

THE  
PUBLIC UTILITIES COMMISSION  
OF THE  
STATE OF COLORADO  
WATER UTILITIES

4 CODE OF COLORADO REGULATIONS (CCR) 723-5

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**4 CCR 723-5-PART I. - SERVICE TO BE PROVIDED BY JURISDICTIONAL  
WATER UTILITIES TO THEIR CUSTOMERS**

*[Rules 4 CCR 723-5-1 through 723-5-27.7 become Part I as  
titled above. No other changes are proposed for Part I in  
this rulemaking.]*

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*[Rules 4 CCR 723-5-28 through 723-5-31, proposed for Part II,  
are entirely new.]*

**[NEW]**

**4 CCR 723-5-PART II - RULES REGULATING APPLICATIONS BY  
SMALL PRIVATELY OWNED WATER COMPANIES FOR  
SIMPLIFIED REGULATORY TREATMENT**

**BASIS, PURPOSE AND STATUTORY AUTHORITY**

The basis and purpose of these rules is to establish regulations regarding applications for simplified regulatory treatment by small, privately-owned water companies that serve fewer than one thousand five hundred customers. These rules are intended to balance reasonable regulatory oversight with the cost of regulation in relation to the benefit derived from such regulation while continuing to consider the public interest, quality of service, financial condition, and just and reasonable rates.

These rules are issued pursuant to §§ 40-3-104.4, C.R.S.

1 **RULE (4 CCR) 723-5-28. APPLICABILITY.**

2 These rules apply to all small, privately-owned water  
3 companies serving fewer than one thousand five hundred  
4 customers that request simplified regulatory treatment.

5 **RULE (4 CCR) 723-5-29. DEFINITIONS.**

6 The meaning of terms used in these rules shall be consistent  
7 with their general usage in the water utility industry unless  
8 specifically defined by Colorado statute or by this rule. In  
9 addition to the definitions in this section, the statutory  
10 definitions apply. In the event the general usage of terms in  
11 the water utility industry or definitions in this rule  
12 conflict with the statutory definitions, the statutory  
13 definitions control. As used in these rules the following  
14 definitions apply:

15 723-5-29.1 Advice letter - Filing made by a water  
16 utility with the Commission that proposes a new or changed  
17 tariff.

18 723-5-29.2 Applicant - Any provider of jurisdictional  
19 water utility services, or any person seeking to be authorized  
20 by the Commission to offer water utility services, who files  
21 an application with the Commission pursuant to these rules and  
22 who serves less than one thousand five hundred customers.

23 723-5-29.3 Customer - Any person, group of persons,  
24 partnership, firm, corporation, institution, any agency of the  
25 Federal, State or local governments, their lessees, trustees,  
26 or receivers appointed by any court, contracting for water  
27 service from any utility for domestic, commercial, or  
28 industrial use or for wholesale distribution.

29 723-5-29.4 Small Water Company - A water company that  
30 serves fewer than one thousand five hundred customers.

723-5-29.5 Privately- Owned Water Company - A water service provider that is owned by one or more persons or a corporation. "Privately-owned water company" does not include any company owned or operated by any political subdivision of the state, a special district, or any municipal, quasi-municipal, or public corporation organized pursuant to Colorado law.

**RULE (4 CCR) 723-5-30. SIMPLIFIED REGULATORY TREATMENT.**

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

**723-5-30.1 Procedures.**

The simplified regulatory treatment shall be implemented as follows:

723-5-30.1.1 The small, privately-owned water company shall file an application with the Commission requesting one or more of the options identified above. The application shall be filed in accordance with Commission Rules of Practice and Procedures, 4 CCR 723-1. However, a small, privately-owned water company is prohibited from participating

1 in both the *Annual Rate Adjustment Option* and the *Resource*  
2 *Cost Pass-Through Option* at the same time.

3 723-5-30.1.2 The application shall include the  
4 requirements of the respective option, as set forth below, and  
5 an explanation of how approval of the application will balance  
6 reasonable regulatory oversight with the costs and benefits of  
7 regulation, while continuing to consider the public interest,  
8 quality of service, financial condition, and just and  
9 reasonable rates.

