

(Decision No. C83-1734)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE RULES OF THE)
PUBLIC UTILITIES COMMISSION OF THE)
STATE OF COLORADO REGULATING THE)
SERVICE OF GAS UTILITIES WITHIN)
THE STATE OF COLORADO: RULE 13)
RELATING TO DISCONTINUANCE OF)
SERVICE.)

CASE NO. 5321

ORDER OF THE COMMISSION
ADMINISTRATIVELY READOPTING
THE RULE 13

November 10, 1983

STATEMENT AND FINDINGS

BY THE COMMISSION:

On September 27, 1983, by Decision No. C83-1508, the Commission adopted revised Rule 13, relating to the discontinuance of service by gas utilities. Decision No. C83-1508 provided that the decision would become effective thirty days from September 27, 1983, that is, on October 27, 1983, unless stayed or postponed according to law.

Subsequent to September 27, 1983, applications for rehearing, reargument or reconsideration were filed by Rocky Mountain Natural Gas Company, Public Service Company of Colorado and Ralph Behr and Kou Yang. These applications were denied on October 25, 1983 by Decision No. C83-1664. Accordingly, Decision No. C83-1508 became final on October 27, 1983.

Before new or revised rules can be put into effect, it is also necessary to comply with certain additional statutory requirements such as submission of the rules adopted by a commission or agency to the Attorney General for his opinion as to the constitutionality and legality of the same. This must be done within ten days of the effective date of the adoption of the rules. In addition, it is necessary to have the rules published by the Secretary of State in the Rules Register. CRS 1973, 24-4-103(5) and (11) provide that the rules become effective twenty days after the Secretary of State's publication of the rules, as finally adopted or on such later date as is stated in the rules themselves.

Inasmuch as the Commission's adoption of the revised Rule 13 relating to the discontinuance of gas service became final on October 27, 1983, the Commission was required to submit the same to the Attorney General on or before November 7, 1983. (On October 27, 1983, the Commission's companion Decision No. C83-1507 relating to the discontinuance of service by electric utilities also became final. The revised electric Rule 13 was submitted to the Attorney General on October 27, 1983 and an affirmative opinion as to its constitutionality and legality was obtained from the Attorney General on November 4, 1983.) Although it intended to do so at the same time it submitted the revised electric Rule 13 to the Attorney General, by administrative inadvertence the Commission did not simultaneously request a ruling from the Attorney General as to the constitutionality and legality of revised gas Rule 13. CRS 1973, 24-4-103(11)(d) states, in part:

Each rule adopted on or after September 1, 1977,
together with the attorney general's opinion rendered
in connection therewith, shall be filed pursuant to

subsection (12) of this section within ten days thereafter [which is the effective date of the order thereafter having been construed as being the date of final adoption of the rule] with the secretary of state for publication in the Colorado register.

Since this procedural step was not complied with, it is technically necessary for the Commission to administratively readopt the same revised gas Rule 13 as it did pursuant to Decision No. C83-1508, in order to start the "ten-day clock" running again. This is necessary in order to obtain an opinion as to constitutionality and legality from the Attorney General and in order to file with the Secretary of State the revised Rule 13, together with the Attorney General opinion thereon, within the statutory ten days.

Premises considered, the Commission states and finds that the public interest requires the readoption of the revised Rule 13 of the Rules Regulating the Service of Gas Utilities within the State of Colorado, as said revision is set forth in Appendix A to this decision (which revision had originally been adopted by the Commission pursuant to Decision No. C83-1508, dated September 27, 1983, and which decision became effective October 27, 1983).

Inasmuch as the instant decision and order is an administrative readoption of the revised gas Rule 13, the provisions of CRS 1973, 40-6-114(1) pertaining to the filing of an application for rehearing, reargument or reconsideration is not applicable herein.

An appropriate Order will be entered.

O R D E R

THE COMMISSION ORDERS THAT:

1. Rule 13 of the Rules Regulating the Service of Gas Utilities of the Public Utilities Commission of the State of Colorado be, and hereby is, revised to read as the same is set forth in Appendix A attached to this decision and made a part hereof.

2. Rule 13 of the Rules Regulating the Service of Gas Utilities of the Public Utilities Commission of the State of Colorado as revised herein shall be submitted by the Executive Secretary of the Commission to the appropriate committee of reference of the Colorado General Assembly, if the General Assembly is in session at the time this order becomes effective, or to the Committee on Legal Services if the General Assembly is not in session, for its opinion as to whether the rule adopted herein conforms with Section 24-4-103(8)(a).

