgers shall be retained for 10 years; and

(II) All Continuing Property Records shall be retained for the longer of 25 years or the life of the plant.

(III) Each utility shall maintain records demonstrating its compliance or non-compliance with all applicable quality, purity, monitoring, testing, and record-keeping standards and requirements of:

(A) The federal Clean Water Act, Safe Drinking Water Act, and the rules and regulations promulgated there under.

(B) The drinking water regulations promulgated by the Water Quality Control Division of the Colorado Department of Public Health and Environment; and

(C) The water treatment standards adopted by AWWA.

~~(III) All other records shall be retained for five years.~~

5006. Reports.

Each utility shall provide reports to the Commission as follows:

(a) ~~Each utility shall file with the Commission, o~~On or before April 30 of each year, an annual report for the preceding calendar year. The utility shall submit the annual report on forms prescribed and supplied by the Commission; shall properly complete the forms; ~~and~~ shall ensure the forms are verified and signed by a person authorized to act on behalf of the utility and shall file the required number of copies pursuant to subparagraph 1204(a)(IV) of the Commission's Rules of Practice and Procedure. If the Commission grants the utility an extension of time to file the annual report, the utility nevertheless shall ~~nevertheless~~ file with the Commission, on or before April 30, the utility's total gross operating revenue from intrastate utility business transacted in Colorado for the preceding calendar year.

(b) If a certified public accountant prepares an annual report for a utility, the utility shall file two copies of the report with the Commission within 30 days after publication~~If a utility publishes an annual report or an annual statistical report to stockholders, or other security holders or members, or receives an annual certified public accountant's report of its business, it must file one copy with the Commission within 30 days after publication or receipt of such report~~.

(c) On or before April 30 of each year, and as part of the report required by paragraph (a) of this rule, small, privately owned water companies shall file a report with the Commission detailing the information required by ~~rule~~ paragraph 5112(d).

(d) ~~A~~nyAll reports ~~r~~and supporting documentation~~equired under rule 5112(d), (e)(IV)(B), or (f) regarding simplified regulatory treatment~~ concerning simplified regulatory treatment, as required by rule 5112.

(e) All reports and substantiating documentation concerning ~~A~~ny incidents resulting in death, serious injury, or serious property damage, as required by rule 5204.~~, pursuant to rule 5204.~~

(f) Such special reports as the Commission may require.

5007. [Reserved].

5008. Incorporation by Reference.

(a) The Commission incorporates by reference the 1996 editions of the Uniform System of Accounts for Class A, B, and C Water Utilities, published by the National Association of Regulatory Utility Commissioners. No later amendments to or editions of the Uniform System of Accounts are incorporated into these rules.

(b) The Commission incorporates by reference the American Water Works Association Standards, Volume ~~4~~5, Number ~~2~~1, revised as of April 1, 2002~~September 1, 2001~~. No later amendments to or editions of the American Water Works Standards are incorporated into these rules.

(c) Any material incorporated by reference in this Part 5 may be examined at the offices of the Commission, ~~1580 Logan Street, OL-2~~1560 Broadway, Suite 250, Denver, Colorado 8020~~3~~2, during normal business hours, Monday through Friday, except when such days are state holidays. Certified copies of the incorporated standards shall be provided at costs upon request. The Director o~~f~~r the Director's designee will provide information regarding how the incorporated standards may be examined at any state public depository library.

OPERATING AUTHORITY

5100. Certificate of Public Convenience and Necessity for a Franchise.

(a) A utility seeking authority to provide service pursuant to a franchise shall file an application pursuant to this rule. When a utility enters into a franchise agreement with a municipality for the first time, it shall obtain authority from the Commission pursuant to § 40-5-102, C.R.S. prior to providing service under that initial franchise agreement. A utility maintains the right and obligation to serve a municipality within its service territory after the expiration of any franchise agreement.

(b) An application for certificate of public convenience and necessity to exercise franchise rights shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attached exhibits:

(I) The information required in rules 5002(b) and (c).

(II) A statement of the facts (not conclusory statements) relied upon by the applicant to show that the public convenience and necessity require the granting of the application.

(III) A statement describing the franchise rights proposed to be exercised. The statement shall include a description of the type of utility service to be rendered and a description of the area sought to be served, together with a map of the area.

(IV) A certified copy of the franchise ordinance; proof of publication, adoption, and acceptance by the applicant; a statement as to the number of customers served or to be served and the population of the city or town; and any other pertinent information.

(V) A statement describing in detail the extent to which the applicant is affiliated with any other company which holds authority duplicating in any respect the authority sought.

(VI) A copy of a feasibility study for areas previously not served by the applicant, which study shall at least include estimated investment, income, and expense. The applicant~~An applicant~~ may request that the most recent audited balance sheet, income statement, statement of retained earnings, and statement of cash flows be submitted in lieu of a feasibility study.

(VII) A statement of the names of public utilities and other entities of like character providing similar service in or near the area involved in the application.

~~(VIII) A statement that the applicant understands it must present evidence at the hearing to show its qualifications to conduct the utility operations proposed in the application.~~

5101. Certificate of Public Convenience and Necessity for Service Territory.

(a) A utility seeking authority to provide service in a new service territory shall file an application pursuant to this rule. A utility cannot provide service to a new geographic area ~~pursuant to a franchise~~ without authority from the Commission, unless the utility extends its facilities and service:

(I) Within a city and county or city or town with which the utility has lawfully commenced operations;

(II) Into territory contiguous to the utility's facility, line, plant, or system that is not served by a public utility providing the same commodity or service; or

(III) Within or to territory already served by the utility and the extension is necessary in the ordinary course of business.~~area proposed to be served is contiguous territory to the existing certificated territory of the utility and such extension into an uncertificated, contiguous territory is necessary in the ordinary course of business~~.

(b) An application for certificate of public convenience and necessity to provide service in a new territory shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attached exhibits:

(I) The information required in rules 5002(b) and (c).

(II) A statement of the facts (not conclusory statements) relied upon by the applicant to show that the public convenience and necessity require the granting of the application.

(III) A description of the type of utility service to be rendered and a description of the area sought to be served.

(IV) A map showing the specific geographic area that the applicant proposes to serve. If the applicant intends to phase in service in the territory over time, specific areas and proposed in-service dates shall be included. The map shall describe the geographic areas in section, township, and range convention.

(V) A statement describing in detail the extent to which the applicant is affiliated with any other company which holds authority duplicating in any respect the territory sought.

(VI) A statement of the names of public utilities and other entities of like character providing similar service in or near the area involved in the application.

(VII) A copy of a feasibility study for the proposed area to be served, which shall at least include estimated investment, income, and expense. An applicant may request that the most recent audited balance sheet, income statement, statement of retained earnings, and statement of cash flows be submitted in lieu of a feasibility study.

~~(VIII) A statement that the applicant understands it must present evidence at the hearing to show its qualifications to conduct the utility operations proposed in the application.~~

5102. Certificate of Public Convenience and Necessity for Facilities.

(a) A utility seeking authority to construct and to operate a facility or an extension of a facility pursuant to § 40-5-101, C.R.S., shall file an application pursuant to this rule. The utility need not apply to the Commission for approval of construction and operation of a facility or an extension of a facility which is in the ordinary course of business. The utility shall apply to the Commission for

approval of construction and operation of a facility or an extension of a facility which is not in the ordinary course of business.

(b) An application for certificate of public convenience and necessity to construct and to operate facilities or an extension of a facility pursuant to § 40-5-101, C.R.S., shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attached exhibits:

(I) The information required in rules 5002(b) and (c).

(II) A statement of the facts (not conclusory statements) relied upon by the applicant to show that the public convenience and necessity require the granting of the application.

(III) A description of the proposed facilities to be constructed.

(IV) Estimated cost of the proposed facilities to be constructed.

(V) Anticipated construction start date, construction period, and in-service date.

(VI) A map showing the general area or actual locations where facilities will be constructed, population centers, major highways, county and state and boundaries.

(VII) A statement that the applicant understands it must present evidence at the hearing to show its qualifications to conduct the utility operations proposed in the application.

5103. Certificate Amendments for Changes in Service, in Service Territory, or in Facilities.

(a) A utility seeking authority to do the following shall file an application pursuant to this rule: amend a certificate of public convenience and necessity in order to extend, to restrict, to curtail, or to abandon or to discontinue without equivalent replacement any service, service area, or facility. A utility shall ~~can~~not extend, restrict, curtail, or abandon or discontinue without equivalent replacement, any service, service area, or facility not in the ordinary course of business without authority from the Commission.

(b) An application to amend a certificate of public convenience and necessity in order to change, to extend, to restrict, to curtail, to abandon, or to discontinue any service, service area, or facility without equivalent replacement shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attached exhibits:

(I) All information required in rules 5002(b) and 5002(c).

(II) If the application for amendment pertains to a certificate of public convenience and necessity for facilities, all of the information required in rule 5102.

(III) If the application for amendment pertains to a certificate of public convenience and necessity for franchise rights, all of the information required in rule 5100.

(IV) If the application for amendment pertains to a certificate of public convenience and necessity for service territory, all of the information required in rule 5101.

