

(Decision No. R94-607)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

THE PROPOSED RULES REGULATING)	
APPLICATIONS FILED IN ACCORDANCE)	DOCKET NO. 94R-153EG
WITH § 40-3-104.3, C.R.S.,)	
CONCERNING THE AUTHORITY OF THE)	RECOMMENDED DECISION OF
PUBLIC UTILITIES COMMISSION TO)	ADMINISTRATIVE LAW JUDGE
FLEXIBLY REGULATE GAS, ELECTRIC,)	JOHN B. STUELPNAGEL
OR STEAM UTILITIES, 4 CCR 723-10.)	

- - - - -
Mailed Date: May 31, 1994
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STATEMENT

By Decision No. C94-337, issued March 29, 1994, the Public Utilities Commission established Docket No. 94R-153EG and gave Notice of Proposed Rulemaking regarding rules regulating applications filed in accordance with § 40-3-104.3, C.R.S., concerning the authority of the Public Utilities Commission to flexibly regulate gas, electric, or steam utilities, found at 4 CCR 723-10. The purpose of the proposed rules is to revise existing regulations due to legislative changes made in § 40-3-104.3, C.R.S. The statutory authority for the proposed rules is found at §§ 40-2-108, 40-3-102, and 40-3-104.3, C.R.S. The Notice of Proposed Rulemaking was directed to be filed with the Secretary of State for publication in the April 10, 1994, copy of The Colorado Register. At the time of filing with the Secretary of State, notice was also directed to be filed with the Office of Regulatory Reform. Hearing on the proposed rules and related matters was set for May 16, 1994, at 9:00 a.m. in the Commission Hearing Room, Office Level 2 (OL2), Logan Tower, 1580 Logan Street, Denver, Colorado.

Hearing commenced May 16, 1994, as scheduled, and interested persons were authorized by Decision No. C94-377 to submit written comments if they so desire. The Commission took administrative notice of the record established in Docket No. 93R-343EG.

By Decision No. R93-1401, issued November 16, 1993, in Docket No. 93R-343EG, Rules Regulating Applications Filed in Accordance With § 40-3-104.3, C.R.S., Concerning the Authority of the Public Utilities Commission to Flexibly Regulate Gas, Electric, or Steam Utilities attached as Appendix A to Decision No. R93-1401 were adopted.

Those rules attached as Appendix A to Decision No. R93-1401 should again be adopted as the Commission Rules Regulating

Applications Filed in Accordance with § 40-3-104.3, C.R.S., pursuant to the Statement, Findings, and Conclusions set forth in Decision No. R93-1401.

Pursuant to § 40-6-109, C.R.S., it is recommended that the Commission enter the following order.

ORDER

THE COMMISSION ORDERS THAT:

1. Rules Regulating Applications filed in Accordance with § 40-3-104.3, C.R.S., concerning the authority of the Public Utilities Commission to flexibly regulate gas, electric, or steam utilities, attached as Appendix A to this Decision, are adopted.

2. These rules shall be effective 20 days after publication by the Secretary of State.

3. An opinion of the Attorney General of the State of Colorado shall be properly sought regarding the constitutionality and legality of the rules found in Appendix A of this Decision.

4. The Commission Director shall file with the Office of the Secretary of State of Colorado, for publication in The Colorado Register a copy of the rules found in Appendix A adopted by this Decision, and when obtained, a copy of the opinion of the Attorney General of the State of Colorado regarding the constitutionality and legality of these rules.

5. The rules found in Appendix A should be submitted by the Commission's Director 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 the opinion as to whether the adopted rules conform with § 24-4-103, C.R.S.

6. This Recommended Decision shall be effective on the day it becomes the Decision of the Commission, if that is the case, and is entered as of the date above.

7. As provided by § 40-6-109, C.R.S., copies of this Recommended Decision shall be served upon the parties, who may file exceptions to it.

- a. IF NO EXCEPTIONS ARE FILED WITHIN 20 DAYS AFTER SERVICE OR WITHIN ANY EXTENDED PERIOD OF TIME AUTHORIZED, OR UNLESS THE DECISION IS STAYED BY THE COMMISSION UPON ITS OWN MOTION, THE RECOMMENDED DECISION SHALL BECOME THE DECISION OF

THE COMMISSION AND SUBJECT TO THE PROVISIONS OF
§ 40-6-114, C.R.S.