10 723-5-30.1.3 Within five days of the filing of the  
11 application, the small, privately-owned water company shall  
12 provide notice to its customers of the filing of the  
13 application. Such notice shall be given by filing with the  
14 Commission and keeping open for public inspection at the small  
15 water company's local business office the form established by  
16 the Commission. Additionally, the small, privately-owned  
17 water company shall either cause the notice to be published in  
18 each newspaper of general circulation in each county in which  
19 the water company provides service, or shall include a bill  
20 insert containing the same information contained in the  
21 notice. An applicant electing to provide notice with a bill  
22 insert must take appropriate measures to provide each and  
23 every customer with the insert. Providing a bill insert to  
24 only the master meter operator is not sufficient customer  
25 notice. This notice shall allow interested parties 30 days to  
26 intervene or file comments regarding the filing. If the  
27 small, privately-owned water company elects to provide notice  
28 through publication, proof of said publication shall be  
29 provided to the Commission. Failure to provide the Commission  
30 with proof of publication may cause the Commission to deem the  
31 application incomplete.

1           723-5-30.1.4       The Commission may grant the  
2 application, or set the application for hearing in accordance  
3 with the Rules of Practice and Procedure relating to  
4 applications, 4 CCR 723-1.

5           723-5-30.1.5   A small, privately-owned water company  
6 may file an application to change to an alternative simplified  
7 regulatory treatment at any time. The application shall  
8 request authorization to terminate the existing simplified  
9 regulatory treatment and shall request a new simplified  
10 regulatory treatment.

11          723-5-30.1.6   A small, privately-owned water company  
12 may file an application to terminate an existing simplified  
13 regulatory treatment and return to traditional rate base  
14 regulation at any time. The Commission may set the  
15 application for hearing and existing rates for water services  
16 may be adjusted. At the conclusion of such a rate case  
17 proceeding, the rates and conditions established in the rate  
18 case proceeding will replace the rates and conditions  
19 developed under any simplified regulatory treatment option.

20          723-5-30.1.7   A small, privately-owned water company  
21 shall not be permitted to terminate participation in one or  
22 more simplified regulatory treatment options for the purpose  
23 of avoiding a potential decrease in rates to its customers.

24          723-5-30.1.8   Nothing in these rules shall limit a  
25 customer's right to file a formal complaint against a small  
26 water company. Nothing in these rules shall prohibit or  
27 restrict the Commission from initiating an investigation or  
28 show cause proceeding against a small privately-owned water  
29 company.

**723-5-30.2 Additional Eligibility Criteria, and  
Reporting Requirements**

723-5-30.2.1 For the purpose of determining whether a water utility meets the definition of a small water company, multi-residential or multi-commercial units, including wholesale purchasers of water from a small water company subject to a master meter operating agreement, shall not be aggregated and counted as one customer. Instead, the number of singular units in the complex or served under the master meter operating arrangement is to be used in determining compliance with this rule.

723-5-30.2.2 Consistent with the requirement of paragraph 1 above, the small water company shall require multi-residential or multi-commercial entities or master meter operators to annually furnish the small water company with a numeric listing of the number of singular units receiving water services directly or indirectly from such entities. In the event the small water company fails to obtain and annually submit this information to the Commission, the Commission may revoke or deny simplified regulatory treatment for that company.

**723-5-30.3 Simplified Regulatory Treatment Options.**

The Commission may grant to a small, privately-owned water company authority to participate in any of the following simplified regulatory treatment options:

**723-5-30.3.1 Annual Rate Adjustment Option.**

723-5-30.3.1.1 The Commission on or before March 31 of each year, by letter, shall inform all participants in the Annual Rate Adjustment Option of the rate

1 adjustment to be effective May 1, of each year. The  
2 percentage adjustment shall be determined by the net,  
3 positive or negative, of the difference between:

4 · the annual percent change in the United States Gross  
5 Domestic Product Chain-Type Price Index ("GDPPI") as published  
6 by the United States Department of Commerce, Bureau of  
7 Economic Analysis, and as published in the Economic Report Of  
8 The President,<sup>1</sup> and;

9 · an appropriate measure of productivity, specifically  
10 the "Private And Non-Farm Business Multifactor Productivity  
11 Percentage Change" ("PNFBMPP") as published by the Bureau of  
12 Labor Statistics, and as published in The Economic Report Of  
13 The President.<sup>2</sup>

14 This Price Adjustment Formula is as follows:

15 
$$\text{Price Adjustment} = \text{GDPPI} - \text{PNFBMPP}$$
  
16

17 723-5-30.3.1.2 On or before April 15 of each  
18 year, each small, privately-owned water company participating  
19 in this simplified regulatory treatment shall file an advice  
20 letter and accompanying tariff sheets with the Commission to  
21 implement the change effective May 1.