3. An opinion of the Attorney General of the State of Colorado will be sought regarding the constitutionality and legality of the proposed rule as set forth in Appendix A attached hereto.

4. The Executive Secretary of the Commission shall file with the Office of the Secretary of State of the State of Colorado a copy of the aforementioned rule and when obtained, a copy of the opinion of the Attorney General of the State of Colorado regarding the constitutionality and legality of the same.

5. The Executive Secretary of the Commission shall publish the Rule 13 as adopted herein by ordering paragraph 1, in accordance with the provisions of CRS 1973, 24-4-103(11)(k).

6. Rule 13 of the Rules Regulating the Service of Gas Utilities of the Public Utilities Commission of the State of Colorado as adopted pursuant to ordering paragraph 1 above, shall become effective on the

twentieth (20th) day after publication of the same in the Rules Register of the Secretary of State.

This Order shall be effective forthwith.

DONE IN OPEN MEETING the 10th day of November, 1983.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Edythe S. Miller

Daniel E. Muese
Commissioners

COMMISSIONER ANDRA SCHMIDT CONCURS
IN PART AND DISSENTS IN PART.

COMMISSIONER ANDRA SCHMIDT CONCURRING IN PART AND DISSENTING IN PART.

I generally concur with the decision reached by the majority in this matter. However, I dissent on the issue of no interest for deferred payments for the reasons set forth in Decision No. C83-1508, entered on September 27, 1983.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Andra Schmidt
Commissioner

fm:1700M

RULE 13

DISCONTINUANCE OF SERVICE

Discontinuance of Service -- (a) No utility shall discontinue the service of any customer for violation of any rule of such utility and/or for non-payment of any sum due for utility service, deposits or other tarified charges, except in accordance with this rule.

(b) Requirement for Written Notice.

(b)(1) Written notice of proposed discontinuance of service must be mailed by first class mail, or delivered at least ten (10) days in advance of the proposed date, advising the customer in what particular such rule has been violated for which service will be discontinued, and/or the amount past due and the date by which the same shall be paid to avoid discontinuance. For purposes of this rule, "amount past due" shall refer to any sum due for utility service, deposits or other tarified charges.

(b)(2) The notice of discontinuance shall be conspicuous in nature and in easily understood language. The heading of the notice of discontinuance shall be in block capital letters. The heading shall contain, as a minimum, the following warning written in English:

THIS IS A FINAL NOTICE OF DISCONTINUANCE OF GAS
UTILITY SERVICE AND CONTAINS IMPORTANT INFORMATION
INVOLVING YOUR LEGAL RIGHTS AND REMEDIES.

The heading shall also contain the same warning written in Spanish, with an additional sentence at the end of the warning stating in Spanish:

IF YOU DO NOT READ ENGLISH YOU SHOULD REQUEST SOMEONE
WHO UNDERSTANDS SPANISH AND ENGLISH TO TRANSLATE THIS
NOTICE FOR YOU.

(b)(3) At a minimum, said notice shall advise the customer:

(b)(3)(a) how to contact the utility, without expense to the customer of a toll call, from within the utility's service area, to resolve any dispute, with respect to the amount or date due, and/or with respect to violation of any rule.

(b)(3)(b) that the customer has the right to make an informal complaint to the Commission staff by letter, telephone, or in person.

(b)(3)(c) that the customer has a right to submit any dispute, relative to the notice, to a formal hearing by filing a written formal complaint with the Commission, as provided for in the Commission's rules, and also to file with the complaint a motion for an order to the utility not to disconnect service pending the outcome of the hearing.

(b)(3)(d) that the Commission may grant a customer's motion upon such terms as the Commission deems reasonable, including but not limited to the posting of a deposit or bond with the utility or timely payment of all undisputed charges.

(b)(3)(e) that a residential customer may avoid discontinuance of service by paying, on or before the expiration date of the notice, at least one-tenth of the amount shown on the notice and entering into a reasonable installment payment plan with the utility to pay the remaining past-due balance in equal monthly installments, according to the provisions of Rule 13 of the Public Utilities Commission's Rules Regulating the Service of Gas Utilities.