- b. IF A PARTY SEEKS TO AMEND, MODIFY, ANNUL, OR REVERSE BASIC FINDINGS OF FACT IN ITS EXCEPTIONS, THAT PARTY MUST REQUEST AND PAY FOR A TRANSCRIPT TO BE FILED, OR THE PARTIES MAY STIPULATE TO PORTIONS OF THE TRANSCRIPT ACCORDING TO THE PROCEDURE STATED IN § 40-6-113, C.R.S. IF NO TRANSCRIPT OR STIPULATION IS FILED, THE COMMISSION IS BOUND BY THE FACTS SET OUT BY THE ADMINISTRATIVE LAW JUDGE AND THE PARTIES CANNOT CHALLENGE THESE FACTS. THIS WILL LIMIT WHAT THE COMMISSION CAN REVIEW IF EXCEPTIONS ARE FILED.

8. If exceptions to this Decision are filed, they shall not exceed 30 pages in length, unless the Commission for good cause shown permits this limit to be exceeded.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JOHN B. STUELPNAGEL

Administrative Law Judge

JBS:srs

PROPOSED REVISIONS TO:

RULES REGULATING APPLICATIONS FILED IN ACCORDANCE WITH
§ 40-3-104.3, C.R.S., CONCERNING THE AUTHORITY OF THE
PUBLIC UTILITIES COMMISSION TO FLEXIBLY REGULATE
GAS, ELECTRIC, OR STEAM UTILITIES

BASIS, PURPOSE, AND STATUTORY AUTHORITY

These rules are issued under the authority of § 40-2-108, C.R.S., and § 24-4-103, C.R.S. The rules establish the information required by the Commission in an application filed in accordance with § 40-3-104.3, C.R.S., so that a public utility will be authorized to provide service by contract without reference to its tariffs for a gas, electric, or steam customer or potential electric or steam customer under the specific conditions authorized by these rules and so that a complete application can then be processed within 30 days.

RULE 1-APPLICABILITY

These rules provide the exclusive means by which a person may seek an order from the Commission that invokes its authority to flexibly regulate gas, electric, or steam utilities in accordance with § 40-3-104.3, C.R.S.

RULE 2-DEFINITIONS

As used in these rules, unless the context otherwise requires:

- (a) "Applicant": Any utility requesting an order from the Commission that invokes its authority to flexibly regulate gas, electric, or steam services in accordance with § 40-3-104.3, C.R.S.
- (b) "Application": A pleading requesting an order from the Commission that invokes its authority to flexibly regulate gas, electric, or steam services in accordance with § 40-3-104.3, C.R.S. An application does not include, for example, an advice letter or any other form of tariff filing as an initial request. Applications must be noticed to the public by the Commission in accordance with § 40-3-104, C.R.S., and Rule 63(g) of the Commission's Rules of Practice and Procedure found at 4 CCR 723-1 so persons have an opportunity to intervene.

- (c) "Person": Any individual, firm, partnership, corporation, company, association, joint stock association, and other legal entity. (CF. § 40-1-102(5))
- (d) "Customer": A person currently receiving electric, natural gas, or steam service for an applicant.
- (e) "Potential Customer": A person who does or may reside within, or whose business facility is or may be located within, the service area of an applicant who reasonably might become an electric or steam customer of an applicant, but who may in fact, elect not to become a customer of such applicant.

RULE 3-APPLICATION PROCESS

Rule 3.1 - General Information in Application

Any applicant requesting an order from the Commission that invokes its authority to flexibly regulate gas, electric, or steam utilities in accordance with § 40-3-104.3, C.R.S., shall file a verified application for such an order. The application shall contain the following information, unless the Commission grants a waiver to omit any specific piece of information in accordance with Rule 7 of these rules.

- (a) The name, address, and telephone number of the applicant;
- (b) The name under which the applicant will provide its services if different from that provided in response to in subparagraph (a);
- (c) If the applicant is a corporation:
 - (1) The state in which it is incorporated, and, if any out-of-state corporation, a copy of the authority qualifying it to do business in Colorado;
 - (2) Location of its principal office; and
 - (3) A copy of its Articles of Incorporation (unless a current copy is already on file with the Commission);
- (d) If the applicant is a partnership, the name, title, and business address of each partner, both general and limited, and a copy of the partnership agreement establishing the partnership and later amendments, if any (unless a current copy is already on file with the Commission);

