

(Decision No. C93-1498)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF PROPOSED)
RULEMAKING REGARDING RULES 50,)
51, 55, 56, 57, 58, 68, 69, 70,)
71, 77, AND 92, COLORADO PUBLIC)
UTILITIES COMMISSION, RULES OF)
PRACTICE AND PROCEDURE,)
4 CCR 723-1.)

DOCKET NO. 93R-690

NOTICE OF PROPOSED
RULEMAKING

Mailed Date: November 30, 1993
Adopted Date: November 24, 1993

STATEMENT

BY THE COMMISSION:

The Colorado Public Utilities Commission gives notice of proposed rulemaking regarding existing Rules 50, 51, 55, 56, 57, 58, 70, 71, 77, 92, and new Rules 68, 69, and 70, Rules of Practice and Procedure, 4 CCR 723-1. The intent of the proposed rules is to reflect certain changes, and to enable the Commission to meet the time limits for the issuance of decisions in application proceedings before the Commission imposed by § 40-6-109.5, C.R.S. (1993).

Copies of the proposed rules (i.e., amendments to existing Rules 50, 51, 55, 56, 57, 58, 70, 71, 77, 92, and new proposed Rules 68, 69, and 70, are attached to this notice of proposed rulemaking. No changes are proposed to existing Rule 50(a) through (n). Therefore, only proposed subparagraphs (o) and (p) are attached. The statutory authority for the proposed rules is found in §§ 40-2-108 and 40-3-102, C.R.S. The proposed rules include new proposed Rules 68 and 69, and a revised Rule 70. New proposed Rule

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68 on nomenclature was previously Rule 70. Rule 69 deals with railroad applications and provides procedures to determine whether they are deemed complete. New proposed Rule 70 establishes time limits for decisions on applications.

The Commission believes that by the proposed revisions to existing Rules 50, 51, 55, 56, 57, 58, 70, 71, 77, and 92, and the addition of new Rules 68, 69, and 70, the Commission will establish appropriate procedures to deem applications complete and issue Commission decisions on any such application within the time limits as prescribed in § 40-6-109.5, C.R.S. (1993).

The Commission will conduct a hearing before an administrative law judge on the proposed rules and related issues beginning at 9:00 a.m. on February 4, 1994. The hearing will be conducted in a Commission hearing room, Office Level 2 (OL2), Logan Tower, 1580 Logan Street, Denver, Colorado. Interested persons may submit written comments on the rules and present these orally at hearing, unless the Commission deems oral presentations unnecessary. Interested persons may file written comments before the hearing. All submissions will be considered by the Commission.

The Commission is also of the view that this rulemaking proceeding should be heard in three different segments, one on the rules which pertain to Fixed Utilities, another segment on those rules which pertain to Transportation matters, and the final segment on rules which pertain to safety and railroad issues. The Commission will issue three separate decisions in this docket, each decision pertaining to the segment being considered.

THEREFORE THE COMMISSION ORDERS THAT:

1. This Notice of Proposed Rulemaking shall be filed with the Secretary of State for publication in the December 10, 1993, edition of The Colorado Register. At the time of filing with the Secretary of State, this notice shall also be filed with the Office of Regulatory Reform.

2. Hearing on the proposed rules and related matters shall be held:

DATE: February 4, 1994

TIME: 9:00 a.m. to 11:00 a.m. pertaining to Fixed Utility
Issues

11:00 a.m. to 12:00 noon on Safety and Railroad
Issues

1:00 p.m. to 3:00 p.m. on Transportation issues

PLACE: Commission Hearing Room
Logan Tower, Office Level 2
1580 Logan Street
Denver, Colorado

3. At the times set for hearing, interested persons may submit written comments and may present these orally unless the Commission deems oral comments unnecessary.

4. Interested persons may file written comments in this docket before hearing. All submissions will be considered.

This Order is effective on its Mailed Date.

ADOPTED IN OPEN MEETING November 24, 1993.

(SEAL)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Robert E. Temmer

Christine E. M. Alvarez

Vincent Majkowski
Commissioners

ATTEST: A TRUE COPY

Bruce N. Smith

Bruce N. Smith
Director

RULE 50

(o) APPLICATION DEEMED COMPLETE. The commission shall deem all applications complete in accordance with the procedural requirements of rule 50.

(p) FAILURE TO PROVIDE REQUIRED INFORMATION. In the absence of unusual or extraordinary circumstances, the commission will both reject an application that does not meet the requirements of this rule and close the docket pertaining to the application.

NOTICE OF PROPOSED RULEMAKING
PUBLIC UTILITIES COMMISSION DOCKET NO. 93R-_____

BASIS, PURPOSE, AND STATUTORY AUTHORITY

The basis and purpose of these proposed revisions to Rules 50, 51, 55, 56, 57, 58, 70, 71, 77, and 92, and new Rules 68, 69, and 70, is to correct certain references in the existing rules and to enable the Commission to meet the time limits for issuance of decision on all applications, imposed in § 40-6-109.5, C.R.S. (1993).

The statutory authority for these proposed modifications to Rules 50, 51, 55, 56, 57, 58, 70, 71, 77, and 92 and for proposed new Rules 68, 69, and 70, is found at §§ 40-2-108 and 40-3-102, C.R.S.

The proposed changes to Rules 50, 51, 55, 56, 57, 58, 70, 71, 77, and 92, and new proposed Rules 68, 69, and 70, are attached to this Notice of Proposed Rulemaking. No changes are here being proposed to existing Rule 50(a) through (n). Therefore only new proposed subparagraphs (o) and (p) are attached.

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RULE 51

Applications to Construct, Alter or Abolish Railroad
Crossings, or for the Installation or Modification of
Signal Lights or Other Protective Devices - Notice

1 (a) Definitions. As used in this Rule:

2 (1) Utility Crossing means the point at which the
3 tracks or other facilities of any public utility may be
4 constructed across the tracks or other facilities of any
5 other public utility at grade, or above or below grade, or
6 at the same or different levels.

7 (2) Railroad Crossing means the point at which the
8 tracks or other facilities of any railroad corporation,
9 railroad, or street railway may be constructed across the
10 tracks or other facilities of any other railroad
11 corporation. railroad, or street railway.

12 (3) Railroad-highway crossing means:

13 (A) The point at which the tracks or other
14 facilities of any railroad corporation, railroad, or
15 street railway may be constructed across any public
16 highway at grade, or above or below grade; or

17 (B) The point at which private tracks, over which
18 any railroad corporation, railroad, or street railway
19 may operate, may be constructed across any public
20 highway at grade, or above or below grade.

21 (4) Highway-Railroad crossing means:

22 (A) The point at which any public highway may be
23 constructed across the tracks or other facilities of
24 any railroad corporation, railroad, or street railway,
25 at grade, or above or below grade, or

26 (B) The point at which any public highway may be
27 constructed across private tracks, over which any
28 railroad corporation, railroad, or street railway may
29 operate, at grade or above or below grade.

30 (b) Contents of Application - Generally. When an
31 application is filed with the Commission to construct, alter or
32 abolish a utility crossing, a railroad-highway crossing, a
33 railroad crossing, or a highway-railroad crossing, or for
34 authority to install or modify signal lights or protective
35 devices, the applicant; in addition to complying with the
36 provisions of Rule 22, shall submit the following information,
37 to the extent applicable, either in the application or in
38 appropriately identified attached exhibits:

39 (1) The applicant's name and complete address
40 (street, city, state, and zip code), If the applicant
41 is a corporation, a statement of that fact; the name
42 of the state in which it is incorporated; and the
43 location of its principal office, if any, in this
44 state. If the applicant is a partnership, the names
45 and addresses of all general and limited partners
46 shall be listed.

47 (2) The name and address of applicant's
48 representative, if any, to whom all inquiries should
49 be made.

50 (3) A detailed statement as to the nature, character,
51 and need for the construction, alteration or abolition. or
52 for the installation or modification, of signal lights or
53 other protective devices, for which approval is sought.

54 (4) A map of suitable scale, preferably of not less
55 than 100 feet to the inch, accurately portraying the
56 location of all tracks, buildings, structures, property
57 lines, streets and roads in the vicinity of the proposed or
58 existing crossing that is the subject of the application.

59 (5) A profile map showing grade lines and proposed
60 grade lines of approaches on the public roads, highways or
61 streets railroads. or street railways that may be affected
62 by the proposed or existing railroad-highway crossing, or
63 railroad crossing that is the subject of the application.

64 (6) The names of public utilities, municipalities,
65 corporations and adjacent property owners that may be
66 interested in or affected by the application.

67 (7) If the crossing is at grade, a statement showing
68 why a separation of grades is not practicable under the
69 circumstances.

70 (c) Applications for Utility, Railroad, Railroad-Highway,
71 Highway-Railroad Crossings. In addition to complying with the
72 provisions of Rule 51(b). applications to construct, alter or

abolish a utility, railroad. railroad-highway or highway-railroad crossing shall include the following information:

(1) A statement that the proposed crossing, installation, or modification of signal lights or protective devices will be constructed or installed in accordance with Commission specifications.

