

Decision No. C05-1285-A

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 05R-456E

IN THE MATTER OF THE PROPOSED RULES REGARDING THE ELECTRIC UTILITIES
ENERGY ASSISTANCE PROGRAM.

**ORDER AMENDING DECISION
PURSUANT TO § 40-6-112, C.R.S.**

Mailed Date: January 3, 2006
Adopted Date: January 3, 2006

I. BY THE COMMISSION:

A. Statement

1. This matter comes before the Commission upon its own motion to amend previous Commission Decision No. C05-1285, pursuant to §40-6-112(1), C.R.S. Due to an error in process at the Colorado Secretary of State Office, our Decision, mailed on October 26, 2005, issuing notice of proposed rulemaking (NOPR) regarding the Proposed Rules Regarding the Electric Utilities Energy Assistance Program, was not published in the December 12, 2005 *Colorado Register* as anticipated.

2. Pursuant to §24-4-103(3)(a), C.R.S. a notice of proposed rulemaking shall state the time, place, and nature of public rulemaking proceedings, which shall not be held less than twenty days after publication of the NOPR in the *Colorado Register*. Due to the failure of the Colorado Secretary of State's Office to publish notice of this rulemaking, we find we must now vacate the previously scheduled hearing date of January 5, 2006.¹

¹ We note that the Secretary of State has indicated that the amended NOPR in this matter will be published in the January 10, 2006 edition of the *Colorado Register*.

3. We therefore vacate the January 5, 2006 hearing in this matter and instead order that an informal workshop be held on that date. We encourage all parties to attend that workshop and engage in discussions that may lead to consensus rules. We further order that a formal hearing on this matter shall be held on February 2, 2006, at 9:00 a.m. at the Colorado Public Utilities Commission Hearing Room A. We encourage all interested parties to participate in the informal workshop and/or file written comments in this matter. The Commission will consider all submissions.

II. ORDER

A. The Commission Orders That:

1. Pursuant to §40-6-112(1), C.R.S., the Commission, upon its own motion amends prior Decision No. C05-1285 consistent with the discussion above.

2. The formal hearing in this matter, scheduled for January 5, 2006 is vacated.

3. The formal hearing is rescheduled as follows:

DATE: February 2, 2006
TIME: 9:00 a.m.
PLACE: Commission Hearing Room A
Office Level 2 (OL2)
Logan Tower
1580 Logan Street
Denver, Colorado 80203

4. Interested persons may file written comments in this matter before the hearing. The Commission requests that such prefiled comments be submitted no later than January 10, 2006. The Commission will consider all submissions.

5. An informal workshop shall be held on January 5, 2006 in Commission Hearing Room A at 9:00 a.m.

6. This Order is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' EMERGENCY DELIBERATIONS
MEETING January 3, 2006.**

(SEAL)



ATTEST: A TRUE COPY

A handwritten signature in black ink that reads "Doug Dean".

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

GREGORY E. SOPKIN

POLLY PAGE

CARL MILLER

Commissioners

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 05R-456E

IN THE MATTER OF THE PROPOSED RULES REGARDING THE ELECTRIC UTILITIES
ENERGY ASSISTANCE PROGRAM.

NOTICE OF PROPOSED RULEMAKING

Mailed Date: October 26, 2005

Adopted Date: October 25, 2005

I. BY THE COMMISSION:

A. Statement

1. The Colorado Public Utilities Commission gives notice of proposed rulemaking regarding the Colorado Energy Assistance Program. The proposed rules seek to implement the Low-Income Energy Assistance Act (Act), § 40-8.7-101, *et seq.*, C.R.S.¹

2. The intent of the rules is to efficiently implement the Energy Assistance Program (EAP). The purpose of the legislation is to provide a mechanism by which electric utilities would initiate and maintain a program wherein their customers may voluntarily contribute an optional amount of money when remitting their monthly utility service payment. By the terms of the Act, electric utilities are charged with the duty to collect these funds and forward them to Energy Outreach Colorado.

3. Section 40-8.7-104 (1), C.R.S., directs the Colorado Public Utilities Commission to promulgate rules to guide the utilities in the development and maintenance of the EAP. The attached, proposed rules are intended to accomplish that purpose.

¹ The Colorado Legislature enacted this statute in the 2005 legislative session, House Bill 05-001.

4. The Commission will conduct a hearing on the proposed rules at the below stated time and place. Interested persons may submit written comments on these proposed rules and present these orally at hearing, unless the Commission deems oral presentations unnecessary. The Commission also encourages interested persons to submit written comments before the hearing scheduled in this matter. In the event interested persons wish to file comments before the hearing, the Commission requests that such comments be filed no later than December 10, 2005. The Commission may post electronically submitted comments to its web site. The Commission will consider all submissions.