- (e) The name of the customer, or potential customer for service;
- (f) A description of the services which the applicant seeks the right to provide to a customer, or to a potential customer; services;
- (g) A statement of the means by which the applicant will provide its services if it is successful in obtaining a contract with a customer, or potential customer;
- (h) ELECTRIC OR STEAM. The facts upon which the applicant will rely to demonstrate that:
 - 1. The price of such electric or steam service is not below the variable cost of providing that service. The applicant will maintain, in its tariff on file with the Commission, a definition of how the variable cost will be computed;
 - 2. A customer, or potential customer for electric or steam service, has expressed an intention to decline or discontinue, or partially discontinue the services of the applicant, or that such customer will obtain alternative services if the authorization is not granted to the applicant;
 - 3. The approval of the application will not adversely affect the remaining customers of the applicant; and
 - 4. Approval of the application is in the public interest.
- (i) GAS. The facts upon which the applicant will rely to demonstrate that:
 - 1. The customer has the ability to provide its own service or has competitive alternatives available from other providers of the same or substitutable service, except from another public utility providing or proposing to provide the same type of service;
 - 2. The customer will discontinue using the services of the applicant if the authorization is not granted;

3. Approval of the application will not as adversely affect the remaining customers of the public utility as would the alternative;
 4. The price of such service is justified and is not less than the marginal cost to the applicant. The applicant will maintain, in its tariff on file with the Commission, a definition of how the marginal cost will be computed; and
 5. The approval of the application is in the public interest.
- (j) The name and address of the applicant's representative, if any, to whom all inquiries should be made.

Rule 3.2 - Prefiled Testimony and Exhibits

3.2.1 At the time the application is filed, the applicant shall file ten copies of its direct testimony and ten copies of exhibits to be offered at the hearing, except as permitted in Rule 3.4.2. If an exhibit is too large or cumbersome to prefile, the location of the exhibit shall be disclosed where parties may inspect it, and the applicant shall file ten copies of the title of each exhibit and a summary of the information contained in the exhibit.

3.2.2 Prefiled testimony or exhibits shall not be modified once filed except for typographical errors or mistakes or where all parties to the proceeding agree to the change. In the event a substantive change is made without the agreement of all parties, the Commission may consider the effect of the substantive change as a basis for a motion to continue in order to allow the Staff of the Commission and any other party a reasonable opportunity to properly address the change.

3.2.3 In the event a person intervenes in a proceeding initiated under § 40-3-104.3, C.R.S., upon notice to the applicant, either in writing, by facsimile, or by any other method, the applicant shall hand deliver or otherwise provide to the intervenor, copies of all prefiled testimony and exhibits filed in accordance with Rule 3.2.1 within two working days.

3.2.4 In the event the applicant has reason to believe that its application filed in accordance with § 40-3-104.3, C.R.S., will be uncontested and unopposed, it may omit prefiling its testimony and exhibits with its application, and if the notice period expires without the matter being contested or opposed, the applica-

tion may be processed in accordance with § 40-6-109(5), C.R.S., and Rule 24 of the Commission's Rules of Practice and Procedure, 4 CCR 723-1, unless otherwise ordered by the Commission. However, any delay in processing the application because applicant elected not to prefile testimony and exhibits may be proper grounds for a motion to continue a hearing date.

Rule 3.3 - Incomplete Applications

Should an application be filed which the Commission determines is not complete, the Commission shall notify the applicant within ten days from the date the application is filed of the need for additional information. The applicant may then supplement the application so that it is complete. Once complete, the application will then be processed as of the date the application is completed.

Rule 3.4 - Confidential Information

3.4.1 Any subject contract, filed with an application, shall be filed under seal and treated as confidential by the Commission in accordance with § 40-3-104(3)(1)(b), C.R.S.

3.4.2 The applicant shall indicate any information which is claimed to be confidential and shall state the grounds with specificity and cite the legal authority for the claim of confidentiality in a motion for protective order. If the motion for protective order is not filed with the application, any claim of confidentiality of information filed in the application or as prefiled testimony and exhibits shall be deemed waived.

3.4.3 If an applicant contends any portion of the application, prefiled testimony, or exhibits is confidential, it shall file six copies of the application, prefiled testimony and exhibits without the asserted confidential information, together with the motion for protective order. This information will be available to the public immediately. The applicant shall also file under seal six copies of the complete application, prefiled testimony, and exhibits claimed to be confidential and the subject of a motion for protective order.