(b)(3)(f) that in the event a residential customer is unable to pay for service as regularly billed by the utility, or is able to pay for such service but only in reasonable installments and a medical certification is delivered to the utility indicating that discontinuance of service would be especially dangerous to the health or safety of a residential customer or a permanent resident of the residential customer's household, that there will not be discontinuance of service for sixty days from the date of the medical certification with a possible thirty-day extension upon delivery of a second medical certification.

(b)(3)(g) that in the event service is discontinued for non-payment, service may be restored if a residential customer pays any reconnection and collection charges as may be specifically required in the event of discontinuance according to the utility's tariff and enters into an installment payment arrangement; or if the customer presents a medical certification.

(b)(3)(h) of major federal, state or local government agencies, known to the utility, which provide customer assistance or benefits relating to utility service. Unintentional error, by omission or incorrectness, of a utility in providing such information shall not render the notice void.

(b)(3)(i) whether the utility will require, as a condition of avoiding discontinuance or of restoring service if discontinued, payment only in the form of cash or certified funds from the customer to whom notice is sent.

(b)(3)(j) that the customer has the right to a hearing in person, at a reasonable time and place, within ten (10) days of the date notice is sent, before the utility's manager or manager's designee, according to procedures adopted by the utility for such hearings.

(b)(4) In the event the customer previously has executed a third-party notification form indicating a third party to whom notices of discontinuance are to be sent, written notice also shall be mailed by first class mail or delivered at least ten (10) days in advance of the proposed discontinuance date to said third party. The utility shall furnish a third-party notification form to each new residential customer. Moreover, the utility shall inform its residential customers at least annually of the availability of the third-party notification form and a method for obtaining a copy of the form. The customer, at his option, may mail or deliver to the utility such third-party notification form, which form shall be signed by both the customer (or his legal representative) and by the third party to be notified in the event of possible discontinuance of service. Said third party notification form shall be substantially in the following format:

Name of customer

Street address of customer

City, State and Zip Code

Telephone Number

Third party to be notified in the event of possible
discontinuance of service:

Name

Street Address

City, State and Zip Code

Telephone Number

Relationship to Customer

Signature of Customer _____

Signature of Third Party _____

Date _____

(b)(5)(a) Energy Diversion. If any energy-consuming devices are discovered connected on the line side of the utility's meter, or if connections or devices of any kind are found installed on the customer's premises which would prevent the meter from registering the actual amount of energy used, notice may be given as for a rule violation, giving the customer ten (10) days in which to remove or correct said devices or connections, and advising the customer of the possibility of an estimated bill for energy consumed but not properly registered. Or, the utility may elect to remove or correct said devices or connections itself. In the latter event, any momentary interruption of service necessary for the purpose of repair or remedy shall not constitute discontinuance, and thus shall not require advance notice. However, written notice must be left at the premise, advising the customer of the nature of the violation, the steps taken by the utility to correct it, and the possibility that the customer may be billed for estimated consumption not properly registered.

(b)(5)(b) The mere discovery of a broken seal or any evidence that the meter has been tampered with shall not constitute cause for discontinuance, by itself. Rather, the utility shall mail or deliver

written notice advising the customer of the discovery, the steps to be taken by the utility to determine whether non-registration of energy has occurred and/or subsequently occurs, and the possibility that the customer may be billed for estimated energy consumed but not registered, if any.

(b)(6) The foregoing requirements for notice may be waived:

(b)(6)(a) when, in the opinion of the utility, an immediate discontinuance of service to the premises is imperative for reasons of safety. Such reasons might include a condition or installation of any part of the customer's or the utility's lines, pipes, apparatus or appliances which is found to be dangerous to life, health or safety of any person.

(b)(6)(b) when discontinuance is ordered by any properly constituted governmental authority due to alleged violations by the customer of the ordinances, statutes or regulations applicable to the service. The utility shall not be responsible for ascertaining such conditions.

(b)(6)(c) when service, having been discontinued in accordance with this rule, is discovered restored by someone other than the utility and the original cause for the discontinuance has not been cured.

(b)(7)(a) Multi-Unit Dwellings. In situations involving permanent residents in multi-unit dwellings, or a cluster of dwellings, known by the utility to exist, where the utility service recorded on a single meter is used either directly or indirectly by more than one dwelling unit, the utility shall issue notice as required in Rule 13(b)(1)-(3), except that the notice period shall be thirty (30) days and except that such notice also may include the current bill. Service may be discontinued for failure to pay the amount on the notice, subject to the other provisions of this Rule 13(b)(7).