(2) A statement of the number, character, and speed of trains and vehicles passing the crossing each day, and all projections, if any, of increases or decreases.

(3) A statement of the actual or estimated expense of the proposed construction, alteration. abolition, signal installation or modification, and how applicant proposes to provide for the expense, with the proposed apportionment of the expense between or among the parties in interest. If an agreement has been signed by the parties in interest as to the apportionment of expense, a copy of the agreement shall be included.

(4) A statement of the estimated date for start of the construction, alteration, abolition, signal installation or modification, completion of the project, and commencement of operation of the crossing.

(5) Where the application is for the installation or modification of signal lights or protective devices at a crossing, a statement describing the type of signals or devices applicant proposes to install. Reference may be

99 made to recommended standards on railway-highway grade
100 crossing protection as published in the bulletin of the
101 Association of American Railroads or the Manual on Uniform
102 Traffic Control Devices, Part 8, entitled "Traffic Control
103 Systems for Highway-Railroad Grade Crossings."

104 (6) If the application is for authority to construct,
105 alter, or abolish a railroad-highway or highway-railroad
106 crossing, a copy of the franchise or appropriate portion,
107 or the permit, ordinance or other authority obtained from
108 the appropriate municipality, county or state agency which
109 authorizes the railroad or street railway company to cross
110 the highway or street, or authorizes the appropriate
111 municipality, county or state agency to cross the tracks.

112 (d) Applications for Railroad Crossings. In addition to
113 complying with the provisions of Rule 51(b), an application to
114 construct, alter or abolish a railroad crossing shall include
115 the following:

116 (1) A copy of the agreement between the railroad
117 corporation, railroad, or street railway companies, which
118 covers the construction, operation, and maintenance of the
119 crossing.

120 (2) A detailed description of the installation
121 and operation of any lights, block, interlocking, or
122 other system of signaling proposed to be constructed
123 at the crossing.

124 (3) A statement of the operating rules and
125 procedures that will govern the movement of trains
126 over the crossing.

127 (e) Who May Apply.

128 (1) An application for authority to construct a
129 crossing, railroad, or street railway track across a
130 highway, street or other public roadway, or across the
131 tracks of another railroad corporation, railroad, or
132 street railway company; may be made by the railroad or
133 street railway company or other person, firm, or
134 corporation which will own the tracks proposed to be
135 constructed.

136 (2) An application for authority to construct a
137 highway, street or other public roadway across the tracks
138 of a railroad corporation, railroad, or street railway
139 company may be made by the appropriate municipality,
140 county, or state agency.

141 (3) An application for authority to alter or abolish
142 a railroad-highway or highway-railroad crossing may be made
143 by the appropriate railroad corporation, railroad, or
144 street railway company or the municipality, county or state
145 agency.

146 (4) An application for authority to install or modify
147 signal lights or other protective devices may be made by
148 the railroad corporation, railroad, or street railway
149 company or the municipality, county or state agency.

150 (f) Notice.

151 (1) The Commission shall give notice under Rule 63(f)
152 and (g) of the filing of any application under this Rule.
153 In addition to the requirements of Rule 63(f) and (g),
154 where the application is for authority to install or modify
155 signal lights or other protective devices under §
156 40-4-106(2)(b), C.R.S., the notice shall state that the
157 question of how the costs will be borne and paid will be
158 considered at and determined as a result of the hearing for
159 which the notice is given.

160 (2) If an application is to close a crossing, the
161 applicant shall give notice by posting notice of the
162 closing on both sides of the trackage of the crossing
163 proposed to be closed. The notice, at a minimum, shall
164 state that an application to close the crossing has been
165 filed with the Colorado Public Utilities Commission. the
166 current correct address of the Commission, the date the
167 closing is requested, a sufficient description of the
168 crossing so as to identify it, that parties have the right
169 to file written interventions or objections, and the place
170 and last date for filing interventions or objections.

171 (3) The posted notice to close a crossing shall
172 be printed on a substantial placard, no less than 18"
173 x 24". The title: Notice of Proposed Closing of This
174 Crossing shall be printed in letters no less than one
175 inch. The other information printed on the notice

shall be in letters no smaller than one half inch. The background of the notices shall be white and the letters black. The notices shall be posted so as to be clearly visible from a distance of no less than 100 feet from the notice, and shall not be posted so as to obstruct the vision of motorists or trains at the crossing.

(g) Noncontested or Unopposed Applications. An application under this Rule only becomes contested if intervention is had or permitted. A noncontested or unopposed application under this Rule may be processed without formal hearing under Rule 24, other than an application under § 40-4-106(2)(b), C.R.S.

(h) Application deemed complete. The Commission shall deem the application complete in accordance with the procedural requirements of Rule 69.

(i) Failure to provide required information. In the absence of unusual or extraordinary circumstances, the Commission will both reject an application that does not meet the requirements of this Rule and close the docket pertaining to that application.

SOURCE: Prior Appendix H, Part V.

RULE 55

Applications by Fixed Utilities for Issuance, Extension or
Transfer of Certificates of Public Convenience and Necessity,
Including Authority to Exercise Franchise Rights, Asset
Transfer, Stock Transfer. or Merger - Notice

1 (a) Applicability. This Rule applies to all fixed
2 utilities as defined in Rule 4(b)(5).

3 (b) Procedure. Any fixed utility applying for the
4 issuance, extension or transfer of a certificate of public
5 convenience and necessity, including authority for approval of
6 the exercise off franchise rights, to obtain controlling
7 interest in any utility, or asset transfer, stock transfer, or
8 merger shall proceed as set forth in this Rule.

9 (c) Contents of Application. When a fixed utility
10 proposes to obtain, extend or transfer a certificate of public
11 convenience and necessity, including authority to exercise
12 franchise rights, or to obtain controlling interest in any
13 utility. or an asset transfer stock transfer, or merger, it
14 shall file an application with the Commission for that
15 authority. The application shall comply with all other
16 applicable provisions of these Rules, and shall contain the
17 following applicable information, either in the application or
18 in appropriately identified attached exhibits:

19 (1) Applicant's name and complete address (street,
20 city, state, and zip code), and the name under which the

21 operation shall be conducted.

22 (A) If the applicant is a corporation, a
23 statement of that fact; the name of the state in which it
24 is incorporated; the location of its principal office, if
25 any, in this state; the names of its directors, officers,
26 and Colorado agent for service; and a copy of its
27 Articles of Incorporation or Charter;

28 (B) If the applicant is an out-of-state
29 corporation, a copy of the authority qualifying it to do
30 business in Colorado shall either accompany the
31 application or be filed with the Commission as soon on as
32 possible after the filing of the application. The
33 application will not be granted until applicant's
34 authority qualifying it to do business in the state of
35 Colorado is filed;

36 (C) If the applicant is a partnership, the
37 names and addresses of all general and limited partners.

38 (2) The name and address of applicant's
39 representative, if any, to whom all inquiries should be made.

40 (3) A statement describing the authority sought, or
41 franchise rights proposed to be exercised. The statement
42 shall include a description of the type of utility service to
43 be rendered and a description of the area sought to be served,
44 together with a map of the area. The statement also shall
45 include a description of applicant's existing operations and
46 general service area.

47 (4) Statements describing in detail the extent the
48 applicant is affiliated with any other company and the extent
49 the applicant, or any person affiliated with applicant, holds
50 authority duplicating in any respect the authority sought.

51 (5) A copy of a feasibility study for areas
52 previously not served, which shall at least include estimated
53 investment, income and expense. An applicant may request that
54 balance sheets, income statements, and statements of retained
55 earnings be submitted in lieu of a feasibility study.

56 (6) A copy of a proposed tariff showing the
57 proposed rates, rules and regulations.

58 (7) A copy of the most recent balance sheet
59 available for a period ending not earlier than six months
60 before the date of the filing of the application.

61 (8) A statement of income and of retained earnings
62 for the same time period as the balance sheet referred to in
63 Rule 55(c)(7).

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

67 (10) A statement that evidence will be presented at
68 the hearing to show the qualifications of applicant to conduct
69 the utility operations proposed in the application.

70 (11) Where the application is for the issuance
71 or-extension of a certificate, including authority to exercise
72 franchise rights, a statement of the facts (not conclusory
73 statements) relied upon by the applicant to show that the

'4 public convenience and necessity require the granting of the
'5 application.

'6 (12) Where the application is for the approval of
'7 the transfer of a certificate, which includes obtaining
'8 controlling interest in any utility, or an asset transfer,
'9 stock transfer, or merger, a statement of the facts (not
30 conclusory statements) relied upon by the applicant to show
31 that the transfer is not contrary to the public interest,
32 along with a statement that evidence will be presented at any
33 hearing on the application to establish the facts.