3.4.4 The motion for protective order will be decided within ten calendar days from the date the application is filed. Response time to the motion shall be shortened to five calendar days. If the motion is granted, a protective order shall be issued as stated in Exhibit 1 to these rules unless otherwise ordered by the Commission.

Rule 3.5 ADDITIONAL FILING REQUIREMENTS

At the time the applicant files an application or contract with the Commission, the applicant shall also furnish a copy of the application to any public utility then providing electric, gas, or steam service in the State of Colorado to the customer, as the case may be, and also furnish a copy to the Office of Consumer Counsel. If a contract is submitted with the application, the Office of Consumer Counsel shall treat the contract as confidential.

**RULE 4 - GENERAL RULES CONCERNING APPLICATIONS FILED
IN ACCORDANCE WITH § 40-3-104.3, C.R.S.**

Rule 4.1 - Notice

4.1.1 Section 40-3-104.3(5), C.R.S., requires the Commission to issue its order approving or disapproving an application filed within 30 days after its filing, unless extended in accordance with that statutory section. Therefore, the Commission will issue an order granting less-than-statutory notice for all applications appropriately filed pursuant to § 40-3-104(2), C.R.S., and these rules.

4.1.2 In accordance with § 40-3-104, C.R.S., and Rule 63(g) of the Commission's Rules of Practice and Procedure, 4 CCR 723-1, the Commission will issue notice to all persons affected by any application filed under these rules in a manner similar to that stated in Form A if the application is one relating to electric or steam services, and in a manner similar to that stated in Form B if the application is related to gas services. Persons may intervene in the relevant docket within five days after the date of the notice.

4.1.3 Upon the filing of an application in accordance with § 40-3-104.3, C.R.S., the applicant must provide within three days proof of a single notice in accordance with Form C (electric or steam) or Form D (gas) in the "legal notice" section in a newspaper of general circulation. The notice shall comply in all respects with the requirements of § 40-3-104(c)(I)(D), C.R.S., unless the Commission approves an alternative means of notification. Required Forms C and D are appended to this rule. A draft copy of applicant's legal notice must be included in its application.

Rule 4.2 - Non-Action by the Commission Effect of Failure to Comply with Procedural Requirements

No application or request filed with the Commission shall be deemed granted by non-action of the Commission or by the Commis-

sion's failure to comply with any procedural requirement in these Rules except as specifically required by statute.

RULE 5 - SEGREGATION OF INVESTMENTS, EXPENSES, AND REVENUES

Rule 5.1 - ELECTRIC OR STEAM.

If a utility is successful in its negotiations and enters into a contract with a customer, or potential customer, the Commission may require the utility to file with the Commission an accounting plan that segregates investments, revenues, and expenses associated with utility service provided by the contract from other regulated utility operations. In order to determine if revenues from a service provided under a contract are at least equal to the cost of service, a fully distributed cost methodology shall be specified by the Commission. If revenues from a service provided by an electric or steam utility under a contract are less than the cost of service as provided by a fully distributed cost methodology, the rates for other regulated utility operations may not be increased to recover the difference between costs and revenues.

RULE 5.2 - GAS

If a gas utility is successful in its negotiations and enters into a contract with a customer, the Commission may require the utility to file with the Commission an accounting plan that segregates investments, expenses, and revenues associated with the gas utility's service by the contract to ensure that such gas services are not subsidized by revenues from other utility operations. If the Commission requires such segregation of such investment and expenses, it shall specify a fully distributed cost allocation methodology.

RULE 6 - PRICES OF SERVICES

RULE 6.1 - ELECTRIC AND STEAM

The price of any electric and steam utility service provided to a customer, or potential customer, for whom the Commission has authorized the applicant to provide service under a contract in accordance with § 40-3-104.3(1)(A), C.R.S., shall not be below the electric or steam services's variable cost of the service to the applicant.

RULE 6.2 - GAS

The price of any gas utility service provided to a customer for whom the Commission has authorized the applicant to provide

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service under a contract in accordance with § 40-3-104.3(1)(A), C.R.S., shall not be less than the gas service's marginal cost of the service to the applicant.

RULE 7 - WAIVER OF RULES

The Commission may permit variance from these rules, if not contrary to law, for good cause shown or it if finds compliance to be impossible, impracticable, or unreasonable.