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<sup>1</sup> For the edition published in January 2001, the GDPCTPI appears in the third column (GDP chain-type price index) of Table -3 "Quantity and price indexes for gross domestic product, and percent changes, 1959-2000 [quarterly data seasonally adjusted],. Source: Department of Commerce, Bureau Of Economic Analysis." The index also is available from the Bureau Of Economic Analysis,

<sup>2</sup> Source: Department Of Labor, Bureau Of Labor Statistics.



**723-5-30.3.2 Resource Cost Pass-Through Option.**

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

**723-5-30.3.3 Operating Ratio Methodology Option.**

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

**723-5-30.3.4 Reserve Account for Major Capital  
Improvements Option.**

A small, privately owned water company may file an application seeking Commission authority to establish a reserve account to fund future major capital expenditures. Under this option, the water company may be authorized to implement a monthly surcharge to fund a reserve account for future capital improvement expenditures. In filing an application to initiate this option or to amend any provisions of this option, the water company should clearly identify the proposed method for collecting funds to be contributed to the reserve account, and the expected use of such funds.

723-5-30.3.4.1 The level and method for collecting money for the reserve account for major capital improvements must be specifically approved by the Commission. Accordingly, the water company in applying to implement this option must submit sufficient financial information for the Commission to review the company's proposed capital improvement needs and explain the merits of its funding methodology. Funds in the reserve account shall be kept in a separate interest bearing cash account. Interest accrued shall be credited to the reserve account and become part of the corpus of the reserve account. Funds from the account shall not be employed for a purpose other than those permitted under this option without specific written permission from the Commission. Disbursements from the fund shall be restricted to the uses identified in a the application approved by the Commission. The burden of demonstrating that actual or proposed expenditures are reasonable and in the public interest shall be borne by the water company.

1                   723-5-30.3.4.2   The water company shall report  
2 all disbursements from the reserve account by written notice  
3 to the Commission and to other persons as the Commission may  
4 direct. Disbursements from the reserve account that are found  
5 by the Commission to have been made improperly, or in  
6 violation of any statute, regulation or order of the  
7 Commission shall be returned to the account or refunded to  
8 ratepayers as the Commission may direct.

9                   723-5-30.3.4.3   Plant capitalized by means of  
10 the reserve account shall be accounted for as a contribution  
11 in aid of construction.

12                   **723-5-30.3.5   Company Specific, Customized Option.**

13                   723-5-30.3.5.1   A small, privately-owned water  
14 company may file an application seeking Commission  
15 authorization to implement provisions of a company specific,  
16 customized option plan. The Commission shall consider the  
17 merits of any specific option presented and determine whether  
18 such provisions are consistent with the objectives of these  
19 rules. In presenting an option for the Commission's  
20 consideration, the small water company shall bear the burden  
21 of proving that: (1) the proposals appropriately balance  
22 reasonable regulatory oversight with the costs and benefits of  
23 regulation; (2) the provisions are not discriminatory; and (3)  
24 implementation of such provisions is in the public interest,  
25 improves the quality of water service to customers, is  
26 financially compensatory, and promotes the development and  
27 maintenance of just and reasonable rates.

28                   723-5-30.3.5.2   The small, privately-owned  
29 water company must maintain accounting records to provide  
30 sufficient financial information for the commission to assess

1 the merits of the proposal and its projected impact on the  
2 company.

3 **RULE 4 (CCR) 723-5-31. TRANSITIONAL PROVISIONS.**

4 When the number of customers, as reported in its annual report  
5 to the Commission, served by the water company meets or  
6 exceeds one thousand five hundred, the water company shall  
7 immediately notify the Commission and provide the Commission  
8 with a proposed transitional regulatory plan. For good cause  
9 shown, the Commission's regulatory oversight of the small  
10 water company may continue to permit the water company to  
11 participate in regulatory treatment options as described in  
12 this rule when its customer count exceeds the established  
13 limit.

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