34 (13) An application to transfer a certificate may be
35 made by joint or separate applications of the transferor and
36 the transferee. The application shall include:

37 (A) The information required by Rule 55(c);

38 (B) A statement showing accounting entries,
39 under the Commission's Prescribed Uniform System of
40 Accounts, including any plant acquisition adjustment,
41 gain or loss, proposed on the books by each party before
42 and after the proposed transfer;

43 (C) Copies of any sales agreement or contract
44 of sale and all documents pertaining to the transfer;

45 (D) Facts showing that the transfer is not
46 contrary to the public interest, and an evaluation of the
47 benefits and detriments, if any, to the customers of each
48 party and to all other persons who will be affected by
49 the transfer; and

100 (E) A comparison of the kinds and costs of

101 service rendered before and after the proposed transfer.

102 (14) Where the application is to exercise franchise
103 rights, a certified copy of the franchise ordinance, proof of
104 publication, adoption and acceptance by applicant, and a
105 statement as to the number of customers served or to be served
106 and the population of the city or town, and any other
107 pertinent information.

108 (15) A statement indicating, if the application is
109 assigned for hearing by the Commission, the town or city where
110 the applicant prefers the hearing to be held and any
111 alternative choice.

112 (16) A statement indicating that the applicant
113 understands that the mere filing of the application does not,
114 by itself, constitute authority to operate.

115 (17) A statement that if the authority is granted,
116 applicant will file necessary tariffs and will operate in
117 accordance with all applicable Commission Rules and
118 Regulations.

119 (d) Notice. The Commission shall give notice of the
120 filing of an application to issue, extend or transfer a
121 certificate of public convenience and necessity under Rules
122 23(a) and (g).

123 (1) The applicant shall publish notice of the
124 filing of the application to exercise rights or privileges
125 under a franchise, within 3 days after its filing, in a
126 newspaper having general circulation as defined in Rule

.27 4(b)(10), or in one or more local newspapers as defined in
.28 Rule 4(b)(8).

.29 (2) The form of notice of an application to
.30 exercise rights or privileges under a franchise shall be as in
.31 Form X.

.32 (e) Application deemed complete. The Commission shall
.33 deem the application complete in accordance with the
.34 procedural requirements of Rule 70.

.35 (f) Failure to provide required information. In the
.36 absence of unusual or extraordinary circumstances, the
.37 Commission will both reject an application that does not meet
.38 the requirements of this Rule and close the docket pertaining
.39 to that application.

RULE 56

Securities Applications by Gas and Electric Utilities - Notice

1 (a) Applicability. Rule 56 applies to each gas and
2 electric public utility which derives more than five percent of
3 its consolidated gross revenues in the State of Colorado as a
4 public utility, or which derives a lesser percentage of its
5 revenues are realized by supplying an amount of energy which
6 equal five percent or more of this state's consumption. Any gas
7 or electric public utility which does not meet the above
8 criteria need not file a security application under this Rule.

9 (b) Definition. Security means any stock, bond, note, or
10 other evidence of indebtedness with a maturity date of more than
11 12 months (other than stocks) after the date of issuance, the
12 proceeds which are proposed to be used for the following
13 purposes: The acquisition of property; the construction,
14 completion, extension or improvement of facilities; the
15 improvement or maintenance of service; the discharge or lawful
16 refunding of obligations; the reimbursement of monies actually
17 expended for these purposes from income, or from any other
18 monies in the treasury not secured by or obtained from the
19 issuance of securities within five years before the filing of an
20 application with the Commission for the required authorization;
21 or any other purpose authorized by the Commission.

22 (c) Securities Applications - Generally. Any gas or
23 electric utility proposing to issue, renew, extend, assume or

24 guarantee any security, as defined above, or to create any lien
25 on its property within the state of Colorado, shall proceed as
26 follows:

27 (1) No security shall be used to refund in whole or
28 in part any bond, note, or other evidence of indebtedness having
29 a maturity date more than 12 months after the date of issuance
30 unless an application is filed with and approved by the
31 Commission. Any security issued, renewed, extended, assumed or
32 guaranteed without Commission approval shall be void.

33 (2) When a utility proposes to issue, renew, extend,
34 assume or guarantee a security, or to create a lien on its
35 property situated in Colorado, it shall file an application with
36 the Commission for authority to do so. The application shall
37 contain all the data, information, and material listed in Rule
38 56(d).

39 (3) Within 3 days after the filing of an application
40 to issue, renew, extend, assume, or guarantee a security, or to
41 create a lien on property in Colorado, the utility shall publish
42 notice of the filing of the application in a newspaper of
43 general circulation as defined in Rule 4(b)(10), or in one or
44 more local newspapers as defined in Rule 4(b)(8).

45 (4) Notice shall be as in Form X.

46 (5) The utility shall file with the Commission a copy
47 of the published notice and an affidavit of publication
48 contemporaneously with the filing of the application.

49 (d) Contents of Application. When a gas or electric
50 utility proposes to issue, assume or guarantee a security, or to

51 create a lien on its property situated within the State of
52 Colorado, it shall file with the Commission an application
53 seeking that authority. The application shall contain the
54 following information, to the extent applicable, either in the
55 application or in appropriately identified attached exhibits:

56 (1) The name and complete address (street, city
57 state, and zip code) of the applicant, including trade name if
58 any.

59 (A) If the applicant is a corporation, a
60 statement of that fact; the name of the state in which it
61 is incorporated; the location of its principal office, if
62 any, in Colorado; and the names of its directors, officers
63 and Colorado agent for service; and a copy of its Articles
64 of Incorporation or Charter.

65 (B) If the applicant is an out-of-state
66 corporation, a copy of the authority qualifying it to do
67 business in Colorado either shall accompany the application
68 or be filed as soon as possible. The application will not
69 be granted until applicant's authority qualifying it to do
70 business in Colorado is filed.

71 (C) If the applicant is a partnership, the names
72 and addresses of all partners shall be shown on the
73 application.

74 (2) The name and address of applicant's
75 representative, if any, to whom all inquiries shall be made.

76 (3) A statement describing in detail the extent to
77 which applicant is affiliated with any other company. For

78 purposes of this paragraph, affiliation means any financial
79 interest of the applicant in any other company.

80 (4) A statement of applicant's existing operations
81 and general service area.

82 (5) A statement describing the classes and amounts of
83 capital stock authorized by applicant's articles of
84 incorporation, and the amount by each class of capital stock
85 outstanding on the date of the balance sheet referred to in Rule
86 56(d)(10).

87 (6) A statement describing each long-term
88 indebtedness outstanding on the date of the balance sheet
89 referred to in Rule 56(d)(10), and a brief summary of the
90 principal provisions of the indentures, deeds of trust, or other
91 instruments under which each indebtedness was issued.

92 (7) A statement describing each short-term
93 indebtedness outstanding on the date of the balance sheet
94 referred to in Rule 56(d)(10).

95 (8) A statement of the amount of interest charges
96 incurred during the 12-month period included in the income and
97 retained earnings statements referred to in Rule 56(d)(11).

98 (9) A statement of the amount and rate of dividends
99 declared and paid, or amount and year of capital credits
100 assigned and capital credits refunded, during the last four
101 calendar years including the present year to the date of the
102 balance sheet referred to in Rule 56(d)(10).

103 (10) The most recent balance sheet available that ends
104 with a reporting period that is no older than six months before

105 the date of the filing of the application.

106 (11) Statements of income, retained earnings, and
107 sources and applications of funds for the 12-month period ending
108 not later than six months before the date of the filing of the
109 application.

110 (12) A detailed statement of all uses, including
111 construction, to which the funds will be or have been applied,
112 and a concise statement of the need for the funds.

113 (13) A statement of whether the proposed issue of
114 securities strengthens, weakens, or does not change the
115 applicant's financial status.

116 (14) A statement describing the type and amount of
117 securities to be issued, the anticipated interest rate or
118 dividend rate, redemption or sinking fund provisions if any, and
119 all other important provisions.

120 (15) A copy of the registration statement, related
121 forms, and preliminary prospectus, when available, filed with
122 the Securities and Exchange Commission relating to the proposed
123 issuance.

124 (e) Disposition of Application. All applications filed
125 under this Rule shall be given priority on the docket and shall
126 be disposed of promptly, within 30 days after the application is
127 filed unless a continuance for good cause is granted. When the
128 application is continued beyond 30 days after it is filed, the
129 Commission shall enter an order granting the continuance and
130 stating fully the facts necessitating the continuance.

131 (f) Issuance of Written Order. The Commission, with or

without hearing, and on notice under Rule 56(c), (3), (4), and (5) shall enter its written order approving the application and authorizing the proposed securities transaction unless the Commission finds that the transaction is inconsistent with the public interest or that the purpose is not permitted or is inconsistent with the provisions of § 40-1-104, C.R.S., et seq.

(g) Application deemed complete. The Commission shall deem the application complete in accordance with the procedural requirements of Rule 70.