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Form A

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

THE APPLICATION OF _____)
FOR AN ORDER AUTHORIZING IT TO _____)
PROVIDE SERVICE UNDER CONTRACT _____)
WITH _____)
FOR _____ SERVICE.)

NOTICE OF APPLICATION
FILED
DOCKET NO. 94A- _____

TO ALL INTERESTED PERSONS, FIRMS, OR CORPORATIONS:

YOU ARE NOTIFIED THAT THIS APPLICATION HAS BEEN FILED WITH THE COLORADO PUBLIC UTILITIES COMMISSION BY _____ (NAME), _____ (ADDRESS) IN ACCORDANCE WITH § 40-3-104.3(1) (A), C.R.S., FOR AN ORDER AUTHORIZING IT TO PROVIDE SERVICE UNDER CONTRACT WITHOUT REFERENCE TO ITS TARIFFS WITH _____ (CUSTOMER OR POTENTIAL CUSTOMER'S NAME) FOR _____ (ELECTRIC OR STEAM) SERVICE BECAUSE _____ (CUSTOMER OR POTENTIAL CUSTOMER'S NAME) HAS EXPRESSED ITS INTENTION TO DECLINE OR DISCONTINUE, OR PARTIALLY DISCONTINUE SERVICE, TO PROVIDE ITS OWN SERVICE, OR TO OBTAIN PURSUE ALTERNATIVE SERVICES FROM ANOTHER PROVIDER, AS MORE SPECIFICALLY STATED IN THE APPLICATION WHICH IS AVAILABLE FOR PUBLIC INSPECTION AT THE COMMISSION OFFICE LOCATED AT 1580 LOGAN STREET, OL2, DENVER, COLORADO 80203.

Any person desiring to intervene or participate as a party in this proceeding shall file his petition for leave to intervene, or under the Commission's Rules of Practice and Procedure, file other appropriate pleadings to become a party, within five days after the date of this notice. If you do not wish to intervene or become a party, but desire to file comment, you may send written comments addressed to the Public Utilities Commission, 1580 Logan Street, OL2, Denver, Colorado 80203, (303) 894-2070. This application will be processed on an expedited basis in accordance with the Commission's Rules Regulating Applications filed in accordance with § 40-3-104.3, C.R.S., concerning the authority of the Public Utilities Commission to Flexibly Regulate Gas, Electric, or Steam Utilities, found at 4 CCR 723-____.

This proceeding may be processed by the Commission without a hearing if no interventions or petitions to intervene are timely filed in accordance with § 40-6-109(5), C.R.S.

In the event interventions are filed or if the Commission upon its own motion sets this matter for hearing, the applicant shall certify, in writing, to the Commission Director that it desires either to proceed to hearing or to withdraw its application. This certification shall be filed within three days after the notice period expires, where interventions have been filed, or within three days after the Applicant has been notified that this matter will be set for hearing upon the Commission's own motion.

If the Applicant has not already done so, the Applicant shall file ten copies of the testimony of each witness who is expected to testify in the Applicant's direct case and a list of exhibits and ten copies of each of its exhibits with the Commission at the time it files its certification. Copies of the foregoing documents shall be served upon all parties to the proceeding in accordance with the Commission's Rules Regulating Applications filed in accordance with § 40-3-104.3, C.R.S., concerning the authority of the Public Utilities Commission to Flexibly Regulate Gas, Electric, or Steam Utilities.

Parties to a proceeding are responsible for reviewing the Commission's file to determine who are the parties in this proceeding in order to properly serve parties with copies of pleadings. No witness shall be permitted to testify, nor shall any document be received in evidence on behalf of the Applicant, except in rebuttal, unless filed and served as provided in this notice.

If a party does not meet these requirements, those found in the Commission's Rules of Practice and Procedure where applicable, and those found in the Commission's Rules Regulating Applications filed in accordance with § 40-3-104.3, C.R.S., concerning the authority of the Public Utilities Commission to Flexibly Regulate Gas, Electric, or Steam Utilities, the Commission may dismiss the application or intervention upon motion filed by any other party, unless good cause is shown. No motion or continuance shall be granted, except for good cause shown, and in accordance with the Commission's Rules Regulating Applications filed in accordance with § 40-3-104.3, C.R.S., concerning the authority of the Public Utilities Commission to Flexibly Regulate Gas, Electric, or Steam Utilities.