(b)(7)(b) No less than thirty (30) days prior to the proposed date of discontinuance, for which notice has been given in accordance with Rule 13(b)(7)(a), the utility also shall provide written

notice to each individual dwelling unit, in the manner set forth in Rule 13(b)(7)(c). Said notice shall state that a notice of discontinuance has been sent to the party responsible for the payment of utility bills for the dwelling; the proposed date of discontinuance; that the occupants of the dwelling units may avoid discontinuance by paying the next new bill in full within thirty (30) days of its issuance and successive new bills within thirty (30) days of issuance; how to contact the utility for additional information or to make arrangements to receive a copy of the next new bill.

(b)(7)(c) Notice to occupants as described in Rule 13(b)(7)(b) shall be delivered to each dwelling unit or mailed to the addressee or occupant of each unit. In addition, a copy of said notice shall, to the extent possible, be posted in at least one of the common areas of the multi-unit dwelling. A copy of the notice also shall be mailed or delivered to the Public Utilities Commission, together with an affidavit setting forth how the utility has delivered, mailed or posted notices, or attempted to do so, to the individual dwelling unit occupants.

(b)(7)(d) Service may not be discontinued if the party responsible for payment pays the amount on the notice or if the occupants pay each new bill within thirty (30) days of issuance.

(b)(7)(e) Occupants shall not be entitled to installment payments or any payment plan other than paying each new bill in full within thirty (30) days of issuance to avoid discontinuance.

(b)(7)(f) Service may be discontinued, without further notice or attempt at personal contact, for failure of the occupants to pay each new bill within thirty (30) days of issuance.

(b)(8) In addition to the written notice required by this Rule 13(b), the utility also shall send, on a separate document which need not be under separate cover, a notice that the customer has certain rights with regard to discontinuance, together with a statement advising the customer how to contact the staff of the Commission for further information. Said notice shall be printed in no less than 10-point bold-

face type and shall be, in style and content, substantially in the following format:

YOUR RIGHTS CONCERNING DISCONTINUANCE

Under the rules of the Colorado Public Utilities Commission (PUC), you have certain rights related to the discontinuance and restoral of your service.

Many of these rights are described on your notice of discontinuance. These require prompt action on your part to avoid discontinuance.

If you have any questions about your rights, contact the PUC consumer affairs office. The phone number is (303) 866-2379. The address is Room 500, 1525 Sherman Street, Denver, CO 80203.

(c) Service shall not be discontinued:

(c)(1) for non-payment of any sum due which has not appeared on a regular monthly bill. The due date on the bill must be specifically indicated on the bill and the due date shall be no earlier than ten (10) days subsequent to the mailing or delivery of the bill.

(c)(2) for non-payment of any sum due which is less than thirty (30) days past due; nor shall any notice of intent to discontinue service be sent with respect to any amount which is not thirty days past due.

(c)(3) for non-payment of any sum due, on which payment arrangements have not otherwise been made, with respect to any other account presently or previously held or guaranteed by the customer, or with respect to which the customer was a beneficiary of service, unless the amount has first been transferred to the account on which notice may be given and displayed on the regular monthly bill. In such event, the amount so transferred shall be considered "due" on the regular due date of the bill on which it first appears as a transfer and shall be subject to notice the same as if it had been billed for the first time. However, no amount may be transferred from any other account unless the accounts to and from which the transfer is made are for the same class of service,

or unless the customer has previously pledged the one account to secure the other.

(c)(4) for non-payment of any amount due on any other account on which the customer is or was neither the customer of record nor a guarantor, unless the customer is or was a user obtaining service through subterfuge without the knowledge or consent of the named customer of record.

(c)(5) for non-payment of any amount due on any other account for which the present customer is or was the customer of record, in the event that the customer provides to the utility convincing evidence that said account was established as a subterfuge by another user without the customer's knowledge or consent.

(c)(6) for non-payment of any sum due from a previous occupant of the premises who was a customer of record. However, a utility may give notice of intent to discontinue service, as for a rule violation, and upon expiration of the notice may decline to continue to furnish service at the same premises if it believes the service is being obtained by a delinquent customer by subterfuge in any manner. Subterfuge includes, but is not restricted to, an application for service at a given location in the name of another party by an applicant whose account is delinquent and who continues to reside or do business at the premises.

