

Decision No. R05-0449

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 03R-521W

IN THE MATTER OF THE PROPOSED REPEAL AND REENACTMENT OF ALL RULES
REGULATING WATER UTILITIES, AS FOUND IN 4 CCR 723-5.

**RECOMMENDED DECISION OF
ADMINISTRATIVE LAW JUDGE
WILLIAM J. FRITZEL
ADOPTING RULES**

Mailed Date: April 21, 2005

I. STATEMENT

1. By Decision No. C03-1372, mailed on December 15, 2003, the Commission issued Notice of Proposed Rulemaking. The Commission stated that the intent of the proposed rules is to repeal and reenact with modifications the current rules found at 4 *Code of Colorado Regulations* (CCR) 723-5.

2. The proposed repeal and reenactment involves an effort by the Commission to revise and recodify the rules currently in effect. The Commission stated in its notice that the proposed repeal and reenactment is intended to update the existing rules for water utilities; to adopt rules for water utilities which are consistent with other Commission rules; to improve administration and enforcement of relevant sections of Title 40 of the Colorado Revised Statutes; to eliminate unnecessary or burdensome regulation; and to overall improve the regulation relating to water companies and proceedings before the Commission.

3. Because this rulemaking proceeding is part of a comprehensive effort by the Commission to revise its rules, the Commission believed it was important to coordinate the

instant rulemaking with other rulemaking proceedings currently before the Commission, such as the rules of practice and procedure, telecommunications, transportation, gas, railroads, steam, and electric.

4. The Commission referred the instant rulemaking proceeding to an Administrative Law Judge, and scheduled the first hearing for March 12, 2004. A hearing was held on the proposed rules at the scheduled time. Appearances were entered by Mr. Frank Shafer of the Staff of the Colorado Public Utilities Commission (Staff). Mr. Shafer orally outlined the background of the instant rulemaking proceeding and presented an overview of the proposed repeal and reenactment of the rules. No one else appeared at the hearing and no written comments were filed.

5. At the end of the hearing, it was orally announced that a second hearing would be held on September 3, 2004 at 10:00 a.m. at the Commission hearing room in Denver for the purpose of receiving comments. Decision No. R04-0262-I mailed on March 15, 2004 scheduled a second hearing for September 3, 2004.

6. On September 3, 2004, the second hearing was held. Frank Shafer appeared. No other interested party appeared. No oral or written comments were received or filed with the Commission. At the conclusion of the second hearing, it was orally announced that a third hearing would be held on October 22, 2004 at 10:00 a.m. in Denver. Decision No. R04-1061-I, mailed on September 7, 2004 was issued giving written notice to interested parties of the date for the third hearing.

7. On October 22, 2004, the third hearing was held as scheduled. Frank Shafer once again appeared. No other appearances or interested parties attended this hearing. At the conclusion of this hearing, it was orally announced that a fourth and final hearing would be held

on March 16, 2005 at 2:00 p.m. It was also orally announced that any written comments were required to be filed no later than March 2, 2005.

8. On October 22, 2004, Decision No. R04-521 was issued scheduling the hearing for March 16, 2005.

9. The final hearing was held as scheduled on March 16, 2005.

10. Pursuant to Section 40 –6-109, C.R.S., the record of this proceeding and a written recommended decision are transmitted to the Commission.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

11. The statutory authority for the proposed rules is found at §§ 40-2-108, 40-3-102, 40-3-103, 40-3-104.4, 40-4-101, 40-4-108, and 40-4-109, C.R.S.

12. The proposed rules provide a substantial change to the existing rules. Some of the notable changes to the rules will be listed in the following paragraphs.

13. Certain sections contained in the existing Commission Rules of Practice and Procedure were moved into utility specific rules in order to make the rules, including the water rules, more complete and easier to use. Therefore, rules moved from practice and procedure rules into the proposed water rules include annual reports moved from Rule 25 of the Commission’s Rules of Practice and Procedure to Rule 5006; advice letters were moved to Rule 5110; the process for new or changed tariffs were moved to 5109; transfers and merger applications were moved to Rule 5104; applications for certificates of public convenience and necessity were moved to Rule 5100 through 5102; applications to amend certificates of public convenience and necessity were moved to Rule 5103; securities applications were moved to Rule 5105; and refund applications were moved to Rule 5409.