The Commission Director shall consider hearing dates and places within five days after the Applicant's certification has been received, and each party shall notify the Director within that time of the number of days the party expects the hearing to take, the location where the party desires the hearing to be held, and exiting commitments during the following 30-day period which will prevent the party from appearing. If any party fails to notify the

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Director of the Commission, the party will be deemed to have consented to the hearing date and location determined by the Director. Parties will be notified by the Commission of the hearing date, time, and location. Applicants must appear at the hearing and present evidence in support of their application. Other parties may appear and present evidence in accordance with their interests. Public testimony will also be received if offered, and if a hearing is held.

No exception to the procedure described in this notice shall be made except upon timely motion showing good cause.

(SEAL)

BRUCE N. SMITH
Director

Dated at Denver, Colorado this
____ day of _____, 1994.
 (Month) (Year)

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Form B

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

THE APPLICATION OF _____)	
FOR AN ORDER AUTHORIZING IT TO)	NOTICE OF APPLICATION
PROVIDE SERVICE UNDER CONTRACT)	FILED
WITH _____)	DOCKET NO. 94A- _____
FOR _____ SERVICE.)	

TO ALL INTERESTED PERSONS, FIRMS, OR CORPORATIONS:

YOU ARE NOTIFIED THAT THIS APPLICATION HAS BEEN FILED WITH THE COLORADO PUBLIC UTILITIES COMMISSION BY _____ (NAME),
_____, (ADDRESS) IN ACCORDANCE WITH § 40-3-104.3(1)(A), C.R.S., FOR AN ORDER AUTHORIZING IT TO PROVIDE SERVICE UNDER CONTRACT WITHOUT REFERENCE TO ITS TARIFFS WITH _____ (CUSTOMER'S NAME) FOR (NATURAL GAS) SERVICE BECAUSE (CUSTOMER'S NAME) MAY HAVE THE ABILITY TO PROVIDE ITS OWN SERVICE OR HAS COMPETITIVE ALTERNATIVES AVAILABLE FROM OTHER PROVIDERS TO THE SAME OR SUBSTITUTABLE SERVICE, EXCEPT FROM ANOTHER PUBLIC UTILITY PROVIDING OR PROPOSING TO PROVIDE THE SAME TYPE OF SERVICE, AS MORE SPECIFICALLY STATED IN THE APPLICATION WHICH IS AVAILABLE FOR PUBLIC INSPECTION AT THE COMMISSION OFFICE LOCATED AT 1580 LOGAN STREET, OL2, DENVER, COLORADO 80203.

ANY PERSON DESIRING TO INTERVENE OR PARTICIPATE AS A PARTY IN THIS PROCEEDING SHALL FILE HIS PETITION FOR LEAVE TO INTERVENE, OR UNDER THE COMMISSION'S RULES OF PRACTICE AND PROCEDURE, FILE OTHER APPROPRIATE PLEADINGS TO BECOME A PARTY, WITHIN FIVE DAYS AFTER THE DATE OF THIS NOTICE. IF YOU DO NOT WISH TO INTERVENE OR BECOME A PARTY, BUT DESIRE TO FILE COMMENTS, YOU MAY SEND WRITTEN COMMENTS ADDRESSED TO THE PUBLIC UTILITIES COMMISSION, 1580 LOGAN STREET, OL2, DENVER, COLORADO 80203, (303) 894-2070. THIS APPLICATION WILL BE PROCESSED ON AN EXPEDITED BASIS IN ACCORDANCE WITH THE COMMISSION'S RULES REGULATING APPLICATIONS FILED IN ACCORDANCE WITH § 40-3-104.3, C.R.S., CONCERNING THE AUTHORITY OF THE PUBLIC UTILITIES COMMISSION TO FLEXIBLY REGULATE GAS, ELECTRIC, OR STEAM UTILITIES, FOUND AT 4 CCR 723-____.

THIS PROCEEDING MAY BE PROCESSED BY THE COMMISSION WITHOUT A HEARING IF NO INTERVENTIONS OR PETITIONS TO INTERVENE ARE TIMELY FILED IN ACCORDANCE WITH § 40-6-109(5), C.R.S.