(c)(7) for failure to pay any indebtedness except as incurred for utility service rendered by the utility in the State of Colorado.

(c)(8) between 12 Noon on Friday and 8 a.m. the following Monday, or between 12 Noon on the day prior to and 8:00 a.m. on the day following any federal holiday or utility observed holiday.

(c)(9) until the utility has made a reasonable effort to give notice of the proposed discontinuance in person or by telephone both to the residential customer (or to a resident of the customer's household 18 years of age or over) and to any third party who is listed by the customer on a third-party notification form. "Reasonable effort" shall be, at a minimum:

(c)(9)(a) at least two attempts on separate days and at least 24 hours prior to the proposed discontinuance to make telephone contact at such telephone numbers as the customer and any third party requiring notice may provide for such purpose, to remind the customer of the pending discontinuance and the terms to avoid same; or

(c)(9)(b) at least two attempts by a field collector on separate days and at least 24 hours prior to the proposed discontinuance to make personal contact at the location of service to remind the customer of the pending discontinuance and the terms to avoid same; or having tried and failed to make contact in person, leaving written notice of the attempted contact and its purpose; or

(c)(9)(c) at least one of each of the above-described attempts.

(c)(10) in the event a customer at any time proffers full payment of the amount shown on the notice by cash or bona fide check (unless the utility's discontinuance notice provides that payment is to be paid only by cash or certified funds) to a utility employee authorized to receive payment. Any employee dispatched to discontinue service must be authorized to receive payment. The provision herein shall not preclude the utility, by tariff rule and rate, from making a reasonable charge for a service call; however, payment of said charge shall not be required as a condition to avoid discontinuance.

(c)(11) if a residential customer pays, on or before the expiration date of the notice, at least one-tenth of the amount shown on the notice and enters into a reasonable installment payment plan with the utility, as elsewhere provided in this rule.

(c)(12) if a residential customer presents a medical certification, as elsewhere provided in this rule.

(d) Service must be restored within 12 hours after the customer satisfies any one of the provisions set forth in this paragraph (d), unless extenuating circumstances prevent restoral. If it is required by the utility's safety standards that the customer or someone designated by the customer be at the premise at the time of restoral, then the inavail-

ability of the customer (or designee) shall be an extenuating circumstance. Service must be restored after the customer:

(d)(1) pays in full the amount shown on the notice, plus any deposit and/or fees as may be specifically required by the utility's tariff in the event of discontinuance of service.

(d)(2) pays, at a minimum, any reconnection and/or collection charges as may be specifically required in the event of discontinuance according to the utility's tariff, enters into a reasonable installment payment plan with the utility, as elsewhere provided in this rule, and makes the first installment payment. This provision shall not apply if the cause for discontinuance was the customer's breach of arrangements.

(d)(3) presents a medical certification, as elsewhere provided in this rule.

(d)(4) notifies the utility, and the utility confirms, that the cause for discontinuance, if other than non-payment, has been cured.

(e)(1) Installment payment plan arrangements must be made if a residential customer fulfills one of the following conditions:

(e)(1)(a) on or before the expiration date of the notice of discontinuance pays at least ten (10) percent of the amount shown on the notice and enters into installment payment plan arrangements.

(e)(1)(b) on or before the last day covered by a medical certification or extension thereof pays at least ten (10) percent of any amount more than 30 days past due and enters into installment payment plan arrangements.

(e)(1)(c) if service has been discontinued, pays at least any collection and/or reconnection charges and enters into installment payment plan arrangements, unless such arrangements already have been breached.

(e)(2) Installment payment plan arrangements must be made with respect to any and all of the following amounts as may be applicable at the time the request for arrangements is made. The total amount on which an arrangement is made shall be referred to as the "arrangement amount". The "arrangement amount" shall include:

(e)(2)(a) the unpaid remainder of the amount shown on the notice.

(e)(2)(b) any amounts not included in the amount shown on the notice which have since become more than 30 days past due.

(e)(2)(c) the current bill. "Current bill" refers to any bill which is past due but is less than 30 days past the due date.

(e)(2)(d) any new bill. "New bill" refers to any bill which has been issued but is not past due.