14. New definitions were added to the definition section, 5001. A definition of “affiliate” was added. The definition is similar to the definition adopted by the Federal Communications Commission, 47 *Code of Federal Regulations* and in Part 32, the Uniform System of Accounts § 32.9000, glossary of terms. The definition of “customer” has changed to define “customer” as a person who is currently receiving service from a utility regardless of the customer’s legal structure or status. The proposed definition also includes customers who move within the service territory of the utility as an existing customer. “Local office” and “principal place of businesses” have been added to the definition section. Definitions for distribution and service line extensions have been added.

15. Proposed Rule 5005(b) adds a requirement that a water utility must maintain a current version of its tariffs on line if it has a public website.

16. Section 5002 was added to delineate under what circumstances an application needs to be filed and the information that needs to be included in the application.

17. Proposed Rule 5004 provides for dispute and informal complaint resolutions. This section clarifies the distinction between customers’ disputes directly with the utility and informal complaints to the Public Utilities Commission, as well as recordkeeping requirements for both. The rule also requires water utilities to maintain records of all customer inquiries. Under this section, utilities must document these inquiries in writing.

18. Proposed Rules 5005 and 5006 were added concerning recordkeeping and reporting requirements. A new section for tariff and contracts found in proposed Rule 5108 was added in order to provide a summary listing of rules that address utility tariff requirements.

19. Proposed Rules 5100, 5101, and 5102 were added for certificates of public convenience and necessity for franchises, service territory, and facilities. Proposed

Rule 5101(a)(IV) contains a new requirement for water utilities to specify areas proposed to be served by the utility in section-township-range format, along with proposed service dates. This requirement should provide for greater accuracy in determining service territory boundaries between utilities.

20. Proposed Rule 5204 changes the reporting requirements of water utilities for accidents. The rule requires the utility to orally inform the Commission within two hours of an accident, and to submit a written report within 30 days of the accident. This is a change from the current rules which require utilities to notify the Commission of an accident “as soon as possible.”

21. Proposed Rule 5301 concerning location of service meters provides that the rules relating to the location of service meters apply as of the time of installation. This modification was to ensure that existing meters could be grandfathered at their current location.

22. Proposed Rule 5304 provides that the schedule for meter testing for various meter sizes will be consistent with the American Water Works Association Standard C700-95, Table B.1.

23. Proposed Rules 5400(a)(VII) and (VIII) was added requiring that a water utility clearly show any unregulated charges or transferred balances on a customer’s bill. The current rules do not require a utility to show unregulated charges or transferred balances on a customer’s bill.

24. Proposed Rule 5400(b) is new allowing water utilities to provide electronic billing rather than a printed bill for customers that make a request for electronic billing, where it is technically feasible for the company to do so.

25. Proposed Rule 5400(C) requires water utilities to retain customer billing records for two years. The Commission needs these records for a two-year time period.

26. Proposed Rule 5401 provides a two-year liability time limit relating to meter and billing errors. Staff suggests a change to Proposed Rule 5401(b) to provide that a utility pay interest in a case of over billing of customers. The suggestion of Staff will be adopted.

27. Proposed Rule 5407, notice of discontinuance is changed to require that notice of disconnection be provided in a language other than English. The rules contain a requirement that utilities must provide notice in a language other than English if the latest U.S. Census statistics show that at least 10 percent of the population in a utility's service territory uses a specific language as their primary language.

28. It is found and concluded that the proposed rules as modified by this recommended decision are reasonable and will provide guidelines for jurisdictional water public utilities and customers of the utility.

29. Pursuant to the provisions of § 40-6-109, C.R.S., it is recommended that the Commission adopt the attached rules.

III. ORDER

A. The Commission Orders That:

1. The Proposed Rules Regulating Water Utilities, 4 *Code of Colorado Regulations* 723-5, attached to this Recommended Decision are adopted.

2. 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.

3. 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.

4. 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.