IN THE EVENT INTERVENTIONS ARE FILED OR IF THE COMMISSION UPON ITS OWN MOTION SETS THIS MATTER FOR HEARING, THE APPLICANT SHALL CERTIFY, IN WRITING, TO THE COMMISSION DIRECTOR THAT IT DESIRES EITHER TO PROCEED TO HEARING OR TO WITHDRAW ITS APPLICATION. THIS CERTIFICATION SHALL BE FILED WITHIN THREE DAYS AFTER THE NOTICE PERIOD EXPIRES, WHERE INTERVENTIONS HAVE BEEN FILED, OR WITHIN THREE DAYS AFTER THE APPLICANT HAS BEEN NOTIFIED THAT THIS MATTER WILL BE SET FOR HEARING UPON THE COMMISSION'S OWN MOTION.

IF THE APPLICANT HAS NOT ALREADY DONE SO, THE APPLICANT SHALL FILE TEN COPIES OF THE TESTIMONY OF EACH WITNESS WHO IS EXPECTED TO TESTIFY IN THE APPLICANT'S DIRECT CASE AND A LIST OF EXHIBITS AND TEN COPIES OF EACH OF ITS EXHIBITS WITH THE COMMISSION AT THE TIME IT FILES ITS CERTIFICATION. COPIES OF THE FOREGOING DOCUMENTS SHALL BE SERVED UPON ALL PARTIES TO THE PROCEEDING IN ACCORDANCE WITH THE COMMISSION'S RULES REGULATING APPLICATIONS FILED IN ACCORDANCE WITH § 40-3-104.3, C.R.S., CONCERNING THE AUTHORITY OF THE PUBLIC UTILITIES COMMISSION TO FLEXIBLY REGULATE GAS, ELECTRIC, OR STEAM UTILITIES.

PARTIES TO A PROCEEDING ARE RESPONSIBLE FOR REVIEWING THE COMMISSION'S FILE TO DETERMINE WHO ARE THE PARTIES IN THIS PROCEEDING IN ORDER TO PROPERLY SERVE PARTIES WITH COPIES OF PLEADINGS. NO WITNESS SHALL BE PERMITTED TO TESTIFY, NOR SHALL ANY DOCUMENT BE RECEIVED IN EVIDENCE ON BEHALF OF THE APPLICANT, EXCEPT IN REBUTTAL, UNLESS FILED AND SERVED AS PROVIDED IN THIS NOTICE.

IF A PARTY DOES NOT MEET THESE REQUIREMENTS, THOSE FOUND IN THE COMMISSION'S RULES OF PRACTICE AND PROCEDURE WHERE APPLICABLE, AND THOSE FOUND IN THE COMMISSION'S RULES REGULATING APPLICATIONS FILED IN ACCORDANCE WITH § 40-3-104.3, C.R.S., CONCERNING THE AUTHORITY OF THE PUBLIC UTILITIES COMMISSION TO FLEXIBLY REGULATE GAS, ELECTRIC, OR STEAM UTILITIES, THE COMMISSION MAY DISMISS THE APPLICATION OR INTERVENTION UPON MOTION FILED BY ANY OTHER PARTY, UNLESS GOOD CAUSE IS SHOWN. NO MOTION OR CONTINUANCE SHALL BE GRANTED, EXCEPT FOR GOOD CAUSE SHOWN, AND IN ACCORDANCE WITH THE COMMISSION'S RULES REGULATING APPLICATIONS FILED IN ACCORDANCE WITH § 40-3-104.3, C.R.S., CONCERNING THE AUTHORITY OF THE PUBLIC UTILITIES COMMISSION TO FLEXIBLY REGULATE GAS, ELECTRIC, OR STEAM UTILITIES.

THE COMMISSION DIRECTOR SHALL CONSIDER HEARING DATES AND PLACES WITHIN FIVE DAYS AFTER THE APPLICANT'S CERTIFICATION HAS BEEN RECEIVED, AND EACH PARTY SHALL NOTIFY THE DIRECTOR WITHIN THAT TIME OF THE NUMBER OF DAYS THE PARTY EXPECTS THE HEARING TO TAKE, THE LOCATION WHERE THE PARTY DESIRES THE HEARING TO BE HELD, AND EXITING COMMITMENTS DURING THE FOLLOWING 30-DAY PERIOD WHICH WILL PREVENT THE PARTY FROM APPEARING. IF ANY PARTY FAILS TO SO NOTIFY

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THE DIRECTOR OF THE COMMISSION, THE PARTY WILL BE DEEMED TO HAVE CONSENTED TO THE HEARING DATE AND LOCATION DETERMINED BY THE DIRECTOR. PARTIES WILL BE NOTIFIED BY THE COMMISSION OF THE HEARING DATE, TIME, AND LOCATION. APPLICANTS MUST APPEAR AT THE HEARING AND PRESENT EVIDENCE IN SUPPORT OF THEIR APPLICATION. OTHER PARTIES MAY APPEAR AND PRESENT EVIDENCE IN ACCORDANCE WITH THEIR INTERESTS. PUBLIC TESTIMONY WILL ALSO BE RECEIVED IF OFFERED, AND IF A HEARING IS HELD.