(e)(2)(e) any collection fees as provided for in the utility's tariff, whether or not such fees have appeared on a regular monthly bill.

(e)(2)(f) any deposit, whether already billed, billed in part, or required according to the utility's tariff due to discontinuance or delinquency or to establish initial credit. This paragraph (f) shall not apply to deposits required by a utility's tariff as a condition of initiating service, but shall apply to deposits required subsequent to initiation of service.

(e)(2)(g) any other charges or fees provided for in the utility's tariff, whether or not such charges have appeared on a regular monthly bill, including but not limited to miscellaneous service charges, investigative charges or short-check charges.

(e)(3) The terms of an installment payment plan arrangement, including a "modified budget billing" arrangement, must be explained and offered to each residential customer who contacts the utility in response to a notice of discontinuance. Terms for arrangements are set forth in Rule 13(e)(5)(a) and (b).

(e)(4) Any customer who agrees to enter into an installment payment plan arrangement shall be provided a copy of this part (e) of this rule, together with a statement of the payment arrangement as agreed upon by the customer. Said copy and statement must be provided by mail or delivered within ten (10) days after arrangement is agreed upon. The copy shall include a prominent heading, in English and Spanish:

YOUR RIGHTS AND RESPONSIBILITIES CONCERNING INSTALL-
MENT PAYMENT PLAN ARRANGEMENTS.

The heading shall also contain an additional line in Spanish:
IF YOU DO NOT READ ENGLISH YOU SHOULD REQUEST SOMEONE
WHO UNDERSTANDS SPANISH AND ENGLISH TO TRANSLATE THIS
INFORMATION FOR YOU.

(e)(5)(a) Installment Plan Arrangement. An install-
ment payment plan arrangement shall consist of equal monthly installments
over a period of time selected by the customer up to six (6) months. The
amount of the monthly installment payment shall be the arrangement amount
divided by the number of months over which the payments are to be made.

(e)(5)(a)(1) The first monthly installment pay-
ment shall be due, together with the new bill unless the new bill has
been made part of the arrangement amount, on the due date of the new bill.

(e)(5)(a)(2) The second and succeeding monthly
installment payments shall be due, together with the new bill, on the due
date of the new bill.

(e)(5)(b) As an alternative payment arrangement, the
customer may choose a modified "budget billing" arrangement, under which
the arrangement amount shall be added to the preceding year's total bill-
ing to the customer's premise, modified as necessary for increases in
base rates or cost adjustments, and the resulting total shall be divided
into equal monthly installment payments to be billed as other "budget
billing" accounts are billed, in eleven (11) equal monthly payments
followed by a settlement billing in the twelfth month.

(e)(6) Any monthly installment payment or modified budget
billing payment not paid on the due date of the new bill shall be con-
sidered "in default." Any new bill which is not paid by the due date
shall be considered "past due."

(e)(7) In the event a monthly installment payment becomes
in default and/or a new bill becomes past due, the utility shall mail or
deliver a written notice, with a heading in English and Spanish:

NOTICE OF BROKEN ARRANGEMENTS.

Said notice shall also contain an additional sentence in Spanish:

IF YOU DO NOT READ ENGLISH, YOU SHOULD REQUEST SOMEONE
WHO UNDERSTANDS SPANISH AND ENGLISH TO TRANSLATE THIS
NOTICE FOR YOU.

Said notice shall advise the customer, at a minimum:

(e)(7)(a) that service may be discontinued if the
monthly installment payment is not received by the utility within ten
(10) days after the notice is sent or delivered.

(e)(7)(b) that service may be discontinued if payment
for the current bill is not received by the utility within thirty days
after its due date.

(e)(7)(c) that if service is discontinued, the utility
may decline to provide further service until all amounts more than thirty
days past due have been paid, together with any collection or reconnection
charges.

(e)(8) Service may be discontinued to a customer whose
monthly installment payment remains in default after the tenth day
following the mailing or delivery of a notice of broken arrangements or
whose current bill becomes more than thirty days past due and to whom a
notice of broken arrangements has been mailed or delivered, unless the
customer presents a medical certification, as elsewhere provided in this
rule.