(h) Failure to provide required information. In the absence of unusual or extraordinary circumstances, the Commission will both reject an application that does not meet the requirements of this Rule and close the docket pertaining to that application.

RULE 57

Applications by Fixed Utilities to Change, Abandon,
Discontinue or Curtail any Service, or to Abandon or Discontinue
any Facility - Notice

1 (a) Application to be Filed with the Commission. When a
2 fixed utility proposes to change, abandon, discontinue or
3 curtail any service, or to abandon or discontinue the use of any
4 facility without equivalent replacement, it shall file with the
5 Commission, at least 30 days before the effective date of the
6 proposed change, abandonment, discontinuance, or curtailment, an
7 application containing a complete explanation of the proposed
8 change, abandonment, discontinuance or curtailment.

9 (b) Notice to Customers. In addition to filing an
10 application with the Commission, the utility shall prepare a
11 written notice stating the proposed change, abandonment,
12 discontinuance or curtailment, and its proposed effective date,
13 and shall mail or deliver the notice at least 30 days before the
14 effective date of the proposed change to each of the utility's
15 affected customers or subscribers. If no customers are being
16 served by the service or facility, or in the case of telegraph
17 companies, the notice shall be mailed to the Board of County
18 Commissioners of each affected county, and to the Mayor of each
19 affected city, town or municipality.

20 (c) Form of Notice. The notice required in Rule 57(b)
21 shall be as in Form Y.

22 (d) Proof of Public Notice. Within 15 days before the

23 date of the proposed change, abandonment, discontinuance or
24 curtailment, the utility shall file with the Commission a
25 written affidavit stating its compliance with Rule 57(b). The
26 affidavit shall state the date notice was completed and the
27 method used to give notice. A copy of the notice shall
28 accompany the affidavit.

29 (e) Noncontested or Unopposed Applications. An
30 application under this Rule only becomes contested if
31 intervention under these Rules is had or granted by the
32 Commission. A noncontested or unopposed application to change,
33 abandon, discontinue, or curtail any service, or to abandon or
34 discontinue the use of any facility may be processed under Rule
35 245 without a formal hearing.

36 (f) Hearing on Applications.

37 (1) If the Commission receives an intervention of
38 right, or grants a petition for permissive intervention to
39 an application at least 10 days before the date of the
40 proposed change, abandonment, discontinuance, or
41 curtailment, the Commission shall set the application for
42 hearing, unless the intervention or petition is stricken,
43 dismissed, or denied.

44 (2) The Commission may set the application for
45 hearing on its own motion whether or not any intervention
46 or petition to intervene is received.

47 (3) For good cause shown, the Commission, may waive
48 the deadline for interventions or petitions to intervene.

49 (g) Commission Approval. No proposed change, abandonment,
50 discontinuance, or curtailment shall be effective until the
51 Commission order approving it, with or without formal hearing,
52 has been entered.

53 (h) Application deemed complete. The Commission shall
54 deem the application complete in accordance with the procedural
55 requirements of Rule 70.

56 (i) Failure to provide required information. In the
57 absence of unusual or extraordinary circumstances, the
58 Commission will both reject an application that does not meet
59 the requirements of this Rule and close the docket pertaining to
60 that application.

RULE 58

Applications by Fixed Utilities to Make Refunds - Notice

1 (a) Applicability. This Rule applies to all fixed
2 utilities as defined in Rule 4(b)(5).

3 (b) Procedure. Any fixed utility proposing, or required
4 by Commission order to make a refund, shall file an application
5 for Commission approval of a plan of refund as set forth in this
6 Rule.

7 (c) Contents of Application. An application for approval
8 of a plan of refund shall contain, as a minimum, the following
9 information, to the extent applicable, either in the application
10 or in attached appropriately identified exhibits:

11 (1) The name and complete address (street, city,
12 state and zip code) of applicant.

13 (2) The name and address of the applicant's
14 representative, if any, to whom all inquiries should be made.

15 (3) A copy of a detailed description of the proposed
16 refund plan. The plan shall include a description of the type
17 of utility service that has been provided and that is involved
18 in the refund plan. The plan also shall include the dollar
19 amount of the proposed refund, the date applicant proposes to
20 start making the refund (which shall not be fewer than 60 days
21 after the filing of the application), the date by which the
22 applicant proposes to complete the refund, and the means by
23 which the refund is proposed to be made. The plan also shall

24 identify the service area involved. The interest rate on the
25 refund shall be the current interest rate in the applicant's
26 customer deposits tariff.

27 (4) A statement describing in detail the extent to
28 which applicant is affiliated with any other company involved in
29 the refund plan. For purposes of this paragraph, affiliation
30 means any financial interest of the applicant in any other
31 company involved in the refund plan.

32 (5) A reference by docket number, decision number and
33 date of any Commission decision requiring the refund or, if the
34 refund is to be made because of receipt of monies by the
35 applicant under the order of another state or federal agency, a
36 copy of the order.

37 (6) If the applicant proposes to refund less than all
38 of the monies received as described in Rule 58(c)(5), a detailed
39 statement justifying the proposed refund of a lesser amount,
40 with a copy of applicant's most recent balance sheet, dated not
41 earlier than three months before the date of the filing of the
42 application, with a copy of an income statement and a retained
43 earnings as of the date of the balance sheet.

44 (7) A statement showing accounting entries under the
45 Uniform System of Accounts.

46 (8) A statement indicating, if the Commission assigns
47 the application for hearing, the town or city where the
48 applicant prefers the hearing to be held and any alternate
49 choice.

50 (9) A statement that if the application is granted,

51 applicant will file an affidavit with the Commission
52 establishing that the refund has been made in accordance with
53 the Commission decision.

54 (d) Notice. The Commission shall give notice of the
55 filing of an application to make a refund, as provided in Rules
56 63(e) and (g). Within 3 days after an application to make a
57 refund is filed, the applicant shall publish notice of the
58 filing of the application in a newspaper having general
59 circulation as defined in Rule 4(b)(10), or in one or more local
60 newspapers as defined in Rule 4(b)(8).

61 (e) Commission Refund Policy Statement. The Commission
62 will issue, from time to time, a policy statement which will set
63 forth the requirements that each refund must meet. Any utility
64 which files an application to make a refund shall follow the
65 current Commission policy on refunds, a copy of which may be
66 obtained by written request of the Commission secretary
67 Director.

68 (f) Form of Notice. Notice of application to make refund
69 shall be as in Form Z.

70 (g) Application deemed complete. The Commission shall
71 deem the application complete in accordance with the procedural
72 requirements of Rule 70.

73 (h) Failure to provide required information. In the
74 absence of unusual or extraordinary circumstances, the
75 Commission will both reject an application that does not meet
76 the requirements of this Rule and close the docket pertaining to
77 that application.

RULE 70 68

Nomenclature

When a proceeding is started, the Commission ~~Secretary~~
~~Director~~ shall assign a number to it. The parties shall place the
assigned number on all subsequent pleadings, briefs, and other
documents filed in the proceeding. Proceedings before the
Commission shall be entitled ~~Applications, Cases, Investigation and~~
~~Suspense Dockets, Investigations, or Miscellaneous Dockets.~~

RULE 70 68

Nomenclature

When a proceeding is started, the Commission Secretary
Director shall assign a number to it. The parties shall place the
assigned number on all subsequent pleadings, briefs, and other
documents filed in the proceeding. Proceedings before the
Commission shall be entitled ~~Applications, Cases, Investigation and~~
~~Suspense Dockets, Investigations, or Miscellaneous Dockets.~~

RULE 69

APPLICATIONS - RAILROAD - NOTICE

1 (a) GENERALLY. WHEN AN APPLICATION IS FILED, INCLUDING
2 AN APPLICATION FILED UNDER RULE 51, AND A DOCKET NUMBER IS
3 ASSIGNED TO IT, THE COMMISSION DIRECTOR, WITHIN 30 DAYS OF THE
4 FILING, SHALL ISSUE AND MAIL A NOTICE OF THE FILING.

5 THE APPLICATION IS DEEMED COMPLETE ON THE DATE OF MAILING
6 OF THE COMMISSION DECISION DEEMING THE APPLICATION COMPLETE.
7 THE COMMISSION SHALL CONSIDER WHETHER OR NOT THE APPLICATION
8 IS DEEMED COMPLETE AFTER THE APPLICANT FILES ALL REQUIRED
9 FINAL PLANS, FINAL SPECIFICATIONS, AND AGREEMENTS. IF, AT THE
10 TIME THE COMMISSION REVIEWS THE APPLICATION, THE APPLICATION
11 DOES NOT MEET THE REQUIREMENTS OF RULE 51, THE COMMISSION WILL
12 BOTH REJECT THE APPLICATION ABSENT UNUSUAL OR EXTRAORDINARY
13 CIRCUMSTANCES AND CLOSE THE DOCKET.