(V) If the application for amendment pertains to a service, the application shall include:

(A) The requested effective date for the extension, restriction, curtailment, or abandonment or discontinuance without equivalent replacement of the service.

(B) A description of the extension, restriction, curtailment, or abandonment or discontinuance without equivalent replacement sought. This shall include maps, as applicable. This shall also include a description of the applying utility's existing operations and general service area.

(c) Customer notice of application. In addition to complying with the notice requirements of the Commission's Rules Regulating Practice and Procedure, a utility applying to curtail, restrict, abandon or discontinue service without equivalent replacement shall prepare a written notice as provided in rule 5002(d)(I) - (XII) and shall mail or deliver the notice at least 30 days before the application's requested effective date to each of the applying utility's affected customers. The customer notice shall include a statement detailing the requested restriction, curtailment, or abandonment or discontinuance without equivalent replacement.

(d) If no customers will be affected by the grant of the application, the notice must meet the requirements of 5002(d)(I) – (XII) and shall be mailed to the Board of County Commissioners of each affected county, and to the mayor of each affected city, town, or municipality.

~~(d) The notice required by paragraph (c) of the rule shall contain all of the following:~~

~~(I) The name of the applying utility.~~

~~(II) A~~a ~~statement detailing the requested restriction, curtailment, or abandonment or discontinuance without equivalent replacement and the requested effective date.~~

~~(III) A statement that any person may file a written objection with the Commission no later than ten days prior to the requested effective date; but that a written objection alone will not preserve any right to participate as a party in any Commission proceeding on the matter.~~

~~(IV) A statement that, in order to participate as a party, a person must file an appropriate and timely intervention according to the Commission's Rules Regulating Practice and Procedure.~~

~~(V) The Commission's full address.~~

~~(e) Not later than 15 days before the requested effective date, the applying utility shall file with the Commission a written affidavit stating its compliance with the notice requirements of paragraphs (c) and (d) of this rule. The affidavit shall state the date the notice was completed and the method used to give notice. The applying utility shall attach a copy of the notice to the affidavit.~~

5104. Transfers, Controlling Interest, and Mergers.

(a) A utility seeking authority to do any of the following shall file an application pursuant to this rule: transfer a certificate of public convenience and necessity, transfer or obtain a controlling interest

in a utility, whether the transfer of control is effected by the transfer of assets, by the transfer of stock by a merger or by other form of business combination, or transfer assets subject to the jurisdiction of the Commission outside the normal course of business~~, transfer stock, or merge a utility with another entity~~. A utility cannot transfer a certificate of public convenience and necessity, transfer or obtain a controlling interest in any utility, transfer assets outside the normal course of business or transfer stock, or merge with another entity without authority from the Commission.

(b) An application to transfer a certificate of public convenience and necessity, to transfer or obtain a controlling interest in a utility, or to transfer assets subject to the jurisdiction of the Commission~~, to transfer stock, or to merge a utility with another entity~~ shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attached exhibits:

(I) The information required in rules 5002(b) and 5002(c), as pertinent to each party to the transaction.

(II) A statement showing accounting entries, under the Uniform System of Accounts, including any plant acquisition adjustment, gain, or loss proposed on the books by each party before and after the transaction which is the subject of the application.

(III) Copies of any agreement for merger, sales agreement, or contract of sale pertinent to the transaction which is the subject of the application.

(IV) Facts showing that the transaction which is the subject of the application is not contrary to the public interest.

(V) An evaluation of the benefits and detriments to the customers of each party and to all other persons who will be affected by the transaction which is the subject of the application.

(VI) A comparison of the kinds and costs of service rendered before and after the transaction which is the subject of the application.

(c) An application to transfer a certificate of public convenience and necessity, an application to transfer assets subject to the jurisdiction of the Commission, or an application to transfer or obtain control of the utility ~~or to merge the utility with another entity~~ may be made by joint or separate application of the transferor and the transferee.

(d) When control of a utility is transferred to another entity, or the utility's name is changed, the utility which will afterwards operate under the certificate of public convenience and necessity shall file with the Commission a tariff adoption notice, shall post the tariff adoption notice in a prominent public place in each local office and principal place of business of the utility, and shall have the tariff adoption notice available for public inspection at each local office and principal place of business. Adoption notice forms are available from the Commission. The tariff adoption notice shall contain all of the following information:

(I) The name, phone number, and complete address of the adopting utility.

(II) The name of the previous utility.

(III) The number of the tariff adopted and the description or title of the tariff adopted.

(IV) The number of the tariff after adoption and the description or title of the tariff after adoption.

(V) Unless otherwise requested by the applying utility in its application, a statement that the adopting utility is adopting as its own all rates, rules, terms, conditions, agreements, concurrences, instruments, and all other provisions that have been filed or adopted by the previous utility.

5105. [Reserved.].

5106. [Reserved.].

5107. [Reserved.].

5108. Tariffs ~~and Contracts~~.

(a) General.

(I) A utility shall keep on file with the Commission the following documents pertaining to retail water service: its current Colorado tariffs, forms of contracts~~, privileges, contract forms,~~ and water service agreements. These documents, unless filed under seal, shall be available for public inspection at the Commission and at the principal place of business of the utility.

(II) All tariffs shall comply with rule 1210 of the Commission's Rules of Practice and Procedure.

(b) Filing and contents of tariff.

(I) In addition to the requirements and contents in rule 1210, the following shall be included in a utility's tariff, as applicable:

(~~I~~A) Information regarding any tariff provisions that specifically allocate the cost of service connections, other than meters, between the utility and the customer pursuant to ~~rule~~ paragraph 5209(d).

~~(II) Information regarding its line extension policies, procedures, and conditions pursuant to rule 5210.~~

(~~III~~B) Information regarding its meter testing equipment and facilities, scheduled meter testing, meter testing records, fees for meter testing upon request, and meter reading, pursuant to rules 5303, 5304, 5305, and 5309.

(~~IV~~C) Information regarding its benefit of service transfer policies, pursuant to rule 5401(c).

~~(V) Information regarding the utility's customer deposit policy, pursuant to rule 5403.~~

(~~V~~D) Information regarding its installment payment plans and other plans, pursuant to rule 5404.

(~~VI~~E) Information regarding collection fees or miscellaneous service charges, pursuant to ~~rule~~ subparagraphs 5403(c)(VI and VIII).

(~~VII~~F) Information regarding after-hours restoration fees pursuant to rule 5409(b).

(~~IX~~G) All other rules, regulations, and policies covering the relations of customer and utility.

5109. New or Changed Tariffs.

(a) A utility shall file with the Commission any new or changed tariffs. No new or changed tariff shall be effective unless it is filed with the Commission and either is allowed to go into effect by operation of law or is approved by the Commission.

(b) A utility shall use one of the following processes to seek to add a new tariff or to change an existing tariff:

(I) The utility may file the proposed tariff, including the proposed effective date, accompanied by an advice letter pursuant to rule 1210. The utility shall provide notice in accordance with rule 1206. If the Commission does not suspend the proposed tariff in accordance with rule 1305 prior to the tariff's proposed effective date, the proposed tariff shall take effect on the proposed effective date.

(II) The utility may file an application to implement a proposed tariff on less than 30-days' notice, accompanied by the proposed tariff, including the proposed effective date. The utility shall provide notice in accordance with rule 1206. The application shall include the information required in rules 5002(b) and 5002(c); shall explain the details of the proposed tariff, including financial data if applicable; shall state the facts which are the basis for the request that the proposed tariff become effective on less than 30-days' notice; and shall ~~note~~ identify any prior Commission action, in any proceeding, pertaining to the present or proposed tariff.

(III) To comply with an order of the Commission, the utility may file a tariff ~~B~~by advice letter to be effective on not less than one business ~~-~~day~~'~~s~~'~~ notice~~, the utility may file a tariff to comply with an order of the Commission~~. Any filing made on one business day's notice shall be filed by noon in order to become effective on the next business day. No additional notice beyond the tariff filing itself shall be required.

~~(c) Each tariff sheet which is not an original shall be designated "1st revised sheet No. ___ cancels original sheet No. ___," or "2nd revised sheet No. ___ cancels 1st revised sheet No. ___," as appropriate. Each sheet shall direct attention to the changes by the use of symbols in the right margin (for example, "I" for increase, "D" for decrease, "C" for change in text, and "N" for new text). On a contents or index page the utility shall show the meaning of the symbols used by it to point out changes contained in its revised tariff filings. If a tariff sheet is issued under a specific~~

~~authority or Commission decision, the tariff sheet shall show the specific authority or Commission decision number in the space provided at the foot of the sheet.~~

~~(d) The Commission may reject any tariff that is not in the form, or does not contain the information, required by statute, by rule, or by Commission order and decision. Any tariff rejected by the Commission shall be void and shall not be used.~~

5110. Advice Letters.

(a) All advice letter filings shall comply with rule 1210 of the Commission's Rules of Practice and Procedure.

(b) In addition to the requirements and contents in rule 1210, the advice letter shall include the estimated amounts, if any, by which the utility's revenues will be affected, calculated on an annual basis.

(c) Customer notice of advice letter. If the utility is required by statute, Commission rule or order to provide notice to its customers of the advice letter, such notice shall include the requirements of paragraph 5002(d)(I) – (XII).