5. Attachment A, attached hereto, sets forth the proposed EAP rules.

II. ORDER

A. The Commission Orders That:

1. This Notice of Proposed Rulemaking shall be filed with the Colorado Secretary of State for publication in the December 12, 2005 edition of *The Colorado Register*.

2. A hearing on the proposed rules shall be held as follows:

DATE: January 5, 2006

TIME: 9:00 a.m.

PLACE: Commission Hearing Room
Office Level 2 (OL2)
Logan Tower
1580 Logan Street
Denver, Colorado

At the hearing referenced above, the Commission may set further hearing dates to continue the discussion and comment.

3. Interested persons may file written comments in this matter before the hearing. The Commission requests that such prefiled comments be submitted no later than December 10, 2005. The Commission will consider all submissions.

4. This Order is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
October 25, 2005.**

(SEAL)



ATTEST: A TRUE COPY

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

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

GREGORY E. SOPKIN

POLLY PAGE

CARL MILLER

Commissioners

3411 Low-Income Energy Assistance Act

(a) Basis, Purpose, and Statutory Authority

The basis and purpose of these rules is to prescribe the procedures for administering the Low-Income Energy Assistance Act. This program requires electric utilities, combined gas and electric utilities, and cooperative electric associations to provide an opportunity for their customers to contribute an optional amount through the customers' monthly billing statement.

The Commission has the power to issue rules regulating public utilities under § 24-4-101 C.R.S., *et seq.*, § 40-2-108 C.R.S., § 40-3-102 C.R.S., § 40-3-103 C.R.S., and § 40-4-101 C.R.S.

(b) Scope and Applicability.

- (I) Rules 3411(c) through 3411(f) are applicable to electric utilities, combined gas and electric utilities, and cooperative electric association providers except those exempted under (II) or (III).
- (II) Municipally owned electric utilities, combined gas and electric utilities, or cooperative electric associations are exempt if:
 - (A) The utility operates an alternative Energy Assistance Program to support its low-income customers with their energy needs and by September 1, 2006 self-certifies to the Organization through written statement that its program meets the following criteria:
 - i. The amount and method for funding of the program has been determined by the governing body;
 - ii. The program monies will be collected and distributed in a manner and under eligibility criteria determined by the governing body for the purpose of residential energy assistance to customers who are challenged with paying energy bills for financial reasons, including seniors on fixed incomes, individuals with disabilities, and low-income individuals.
 - (B) The governing body of the utility determines its service area has a limited number of people who qualify for energy assistance and self-certifies to the Organization via written statement such determination.
- (III) A municipally owned electric utility, combined gas and electric utility, or cooperative electric association not exempt under (II), is exempt if:
 - (A) The utility designs and implements a procedure to notify all customers at least twice each year of the option to conveniently contribute to the Organization by means of a monthly energy assistance charge. Such procedure shall be approved by the governing utility. The governing body of such utility shall determine the disposition and delivery of the optional energy assistance charge that it collects on the following basis:
 - i. Delivering the collections to the Organization for distribution.

ii. Distributing the moneys under criteria developed by the governing body for the purpose set forth in (II)(A)(ii).

(B) Alternatively, the utility provides funding for energy assistance to the Organization by using a source of funding other than the optional customer contribution on each customer bill that approximates the amount reasonably expected to be collected from an optional charge on customer's bills.

(IV) Electric utilities, combined gas and electric utilities, and cooperative electric associations that desire a change in status must inform the Organization and file a notice to the Commission within 30 days prior to expected changes.

(c) Definitions.

The following definitions apply only in the context of rule 3411:

(I) "Alternative Energy Assistance Program" means a program operated by a municipally owned electric and gas utility or rural electric cooperative that is not part of the energy assistance program established pursuant to this statute.

(II) "Customer" means the named holder of an individually metered account upon which charges for electricity or gas are paid to a utility. "Customer" shall not include a customer that receives electricity or gas for the sole purpose of reselling the electricity or gas to others.

(III) "Energy Assistance Program" or "Program" means the Low Income Energy Assistance Program created by § 40-8.7-104 C.R.S. and designed to provide financial assistance, residential energy efficiency, and energy conservation assistance.

(IV) "Organization" means Energy Outreach Colorado, a Colorado nonprofit corporation, formerly known as the Colorado Energy Assistance Foundation.

(V) "Remittance Device" means the section of a customer's utility bill statement that is returned to the utility company for payment. This includes but is not limited to paper payment stubs, web page files used to electronically collect payments, and electronic fund transfers.

(VI) "Utility" means a corporation, association, partnership, cooperative electric association, or municipally owned entity that provides retail electric service or retail gas service to customers in Colorado. "Utility" does not mean a propane company.