(SEAL)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

WILLIAM J. FRITZEL

Administrative Law Judge

ATTEST: A TRUE COPY

Tambor Williams
Acting Director

~~THE
PUBLIC UTILITIES COMMISSION
OF THE
STATE OF COLORADO
WATER UTILITIES~~

~~4 CODE OF COLORADO REGULATIONS (CCR) 723-5~~

~~BASIS, PURPOSE, AND STATUTORY AUTHORITY~~

~~The basis and purpose of these rules is to generally set forth rules describing the service to be provided by jurisdictional water utilities to their customers. The rules address a wide variety of subject areas including, but not limited to, service interruption, meter testing and accuracy, safety, customer information, customer deposits, rate schedules and tariffs, discontinuance of service, water quality, and water pressure.~~

~~The statutory authority for these rules can be found at §§ 40-2-108, 40-3-102, 40-3-103, 40-4-101, 40-4-108, and 40-4-109, C.R.S.~~

~~RULE (4 CCR) 723-5-1. APPLICATION OF RULES.~~

~~723-5-1.1 The following Rules shall apply to any person, partnership, firm, corporation, their lessees, trustees, or receivers appointed by any court, now or hereafter engaged in the business of a public utility furnishing water to domestic, commercial or industrial customers operating under the jurisdiction of the Public Utilities Commission of the State of Colorado.~~

~~723-5-1.2 The adoption of these Rules shall in no way preclude the Commission from altering or amending the same in whole or in part or from requiring any other additional service,~~

~~equipment, facility or standard, either upon complaint or upon its own motion, or upon the application of any utility. In special cases for good cause shown, not contrary to statute, the Commission may permit deviation from these Rules insofar as it may find compliance therewith to be impossible, impractical or unnecessary. If, for good cause shown, any utility is permitted a deviation from any of these rules, such modified Rule(s) as authorized by the Commission shall be set forth in the filed tariffs of the utility. These Rules shall in no way relieve any utility from any of its duties under the laws of the State of Colorado.~~

[Omitted Material: All the current rules regulating Water Utilities, 4 CCR 723-5, are proposed to be repealed and reenacted. Therefore, all the remaining pages of the current rules are omitted.]

COLORADO DEPARTMENT OF REGULATORY AGENCIES

Public Utilities Commission

4 CODE OF COLORADO REGULATIONS (CCR) 723-5

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BASIS, PURPOSE, AND STATUTORY AUTHORITY.

The basis and purpose of these rules is to generally set forth rules describing the service to be provided by jurisdictional water utilities to their customers. The rules address a wide variety of subject areas including, but not limited to, simplified regulatory treatment, service interruption, meter testing and accuracy, safety, customer information, customer deposits, rate schedules and tariffs, discontinuance of service, water quality, and water pressure.

The statutory authority for these rules can be found at §§ 40-2-108, 40-3-102, 40-3-103, 40-3-104.4, 40-4-101, 40-4-108, and 40-4-109, C.R.S.

GENERAL PROVISIONS

5000. Scope and Applicability.

All rules in this Part 5, the "5000" series, shall apply to all water utilities and to all Commission proceedings and operations concerning water utilities, unless a specific statute or rule provides otherwise.

5001. Definitions.

The following definitions apply throughout this Part 5, except where a specific rule or statute provides otherwise:

- (a) "Affiliate" means companies that directly or indirectly through one or more intermediaries, control or are controlled by, or are under common control with, the utility. ~~accounting company.~~ For purposes of this definition, control (including the terms *controlling*, *controlled by*, and *under common control with*) means the possession directly or indirectly, of the power to direct or cause the direction of the management and policies of a company, whether such power is exercised through one or more intermediary companies, or alone, or in conjunction with, or pursuant to an agreement with, one or more other companies, and whether such power is established through a majority or minority ownership or voting of securities, common directors, officers, or stockholders, voting trusts, holding trusts, affiliated companies, contract, or any other direct or indirect means.
- (b) "Aggregate water service provider" means a person that:
 - (I) purchases water service for the purpose of delivery of such service to end users whose aggregate usage is to be measured by a composite measurement device;
 - (II) does not charge end users for any costs in addition to the actual cost billed to such person for water service, including without limitation, costs of construction, maintenance, financing, administration, metering, or billing for the distribution system owned by such person;
 - (III) if billing end users separately, does not bill the end users, in the aggregate, more than the amount billed to such person for water service; and
 - (IV) if billing end users separately, passes on to the end users any refunds, rebates, rate reductions, or similar adjustments such person receives for water service.
- (c) "AWWA" means the American Water Works Association.
- (d) "Basis Point" means one-hundredth of a percentage point (100 basis points = 1%).
- (e) "Customer" means any person or purchaser who is currently receiving service from a utility. Any person or purchaser who moves within that utility's service territory and requests that service be terminated at the old location and reinstated at, or transferred to, the new location within thirty (30) days shall be considered an existing "customer". Unless stated in a particular rule, "Customer" applies to any class of customer as defined by the Commission and utility tariff.