~~Each proposed tariff shall be accompanied by a serially-numbered advice letter. The letter shall list all sheets included in the filing by number and shall show the sheets being cancelled, if any. The advice letter shall state the purpose of the filing; shall identify each change being proposed; shall state the amounts, if any, by which the utility's revenues will be affected; shall summarize clearly the extent to which customers will be affected; and shall provide information demonstrating that the proposed tariff is just and reasonable.~~

5111. Aggregate Water Service Providers.

Aggregate water service providers are exempt from regulation of rates under Articles 1 to 7 of Title 40, C.R.S., and need not file any tariff with the Commission.

5112. Simplified Regulatory Treatment.

(a) Definitions. In addition to the definitions generally applicable to water utilities, the following definitions apply only in the context of this rule:

(I) "Customer" means any person or group of persons contracting for water service from any utility for domestic, commercial, or industrial use, or for wholesale distribution. Multi-residential units, multi-commercial units, and wholesale purchasers of water supplying water service to multiple end-users, are not considered as singular customers; instead, the number of singular customers is determined by the number of singular units or end-users.

(II) "Privately owned water company" means a utility that is owned by one or more persons. "Privately owned water company" does not include any utility owned or operated by any political subdivision of the state, a special district, or any municipal, quasi-municipal, or public corporation organized pursuant to Colorado law.

(III) "Small water company" means a utility that serves fewer than one thousand five hundred customers.

(b) Simplified ~~R~~regulatory ~~T~~treatment. Five options are available for small, privately owned water companies seeking simplified regulatory treatment. The Annual Rate Adjustment, Resource Cost Pass-Through, Operating Ratio Methodology, and the Capital Improvement Reserve Options, as identified in this rule, shall be presumed by the Commission to be reasonable methods of simplified regulatory treatment unless data and evidence is provided to demonstrate that the option is not reasonable for the applicant. A small, privately owned water company seeking a Company Specific, Customized Option shall have the burden of proving that such an option is reasonable for the applicant and its customers, and that such an option is not discriminatory.

(c) Procedures. The simplified regulatory treatment shall be implemented as follows:

(I) The small, privately owned water company shall file an application with the Commission requesting one or more of the options identified above. The application shall be filed in accordance with Commission Rules Regulating Practice and Procedure, 4 CCR 723-1. However, a small, privately owned water company is prohibited from participating in both the Annual Rate Adjustment Option and the Resource Cost Pass-Through Option at the same time.

(II) The application shall include any requirements of the respective option, as provided by paragraph (e) of this rule, and an explanation of how approval of the application will balance reasonable regulatory oversight with the costs and benefits of regulation, while continuing to consider the public interest, quality of service, financial condition, and just and reasonable rates.

(III) Notice of application to customers. Within five days of the filing of the application, the applicant shall provide notice to its customers of the filing of the application. Such notice shall be given by:

(A) ~~filing with the Commission and k~~Keeping open for public inspection at the applicant's local business office a copy of the utility's application with the Commission; and

(B) ~~the form established by the Commission. Additionally, the applicant shall~~Within three days of filing the application with the Commission, the applicant shall ~~either~~ cause ~~the~~ notice of the application to be published in each newspaper ~~of~~having general circulation in each county in which the applicant provides service, or shall ~~issue~~provide notice to all its customers by bill insert or direct mail.

(i) Either notice shall meet the requirements of paragraph 5002(d)(I) – (XII).

(ii) If the utility elects to provide such notice through bill inserts or direct mail to its customers, the utility shall also work with aggregate water service providers in its service area to ensure notice is provided to end-use customers served by the aggregate arrangement. ~~Such additional notice shall contain the same information as contained in the notice filed with the Commission. An applicant electing to provide notice with a bill insert~~

~~must take appropriate measures to provide each and every customer with the insert. Providing a bill insert to only the master meter operator is not sufficient customer notice. This notice shall allow interested parties 30 days to intervene or file comments. If the applicant elects to provide notice through newspaper publication, proof of said publication shall be provided to the Commission. Failure to provide the Commission with proof of publication may cause the Commission to deem the application incomplete.~~

(IV) A small, privately owned water company may file an application to change to an alternative simplified regulatory treatment at any time. The application shall request authorization to terminate the existing simplified regulatory treatment and shall request a new simplified regulatory treatment.

(V) A small, privately owned water company may file an application to terminate an existing simplified regulatory treatment and return to traditional rate base regulation at any time. The Commission may set the application for hearing and existing rates for water services may be adjusted. At the conclusion of such a rate case proceeding, the rates and conditions established in the rate case proceeding will replace the rates and conditions developed under any simplified regulatory treatment option.

(VI) A small, privately owned water company shall not be permitted to terminate participation in one or more simplified regulatory treatment options for the ~~sole~~ purpose of avoiding a potential decrease in rates to its customers.

(VII) Nothing in these rules shall limit a customer's right to file a complaint against a small, privately owned water company. Nothing in these rules shall prohibit or restrict the Commission from initiating an investigation or complaint proceeding against a small, privately owned water company.

(d) Reporting ~~R~~requirements. ~~Consistent with the definition of "customer" under this rule, a~~ Each small, privately owned water company that has been granted simplified regulatory treatment, shall, as part of its annual report to the Commission, provide a count of all customers served by the utility. To comply with this requirement, the utility shall require multi-residential entities, multi-commercial entities, and wholesale purchasers of water supplying water service to multiple end-users, to annually furnish the ~~small, privately owned water company~~ company with a count ~~numeric listing~~ of the number of singular units receiving water services directly or indirectly from such entities. In the event the small, privately owned water company fails to obtain and annually submit this information to the Commission, the Commission may revoke or deny simplified regulatory treatment for that company.

(e) Simplified ~~R~~regulatory ~~T~~treatment ~~O~~options. The Commission may grant a small, privately owned water company authority to participate in any of the following simplified regulatory treatment options:

(I) Annual ~~R~~rate ~~A~~adjustment ~~O~~option.

(A) The Commission on or before March 31 of each year, by letter, shall inform all participants in the Annual Rate Adjustment Option of the rate adjustment to be

effective May 1, of each year. As prescribed by subparagraph (e)(I)(B) of this rule, the percentage adjustment shall be determined using the following figures:

(i) ~~t~~The annual percent change in the United States Gross Domestic Product Chain-Type Price Index (GDPPI) as published by the United States Department of Commerce, Bureau of Economic Analysis, and as published in the Economic Report Of The President, and;

(ii) ~~a~~An appropriate measure of productivity, specifically the "Private And Non-Farm Business Multifactor Productivity Percentage Change" (PNFBMPP)as published by the Bureau of Labor Statistics, and as published in The Economic Report Of The President.

(B) The percentage adjustment formula is:

Price Adjustment = GDPPI – PNFBMPP

(C) On or before April 15 of each year, each small, privately owned water company participating in this simplified regulatory treatment shall file an advice letter and accompanying tariff sheets with the Commission to implement the change effective May 1.

(II) Resource ~~C~~cost ~~P~~pass-~~T~~through ~~O~~option. Under this option, the small, privately owned water company may seek Commission authority to pass-through price changes (increases and decreases) relating to the acquisition cost for wholesale water from a local municipality, other governmental entity, or other source as approved by the Commission. Following Commission approval to participate in this simplified regulatory treatment option, the water company shall timely inform the Commission of all increases or decreases in the cost of water and shall file an advice letter to implement ~~any~~ all resulting changes in customer rates within 30 days of the effective date of the price change for wholesale water. For good cause, the water company may seek Commission approval to include other water company expenditures ordered by a governmental entity. Examples of such other expenditures could include, but would not necessarily be limited to, changes in water augmentation assessments and changes in costs associated with compliance with provisions of the Safe Drinking Water Act of 1974.

(III) Operating ~~R~~ratio ~~M~~methodology ~~O~~option. Under this option the water company may request that the Commission employ an operating ratio methodology in determining appropriate rates to be charged by the water company. An operating ratio methodology for setting rates differs from a traditional rate base methodology, and may be an acceptable tool in evaluating rates when little or no rate base exists.

(IV) Reserve ~~A~~account for ~~M~~major ~~C~~capital ~~i~~improvements ~~O~~option. An applicant may seek Commission authority to establish a reserve account to fund future major capital expenditures. Under this option, the small, privately owned water company may be authorized to implement a monthly surcharge to fund a reserve account for future capital improvement expenditures. In filing an application to initiate this option or to amend any provisions of this option, the water company should clearly identify the proposed method

for collecting funds to be contributed to the reserve account, and the expected use of such funds.

(A) The level and method for collecting money for the reserve account for major capital improvements must be specifically approved by the Commission. Accordingly, the applicant must submit sufficient financial information for the Commission to review the company's proposed capital improvement needs and explain the merits of its funding methodology. Funds in the reserve account shall be kept in a separate interest bearing cash account. Interest accrued shall be credited to the reserve account and become part of the corpus of the reserve account. Funds from the account shall not be employed for a purpose other than those permitted under this option. Disbursements from the fund shall be restricted to the uses identified in the application approved by the Commission. The burden of demonstrating that actual or proposed expenditures are reasonable and in the public interest shall be borne by the water company.