14 (b) WAIVER. WITH THE APPLICATION, BEFORE THE
15 APPLICATION IS DEEMED COMPLETE, OR AT ANY TIME WITHIN 210 DAYS
16 AFTER AN APPLICATION IS DEEMED COMPLETE, THE APPLICANT MAY
17 FILE A WRITTEN WAIVER OF THE TIME LIMITS CONTAINED IN § 40-6-
18 109.5, C.R.S. IF AN APPLICATION IS A JOINT APPLICATION, ANY
19 ONE OF THE APPLICANTS MAY FILE A WRITTEN WAIVER OF THE TIME
20 LIMITS CONTAINED IN § 40-6-109.5, C.R.S. UPON FILING OF THE
21 WRITTEN WAIVER, THE COMMISSION IS NOT BOUND BY THE TIME LIMITS
22 CONTAINED IN § 40-6-109.5, C.R.S.

23 (c) CONTENTS OF NOTICE. THE COMMISSION DIRECTOR SHALL

24 ISSUE A NOTICE OF THE FILING OF THE APPLICATION. THE NOTICE
25 SHALL CONTAIN:

26 (1) THE CAPTION AND DOCKET NUMBER OF THE
27 PROCEEDING;

28 (2) THE DATE BY WHICH ANY NOTICE OF INTERVENTION OR
29 PETITION TO INTERVENE MUST BE FILED. THE DATE ORDINARILY WILL
30 BE 30 DAYS AFTER THE MAILING OF THE NOTICE. UNLESS OTHERWISE
31 ORDERED BY THE COMMISSION UPON A FINDING OF GOOD CAUSE, THE
32 TIME PERIOD FOR INTERVENTION SHALL NOT BE LESS THAN 10 DAYS OR
33 MORE THAN 30 DAYS AFTER THE MAILING OF THE NOTICE. AS A
34 MATTER OF RIGHT, STAFF MAY INTERVENE UP TO 10 DAYS AFTER THE
35 APPLICATION IS DEEMED COMPLETE;

36 (3) A STATEMENT THAT THE PROCEEDING MAY BE
37 CONSIDERED BY THE COMMISSION WITHOUT A HEARING IF THE
38 APPLICATION IS DEEMED COMPLETE AND NO NOTICE OF INTERVENTION
39 OR PETITION TO INTERVENE WHICH OPPOSES THE APPLICATION IS
40 TIMELY FILED;

41 (4) IF THE APPLICANT DID NOT FILE ITS TESTIMONY, OR
42 A DETAILED SUMMARY OF TESTIMONY, AND COPIES OF ITS EXHIBITS
43 WITH THE APPLICATION, A STATEMENT THAT THE APPLICANT IS
44 REQUIRED TO FILE ITS LIST OF WITNESSES AND COPIES OF ITS
45 EXHIBITS NOT LATER THAN 10 DAYS AFTER THE APPLICATION IS
46 DEEMED COMPLETE. THE APPLICANT SHALL FILE WITH THE COMMISSION
47 AN ORIGINAL AND THREE COPIES OF ITS LIST OF WITNESSES AND AN
48 ORIGINAL AND THREE COPIES OF EACH OF ITS EXHIBITS AND SHALL
49 SERVE EACH PARTY AND STAFF WITH ITS LIST OF WITNESSES AND
50 COPIES OF ITS EXHIBITS;

(5) A STATEMENT REQUIRING EACH INTERVENOR TO FILE
AND TO SERVE ITS LIST OF WITNESSES AND COPIES OF ITS EXHIBITS
NOT LATER THAN 15 DAYS PRIOR TO THE FIRST DAY OF THE HEARING
ON THE APPLICATION. EACH INTERVENOR SHALL FILE WITH THE
COMMISSION AN ORIGINAL AND THREE COPIES OF ITS LIST OF
WITNESSES AND AN ORIGINAL AND THREE COPIES OF EACH OF ITS
EXHIBITS AND SHALL SERVE EACH PARTY AND STAFF WITH ITS LIST OF
WITNESSES AND COPIES OF ITS EXHIBITS;

(6) A STATEMENT THAT, UPON OBJECTION BY A PARTY, NO
WITNESS WILL BE PERMITTED TO TESTIFY AND NO EXHIBIT WILL BE
RECEIVED IN EVIDENCE, EXCEPT IN REBUTTAL, UNLESS FILED AND
SERVED AS PROVIDED IN THE NOTICE;

(7) A STATEMENT THAT, IF A PARTY DOES NOT MEET THE
REQUIREMENTS OF THE NOTICE, THE COMMISSION MAY DISMISS THE
APPLICATION OR AN INTERVENTION UPON MOTION FILED BY ANY OTHER
PARTY, OR UPON THE COMMISSION'S OWN MOTION, UNLESS GOOD CAUSE
FOR THE FAILURE TO MEET THE REQUIREMENTS IS SHOWN;

(8) A STATEMENT THAT NO MOTION FOR CONTINUANCE OF
THE HEARING DATE WILL BE GRANTED EXCEPT AS STATED IN THIS
RULE;

(9) A STATEMENT THAT, IF A HEARING IS REQUIRED, THE
COMMISSION WILL NOTIFY THE PARTIES OF THE HEARING DATE, TIME,
AND LOCATION;

(10) A STATEMENT THAT, AT THE TIME OF THE NOTICE,
THE COMMISSION HAS NOT DEEMED THE APPLICATION COMPLETE WITHIN
THE MEANING OF § 40-6-109.5., C.R.S.;

(11) ANY OTHER STATEMENT REQUIRED BY OR DEEMED

78 APPROPRIATE BY THE COMMISSION.

79 (d) CHANGE IN HEARING DATE - USUAL COURSE. UNLESS
30 EXTRAORDINARY CONDITIONS EXIST (Rule 69(e)), A PARTY SEEKING
31 A CHANGE OF HEARING DATE SHALL FILE A MOTION TO CHANGE THE
32 HEARING DATE. IN THE MOTION, THE MOVING PARTY SHALL PROVIDE
33 AVAILABLE DATES. THE AVAILABLE DATES MUST BE BOTH AVAILABLE
34 ON THE COMMISSION CALENDAR AND ACCEPTABLE TO ALL PARTIES. IF
35 AGREEMENT CANNOT BE REACHED, THE MOTION TO CHANGE THE HEARING
36 DATE SHALL CONTAIN AVAILABLE DATES ON THE COMMISSION CALENDAR
37 AND ALL AVAILABLE DATES FOR ALL PARTIES. THE COMMISSION MAY
38 CHANGE THE HEARING DATE PURSUANT TO THE MOTION PROVIDED THE
39 NEW HEARING DATE IS NO MORE THAN 45 DAYS FROM THE DATE THE
40 APPLICATION IS DEEMED COMPLETE.

41 (e) CHANGE IN HEARING DATE - EXTRAORDINARY CONDITIONS.
42 THE COMMISSION MAY CONSIDER A REQUEST TO CONTINUE A HEARING
43 DATE TO A DATE THAT IS LATER THAN 45 DAYS FROM THE DATE THE
44 APPLICATION IS DEEMED COMPLETE. A PARTY SEEKING TO CONTINUE
45 A HEARING DATE UNDER THIS PROVISION MUST FILE A MOTION FOR
46 CONTINUANCE. THE MOTION MUST STATE THE EXTRAORDINARY
47 CONDITIONS THAT MAKE THE REQUEST NECESSARY AND MUST REQUEST
48 ISSUANCE OF NOTICE AND A HEARING AT WHICH THE MOVING PARTY
49 WILL HAVE THE BURDEN OF PROVING THE EXISTENCE OF THE STATED
50 EXTRAORDINARY CONDITIONS. IF THE COMMISSION DETERMINES THAT
51 EXTRAORDINARY CONDITIONS EXIST, THE COMMISSION MAY RESCHEDULE
52 THE HEARING TO A LATER DATE. HOWEVER, UNDER NO CIRCUMSTANCES
53 WILL THE COMMISSION GRANT A HEARING MORE THAN 30 DAYS LATER
54 THAN THE HEARING DATE ORIGINALLY SET. IN ANY APPLICATION

DOCKET, THE COMMISSION WILL NOT ENTERTAIN ANY MOTION FOR
CONTINUANCE WHICH, IF GRANTED, WILL CAUSE THE COMMISSION TO
EXCEED THE STATUTORY DEADLINE.

RULE 70

APPLICATIONS - FIXED UTILITIES - NOTICE

1 (A) GENERALLY. WHEN AN APPLICATION IS FILED AND A DOCKET
2 NUMBER IS ASSIGNED TO IT, THE COMMISSION DIRECTOR, WITHIN 20
3 DAYS OF THE FILING, SHALL ISSUE AND MAIL A NOTICE OF THE FILING
4 UNDER RULE 63.

5 NO LATER THAN 10 DAYS AFTER EXPIRATION OF THE NOTICE
6 PERIOD, THE COMMISSION STAFF SHALL DETERMINE IF THE APPLICATION
7 MEETS THE REQUIREMENTS OF RULES 55 THROUGH 58. IF THE
8 APPLICATION MEETS THE REQUIREMENTS AND THE NOTICE PERIOD HAS
9 EXPIRED, THE APPLICATION WILL BE PLACED ON THE COMMISSION AGENDA
10 FOR CONSIDERATION AT THE NEXT OPEN MEETING.