- (f) "Distribution Line Extension" means any construction of distribution facilities (excluding meters and meter installation facilities) necessary to supply service to additional customers.
- (g) "Local office" means any Colorado office operated by a utility at which persons may make requests to establish or discontinue utility service. If the utility does not operate any office in Colorado, "local office" means any office operated by a utility at which persons may make requests to establish or discontinue utility service in Colorado.
- (h) "Past due" " means that point at which a company can affect a customer's regulated account or regulated service for non-payment of regulated charges. Unless otherwise stated in a particular Commission rule or tariff, an account becomes "past due" on the thirty-first (31st) day following the due date of current charges.
- (i) "Principal place of business" means the place, in or out of the State of Colorado, where the executive or managing principals that directly oversee the utility's operations in Colorado are located.
- (j) "Service Line Extension" means any construction of distribution facilities (including meters and meter installation facilities) necessary to supply service to a single customer household or a single multi-unit dwelling.
- (k) "Utility" means "water corporation" as that term is used in § 40-1-103(1)(a), C.R.S., including but not limited to any person furnishing water to domestic, commercial, or industrial customers in the State of Colorado.¹

5002. Applications.

- (a) Any person may seek Commission action regarding any of the following matters through the filing of an appropriate application:
 - (I) For the issuance or extension of a certificate of public convenience and necessity for a franchise, as provided in rule 5100.
 - (II) For the issuance or extension of a certificate of public convenience and necessity for service territory, as provided in rule 5101.
 - (III) For the issuance of a certificate of public convenience and necessity for construction of facilities, as provided in rule 5102.

¹ § 40-1-103(1)(a); 723-5-2.1.

- (IV) For certificate amendments to change, extend, curtail, abandon, or discontinue any service or facility, as provided in rule 5103.
 - (V) To transfer a certificate of public convenience and necessity, to obtain a controlling interest in any utility, to transfer assets, or stock, or to merge a utility with another entity, as provided in rule 5104.
 - (VI) To amend a tariff on less than statutory notice, as provided in rule 5108.
 - (VII) For simplified regulatory treatment, as provided in rule 5112.
 - (VIII) For approval of meter and equipment testing practices, as provided in rule 5303.
 - (IX) For approval of meter sampling program, as provided in rule 5304.
 - (X) For approval of refund plan, as provided in rule 5409.
 - (XI) For any other matter provided by statute or rule but not specifically described in this rule. For any other matter not specifically described in this rule, unless such matter is required to be submitted as a petition under rule 1304, as a motion, or as some other specific type of submittal.
- (b) In addition to the requirements of specific rules, all applications shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attached exhibits:
- (I) The name and address of the applicant;
 - (II) The name(s) under which the applicant is, or will be, providing service in Colorado;
 - (III) The name, address, telephone number, facsimile number, and e-mail address of the applicant's representative to whom all inquiries concerning the application should be made;
 - (IV) A statement that the applicant agrees to answer all questions propounded by the Commission or its Staff concerning the application;
 - (V) A statement that the applicant shall permit the Commission or any member of its Staff to inspect the applicant's books and records as part of the investigation into the application;
 - (VI) A statement that the applicant understands that if any portion of the application is found to be false or to

contain material misrepresentations, any authorities granted may be revoked upon Commission order;