(B) The small, privately owned water company shall report all disbursements from the reserve account by written notice to the Commission and to other persons as the Commission may direct. Disbursements from the reserve account that are found by the Commission to have been made improperly, or in violation of any statute, regulation, or order of the Commission shall be returned to the account or refunded to ratepayers as the Commission may direct.

(C) Plant capitalized by means of the reserve account shall be accounted for as a contribution in aid of construction.

(V) Company ~~S~~specific, ~~C~~customized ~~O~~option.

(A) A small, privately owned water company may file an application seeking Commission authorization to implement provisions of a company specific, customized option plan. The Commission shall consider the merits of ~~any~~all specific options presented and determine whether such provisions are consistent with the objectives of these rules.

(B) In presenting an option for the Commission's consideration, the company shall bear the burden of proving that:

(i) ~~t~~The proposals appropriately balance reasonable regulatory oversight with the costs and benefits of regulation;

(ii) ~~t~~The provisions are not discriminatory; and

(iii) ~~i~~Implementing ~~ation of~~ such provisions is in the public interest, improves the quality of water service to customers, is financially compensatory, and promotes the development and maintenance of just and reasonable rates.

(C) The small, privately owned water company must maintain accounting records to provide sufficient financial information for the Commission to assess the merits of the proposal and its projected impact on the company.

(f) Transitional ~~P~~provisions. When the number of customers served by the utility, as reported in its annual report to the Commission, ~~served by the utility~~ meets or exceeds ~~one thousand five hundred~~1,500, the utility shall immediately notify the Commission and provide the Commission with a proposed transitional regulatory plan. For good cause shown, the Commission's regulatory oversight of the utility may continue to permit the utility to participate in regulatory treatment options as described in this rule when its customer count exceeds the established limit.

FACILITIES

5200. Construction, Installation, Maintenance, and Operation.

The plant, equipment, and facilities of a utility shall be constructed, installed, inspected, maintained, and operated in accordance with accepted engineering practice in the water industry to assure continuity of service, uniformity in the quality of service, and the safety of persons and property.

5201. Instrumentation.

Each water utility shall install such indicating instruments or meters as may be necessary to obtain records of the water flow volume(s) of its plants. Each utility purchasing water shall install such instruments or meters as may be necessary to furnish the Commission with full information related to the purchases, including purchase dates, sources, volumes, and unit costs. Each utility shall keep a record of its periodic readings of such instruments.

5202. Purity and Pressure.

(a) Each utility supplying water for domestic, commercial, or industrial purposes shall ensure that all water intended for human consumption and general household purposes is free from disease producing organisms, bacteria, and injurious chemical and physical ~~s~~substances, and is agreeable ~~t~~to sight and smell. ~~Each utility supplying such water shall comply with all applicable quality, purity, monitoring, testing, and record-keeping standards and requirements of:~~

~~(I) The federal Clean Water Act, Safe Drinking Water Act, and the rules and regulations promulgated there under.~~

~~(II) The drinking water regulations promulgated by the Water Quality Control Division of the Colorado Department of Public Health and Environment; and~~

~~(III) The water treatment standards adopted by AWWA.~~

(b) A utility shall maintain a steady pressure, not at any time falling below the adequate minimum for domestic service. Each utility furnishing fire hydrant service must be able to supply added service to local fire fighting equipment and facilities in accordance with the best standard practice. A utility shall maintain pressure and keep records in accordance with AWWA standards, unless otherwise required by the Water Quality Control Division of the Colorado Department of Public Health and Environment or county or municipal codes or ordinances.

5203. Interruptions of Service.

(a) Each utility shall keep a record of every service interruption (including, without limitation, forced outages caused by events outside of the utility's control, scheduled outages, or sustained outages) which occurs on its entire system or on a major division of its system. The record shall include at least a statement of the time, the duration, and the cause of any service interruption.

(b) The records of service interruptions and a statement of the utility's operating schedules shall be open at all times to the inspection of the duly authorized representatives of the Commission. The utility shall retain these records for five years.

(c) During times of threatened or actual water shortage a utility shall equitably apportion its available water supply among its customers with due regard to public health and safety.

(~~b~~d) If a utility must restrict water distribution, it shall, except in emergencies:

(I) Give advance~~,~~ written notice to the Commission, as prescribed by paragraph (c) of this rule.

(II) Give advance written notice to the utility's customers, as prescribed by paragraph (c) of this rule.

(~~c~~e) The notice contemplated by paragraph (b) of this rule shall contain the following information:

(I) The reason for the restriction;

(II) The nature and extent of the restriction, including outdoor use, use by certain classes of customers, and similar matters;

(III) The date such restriction is to go into effect; and

(IV) The probable date of termination of such restriction.

5204. Incidents Resulting in Death, Serious Injury or Significant Property Damage.

(a) ~~In compliance with the policies adopted from time to time by the Commission to implement this rule and within two hours (120 minutes) of learning of the incident, e~~Each utility shall inform the Commission of a~~n~~ll incident~~s~~ which occur~~s~~ in connection with the operation of its property, facilities, or service ~~and which~~ that result~~s~~ in death, serious injury, or significant property damage within two hours (120 minutes) of learning of the incident.

(b) Within 30 calendar days of the incident, the utility shall submit a written report to the Director of the Commission. The report shall contain at least the following information:

(I) Date, time, place, and location of the incident.

(II) Type of incident.

(III) Names of all persons involved.

(IV) Nature and extent of injury and damage.

(c) If the utility conducts an internal investigation of an incident referred to in paragraph (a) above, the utility shall make its report available to the Commission upon request by the Commission. The utility may provide paragraphs (b)(III) and (b)(IV) of this report on a confidential basis under seal.

5205. [Reserved].

5206. [Reserved].

5207. [Reserved].

5208. [Reserved].

5209. Service Connections.

(a) Upon application of a bona fide applicant for service, the utility shall furnish, install, and maintain service pipe of suitable capacity, including the curb cock and curb box required, from its water main to the property line.

(b) Except as provided in paragraphs (c) and (d) of this rule, service connections shall be furnished, installed, and maintained at the expense of the utility.

(c) All meters used in connection with metered service shall be furnished, installed, and maintained at the expense of the utility, unless the Commission grants special authority to the contrary for good cause.

(d) The utility may seek approval of tariff provisions that specifically allocate the cost of service connections, other than meters, between the utility and the customer. Such tariff proposals shall specify the terms and conditions that initiate such cost allocation. The utility shall account for all such funds received from customers as a contribution in aid of construction.

(e) A~~ny~~ll facilities furnished or installed at the expense of the utility shall remain the utility's property and may be removed by the utility at any time after discontinuance of service.

5210. Line Extension.

(a) Each utility shall have tariffs which set out its line extension policies, procedures, and conditions.

(b) Specific tariff provisions for making service connections, for transmission line extensions, and for distribution line extensions shall include:

(I) Service connections and distribution line extensions by customer class and the appropriate terms and conditions under which those connections and extensions will be made.

(II) Provisions requiring the utility to provide to a customer or to a potential customer, upon request, service connection information necessary to allow the customer's or potential customer's facilities to be connected to the utility's system.

(III) Provisions requiring the utility to exercise due diligence in providing the customer or potential customer with an estimate of the anticipated cost of a connection or extension.

(IV) Provisions addressing steps to ameliorate the rate and service impact upon existing customers, including equitably allowing future customers to share costs incurred by the initial or existing customers served by a connection or extension (as, for example, by including a refund of customer connection or extension payments when appropriate).

(V) A description of specific customer categories (such as permanent, indeterminate, and temporary) within each customer class.

METERS

5300. Service Meters and Related Equipment.

(a) All meters used in connection with water metered service for billing purposes shall be furnished, installed, and maintained at the expense of the utility.

(b) A~~ny~~ll equipment, devices, or facilities furnished at the expense of the utility or for which the utility bears the expense of maintenance and renewal, including service meters, shall remain the property of the utility and may be removed by it at any time after discontinuance of service.

(c) Each service meter shall indicate clearly the units of service in cubic feet or gallons for which charge is made to the customer. In cases where the register reading of a meter must be multiplied by a constant to obtain the units consumed, such constant shall be clearly marked on the meter.

5301. Location of Service Meters.

~~(a)~~ As of the time of meter installation, meters shall be located in conformity with the utility's tariffs and in accordance with:

(~~I~~a) ~~a~~Applicable local building codes; and

(~~II~~b) ~~a~~Applicable meter placement standards adopted by AWWA.

5302. Service Meter Accuracy and Capacity.

Each meter shall meet the accuracy and capacity requirements of the applicable AWWA meter standard for that meter type. Meters must immediately be repaired or replaced if they fail to meet the applicable AWWA standard at the time of testing.

5303. Meter Testing Equipment and Facilities.

(a) Each utility furnishing metered water service shall, unless specifically exempted by the Commission, provide such meter laboratory, standard meters, instruments, and other equipment and facilities as may be necessary to make the tests required by these rules. Such equipment and facilities shall be acceptable to the Commission and shall be available at all reasonable times for inspection by the Commission's authorized representatives.

(b) Each utility shall make such tests as are prescribed under these rules with such frequency, in such manner, and at such places as may be approved by this Commission. Each utility shall file an application for approval of such testing practices. The application shall include:

(I) The information required by 5002(b) and 5002(c).