11 IF THE APPLICATION DOES NOT MEET THE REQUIREMENTS OF RULES
12 55 THROUGH 58, STAFF SHALL PROMPTLY NOTIFY THE APPLICANT OF THE
13 INFORMATION OR DOCUMENTATION NECESSARY TO MEET THE REQUIREMENTS.
14 STAFF SHALL SET A TIME WITHIN WHICH THE APPLICANT MUST SUPPLY
15 THE REQUIRED INFORMATION OR DOCUMENTATION.

16 WITHIN 20 DAYS OF THE RECEIPT OF THE REQUIRED INFORMATION
17 OR DOCUMENTATION OR, IF THE APPLICANT DOES NOT PROVIDE THE
18 REQUIRED INFORMATION OR DOCUMENTATION, WITHIN 20 DAYS AFTER
19 EXPIRATION OF THE TIME SET BY STAFF, STAFF SHALL REVIEW THE
20 APPLICATION TO DETERMINE IF IT MEETS THE REQUIREMENTS OF RULES
21 55 THROUGH 58. WHETHER OR NOT THE REQUIRED INFORMATION AND
22 DOCUMENTATION ARE SUPPLIED, STAFF WILL PLACE THE APPLICATION ON

THE COMMISSION AGENDA FOR CONSIDERATION AT THE NEXT OPEN
MEETING AFTER THE STAFF REVIEW.

THE COMMISSION SHALL REVIEW THE SUBMITTED APPLICATION AND
SUPPORTING INFORMATION AND DOCUMENTATION. IF IT DETERMINES THAT
THE APPLICATION IS COMPLETE, THE COMMISSION SHALL ISSUE A
DECISION CONTAINING THAT DETERMINATION. THE APPLICATION IS
DEEMED COMPLETE ON THE DATE OF MAILING OF THAT COMMISSION
DECISION. IF THE APPLICATION DOES NOT MEET THE REQUIREMENTS OF
RULES 55 THROUGH 58, THE COMMISSION WILL BOTH REJECT THE
APPLICATION ABSENT UNUSUAL OR EXTRAORDINARY CIRCUMSTANCES AND
CLOSE THE DOCKET.

(B) CONTENTS OF NOTICE. THE COMMISSION DIRECTOR SHALL
ISSUE A NOTICE OF THE FILING OF THE APPLICATION. THE NOTICE
SHALL CONTAIN:

(1) THE CAPTION AND DOCKET NUMBER OF THE PROCEEDING.
(2) THE DATE BY WHICH ANY NOTICE OF INTERVENTION OR
PETITION TO INTERVENE MUST BE FILED. THE DATE ORDINARILY WILL BE
30 DAYS AFTER THE MAILING OF THE NOTICE. UNLESS OTHERWISE
ORDERED BY THE COMMISSION UPON A FINDING OF GOOD CAUSE, THE TIME
PERIOD FOR INTERVENTION SHALL NOT BE LESS THAN 10 DAYS OR MORE
THAN 30 DAYS AFTER THE MAILING OF THE NOTICE. AS A MATTER OF
RIGHT, STAFF MAY INTERVENE UP TO 10 DAYS AFTER THE DATE THE
APPLICATION IS DEEMED COMPLETE.

(3) A STATEMENT THAT THE PROCEEDING MAY BE CONSIDERED
BY THE COMMISSION WITHOUT A HEARING IF THE APPLICATION IS DEEMED
COMPLETE AND NO NOTICE OF INTERVENTION OR PETITION TO INTERVENE
IS TIMELY FILED.

0 (4) IF THE APPLICANT DID NOT FILE ITS TESTIMONY, OR
1 A DETAILED SUMMARY OF TESTIMONY, AND COPIES OF ITS EXHIBITS WITH
2 ITS APPLICATION, A STATEMENT THAT THE APPLICANT IS REQUIRED TO
3 FILE ITS TESTIMONY, OR A DETAILED SUMMARY OF TESTIMONY, AND
4 COPIES OF ITS EXHIBITS NOT LATER THAN 10 DAYS AFTER THE DATE THE
5 APPLICATION IS DEEMED COMPLETE. THE APPLICANT SHALL FILE AND
6 SERVE ITS TESTIMONY, OR A DETAILED SUMMARY OF TESTIMONY, AND
7 COPIES OF ITS EXHIBITS IN ACCORDANCE WITH RULE 22(F) IF THE
8 COMMISSION STAFF IS NOT A PARTY OR IN ACCORDANCE WITH RULE
9 7(B) (5) IF THE COMMISSION STAFF IS A PARTY.

10 (5) A STATEMENT REQUIRING EACH INTERVENOR TO FILE AND
11 TO SERVE ITS TESTIMONY, OR A DETAILED SUMMARY OF TESTIMONY, AND
12 COPIES OF ITS EXHIBITS NOT LATER THAN 20 DAYS BEFORE THE FIRST
13 DAY OF THE HEARING. EACH INTERVENOR SHALL FILE AND SERVE ITS
14 TESTIMONY, OR A DETAILED SUMMARY OF TESTIMONY, AND COPIES OF ITS
15 EXHIBITS IN ACCORDANCE WITH RULE 22(F) IF THE COMMISSION STAFF
16 IS NOT A PARTY OR IN ACCORDANCE WITH RULE 7(B) (5) IF THE
17 COMMISSION STAFF IS A PARTY.

18 (6) A STATEMENT THAT NO WITNESS WILL BE PERMITTED TO
19 TESTIFY AND NO EXHIBIT WILL BE RECEIVED IN EVIDENCE, EXCEPT IN
20 REBUTTAL, UNLESS FILED AND SERVED AS PROVIDED IN THE NOTICE.

21 (7) A STATEMENT THAT, IF A PARTY DOES NOT MEET THE
22 REQUIREMENTS OF THE NOTICE, THE COMMISSION MAY DISMISS THE
23 APPLICATION OR AN INTERVENTION UPON MOTION FILED BY ANY OTHER
24 PARTY, OR UPON THE COMMISSION'S OWN MOTION, UNLESS GOOD CAUSE
25 FOR THE FAILURE TO MEET THE REQUIREMENTS IS SHOWN.

26 (8) A STATEMENT THAT NO MOTION FOR CONTINUANCE OF THE

HEARING DATE WILL BE GRANTED EXCEPT UPON A FINDING OF
EXTRAORDINARY CONDITIONS.

(9) A STATEMENT THAT THE COMMISSION WILL NOTIFY THE
PARTIES OF THE HEARING DATE, TIME, AND LOCATION.

(10) A STATEMENT THAT, AT THE TIME OF THE NOTICE, THE
COMMISSION HAS NOT DEEMED THE APPLICATION COMPLETE WITHIN THE
MEANING OF § 40-6-109.5, C.R.S.

(11) ANY OTHER STATEMENT REQUIRED BY OR DEEMED AP-
PROPRIATE BY THE COMMISSION.

(C) CHANGE IN HEARING DATE - USUAL COURSE. UNLESS
EXTRAORDINARY CONDITIONS EXIST (RULE 70(D)), A PARTY SEEKING A
CHANGE OF HEARING DATE SHALL FILE A MOTION TO ACCELERATE. IN
THE MOTION, THE PARTY FILING THE MOTION SHALL PROVIDE AVAILABLE
DATES EARLIER THAN THE SCHEDULED HEARING DATE. THE AVAILABLE
DATES MUST BE BOTH AVAILABLE ON THE COMMISSION CALENDAR AND
ACCEPTABLE TO ALL PARTIES. IF AGREEMENT CANNOT BE REACHED, THE
MOTION TO ACCELERATE SHALL CONTAIN AVAILABLE DATES ON THE
COMMISSION CALENDAR AND ALL AVAILABLE DATES FOR ALL PARTIES.

(D) CHANGE IN HEARING DATE - EXTRAORDINARY CONDITIONS.
THE COMMISSION MAY CONSIDER A REQUEST TO CONTINUE A HEARING DATE
TO A LATER DATE. A PARTY SEEKING TO CONTINUE A HEARING MUST
FILE A MOTION FOR CONTINUANCE. THAT MOTION MUST STATE THE
EXTRAORDINARY CONDITIONS THAT MAKE THE REQUEST NECESSARY AND
MUST REQUEST ISSUANCE OF NOTICE AND A HEARING AT WHICH THE
MOVING PARTY WILL HAVE THE BURDEN OF PROVING THE EXISTENCE OF
THE STATED EXTRAORDINARY CONDITIONS. IF, AFTER HEARING, THE
COMMISSION DETERMINES THAT EXTRAORDINARY CONDITIONS EXIST, THE

04 COMMISSION MAY RESCHEDULE THE HEARING TO A LATER DATE. HOWEVER,
05 UNDER NO CIRCUMSTANCES WILL THE COMMISSION GRANT A HEARING DATE
06 MORE THAN 30 DAYS LATER THAN THE HEARING DATE ORIGINALLY SET.
07 IN ANY APPLICATION DOCKET, THE COMMISSION WILL NOT ENTERTAIN ANY
08 MOTION FOR CONTINUANCE WHICH, IF GRANTED, WILL CAUSE THE
09 COMMISSION TO EXCEED THE STATUTORY DEADLINE.