- (VII) A statement describing the applicant's existing operations and general service area.
 - (VIII) A copy of the applicant's most recent audited balance sheet, income statement, statement of retained earnings, and statement of cash flows;
 - (IX) A statement indicating the town or city, and any alternate town or city, where the applicant prefers any hearings be held;
 - (X) Acknowledgment that by signing the application, the applicant understands that:
 - (A) The filing of the application does not by itself constitute approval of the application;
 - (B) If the application is granted, the applicant shall not commence the requested action until the applicant complies with applicable Commission rules and any conditions established by Commission order granting the application;
 - (XI) A statement made under penalty of perjury and signed by an officer, a partner, an owner, or an employee of the applicant, as appropriate, who is authorized to act on behalf of the applicant and which states that the contents of the application are true, accurate, and correct. The application shall contain the complete address of the affiant.
- (c) In addition to the requirements of specific rules, all applications shall either include the following items or incorporate such items by referring to information already on file with the Commission. Applicants choosing to keep the items on file with the Commission are responsible for keeping the most current version on file and indicating in the application when the item was last filed with the Commission. Applicants choosing to include the item with the application shall include it in the following order and specifically identified either in the application or in appropriately identified attached exhibits:
- (I) A copy of the applicant's applicable organizational documents, e.g., Articles of Incorporation; Partnership Agreement; Articles of Organization, etc.;
 - (II) If the applicant is not organized in Colorado, a current copy of the certificate issued by the Colorado Secretary of State authorizing the applicant to transact business in Colorado;

- (III) The names, business addresses, and titles of all officers, directors, and partners;
- (IV) A description of the applicant's affiliation, if any, with any other company and the name and address of all affiliated companies;
- (V) A copy of any management contracts, service agreements, or marketing agreements between the applicant or any other entity, including affiliates of the applicant, that relate to providing services; and
- (VI) The name and address of applicant's Colorado agent for service of process

5003. [Reserved].

5004. Disputes and Informal Complaints.²

- (a) For purposes of this rule, a dispute is a concern, difficulty, or problem needing resolution that a customer brings directly to the attention of the utility without the involvement of Commission staff.
- (b) Each utility shall make a full and prompt investigation of all informal complaints pursuant to Rule 1301, and all disputes concerning jurisdictional service. Utilities shall comply with all other rules regarding the timelines for responding to informal complaints. When a customer is dissatisfied with the utility's proposed adjustment or disposition of the dispute, the utility shall inform the customer of the right to file an informal complaint with the External Affairs section of the Commission, and the address and toll free number of the Commission.
- (c) Each utility shall keep a record of such informal complaints and disputes, which record shall show the name and address of the customer, the date and character of the issue, and the adjustment or disposition made thereof. This record shall be open at all times to the inspection of the duly authorized representatives of this Commission, and shall be retained by the utility for a period of two years.

5005. Records.³

- (a) Every water utility shall maintain required records, available for public inspection at its principal place of business during regular business hours, as follows:

² 723-5-8.

³ 723-1-25(b); 723-1-100; 723-5-3; 723-5-12; 723-5-13(b)(7); 723-5-19.3; 723-5-21.2.

- (I) Records concerning disputes and informal complaints, as required under Rule 5004.
 - (II) Instrumentation records, as required under Rule 5201.
 - (III) Purity and pressure records required under Rule 5202, for at least two years, except as may be required for longer periods by AWWA or applicable federal, state, county, or municipal codes, regulations, or rules.
 - (IV) The results of all tests made by the Water Quality Control Division of the Department of Public Health and Environment, indicating when and where and by whom each test was conducted.
 - (V) All records made with respect to meter testing equipment and facilities, meter testing upon request, and records of meter tests under rules 5303, 5305 and 5306.
 - (VI) All customer billing records, as required under Rule 5401(b).
 - (VII) All customer deposits, as required under Rule 5402,
- (b) All tariffs filed with the Commission and applicable to the territory concerned shall be on file at each local office and principal place of business of the utility. If the utility maintains a website, it shall also provide comprehensive and current tariff on its website.
- (c) Each utility shall maintain its books of account and records in accordance with the provisions of the 1996 editions of the Uniform System of Accounts for Class A, B, and C Water Utilities, published by the National Association of Regulatory Utility Commissioners. No later amendments to or editions of the Uniform System of Accounts are incorporated into these rules. A utility must maintain its books of account and records separately from those of its affiliates.
- (d) Each utility shall preserve its records as follows:
- (I) All General and Subsidiary Ledgers shall be retained for 10 years;
 - (II) All Continuing Property Records shall be retained for the longer of 25 years or the life of the plant;
 - (III) All other records shall be retained for five years.

5006. Reports.⁴

⁴ 723-1-25; 723-5-13(b)(7); 723-5-13(h); 723-5-16.