(II) A description of the test methods employed and the frequency of tests or observations for determining volume of water consumed.

(III) A description of meter testing equipment, including methods employed to ascertain and maintain accuracy of all testing equipment.

(IV) A statement whether the meter testing equipment meets all applicable AWWA standards.

(V) Rules covering testing and adjustment of service meters when installed and periodic tests after installation.

(VI) Supporting information and justification for the items listed in subparagraphs (I) through (IV) of this paragraph.

(c) Revisions to any portion of an approved application identified in paragraph (b) of this rule shall only be accomplished by the filing and approval of a new application.

(d) If the utility does not have suitable means for testing, the utility must have a certificate from the meter manufacturer showing that each meter has been tested for accuracy and that it complies with the accuracy and capacity requirements of the applicable AWWA meter standards.

(e) The utility shall keep records of certification and calibrations for all testing equipment required by this rule for the life of the equipment.

(f) In its tariff, each utility shall include a description of its meter testing equipment and of the ~~including~~ methods employed to ascertain and maintain accuracy of all testing equipment.

(g) For those paragraphs of this rule which require a utility to maintain facilities and equipment, a utility may meet those requirements by having the facilities and equipment readily available (as, for example and without limitation, by contracting with a testing facility). A utility which uses this paragraph of the rule is responsible for its compliance with the provisions of this entire rule.

(h) For those paragraphs of this rule which require a utility to test or to maintain equipment, a utility may meet those requirements by having the equipment tested by a third party (as, for example

and without limitation, an independent testing facility). A utility which uses this paragraph of the rule is responsible for its compliance with the provisions of this entire rule.

5304. Scheduled Meter Testing.

(a) Each utility shall test or shall arrange for testing of service meters in accordance with the schedule in this rule or in accordance with a sampling program approved by the Commission. The utility shall file an application to request approval of such sampling programs.

(b) Every service meter must be tested and adjusted either before installation or no later than 60 days thereafter, to ensure that it registers accurately and conforms to applicable AWWA time intervals.

(c) Every service meter must be periodically tested in accordance with AWWA C700-95, Table B.1 as shown below:

(I) Meter size of 1/2 or 5/8 inch, every 10 years,

(II) Meter size of 3/4 inch, every 8 years,

(III) Meter size of 1 inch, every 6 years,

(IV) Meter size of 1 1/2 inch an above, every 4 years.

(d) In its tariff, each utility shall include a description of the utility's practices concerning:

(I) ~~t~~Testing and adjustment of service meters at installation,

(II) ~~p~~Periodic testing after installation, and

(III) ~~c~~Certification and calibration of meters.

(e) If a utility chooses ~~it wishes~~ to use a sampling program, a utility shall file an application to request approval of such ~~a~~ sampling program. The application shall include:

(I) The information required by rules 5002(b) and 5002(c).

(II) A description of the sampling program which the utility wishes to use. This description shall include, at a minimum the following:

(A) The type(s) of meters subject to the sampling plan.

(B) The frequency of testing.

(C) The procedures to be used for the sampling.

(D) The reference standard to be used for testing.

(E) The accuracy of the testing and of the sampling plan.

(III) An explanation of the reason(s) for the requested sampling program.

(IV) An analysis which demonstrates that, with respect to assuring the accuracy of the service meters tested, the requested sampling program is at least as effective as the schedule in this rule.

(f) Revisions to any portion of a sampling program approved pursuant to paragraph (e) of this rule shall be accomplished by the filing of, and Commission approval of, a new application.

5305. Meter Testing Upon Request.

(a) Each utility furnishing metered water service shall make a test of the accuracy of any water service meter upon request of a customer. ~~The customer may be present during any meter test.~~ The test shall be conducted free of charge if the meter has not been tested within the previous 12 months and the customer agrees to accept the results of the test for the purposes of any dispute or informal complaint regarding the meter's accuracy; otherwise, the utility may charge a fee for performing the test. The utility shall provide a written report of the test results to the customer and maintain a copy on file for at least two years.

(b) Should a customer request and receive a meter test as prescribed in rule 5305(a) and continue to dispute the accuracy of a meter, upon written request by a customer the utility shall make the disputed meter available for independent testing by a qualified meter testing facility of the customer's choosing. The customer is not entitled to take physical possession of the disputed meter. To be a qualified meter testing facility, the testing facility must be capable of testing the meter to meet all meter standards and requirements required by these rules.

(c) This rule applies only when there is disagreement between the customer and the utility regarding the accuracy of the meter. If, upon completion of an independent test as prescribed in rule 5305(b), the disputed meter is found to be accurate within the limits of rule 5302, the customer shall bear all costs associated with conducting the test. If, upon completion of an independent test as prescribed in rule 5305(b), the disputed meter is found to be inaccurate beyond the limits prescribed in rule 5302, the utility shall bear all costs associated with conducting the test.

(d) ~~In its tariff, each a~~A utility shall ~~include~~identify in its tariff the rates, terms, and conditions for a~~ny~~ll fees associated with customer-requested meter testing conducted within ~~twelve~~ 12 months of a prior test.

5306. Records of Tests and Meters.

(a) A utility shall maintain a record for each meter owned or used by the utility, showing the date of purchase, manufacturer's serial number, record of the present location, and date and results of the last test performed by the utility, which record shall be retained for the life of the meter plus 30 months.

(b) Whenever a meter is tested either on request or upon complaint, the test record shall include the information necessary for identifying the meter, the reason for making the test, the reading of the meter if removed from service, the result of the test, together with all data taken at the time of the test in a sufficiently complete form to permit the convenient checking of the methods employed and the calculations made. Such record shall be retained for at least two years.

5307. [Reserved].

5308. [Reserved].

5309. Meter Reading.

(a) Upon the customer's request, the utility shall provide written documentation identifying the date of the most recent reading of the customer's meter, and the total usage expressed in gallons or other unit of service recorded. ~~Each~~On request, a utility supplying metered service~~, on request,~~ shall explain to ~~its~~ a customer~~s~~ ~~the~~ its method of reading meters.

(b) ~~In its tariff, each~~ A utility shall include in its tariff a clear statement describing when meters will be read by the utility and the circumstances, if any, under which the customer must read the meter and submit the data to the utility. This statement shall specify in detail the procedure that the customer must follow, and shall specify all ~~if special~~ conditions that apply to ~~certain~~each class~~es~~ of service~~, such as residential, commercial, industrial or seasonal~~.

(c) Absent good cause, a utility shall read a meter monthly. For good cause shown, a utility shall read a meter at least once every six months.

BILLING AND SERVICE

5400. Applicability.

Rules 5400 through 5410 apply to residential customers and to commercial customers served by a utility's rates or tariffs. In its tariffs, a utility may elect to apply the same or different terms and conditions of service to other customer classes

5401. Billing Information and Procedures.

(a) All bills issued to customers for metered service furnished shall show:

(I) The dates and meter readings beginning and ending the period during which service was rendered;

(II) An appropriate rate or rate code identification;

(III) Net amount due for regulated charges;

(IV) The date by which payment is due, which shall not be earlier than 15 days after the mailing or the hand-delivery of the bill;

(V) A distinct marking to identify an estimated bill;

(VI) The total amount of all payments or other credits made to the customer's account during the billing period.

(VII) Any past due amount. Unless otherwise stated in a tariff or Commission rule, an account becomes "past due" on the 31st day following the due date of current charges.

(VIII) The identification of, and amount due for, unregulated charges, if applicable.

(IX) Any transferred amount or balance from any account other than the customer's current account.

(X) All other essential facts upon which the bill is based, including factors and constants, as applicable.

(b) A utility that bills for unregulated services or goods shall allocate ~~any~~ partial payments first to regulated charges and then to unregulated charges or non-tariffed charges and to the oldest balance due separately within each category.

(c) A utility that transfers to a customer a balance from the account of a person other than that customer shall have in its tariff~~s~~ the utility's benefit of service transfer policies and criteria. The tariff~~s~~ shall contain an explanation of the process by which the utility will verify, prior to billing a customer under the benefit of service tariff, that the person to be billed in fact received the benefit of service.

(d) A utility may transfer a prior unpaid debt to a customer's bill if the prior bill was in the name of the customer and the utility has informed the customer of the transferred amount and of the source of the unpaid debt (for example, and without limitation, the address of the premises to which service was provided and the period during which service was provided).

(e) If it is offered in a tariff, upon request from a customer and where it is technically feasible, a utility may have the option to provide electronic billing (e-billing), in lieu of a typed or machine-printed bill, to the requesting customer. If a utility offers the option of e-billing, the following shall apply:

(I) The utility shall obtain the affirmative consent of a customer to accept such a method of billing in lieu of printed bills.

(II) The utility shall not charge a fee for billing through the e-billing option.

(III) The utility shall not charge a fee based on customer payment options that is different from the fee charged for the use of the same customer payment options by customers who receive printed bills.

(IV) A bill issued electronically shall contain the same disclosures and Commission-required information as those contained in the printed bill provided to other customers.

5402. Adjustments for Meter and Billing Errors.

(a) A utility shall adjust customer charges for water incorrectly metered or billed as follows:

(I) When, upon any meter accuracy test, a meter is found to be running slow in excess of error tolerance levels allowed under rule 5302, the utility may charge for one-half of the ~~under-billed amount~~weighted average error for the period dating from the discovery of the meter error back to the previous meter test, with such period not to exceed~~ing two years~~ six months.