(e)(9) If service is discontinued for broken arrangements,
a utility may decline to restore service until all amounts more than
thirty days past due have been paid, together with such collection and/or
reconnection charges and interest as may be provided for in the utility's
tariff. However, discontinued service must be restored if the customer
presents a medical certification, as elsewhere provided in this rule.
Service may be discontinued without further notice upon the expiration of
such medical certification, or extension thereof, and the terms for
restoration shall be the payment of all amounts more than thirty days past

due, together with such collection and/or reconnection charges and interest as may be provided for in the utility's tariff.

(e)(10) A customer whose monthly installment payment is not in default and whose new bill is not past due may renegotiate an installment payment plan arrangement that was made according to paragraph (e)(5)(a) of this rule. A renegotiated installment payment plan arrangement may consist of a lesser installment payment amount to be paid in a greater number of months, provided that the original arrangement amount be paid in no more than six (6) months from the date the original installment payment plan arrangement was entered into.

(e)(11) Nothing in this part (e) shall be construed to prevent the utility from offering any other installment payment plan arrangement terms to avoid discontinuance or terms for restoral, which offer is at least as favorable to the customer as the terms and conditions set forth in this rule or to which the customer agrees.

(f) Safety and Health - Non-Discontinuance or Restoral. Service may not be discontinued, or if already discontinued must be restored, during any period when discontinuance of service would be especially dangerous to the health or safety of the residential customer or a permanent resident of the customer's household.

(f)(1) Discontinuance of service that would be especially dangerous to the health or safety of the residential household means that discontinuance of service would aggravate an existing medical condition or create a medical emergency for the customer or a permanent resident of the customer's household. Such shall be deemed to be the case when a physician licensed by the State of Colorado, or a health practitioner licensed by the State of Colorado and acting under a physician's authority, makes a certification thereof and said certification is received by the utility in writing or by phone. A utility may require written confirmation of a certification received by phone within ten (10) days of the call. Such certification shall be incontestable by the utility as to medical judgment, although the utility may use reasonable means to verify the authenticity of such certification.

(f)(2) In the event a medical certification is delivered to or received by the utility, the non-discontinuance of service shall be effective for sixty (60) days from the date of said medical certification. One thirty-day extension of non-discontinuance of service may be effected by delivery to or receipt by the utility of a second medical certification, as aforesaid, prior to the expiration of the initial sixty-day period.

(f)(3) A residential customer may invoke the provisions of subsection (f) herein no more than once during any period of twelve consecutive months, said period to begin on the first date said medical certification is presented.

(f)(4) A customer who invokes this part (f) may request an installment payment plan arrangement on or before the last day covered by a medical certification or extension thereof. A customer who already has entered an installment payment plan arrangement and who has not broken arrangements prior to invoking this part (f) may renegotiate the installment payment plan arrangement on or before the last day covered by a medical certification or extension thereof. A customer who already has entered an installment payment plan arrangement but has broken arrangements prior to invoking this part (f) must pay, on or before the last day covered by the medical certification or extension thereof, all amounts that would have been paid up to that date had arrangements not been broken, and resume the installment payment plan arrangement, in order to avoid discontinuance of service.

(g) Whenever reference is made herein to a notice or other document being mailed or delivered, that phrase shall mean that the notice or other document is either deposited in the United States Mails, or physically delivered to the address of the addressee, and does not necessarily include actual physical receipt by the addressee.

(h) Reporting Requirements. Each utility shall keep on-going monthly statistics as set forth in Rule 13(h)(1)-(8). Such statistics shall be provided quarterly to the supervisor of the consumer affairs

office of the public utilities commission within thirty (30) days of the close of the preceding calendar quarter. Such statistics shall include:

(h)(1) the number of disconnections of residential and non-residential service for non-payment and for any other violations of rules including energy diversion;

(h)(2) the number of residential and non-residential disconnected accounts which are subsequently restored for payment in full or cure, and the number of residential disconnected accounts which are subsequently restored for payment arrangements;

(h)(3) the number of customers submitting medical certifications;

(h)(4) the number of customers who entered into payment arrangements;

(h)(5) the number of customers defaulting on such payment arrangements;

(h)(6) the number of residential and non-residential accounts currently in arrears, and the total dollar amount of the arrears;

(h)(7) the number of customers requesting a hearing before the utility manager or the manager's designee with regard to pending discontinuance;

(h)(8) the number of proven instances of energy diversion among residential consumers and the total dollar loss to the utility as a result of such diversion.