Each utility shall provide reports to the Commission as follows:

- (a) Each utility shall file with the Commission, on or before April 30 of each year, an annual report for the preceding calendar year. The utility shall submit the annual report on forms prescribed and supplied by the Commission; shall properly complete the forms; and shall ensure the forms are verified and signed by a person authorized to act on behalf of the utility. If the Commission grants the utility an extension of time to file the annual report, the utility shall nevertheless file with the Commission, on or before April 30, the utility's total gross operating revenue from intrastate utility business transacted in Colorado for the preceding calendar year.
- (b) If a utility publishes an annual report or an annual statistical report to stockholders, or other security holders or members, or receives an annual certified public accountant's report of its business, it must file one copy with the Commission within 30 days after publication or receipt of such report.
- (c) On or before April 30 of each year, and as part of the report required by paragraph (a) of this rule, small, privately owned water companies shall file a report with the Commission detailing the information required by Rule 5112(d).
- (d) Any report required under rule 5112(d), (e)(IV)(B), or (f) regarding simplified regulatory treatment.
- (e) Any accident resulting in death, serious injury, or serious property damage, pursuant to rule 5204.
- (f) Such special reports as the Commission may require.

5007. [Reserved].

5008. Incorporation by Reference.

- (a) The Commission incorporates by reference the 1996 editions of the Uniform System of Accounts for Class A, B, and C Water Utilities, published by the National Association of Regulatory Utility Commissioners. No later amendments to or editions of the Uniform System of Accounts are incorporated into these rules.
- (b) The Commission incorporates by reference the American Water Works Association Standards, Volume 4, Number 2, revised as of September 1, 2001. No later amendments to or editions of the American Water Works Standards are incorporated into these rules.
- (c) Any material incorporated by reference in this Part 5 may be examined at the offices of the Commission, 1580 Logan Street, OL-2, Denver, Colorado 80203, during normal business hours, Monday through Friday, except when such days are state holidays. Certified copies of the incorporated standards shall be provided

at costs upon request. The Director of the Director's designee will provide information regarding how the incorporated standards may be examined at any state public depository library.

OPERATING AUTHORITY

5100. Certificate of Public Convenience and Necessity for a Franchise.⁵

Contents. The application for certificate of public convenience and necessity to exercise franchise rights shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attached exhibits:

- (a) The information required in rules 5002(b) and (c).
- (b) A statement of the facts (not conclusory statements) relied upon by the applicant to show that the public convenience and necessity require the granting of the application.
- (c) A statement describing the franchise rights proposed to be exercised. The statement shall include a description of the type of utility service to be rendered and a description of the area sought to be served, together with a map of the area.
- (d) A certified copy of the franchise ordinance; proof of publication, adoption, and acceptance by the applicant; a statement as to the number of customers served or to be served and the population of the city or town; and any other pertinent information.
- (e) A statement describing in detail the extent to which the applicant is affiliated with any other company which holds authority duplicating in any respect the authority sought.
- (f) A copy of a feasibility study for areas previously not served, which shall at least include estimated investment, income, and expense. An applicant may request that the most recent audited balance sheet, income statement, statement of retained earnings, and statement of cash flows be submitted in lieu of a feasibility study.
- (g) A statement of the names of public utilities and other entities of like character providing similar service in or near the area involved in the application.
- (h) A statement that the applicant understands it must present evidence at the hearing to show its qualifications to conduct the utility operations proposed in the application.

⁵ 723-1-55.

5101. Certificate of Public Convenience and Necessity for Service Territory.

Contents. The application for certificate of public convenience and necessity for service territory issuance or expansion shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attached exhibits:

- (a) The information required in rules 5002(b) and (c).
- (b) A statement of the facts (not conclusory statements) relied upon by the applicant to show that the public convenience and necessity require the granting of the application.
- (c) A description of the type of utility service to be rendered and a description of the area sought to be served.
- (d) A map showing the specific geographic area that the applicant proposes to serve. If the applicant intends to phase in service in the territory over time, specific areas and proposed in-service dates shall be included. The map shall describe the geographic areas in section, township, and range convention.
- (e) A statement describing in detail the extent to which the applicant is affiliated with any other company which holds authority duplicating in any respect the territory sought.
- (f) A statement of the names of public utilities and other entities of like character providing similar service in or near the area involved in the application.
- (g) A copy of a feasibility study for the proposed area to be served, which shall at least include estimated investment, income, and expense. An applicant may request that the most recent audited balance sheet, income statement, statement of retained earnings, and statement of cash flows be submitted in lieu of a feasibility study.
- (h) A statement that the applicant understands it must present evidence at the hearing to show its qualifications to conduct the utility operations proposed in the application.