(II) When, upon any meter accuracy test, a meter is found to be running fast in excess of error tolerance levels allowed under rule 5302, the utility shall refund one-half of the weighted average error ~~over-billed amount~~ for the period dating from the discovery of the meter error back to the previous meter test, with such period not to exceed~~ing~~ two years.

(III) When a meter does not register, registers intermittently, or partially registers for any period, the utility may ~~equitably~~ estimate, using the method stated in its tariff, a charge for the water used based on amounts metered to the customer over similar periods in previous years. The period for which the utility charges the estimated amount shall not exceed ~~two years~~ six months.

(IV) In the event of under-billings not provided for in subparagraphs (I) or (III) of this rule (such as an incorrect multiplier, register, or billing error), the utility may charge for the period during which the under-billing occurred, with such period not to exceed~~ing two years~~ six months.

(V) In the event of over-billings not provided for in subparagraph (II) of this rule, ~~such as an incorrect multiplier, register, or billing error,~~ the utility shall refund for the period during which the over-billing occurred, with such period not to exceed~~ing~~ two years.

(b) The periods set out in paragraph (a) of this rule shall commence on the date on which (1) either the customer notifies the utility or the utility notifies the customer of a meter or billing error or (2) the customer informs the utility of a billing or metering error dispute or makes an informal complaint to the External Affairs section of the Commission.

(c) In the event of an over-billing, the customer may elect to receive the refund as a credit to future billings or as a one-time payment. If the customer elects a one-time payment, the utility shall make the refund within 30 days. Such over-billings shall not be subject to interest.

(d) In the event of under-billing, the customer may elect to enter into a payment arrangement on the under-billed amount. The payment arrangement shall be equal in length to the length of time during which the under-billing lasted. Such under-billings shall not be subject to interest.

5403. Applications for Service, Customer Deposits, and Third-Party Guarantee Arrangements.

(a) A utility shall process an application for utility service which is made either orally or in writing and shall apply nondiscriminatory criteria with respect to the requirement of a cash deposit prior to commencement of service.

(b) If billing records are available for a customer who has received service from the utility, the utility shall not require that person to make new or additional cash deposits to guarantee payment of current bills unless the records indicate recent or substantial delinquencies. All customers shall be treated without undue discrimination with respect to cash deposit requirements, pursuant to the utility's tariff.

(c) A utility shall not require a cash deposit from an applicant for service who provides written documentation of a 12 consecutive month good credit history from the utility from which that person received similar service. For purposes of this paragraph, the 12 consecutive months must have ended no earlier than 60 days prior to the date of the application for service.

(d) If a utility uses credit scoring to determine whether to require a cash deposit from an applicant for service or a customer, the utility shall have a tariff which describes, for each scoring model that it uses, the credit scoring evaluation criteria and the credit score limit which triggers a cash deposit requirement.

(e) All utilities requiring deposits shall offer customers at least one non-cash alternative that does not require the use of the customer's social security number, in lieu of a cash deposit.

(ef) If a utility uses credit scoring, prior payment history with the utility, or customer-provided prior payment history with a like utility as a criterion for establishing the need for a cash deposit, the utility shall include in its tariff the specific evaluation criteria which trigger the need for a cash deposit.

(fg) If a utility denies an application for service or requires a cash deposit as a condition of providing service, the utility immediately shall inform the applicant for service of the decision and shall provide, within three business days, a written explanation to the applicant for service stating the reasons the application for service has been denied or a cash deposit is required.

(gh) No utility shall require any security other than either a cash deposit to secure payment for utility services or a third-party guarantee of payment in lieu of a cash deposit. In no event shall the furnishing of utility services or extension of utility facilities, or any indebtedness in connection therewith, result in a lien, mortgage, or other security interest in any real or personal property of the customer unless such indebtedness has been reduced to a judgment. Should the guarantor terminate service or terminate the third party guarantee before the customer has established a satisfactory payment record for 12 consecutive months, the utility, applying the criteria contained in its tariff, may require a cash deposit or a new third party guarantor~~at that time depending on the customer's payment record to date and such other criteria as the utility would ordinarily consider under the circumstances in the absence of a third party guarantee~~.

(hi) A cash deposit shall not exceed an amount equal to an estimated 90 days' bill of the customer, except in the case of a customer whose bills are payable in advance of service, in which case the cash deposit shall not exceed an estimated 60 days' bill of the customer. The cash deposit may be in addition to any advance, contribution, or guarantee in connection with construction of lines or facilities, as provided in the extension policy in the utility's tariff~~s~~.

(ij) A utility receiving cash deposits shall maintain records showing:

(I) The name of each customer making a cash deposit.

(II) The amount and date of the cash deposit.

(III) Each transaction, such as the payment of interest or interest credited, concerning the cash deposit.

(IV) Each premise~~s~~ where the customer receives service from the utility while the cash deposit is retained by the utility.

(V) If the cash deposit was returned to the customer, the date on which the cash deposit was returned to the customer.

(~~j~~k) ~~In its tariffs, a~~A utility shall state in its tariff its customer deposit policy for establishing or maintaining service. The tariff shall state the circumstances under which a cash deposit will be required and the circumstances under which it will be returned.

(~~k~~l) Each utility shall issue a receipt to every customer from whom a cash deposit is received. No utility shall refuse to return a cash deposit or any balance to which a customer may be entitled solely on the basis that the customer is unable to produce a receipt.

(~~l~~m) The payment of a cash deposit shall not relieve any customer from the obligation to pay current bills as they become due. A utility is not required to apply any cash deposit to any indebtedness of the customer to the utility, except for utility services due or past due after service is terminated.

(~~m~~n) A utility shall pay simple interest on a cash deposit at the percentage rate per annum as calculated by the Staff and in the manner provided in this paragraph.

(I) At the request of the customer, the interest shall be paid to the customer either on the return of the cash deposit or annually. The simple interest on a cash deposit shall be earned from the date the cash deposit is received by the utility to the date the customer is paid. At the option of the utility, interest payments may be paid directly to the customer or by a credit to the customer's account.

(II) The simple interest to be paid on a cash deposit during any calendar year shall be at a rate equal to the average for the period October 1 through September 30 (of the immediately preceding year) of the 12 monthly average rates of interest expressed in percent per annum, as quoted for one-year United States Treasury constant maturities, as published in the Federal Reserve Bulletin, by the Board of Governors of the Federal Reserve System. Each year, the Staff shall compute the interest rate to be paid. If the difference between the existing customer deposit interest rate and the newly calculated customer deposit interest rate is less than 25 basis points, the existing customer deposit interest rate shall continue for the next calendar year. If the difference between the existing customer deposit interest rate and the newly calculated customer deposit interest rate is 25 basis points or more, the newly calculated customer deposit interest rate shall be used. The Commission shall send a letter to each utility stating the rate of interest to be paid on cash deposits during the next calendar year. Annually following receipt of Staff's letter, if necessary, each utility shall file by advice letter or application, as appropriate, a revised tariff, effective the first day of January of the following year, or on an alternative date set by the Commission, containing the new rate of interest to be paid upon customers' cash deposits, except when there is no change in the rate of interest to be paid on such deposits.

(~~n~~o) A utility shall have tariffs concerning third-party guarantee arrangements and, pursuant to th~~os~~e tariff~~s~~, shall offer the option of a third party guarantee arrangement for use in lieu of a cash deposit. The following shall apply to third-party guarantee arrangements:

(I) An applicant for service or a customer may elect to use a third-party guarantor in lieu of paying a cash deposit.

(II) The third-party guarantee form, signed by both the third-party guarantor and the applicant for service or the customer, shall be provided to the utility.

(III) The utility may refuse to accept a third-party guarantee if the guarantor is not a customer in good standing at the time of the guarantee.

(IV) The amount guaranteed shall not exceed the amount which the applicant for service or the customer would have been required to provide as a cash deposit.

(V) The guarantee shall remain in effect until the earlier of the following occurs: it is terminated in writing by the guarantor; if the guarantor was a customer at the time of undertaking the guarantee, the guarantor is no longer a customer of the utility; or the customer has established a satisfactory payment record, as defined in the utility's tariff~~s~~, for 12 consecutive months.

(VI) Should the guarantor terminate service or terminate the third party guarantee before the customer has established a satisfactory payment record for 12 consecutive months, the utility, applying the criteria contained in its tariff~~s~~, may require a cash deposit or a new third party guarantor.

5404. Installment Payments.

(a) In its tariff~~s~~, a utility shall have a budget or level~~ized~~ payment plan available for its customers.

(b) In its tariff, a utility shall have an installment payment plan which permits a customer to make installment payments if one of the following applies:

(I) The plan is to pay regulated charges from past billing periods and the past due amount arises solely from events under the utility's control (such as, without limitation, meter malfunctions, billing errors, utility meter reading errors, or failures to read the meter, except where the customer refuses to read the meter and it is not readily accessible to the utility). A utility shall advise a customer who is eligible for this type of plan of the customer's eligibility. At the request of the customer and at the customer's discretion, an installment payment plan under this subparagraph shall extend over a period equal in length to that during which the errors were accumulated and shall not include interest.