(d) Plan Implementation and Maintenance.

(I) No later than May 1, 2006, each utility shall file an application with the Commission detailing its initial plan to implement and maintain a customer opt-in contribution mechanism. The utility shall provide a copy of such application to the Organization. The utility's application shall include, at minimum, the following provisions:

(A) A description of the procedures the utility will use to notify its customers about the opt-in provision prior to September 1, 2006.

- (B) A description of the additional efforts the utility will use to inform its customers about the program to ensure that adequate notice of the opt-in provision is given to all customers.
- (C) A description of the check-off mechanism that will be displayed on the monthly remittance device to solicit voluntary donations. The remittance device shall include, at minimum, check-off categories of five dollars, ten dollars, twenty dollars, and "other amount". It must also note the name of the program as the "voluntary energy assistance program."
- (D) A description or an example of how the utility will display the voluntary contribution as a separate line item on the customer's monthly billing statement and how the voluntary contribution will be included in the total amount due.
- (E) A description of the notification process that the utility will use to ensure that once a utility customer opts into the program, the energy assistance contribution will be assessed on a monthly basis until the customer notifies the utility of the customer's desire to stop contributing.
- (F) Identification of the procedures the utility will use to notify customers of their ability to cancel or discontinue voluntary contributions along with a description of the mechanism the utility will use to allow customers who make electronic payments to discontinue their participation in the opt-in program.
- (G) A description of the procedures the utility will use, where feasible, to notify customers participating in the program about the customer's ability to continue to contribute when the customer changes their address within the utility's service territory.
- (H) A description of the method the utility will use to provide clear, periodic, and cost-effective notice of the opt-in provision to its customers at least twice per year. Acceptable methods include, but are not limited to, bill inserts, statements on the bill or envelope, and other utility communication pieces.
- (I) An estimate of the start-up costs that the utility expects to incur in connection with the program along with supporting detailed justification for such costs. This estimate should include the utility's initial costs of setting up the collection mechanism and reformatting its billing systems to solicit the optional contribution but shall not include the cost of any notification efforts by the utility.
- (J) An estimate of the on-going costs that the utility expects to incur in connection with the program along with supporting detailed justification for such costs. This estimate shall not include the cost of any notification efforts by the utility.
- (K) A detailed justification for the costs identified in (I) and (J). This cost must not exceed 3% of the funds received from the program as a reasonable estimate of the cost that the utility incurs in connection with the program.
- (II) Upon application by the utility, the Commission shall expedite its approval or rejection of these initial plans and will render a decision within 30 days after notice has expired.
- (III) No later than the first billing cycle prior to September 1, 2006, each utility shall notify its customers about the opt-in provision using the method approved by the Commission in its plan.

- (IV) By no later than September 1, 2006, each utility shall begin participation in the energy assistance program consistent with the plan approved by the Commission and shall provide the opportunity for its customers to make an optional energy assistance contribution on the monthly remittance device on their utility billing statements beginning no later than September 1, 2006.
 - (V) The utility shall submit an application to the Commission no later than February 1 of each year for approval of reimbursement costs the utility incurred for the program during the previous calendar year. All such applications shall include detailed supporting justification for approval of these costs. Such detailed justification includes, but is not limited to, copies of receipts and time sheets. Such applications shall not seek reimbursement of costs related to notification efforts.
 - (VI) A utility may seek modification of its initial plan or subsequent plans by filing an application with the Commission. Such application shall meet the requirements of (d) (I).
- (e) Fund Administration.
- (I) Each utility shall transfer the funds collected from its customers under the Energy Assistance Program to the Organization under the following schedule:
 - (A) For the funds collected during the period of January 1 to March 31 of each year, the utility shall transfer the collected funds to the Organization before May 1 of such year;
 - (B) For the funds collected during the period of April 1 to June 30 of each year, the utility shall transfer the collected funds to the Organization before August 1 of such year;
 - (C) For the funds collected during the period of July 1 to September 30 of each year, the utility shall transfer the collected funds to the Organization before November 1 of such year;
 - (D) For the funds collected during the period of October 1 to December 31 of each year, the utility shall transfer the collected funds to the Organization before February 1 of the next year;
 - (E) Each utility shall maintain a separate accounting for all energy assistance program funds received by customers.
 - (II) By February 1 of each year, each utility shall provide the Organization with a summary of how the funds collected for the previous year were generated, including the number of customers participating in the program. Such report shall include a summary of the number of program participants and funds collected by month.
 - (III) The Public Utilities Commission shall submit, as necessary, a bill for payment to the Organization for any administrative costs incurred pursuant to the program.
- (f) Prohibition of Disconnection.

Utilities shall not disconnect a customer's electric service for non-payment of optional contribution amounts.