5102. Certificate of Public Convenience and Necessity for Facilities.

Contents. The application for certificate of public convenience and necessity to construct facilities shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attached exhibits:

- (a) The information required in rules 5002(b) and (c).

- (b) A statement of the facts (not conclusory statements) relied upon by the applicant to show that the public convenience and necessity require the granting of the application.
- (c) A description of the proposed facilities to be constructed.
- (d) Estimated cost of the proposed facilities to be constructed.
- (e) Anticipated construction start date, construction period, and in-service date.
- (f) A map showing the general area or actual locations where facilities will be constructed, population centers, major highways, county and state and boundaries.
- (g) A statement that the applicant understands it must present evidence at the hearing to show its qualifications to conduct the utility operations proposed in the application.

5103. Certificate Amendments.⁶

- (a) Contents. The application to amend a certificate of public convenience and necessity, or to change, extend, curtail, or abandon, or discontinue any service or facility without equivalent replacement, shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attached exhibits:
 - (I) All information required in rules 5002(b) and (c).
 - (II) If the application for amendment pertains to a certificate of public convenience and necessity for facilities, all of the information required in rule 5102;
 - (III) If the application for amendment pertains to a certificate of public convenience and necessity for franchise rights or service territory, all of the information required in rule 5100 or 5101;
 - (IV) If the application is to curtail, abandon, discontinue or restrict a service, the application shall include:
 - (A) The requested effective date for the curtailment, abandonment, discontinuance, or restriction of service.
 - (B) A statement describing the curtailment, abandonment, discontinuance, or restriction sought. The statement shall include maps, as applicable. The statement

⁶ 723-1-57.

shall also include a description of the applicant's existing operations and general service area.

- (V) The application shall contain a statement that the applicant understands it must present evidence at the hearing showing how the public interest will be affected by the grant of the application.

- (b) In addition to the notice requirements of the Rules Regulating Practice and Procedure, the applicant shall prepare a written notice as provided in subparagraph g of this rule and shall mail or deliver the notice at least 30 days before the application's requested effective date to each of the applicant's affected customers. If no customers will be affected by the grant of the application, the notice shall be mailed to the Board of County Commissioners of each affected county, and to the mayor of each affected city, town, or municipality.

- (c) The notice shall contain all of the following:
 - (I) The name of the applicant.

 - (II) A statement detailing the requested curtailment, abandonment, discontinuance, amendment, or restriction, and its requested effective date.

 - (III) A statement indicating that any person may file a written objection with the Commission no later than ten days prior to the requested effective date; but that a written objection alone will not preserve any right to participate as a party in any Commission proceeding on the matter.

 - (IV) A statement indicating that in order for any person to participate as a party, such person must file an appropriate and timely intervention according to the Commission's Rules Regulating Practice and Procedure.

 - (V) The Commission's full address.

- (d) Prior to 15 days before the requested effective date, the applicant shall file with the Commission a written affidavit stating its compliance with the notice requirements of subparagraphs (f) and (g) of this rule. The affidavit shall state the date the notice was completed and the method used to give notice. The applicant shall attach a copy of the notice to the affidavit.

- (e) No proposed amendment, change, extension, curtailment, abandonment, or discontinuance shall be effective unless and until the Commission has entered an order approving it.

5104. Transfers and Mergers.⁷

- (a) Contents. The application to transfer a certificate of public convenience and necessity, to obtain a controlling interest in any utility, to transfer assets or stock, or to merge a utility with another entity shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attached exhibits:
- (I) The information required in rules 5002(b) and (c), as pertinent to each party to the transaction;
 - (II) A statement showing accounting entries, under the Uniform System of Accounts, including any plant acquisition adjustment, gain, or loss proposed on the books by each party before and after the proposed transfer;
 - (III) Copies of any sales agreement or contract of sale and all documents pertaining to the transfer;
 - (IV) Facts showing that the transfer is not contrary to the public interest, and an evaluation of the benefits and detriments, if any, to the customers of each party and to all other persons who will be affected by the transfer; and
 - (V) A comparison of the kinds and costs of service rendered before and after the proposed transfer.
- (b) An application to transfer a certificate may be made by joint or separate applications of the transferor and the transferee.
- (c) When control of a utility is transferred to another utility, or the name is changed, the utility which will afterwards operate under the certificate shall file an adoption notice with the Commission, post the adoption notice in a prominent public place in each local office and principal place of business of the utility, and have the adoption notice available for public inspection at each local office and principal place of business. Adoption notice forms are available from the Commission. The adoption notice shall contain all of the following information:
- (I) The name, phone number, and complete address of the adopting utility.
 - (II) The name of the previous utility.
 - (III) The number of the tariff adopted, and the description or title of the tariff adopted.