(II) The customer pays at least ten percent of the amount shown on the notice of discontinuance for regulated charges and enters into an installment payment plan on or before the expiration date of the notice of discontinuance.

(III) The customer pays at least ten percent of any regulated charges amount more than 30 days past due and enters into an installment payment plan on or before the last day covered by a medical certification. A customer who has entered into and failed to abide by an installment payment plan prior to receiving a medical certification shall pay all amounts that were due for regulated charges up to the date on which the customer presented a medical certification which meets the requirements of rule ~~3~~5407(e)(IV) and then may resume the installment payment plan.

(IV) If service has been disconnected, the customer pays at least any collection and reconnection charges and enters into an installment payment plan. This subparagraph shall not apply if service was discontinued because the customer breached a prior payment arrangement.

(c) Installment payment plans shall include the following amounts that are applicable at the time the customer requests a payment arrangement:

(I) The unpaid remainder of amounts due for regulated charges shown on the notice of discontinuance.

(II) Any amounts due for regulated charges not included in the amount shown on the notice of discontinuance which have since become more than 30 days past due.

(III) All current regulated charges contained in any bill which is past due but is less than 30 days past the due date.

(IV) Any new regulated charges contained in any bill which has been issued but is not past due.

(V) Any regulated charges which the customer has incurred since the issuance of the most recent monthly bill.

(VI) Any collection fees as provided for in the utility's tariff, whether or not such fees have appeared on a regular monthly bill.

(VII) Any deposit, whether already billed, billed in part, or required by the utility's tariff, due for discontinuance or delinquency or to establish initial credit, other than a cash deposit required as a condition of initiating service.

(VIII) Any other regulated charges or fees provided in the utility's tariff (including without limitation miscellaneous service charges, investigative charges, and checks returned for insufficient funds charges), whether or not they have appeared on a regular monthly bill.

(d) Within seven calendar days of entering into a payment arrangement with a customer, a utility shall provide the customer with a copy of this rule and a statement describing the payment arrangement. The statement describing the payment arrangement shall include the following:

(I) The terms of the payment plan.

(II) A description of the steps which the utility will take if the customer does not abide by payment plan.

(e) Except as provided in subparagraph (b)(I) of this rule, an installment payment plan shall consist, at a minimum, of equal monthly installments for a term selected by the customer but not to exceed six months. In the alternative, the customer may choose a modified budget billing, level~~ized~~ payment, or similar tariff~~ed~~ payment arrangement in which the total due shall be added to the preceding year's total billing to the customer's premises, modified for any base rate or cost adjustment changes. The resulting amount shall be divided and billed in 11 equal monthly budget billing payments, followed by a settlement billing in the twelfth month, or shall follow other payment-setting practices consistent with the tariff~~ed~~ plan available.

(f) For an installment payment plan entered into pursuant to this rule, the first monthly installment payment, and with the new charges (unless the new charges have been made part of the

arrangement amount) shall be due on a date which is not earlier than the next regularly-scheduled due date of the customer who is entering into the installment payment plan. Succeeding installment payments, together with the new charges, shall be due in accordance with the due date established in the installment payment plan. Any payment not made on the due date established in the installment payment plan shall be considered in default. Any new charges that are not paid by the due date shall be considered past due, excluding those circumstances covered in subparagraph (b)(I) of this rule.

(g) This rule shall not be construed to prevent a utility from offering any other installment payment plan terms to avoid discontinuance or terms for restoration of service, provided the terms are at least as favorable to the customer as the terms set out in this rule.

5405. Service, Rate, and Usage Information.

(a) In addition to the requirement found in rule 1206, a~~A~~ utility shall inform its customers of any change proposed or made in any term or condition of its service if that change or proposed change will affect the quality of the service provided.

(b) A utility shall transmit information provided pursuant to this rule through the use of a method (such as, without limitation, bill inserts or periodic direct mail) that will assure receipt by each customer.

(c) Upon request, a utility must provide the following information to a customer:

(I) A clear and concise summary of the existing rate schedule applicable to each major class of customers for which there is a separate rate.

(II) An identification of each class whose rates are not summarized.

(III) A clear and concise explanation of the existing rate schedule applicable to the customer. This shall be provided within ten days of a customer's request or, in the case of a new customer, within 60 days of the commencement of service.

(IV) A clear and concise statement of the customer's actual consumption for each billing period during the prior year, unless such consumption data are not reasonably ascertainable by the utility.

(V) Any other information and assistance as may be reasonably necessary to enable the customer to secure safe and efficient service.

5406. [Reserved~~.~~].

5407. Discontinuance of Service.

(a) A utility shall not discontinue the service of a customer for any reason other than the following:

(I) Nonpayment of regulated charges.

(II) Fraud or subterfuge.

(III) Service diversion.

(IV) Equipment tampering.

(V) Safety concerns.

(VI) Exigent circumstances.

(VII) Discontinuance ordered by any appropriate governmental authority.

(VIII) Properly discontinued service being restored by someone other than the utility when the original cause for proper discontinuance has not been cured.

(b) A utility shall not discontinue service for nonpayment of any of the following:

(I) Any amount which has not appeared on a regular monthly bill or which is not past due. Unless otherwise stated in a tariff or Commission rule, an account becomes "past due" on the 31st day following the due date of current charges.

(II) Any amount due on another account now or previously held or guaranteed by the customer, or with respect to which the customer received service, unless the amount has first been transferred either to an account which is for the same class of service or to an account which the customer has agreed will secure the other account. Any amount so transferred shall be considered due on the regular due date of the bill on which it first appears and shall be subject to notice of discontinuance as if it had been billed for the first time.

(III) Any amount due on an account on which the customer is or was neither the customer of record nor a guarantor, or any amount due from a previous occupant of the premises. This subparagraph does not apply if the customer is or was obtaining service through fraud or subterfuge or if rule 5401(c) applies.

(IV) Any amount due on any account for which the present customer is or was the customer of record, if another person established the account through fraud or subterfuge and without the customer's knowledge or consent.

(V) Any delinquent amount, unless the utility can supply billing records from the time the delinquency occurred.

(VI) Any debt except that incurred for service rendered by the utility in Colorado.

(VII) Any unregulated charge.

(c) If the utility discovers any connection or device installed on the customer’s premises which would prevent the meter from registering the actual amount of water used, the utility shall do one of the following:

(I) Remove or correct such devices or connections. If the utility takes this action, it shall leave at the premises a written notice which advises the customer of the violation, of the

steps taken by the utility to correct it, and of the utility's ability to bill the customer for any estimated water consumption not properly registered. This notice shall be left at the time the removal or correction occurs.

(II) Provide the customer with written notice that the device or connection must be removed or corrected within 15 days and that the customer may be billed for any estimated water consumption not properly registered. If the utility elects to take this action and the device or connection is not removed or corrected within the 15 days permitted, then within seven calendar days from the expiration of the 15 days, the utility shall remove or correct the device or connection pursuant to subparagraph (c)(I) of this rule.

(d) If a utility discovers evidence that any utility-owned equipment has been tampered with or that service has been diverted, the utility shall provide the customer with written notice of the discovery. The written notice shall inform the customer of the steps the utility will take to determine whether non-registration of water consumption has or will occur and shall inform the customer that the customer may be billed for any estimated water consumption not properly registered. The utility shall mail or hand-deliver the written notice within three calendar days of making the discovery of tampering or service diversion.

(e) A utility shall not discontinue service, other than to address safety concerns or in exigent circumstances, if one of the following is met:

(I) If a customer at any time tenders full payment in accordance with the terms and conditions of the notice of discontinuance to a utility employee authorized to receive payment, including any employee dispatched to discontinue service. Payment of a charge for a service call shall not be required to avoid discontinuance.

(II) If a customer pays, on or before the expiration date of the notice of discontinuance, at least one-tenth of the amount shown on the notice and enters into an installment payment plan with the utility, as provided in rule 5404.

(III) If it is between 12 Noon on Friday and 8 a.m. the following Monday; between 12 Noon on the day prior to and 8:00 a.m. on the day following any state or federal holiday; or between 12 Noon on the day prior to and 8:00 a.m. on the day following any day during which the utility's local office is not open.

(IV) Medical emergencies.

(A) A utility shall postpone discontinuance of water service to a residential customer for 60 days from the date of a medical certificate issued by a Colorado-licensed physician or health care practitioner acting under a physician's authority which evidences that discontinuance of service will aggravate an existing medical emergency or create a medical emergency for the customer or a permanent resident of the customer's household. The customer may receive a single 30-day extension by providing a second medical certification prior to the expiration of the original 60-day period. A customer may invoke this subparagraph (IV)(A) only once in any twelve consecutive months.

(B) As a condition of obtaining a new installment payment plan on or before the last day covered by a medical certificate, a customer who had already entered into a payment arrangement, but had broken the arrangement prior to seeking a medical certification, may be required to pay all amounts that were due up to the date of the original medical certificate as a condition of obtaining a new payment arrangement. At no time shall a payment from the customer be required as a condition of honoring a medical certificate.

