

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 11R-707E

IN THE MATTER OF THE PROPOSED RULES RELATING TO EXEMPTION FROM
ELECTRICITY INVERTED BLOCK RATESCHEDULE FOR MEDICAL REASONS, 4 CODE
OF COLORADO REGULATIONS 723-3.

NOTICE OF PROPOSED RULEMAKING

Mailed Date: August 24, 2011

Adopted Date: August 24, 2011

I. BY THE COMMISSION

A. Statement

1. The Colorado Public Utilities Commission hereby issues a Notice of Proposed Rulemaking (NOPR) regarding its Rules Regulating Electric Utilities, 4 *Code of Colorado Regulations* (CCR) 723-3.

2. This rule is proposed pursuant to SB11-087, which allows the Public Utilities Commission (Commission) to adopt rules creating an exemption from tiered electric rate plans based on a customer's medical condition or use of an essential life support device. SB11-087 was codified as § 40-3-103.5, C.R.S.

3. The statutory authority for the proposed rules is found in §§ 29-20-108, 40-2-108, 40-3-102, 40-3-103, 40-3-103.5, 40-3-111, 40-4-101, and 40-4-108, C.R.S.

B. Policy Objectives

1. Overview

4. In this NOPR, the Commission makes certain findings and introduces proposed rules related to the exemption from tiered electricity rate plans by persons meeting certain medical requirements. The Commission authorized tiered electricity rate plans, also known as

inverted block rates, for residential customers through Decision No. C10-0286 in Docket No. 09AL-299E.

5. The draft rule language presented in this NOPR was developed by Commission Staff. As draft language it is now presented to the public through this NOPR with the specific intent of stimulating discussion.

2. Proposed Rule

6. We propose to add Rule 3401(f), attached as Attachment A. This rule requires electric utilities to file a tariff with a rate for persons who qualify for and request alternative rate(s) to tiered rates based on medical qualifications. The alternate rate based on medical exemption shall not be tiered. Should a customer qualify for the medical exemption rate, that customer will not be precluded from participating in any low-income program offered by the utility.

3. Conclusion

7. Rules not specifically discussed in this NOPR do not constitute a portion of this NOPR. The Commission is not proposing any changes to the rules not specifically discussed in this NOPR.

8. The proposed rule will be published in the September 10, 2011 edition of *The Colorado Register*. Interested persons may acquire a copy of the proposed rule, either in hard-copy from the Commission's Administrative Support Section, which may be contacted by phone or email at (303) 894-2884 or elizabeth.hayes@dora.state.co.us, respectively. The proposed rule will also be available through the Commission's Electronic filing system.

9. The Commission finds that this matter will be appropriately handled by an Administrative Law Judge (ALJ) and refers it as such. The ALJ will conduct a hearing in this matter at the time indicated below; the ALJ may determine that additional hearings are necessary.

10. The Commission strongly encourages interested persons to submit written comments on the proposed rules. The Commission is particularly interested in comments that address the following questions:

- a) What should be included in the definition of a qualifying medical condition for purposes of permitting an exemption from a tiered rate schedule? How can that definition be most fairly determined?
- b) What should be included in the definition of an essential life support device for purposes of permitting an exemption from a tiered rate schedule? How can that definition be most fairly determined?
- c) For each potential definition of “qualifying medical condition” and “essential life support device,” how many customers would likely be eligible to elect an alternative rate schedule?
- d) Who should determine what constitutes a qualifying medical condition for exemption from a tiered rate schedule and what evidence of the qualifying medical condition should be required?
- e) Who should determine what constitutes an essential life support device for purposes of permitting an exemption from a tiered rate schedule and what evidence of such use should be required?
- f) What is the most effective and efficient method for demonstrating a customer’s eligibility for exemption from a tiered rate schedule?
- g) What is an appropriate definition of “exemption” as used in § 40-3-103.5, C.R.S.?

11. The Commission strongly encourages written comments in this matter. Parties may present their comments orally at hearing unless the ALJ deems oral presentations unnecessary. If interested persons wish to file comments before the hearing, the Commission requests that such comments be filed no later than September 23, 2011. Reply comments should be submitted by October 7, 2011. All submissions will be considered, whether oral or written.

II. ORDER

A. The Commission Orders That:

1. This Notice of Proposed Rulemaking, and Attachment A attached hereto, shall be filed with the Colorado Secretary of State for publication in the September 10, 2011 edition of *The Colorado Register*.

2. An Administrative Law Judge is assigned to this matter.

3. A Hearing on the proposed rules and related matters shall be held as follows:

DATE: Friday, October 21, 2011

TIME: 9:00 a.m. – 5:00 p.m.

PLACE: Public Utilities Commission
1560 Broadway, Suite 250
Denver, Colorado

4. The ALJ may set additional hearings, if necessary.

5. This Order is effective upon its Mailed Date.

B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING AUGUST 24, 2011.

(S E A L)



ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Doug Dean".

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JOSHUA B. EPEL

JAMES K. TARPEY

MATT BAKER

Commissioners

COLORADO DEPARTMENT OF REGULATORY AGENCIES

Public Utilities Commission

4 CODE OF COLORADO REGULATIONS (CCR) 723-3

PART 3 RULES REGULATING ELECTRIC UTILITIES

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[indicates omission of unaffected rules]

BILLING AND SERVICE

3400. Applicability.

Rules 3400 through 3411 apply to residential customers, small commercial customers and agricultural customers served pursuant to a utility's rates or tariffs. In its tariffs, a utility shall define "residential," "small commercial" and "agricultural" customers to which these rules apply. The utility may elect to apply the same or different terms and conditions of service to other customers.

3401. 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) The 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 partial payments first to regulated charges and then to unregulated charges or non-tariff 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 tariffs the utility's benefit of service transfer policies and criteria. The tariffs 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.
- (f) Medical exemption from tiered rate plans.
 - (I) Any electric utility that has a Commission approved tiered rate plan, also known as inverted block rates, shall file an Advice Letter and tariff, consistent with 4 CCR 723-1-1210, providing non-preferential rates for customers who elect alternate rates due to a qualifying medical condition and/or use of essential life support equipment. The effect of such an exemption shall be neutral with respect to the utility's revenue requirement. If a customer qualifies for the alternate rate, that customer shall not be precluded from participating in any low-income program offered by the utility.

- (II) Certification of a qualifying medical condition and/or use of essential life support equipment shall be valid for one year. Certification of a qualifying medical condition and/or use of essential life support equipment shall:
- (A) be in writing
 - (B) be sent to the utility from the office of a licensed physician;
 - (C) clearly state the name of the customer or individual whose medical condition and/or use of life support equipment is at issue;
 - (D) clearly identify the qualifying medical condition and/or use of essential life support equipment necessitating the certification; and
 - (E) clearly state 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 existence of a qualifying medical condition and/or use of essential life support equipment.
- (III) 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.
- (IV) If the electric utility has a Commission approved tiered rate plan as of July 13, 2011, the tariff filing of non-preferential rates for qualifying customers shall be made by January 1, 2012. If an electric utility requests Commission approval of a tiered rate plan after July 13, 2011, the utility shall include in its tiered rate plan request, a non-preferential rate for customers with a qualifying medical condition and/or use of qualifying life support equipment.

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[indicates omission of unaffected rules]