10 (E) WAIVER. WITH THE APPLICATION, BEFORE THE APPLICATION IS
11 DEEMED COMPLETE, OR AT ANY TIME WITHIN 210 DAYS AFTER AN
12 APPLICATION IS DEEMED COMPLETE, THE APPLICANT MAY FILE A WRITTEN
13 WAIVER OF THE TIME LIMITS CONTAINED IN § 40-6-109.5, C.R.S. IF
14 AN APPLICATION IS A JOINT APPLICATION, ANY ONE OF THE APPLICANTS
15 MAY FILE A WRITTEN WAIVER OF THE TIME LIMITS CONTAINED IN §
16 40-6-109.5, C.R.S. UPON FILING OF THE WRITTEN WAIVER, THE
17 COMMISSION IS NOT BOUND BY THE TIME LIMITS CONTAINED IN §
18 40-6-109.5, C.R.S.

RULE 71

TRANSPORTATION - UTILITIES - NOTICE

(A) GENERALLY. WHEN AN APPLICATION IS RECEIVED, THE COMMISSION STAFF, WITHIN FIVE WORKING DAYS, SHALL DETERMINE IF IT MEETS THE REQUIREMENTS OF RULE 50. IF THE APPLICATION MEETS THE REQUIREMENTS OF RULE 50, THE COMMISSION DIRECTOR SHALL ISSUE AND MAIL A NOTICE OF THE FILING UNDER RULE 63 AND A NOTICE OF HEARING DATE.

IF THE APPLICATION DOES NOT MEET THE REQUIREMENTS OF RULE 50, STAFF SHALL PROMPTLY NOTIFY THE APPLICANT OF THE INFORMATION OR DOCUMENTATION NECESSARY TO MEET THE REQUIREMENTS. STAFF SHALL SET A TIME WITHIN WHICH THE APPLICANT MUST SUPPLY THE REQUIRED INFORMATION OR DOCUMENTATION. WITHIN FIVE WORKING DAYS OF RECEIPT OF THE REQUIRED INFORMATION OR DOCUMENTATION, STAFF SHALL REVIEW THE APPLICATION TO DETERMINE IF IT MEETS THE REQUIREMENTS OF RULE 50. WITHIN 20 DAYS OF RECEIVING THE REQUIRED INFORMATION OR DOCUMENTATION, THE COMMISSION DIRECTOR SHALL ISSUE AND MAIL A NOTICE OF THE FILING UNDER RULE 63 AND A NOTICE OF HEARING DATE.

AT THE CONCLUSION OF THE NOTICE PERIOD, THE COMMISSION SHALL DETERMINE WHETHER OR NOT THE APPLICATION IS COMPLETE. IF THE APPLICATION IS NONCONTESTED AND THE COMMISSION HANDLES THE APPLICATION ON MODIFIED PROCEDURE, THE COMMISSION ORDER GRANTING THE APPLICATION WILL DEEM THE APPLICATION COMPLETE. IF THE APPLICATION IS CONTESTED, THE COMMISSION WILL SEND A NOTICE DEEMING THE APPLICATION COMPLETE. CONTESTED APPLICATIONS ARE

DEEMED COMPLETE ON THE DATE THE COMMISSION MAILES THE NOTICE DEEMING
THE APPLICATION COMPLETE. THIS NOTICE MAY BE DONE BY WRITTEN
COMMISSION ORDER, BY MINUTE ORDER, OR BY NOTICE SIGNED BY THE
DIRECTOR OF THE AGENCY. THE COMMISSION SHALL MAKE ITS
DETERMINATION ON DEEMING APPLICATIONS COMPLETE WITHIN 14 DAYS AFTER
THE CONCLUSION OF THE NOTICE PERIOD. IF THE APPLICATION DOES NOT
MEET THE REQUIREMENTS OF RULE 50, THE COMMISSION WILL REJECT THE
APPLICATION ABSENT UNUSUAL OR EXTRAORDINARY CIRCUMSTANCES AND CLOSE
THE DOCKET.

(B) CONTENTS OF NOTICE. THE COMMISSION DIRECTOR SHALL
ISSUE A NOTICE OF THE FILING OF THE APPLICATION. THE NOTICE SHALL
CONTAIN:

(1) THE CAPTION AND DOCKET NUMBER OF THE
PROCEEDING.

(2) THE DATE BY WHICH ANY NOTICE OF INTERVENTION
OR PETITION TO INTERVENE MUST BE FILED. THE DATE ORDINARILY WILL
BE 30 DAYS AFTER THE MAILING OF THE NOTICE. AS A MATTER OF RIGHT,
STAFF MAY INTERVENE UP TO 10 DAYS AFTER THE DATE THE APPLICATION IS
DEEMED COMPLETE.

(A) UNLESS OTHERWISE ORDERED BY THE COMMISSION
UPON A FINDING OF GOOD CAUSE, THE TIME PERIOD FOR INTERVENTION
SHALL NOT BE LESS THAN 10 DAYS OR MORE THAN 30 DAYS AFTER THE
MAILING OF THE NOTICE.

(B) FOR AN APPLICATION FOR TEMPORARY
AUTHORITY, THE DATE FOR INTERVENTION SHALL ORDINARILY BE FIVE DAYS
AFTER THE MAILING OF THE NOTICE.

51 (3) A STATEMENT THAT THE PROCEEDING MAY BE
52 CONSIDERED BY THE COMMISSION WITHOUT A HEARING IF THE APPLICATION
53 IS DEEMED COMPLETE AND NO NOTICE OF INTERVENTION OR PETITION TO
54 INTERVENE IS TIMELY FILED.

55 (4) IF THE APPLICANT DID NOT FILE ITS TESTIMONY, OR
56 A DETAILED SUMMARY OF TESTIMONY, AND COPIES OF ITS EXHIBITS WITH
57 ITS APPLICATION, A STATEMENT THAT THE APPLICANT IS REQUIRED TO FILE
58 ITS LIST OF WITNESSES AND COPIES OF ITS EXHIBITS WITHIN 10 DAYS
59 AFTER THE CONCLUSION OF THE NOTICE PERIOD. THE APPLICANT SHALL
60 FILE AND SERVE ITS LIST OF WITNESSES AND COPIES OF ITS EXHIBITS IN
61 ACCORDANCE WITH RULE 22(F) IF THE COMMISSION STAFF IS NOT A PARTY
62 OR IN ACCORDANCE WITH RULE 7(B)(5) IF THE COMMISSION STAFF IS A
PARTY.

64 (5) A STATEMENT THAT EACH INTERVENOR IS REQUIRED TO
65 FILE AND TO SERVE ITS LIST OF WITNESSES AND COPIES OF ITS EXHIBITS.
66 THE NOTICE SHALL CONTAIN ONE OF THE FOLLOWING TIME PERIODS:

67 (A) WHEN THE APPLICANT FILED ITS TESTIMONY AND
68 COPIES OF ITS EXHIBITS WITH ITS APPLICATION, EACH INTERVENOR SHALL
69 FILE ITS LIST OF WITNESSES AND COPIES OF ITS EXHIBITS NOT LATER
70 THAN 10 DAYS AFTER THE CONCLUSION OF THE NOTICE PERIOD.

71 (B) WHEN THE APPLICANT DID NOT FILE ITS
72 TESTIMONY AND COPIES OF ITS EXHIBITS WITH ITS APPLICATION, EACH
73 INTERVENOR SHALL FILE ITS LIST OF WITNESSES AND COPIES OF ITS
74 EXHIBITS NOT LATER THAN 20 DAYS AFTER THE NOTICE PERIOD HAS
75 EXPIRED.

EACH INTERVENOR SHALL FILE AND SERVE ITS LIST OF WITNESSES AND

COPIES OF ITS EXHIBITS IN ACCORDANCE WITH RULE 22(F) IF THE COMMISSION STAFF IS NOT A PARTY OR IN ACCORDANCE WITH RULE 7(B) (5) IF THE COMMISSION STAFF IS A PARTY.

(6) A STATEMENT THAT NO WITNESS WILL BE PERMITTED TO TESTIFY AND NO EXHIBIT WILL BE RECEIVED IN EVIDENCE, EXCEPT IN REBUTTAL, UNLESS FILED AND SERVED AS PROVIDED IN THE NOTICE.