(C) The certificate of medical emergency shall be in writing, sent to the utility from the office of a licensed physician, and show clearly the name of the customer or individual whose illness is at issue; the Colorado medical identification number, phone number, name, and signature of the physician or health care practitioner acting under a physician's authority certifying the medical emergency. Such certification shall be incontestable by the utility as to the medical judgment, although the utility may use reasonable means to verify the authenticity of such certification.

~~If discontinuance of residential service would aggravate an existing medical condition or would create a medical emergency for the customer or a permanent resident of the customer's household, as evidenced by a written medical certification from a Colorado-licensed physician or health practitioner acting under a physician's authority. The certification shall show clearly the name of the customer or individual whose illness is at issue and the Colorado medical identification number, the telephone number, and the signature of the physician or health care practitioner acting under a physician's authority who certifies the medical emergency. The certification shall be incontestable by the utility as to medical judgment, although the utility may use reasonable means to verify the authenticity of the certification. A medical certification is effective on the date it is received by the utility and is valid to prevent discontinuance of service for 60 days. The customer may receive one 30-day extension by providing a second medical certification prior to the expiration of the original 60-day period. A customer may invoke this subparagraph only once in any 12 consecutive month period.~~

5408. Notice of Discontinuance.

(a) Except as provided in paragraphs (g) and (h) of this rule, a utility shall provide, by first class mail or by hand-delivery, written notice of discontinuance of service at least 15 days in advance of any proposed discontinuance of service. The notice shall be conspicuous and in easily understood language, and the heading shall contain, in capital letters, the following warning:

THIS IS A FINAL NOTICE OF DISCONTINUANCE OF UTILITY SERVICE AND CONTAINS IMPORTANT INFORMATION ABOUT YOUR LEGAL RIGHTS AND REMEDIES. YOU MUST ACT PROMPTLY TO AVOID UTILITY SHUT OFF.

(b) The body of the notice of discontinuance under paragraph (a) of this rule shall advise the customer of the following:

(I) The reason for the discontinuance of service and of the particular rule (if any) which has been violated.

(II) The amount past due for utility service, deposits, or other regulated charges, if any.

(III) The date by which an installment payment plan must be entered into or full payment must be received in order to avoid discontinuance of service.

(IV) How and where the customer can pay or enter into an installment payment plan prior to the discontinuance of service.

(V) That the customer may avoid discontinuance of service by entering into an installment payment plan with the utility pursuant to rule 5404 and the utility's applicable tariff.

(VI) That the customer has certain rights if the customer or a member of the customer's household is seriously ill or has a medical emergency.

(VII) That the customer has the right to dispute the discontinuance directly with the utility by contacting the utility, and how to contact the utility toll-free from within the utility's service area.

(VIII) That the customer has the right to make an informal complaint to the External Affairs section of the Commission in writing, by telephone, or in person, along with the Commission's address and local and toll-free telephone number.

(IX) That the customer has the right to file a formal complaint, in writing, with the Commission pursuant to rule 1302 and that this formal complaint process may involve a formal hearing.

(X) That in conjunction with the filing of a formal complaint, the customer has a right to file a motion for a Commission order ordering the utility not to disconnect service pending the outcome of the formal complaint process and that the Commission may grant the motion upon such terms as it deems reasonable, including but not limited to the posting of a cash deposit or bond with the utility or timely payment of all undisputed regulated charges.

(XI) That if service is discontinued for non-payment, the customer may be required, as a condition of restoring service, to pay reconnection and collection charges in accordance with the utility's tariff.

(XII) That qualified low-income customers may be able to obtain financial assistance to assist with the payment of the utility bill and that more detailed information on that assistance may be obtained by calling the utility toll-free. The utility shall state its toll-free telephone number.

(c) At the time it provides notice of discontinuance to the customer, a utility shall also provide written notice by first class mail or hand-delivery to any third-party the customer has designated in writing to receive notices of discontinuance or broken arrangement.

(d) A discontinuance notice shall be printed in English and a specific language or languages other than English where the utility's service territory contains a population of at least ten percent who

speak a specific language other than English as their primary language as determined by the latest U.S. Census information.

(e) A utility shall explain and shall offer the terms of an installment payment plan to each customer who contacts the utility in response to a notice of discontinuance of service.

(f) Following the issuance of the notice of discontinuance of service, and at least 24 hours prior to discontinuance of service, a utility shall attempt to give notice of the proposed discontinuance in person or by telephone both to the customer and to any third party the customer has designated in writing to receive such notices. If the utility attempts to notify the customer in person but fails to do so, it shall leave written notice of the attempted contact and its purpose.

(g) If a customer has entered into an installment payment plan and has defaulted or allowed a new bill to remain unpaid past its due date, a utility shall provide, by first class mail or by hand-delivery, a written notice to the customer. The notice shall contain:

(I) A heading as follows: NOTICE OF BROKEN ARRANGEMENT.

(II) Statements that advise the customer:

(A) That the utility may discontinue service if it does not receive the monthly installment payment within ten days after the notice is mailed or hand-delivered.

(B) That the utility may discontinue service if it does not receive payment for the current bill within 30 days after its due date.

(C) That, if service is discontinued, the utility may refuse to restore service until the customer pays all amounts for regulated service more than 30 days past due and any collection or reconnection charges.

(D) That the customer has certain rights if the customer or a member of the customer's household is seriously ill or has a medical emergency.

(h) A utility is not required to provide notice under this rule if one of the following applies:

(I) The situation involves safety concerns or exigent circumstances.

(II) Discontinuance is ordered by any appropriate governmental authority.

(III) Either rule 5407(c) or rule 5407(d) applies.

(IV) Service, having been already properly discontinued, has been restored by someone other than the utility and the original cause for discontinuance has not been cured.

(i) Where a utility knows that the service to be discontinued is used by customers in multi-unit dwellings, in places of business, or in a cluster of dwellings or places of business and the utility service is recorded on a single meter used either directly or indirectly by more than one unit, the utility shall issue notice as required in paragraphs (a) and (b) of this rule, except that:

(I) The notice period shall be 30 days.

(II) Such notice may include the current bill.

(III) The utility shall provide written notice to each individual unit, stating that a notice of discontinuance has been sent to the party responsible for the payment of utility bills for the unit and that the occupants of the units may avoid discontinuance by paying the next new bill in full within 30 days of its issuance and successive new bills within 30 days of issuance.

(IV) The utility shall post the notice in at least one of the common areas of the affected location.

5409. Restoration of Service.

(a) Unless prevented from doing so by safety concerns or exigent circumstances, a utility shall restore, without additional fee or charge, any discontinued service which was not properly discontinued or restored as provided in rules 5407, 5408, and 5409.

(b) Unless prevented by safety concerns or exigent circumstances, a utility shall restore service within 24 hours (excluding weekends and holidays), or within 12 hours if the customer pays any necessary after-hours charges established in tariff~~s~~, if the customer does any of the following:

(I) Pays in full the amount for regulated charges shown on the notice and any deposit and/or fees as may be specifically required by the utility's tariff in the event of discontinuance of service.

(II) Pays any reconnection and collection charges specifically required by the utility's tariff, enters into an installment payment plan, and makes the first installment payment, unless the cause for discontinuance was the customer's breach of such an arrangement.

(III) Presents a medical certification, as provided in rule 5407(e)(IV).

(IV) Demonstrates to the utility that the cause for discontinuance, if other than non-payment, has been cured.

5410. Refund Plans.

(a) If it seeks to refund monies, a utility shall file an application for Commission approval of a refund plan.

(b) The application for approval of a refund plan shall include, in the following order ~~and specifically identified~~, the following information either in the application or in the appropriately identified attached exhibits:

(I) All the information required ~~in~~ by rules 5002(b) and 5002(c).

(II) The reason for the proposed refund.

(III) A detailed description of the proposed refund plan, including the type of utility service involved, the service area involved, the class(es) of customers to which the refund will be made, and the dollar amount (both the total amount and the amount to be paid to each customer class) of the proposed refund. The interest rate on the refund shall be the ~~current~~ interest rate for customer deposits in the applying utility's ~~customer deposits~~ currently effective tariff.

(IV) The date the applying utility proposes to start making the refund, which shall be no more than 60 days after the filing of the application; the date by which the refund will be completed; and the means by which the refund is proposed to be made.

(V) If applicable, a reference (by docket number, decision number, and date) to any Commission decision requiring the refund or, if the refund is to be made because of receipt of monies by the applying utility under the order of a court or of another state or federal agency, a copy of the order.

(VI) A statement describing in detail the extent to which the applying utility has any financial interest in any other company involved in the refund plan.

(VII) A statement showing accounting entries under the Uniform System of Accounts.

(VIII) A statement that, if the application is granted, the applying utility will file an affidavit establishing that the refund has been made in accordance with the Commission's decision.

GLOSSARY OF ACRONYMS

AWWA -	American Water Works Association
CCR -	Colorado Code of Regulations
CFR -	Code of Federal Regulations
CPCN -	Certificate of Public Convenience and Necessity
CRCP -	Colorado Rules of Civil Procedure
C.R.S. -	Colorado Revised Statutes
e-mail -	Electronic mail
GAAP -	Generally Accepted Accounting Principles
OCC -	Colorado Office of Consumer Counsel
P&P Rules -	Rules of Practice and Procedure
USOA -	Uniform System of Accounts