NO EXCEPTION TO THE PROCEDURE DESCRIBED IN THIS NOTICE SHALL BE MADE EXCEPT UPON TIMELY MOTION SHOWING GOOD CAUSE.

(SEAL)

BRUCE N. SMITH
Director

Dated at Denver, Colorado this _____ day of _____, 1994.
(Month) (Year)

Form C

NOTICE

Date of Notice: _____

NOTICE OF FILING OF AN APPLICATION BY _____

(name of electric or steam utility)

(address)

SEEKING AN ORDER FROM THE COLORADO PUBLIC UTILITIES COMMISSION
AUTHORIZING IT TO PROVIDE SERVICE UNDER CONTRACT WITHOUT REFERENCE
TO ITS TARIFFS FOR _____ TO

(Name of Customer or Potential Customer)
PROVIDE _____ SERVICE BECAUSE

(Electric or Steam)

(Name of Customer or Potential Customer)

HAS EXPRESSED ITS INTENTION TO DECLINE OR DISCONTINUE, OR PARTIALLY
DISCONTINUE SERVICE, TO PROVIDE ITS OWN SERVICE, OR TO PURSUE THE
PURCHASE OF ALTERNATIVE SERVICE FROM ANOTHER PROVIDER.

You are hereby notified that the public utility named above
has filed with the Colorado Public Utilities Commission an applica-
tion seeking an order from the Colorado Public Utilities Commission
authorizing it to provide service under contract for _____
(customer or potential customer name) one of its cur-
rent customers, to provide _____ (electric or steam) service
because _____ (customer or potential customer) may have
the ability to provide its own service or may have competitive
alternatives available to it.

1. GIVE A GENERAL DESCRIPTION OF THE TYPES OF SERVICES TO BE
AFFECTED.
2. STATE WHERE AFFECTED CUSTOMERS MAY CALL TO OBTAIN INFOR-
MATION CONCERNING THE APPLICATION DURING THE TEN-DAY
NOTICE PERIOD.

Anyone who desires may file a written objection to the appli-
cation. The filing of a written objection by itself will not allow
you to participate as a party in any proceeding on the proposed
action.

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If you wish to participate as a party, you must file a petition to intervene within five days from the date of this notice in accordance with the Commission's Rules of Practice and Procedure.

Form D

NOTICE

Date of Notice: _____

NOTICE OF FILING OF AN APPLICATION BY _____

(name of gas utility)

(address)

SEEKING AN ORDER FROM THE COLORADO PUBLIC UTILITIES COMMISSION
AUTHORIZING IT TO PROVIDE SERVICE UNDER CONTRACT WITHOUT REFERENCE
TO ITS TARIFFS FOR

(Name of Customer)

TO PROVIDE

(Gas)

SERVICE BECAUSE

(Name of Customer)

MAY HAVE THE ABILITY TO PROVIDE ITS OWN SERVICE OR MAY HAVE COMPETITIVE ALTERNATIVES AVAILABLE TO IT.

You are hereby notified that the public utility named above has filed with the Colorado Public Utilities Commission an application seeking an order from the Colorado Public Utilities Commission authorizing it to provide service under contract for _____

(customer)

one of its current customers, to provide _____ (gas) service because _____ (customer) may have the ability to provide its own service or may have competitive alternatives available to it.

1. GIVE A GENERAL DESCRIPTION OF THE TYPES OF SERVICES TO BE AFFECTED.
2. STATE WHERE AFFECTED CUSTOMERS MAY CALL TO OBTAIN INFORMATION CONCERNING THE APPLICATION DURING THE TEN-DAY NOTICE PERIOD.

Anyone who desires may file a written objection to the application. The filing of a written objection by itself will not allow you to participate as a party in any proceeding on the proposed action.

If you wish to participate as a party, you must file a petition to intervene within five days from the date of this notice in accordance with the Commission's Rules of Practice and Procedure.