(7) A STATEMENT THAT, IF A PARTY DOES NOT MEET THE REQUIREMENTS OF THE NOTICE, THE COMMISSION MAY DISMISS THE APPLICATION OR AN INTERVENTION UPON MOTION FILED BY ANY OTHER PARTY, OR UPON THE COMMISSION'S OWN MOTION, UNLESS GOOD CAUSE FOR THE FAILURE TO MEET THE REQUIREMENTS IS SHOWN.

(8) A STATEMENT THAT NO MOTION FOR CONTINUANCE OF THE HEARING DATE WILL BE GRANTED EXCEPT UPON A FINDING OF EXTRAORDINARY CONDITIONS.

(9) A STATEMENT THAT THE COMMISSION WILL NOTIFY THE PARTIES OF THE TIME AND LOCATION FOR THE HEARING.

(10) A STATEMENT THAT, AT THE TIME OF THE NOTICE, THE COMMISSION HAS NOT DEEMED THE APPLICATION COMPLETE WITHIN THE MEANING OF 40-6-109.5, C.R.S.

(11) ANY OTHER STATEMENT REQUIRED BY OR DEEMED APPROPRIATE BY THE COMMISSION.

(C) CHANGE IN HEARING DATE - USUAL COURSE.
UNLESS EXTRAORDINARY CONDITIONS EXIST (RULE 71(E)), A PARTY SEEKING A CHANGE OF HEARING DATE SHALL FILE A MOTION TO ACCELERATE. IN THE MOTION, THE PARTY FILING THE MOTION SHALL PROVIDE AVAILABLE DATES EARLIER THAN THE SCHEDULED HEARING DATES.

THE AVAILABLE DATES MUST BE BOTH AVAILABLE ON THE COMMISSION
CALENDAR AND ACCEPTABLE TO ALL PARTIES. IF AGREEMENT CANNOT BE
REACHED, THE MOTION TO ACCELERATE SHALL CONTAIN AVAILABLE DATES ON
THE COMMISSION CALENDAR AND ALL AVAILABLE DATES FOR ALL PARTIES.

(D) CHANGE IN HEARING DATE - EXTRAORDINARY
CONDITIONS. THE COMMISSION MAY CONSIDER A REQUEST TO CONTINUE A
HEARING DATE TO A LATER DATE. A PARTY SEEKING TO CONTINUE A
HEARING MUST FILE A MOTION FOR CONTINUANCE. THAT MOTION MUST STATE
THE EXTRAORDINARY CONDITIONS THAT MAKE THE REQUEST NECESSARY AND
MUST REQUEST ISSUANCE OF NOTICE AND A HEARING AT WHICH THE MOVING
PARTY WILL HAVE THE BURDEN OF PROVING THE EXISTENCE OF THE STATED
EXTRAORDINARY CONDITIONS. IF, AFTER HEARING, THE COMMISSION
DETERMINES THAT EXTRAORDINARY CONDITIONS EXIST, THE COMMISSION MAY
RESCHEDULE THE HEARING TO A LATER DATE. HOWEVER, UNDER NO
CIRCUMSTANCES WILL THE COMMISSION GRANT A HEARING DATE MORE THAN 30
DAYS LATER THAN THE HEARING DATE ORIGINALLY SET. IN ANY
APPLICATION DOCKET, THE COMMISSION WILL NOT ENTERTAIN ANY MOTION
FOR CONTINUANCE WHICH, IF GRANTED, WILL CAUSE THE COMMISSION TO
EXCEED THE STATUTORY DEADLINE.

(E) WAIVER. WITH THE APPLICATION, BEFORE THE
APPLICATION IS DEEMED COMPLETE, OR AT ANY TIME WITHIN 210 DAYS
AFTER AN APPLICATION IS DEEMED COMPLETE, THE APPLICANT MAY FILE A
WRITTEN WAIVER OF THE TIME LIMITS CONTAINED IN § 40-6-109.5, C.R.S.
IF AN APPLICATION IS A JOINT APPLICATION, ANY ONE OF THE APPLICANTS
MAY FILE A WRITTEN WAIVER OF THE TIME LIMITS CONTAINED IN
§ 40-6-109.5, C.R.S. UPON FILING OF THE WRITTEN WAIVER, THE

29 COMMISSION IS NOT BOUND BY THE TIME LIMITS CONTAINED IN
30 § 40-6-109.5, C.R.S.

RULE 77

Discovery - Time - Procedure

1 (a) Time for Discovery. PartiesAny party may
2 propoundcommence formal discovery within 30 days after the close of
3 the period forupon filing its notice of intervention, or upon the
4 granting of its petition for leave to intervene, unless the
5 Commission establishes a different period in the notice of
6 application. If the party does not need to file a notice of
7 intervention (for example, an applicant), the party may commence
8 formal discovery at any time after the intervention period is over.

9 (b) Procedure for Discovery.

11 (1) Unless otherwise ordered, depositions and discovery
12 procedures provided in Rules 26 through 37 of the Colorado Rules of
13 Civil Procedure shall be applied to Commission proceedings, other
14 than rulemaking proceedings; except, responses to discovery shall
15 be served within 10 days of service of the discovery request. When
16 reference is made in the Colorado Rules of Civil Procedure to a
17 Court order, it shall mean an order of the Commission, a hearings
18 commissioner, or hearings-examineran administrative law judge. No
19 deposition or discovery shall be permitted except by a party.

20 (2) Unless otherwise ordered, discovery requests,
21 interrogatories, responses to discovery requests, dispositions,
22 documents provided in response to interrogatories, requests for
23 production or inspection, or requests for admissions, shall not be
24 filed with the Commission, but shall be maintained by the parties.

4 (3) A party must object to discovery within 5 working
5 days of the date of receipt of the discovery.

6 (4) After making a good faith effort to resolve any
7 discovery dispute, the party seeking the discovery may file a
8 motion to compel discovery. This motion must be filed within 10
9 working days of the receipt of the objection.

0 (5) Resolution of discovery disputes will take
1 precedence over other matters.

2 ~~(3)~~(6) Discovery materials shall be filed in connection
3 with discovery motions, when pertinent and material to the
4 proceeding, and when used in a hearing.

RULE 92

Exceptions - Applications for Rehearing,
Reargument or Reconsideration

1 (a) General. Exceptions to a recommended decision of a
2 hearings commissioner or a hearings examiner and applications
3 for rehearing, reargument or reconsideration shall conform to
4 Rule 22, shall be governed by § 40-6-109, 40-6-113. and
5 40-6-114, C.R.S., and shall be filed within the time periods set
6 forth in Rule 92(b).

7 (1) Where exceptions to a recommended decision are
8 not filed, an application for rehearing, reargument or
9 reconsideration may be filed after the recommended decision
10 has become the decision of the Commission. but in that case
11 no party may seek to amend, modify, annul, or reverse basic
12 findings of fact made in the recommended decision.

13 (2) If a motion for an extension of time to file
14 exceptions to a recommended decision is timely filed, the
15 recommended decision shall be stayed until the Commission
16 acts on the motion. If the a certify that the recommended
17 decision has become the decision of the Commission on a
18 date certain.

19 (b) Time. Exceptions shall be filed within 20 days after
20 the Commission serves the recommended decision by mail, or in
21 any period of time extended by Commission order. upon a party's
22 motion for extension. Initial motions for extension of time to

3 file exceptions shall be filed in the original 20-day period for
4 exceptions, to be timely. The Commission's mailing certificate
5 shall be prima facie evidence of service. Parties shall cause
6 transcripts to be prepared and filed on or before the time
7 exceptions or applications for rehearing, reargument, or
8 reconsideration are due to be filed with the commission.
9 Motions for extensions of time to file the transcript and
0 exceptions or applications for rehearings, reargument, or
1 reconsideration shall require a hearing pursuant to § 40-6-109.5
2 (4), C.R.S. (1993), to determine whether additional time for the
3 issuance of the Commission's final decision is required, unless
4 the applicant waives all such time limits pursuant to § 40-6-
5 109.5 (3), C.R.S. (1993). The Commission shall not grant
6 motions for extensions of time unless the movant establishes
7 that the request for preparation of transcript was filed with
8 the Commission within 5 working days after the mailing of the
9 recommended or Commission decision.

10 ~~(1) Where the Commission stays a recommended decision~~
11 ~~within 20 days after service, or stays a recommended~~
12 ~~decision in any extended period of time, the stay does not~~
13 ~~of itself extend the period for the filing of exceptions or~~
14 ~~for the filing of a motion for an extension of time to file~~
15 ~~exceptions.~~

16 ~~(2) Applications for rehearing, reargument, or~~
17 ~~reconsideration, to be timely, shall be filed within 20~~
18 ~~days after a decision has been made by the Commission, or~~
19 ~~after a decision recommended by a hearings commissioner or~~

51 ~~a hearings examiner has become the decision of the~~
52 ~~Commission. Applications for rehearing, reargument, or~~
53 ~~reconsideration filed after the above 20-day period will~~
54 ~~not be considered unless a motion for an extension of time~~
55 ~~has been filed within the original 20-day period, and is~~
~~ultimately granted.~~