⁷ 723-1-42; 723-1-55.

- (IV) The number of the tariff after adoption, and the description or title of the tariff after adoption.
- (V) A statement that the adopting utility is making its own all rates, rules, terms, conditions, agreements, concurrences, instruments, and all other provisions that have been filed or adopted by the previous utility.

5105. Reserved.

5106. Reserved.

5107. Reserved.

5108. Tariffs and Contracts.⁸

- (a) A utility shall keep its current tariffs, contracts and water service agreements on file with the Commission. Unless otherwise provided by law all tariffs, contracts, and water service agreements shall be available for public inspection at the Commission and each local office and principal place of business of the utility. Tariffs must plainly show all terms, conditions, rates, tolls, rentals, charges, and classifications collected or enforced, or to be collected and enforced, including:
 - (I) Information regarding any tariff provisions that specifically allocate the cost of service connections, other than meters, between the utility and the customer pursuant to rule 5209.
 - (II) Information regarding its line extension policies, procedures, and conditions pursuant to rule 5210.
 - (III) Information regarding its meter testing equipment and facilities, scheduled meter testing, fees for meter testing upon request, and meter reading, pursuant to rules 5303, 5304, 5305, and 5309.
 - (IV) Information regarding its benefit of service transfer policies, pursuant to rule 5400(a)(VIII).
 - (V) Information regarding the utility's customer deposit policy, pursuant to rule 5402.
 - (VI) Information regarding its installment payment plan, pursuant to rule 5403(a).
 - (VII) Information regarding collection fees or miscellaneous service charges, pursuant to rule 5403(b)(V-VII).

⁸ 723-1-40; 723-5-11(f); 723-5-14; 723-5-15; 723-5-19; 723-5-22.3; 723-5-27; 723-5-30.

(VIII) Information regarding after-hours restoration fees pursuant to rule 5408.

(IX) All other rules, regulations, and policies covering the relations of customer and utility.

5109. New or Changed Tariffs.⁹

(a) A utility may seek to add a new tariff or change an existing tariff in either of the two following ways:

(I) The utility may file the proposed tariff, including the proposed effective date, accompanied by an advice letter, and providing notice in accordance with rule 1206. If the Commission does not suspend the proposed tariff in accordance with rule 1305 prior to the proposed effective date, the proposed tariff shall take effect on the proposed effective date.

(II) The utility may file an application to implement a proposed tariff on less than 30 days' notice, accompanied by the proposed tariff, including the proposed effective date, and providing notice in accordance with rule 1206. The application must explain the details of the proposed tariff, including financial data if applicable, justify why the proposed tariff must become effective on less than 30 days' notice, and note any prior Commission action, in any proceeding, pertaining to the present or proposed tariff.

(b) Each tariff sheet, not an original, shall be designated "1st revised sheet No. ___ cancels original sheet No. __," or "2nd revised sheet No. ___ cancels 1st revised sheet No. __," as appropriate. Each sheet shall direct attention to the changes by the use of symbols in the right margin such as "I" for increase, "D" for decrease, "C" for change in text, and "N" for new text. On a contents or index page the utility shall show the meaning of the symbols used by it to point out changes contained in its revised tariff filings. If a tariff sheet is issued under a specific authority or decision of the Commission, each sheet so affected shall show the number in the space provided at the foot of the sheet.

(c) The Commission may reject any tariff which is not in the form required by statutes, rules, regulations, orders, and decisions of the Commission. Any tariff rejected by the Commission shall be void and shall not be used.

5110. Advice Letters.¹⁰

⁹ 723-1-41; 723-1-43; 723-5-12.

¹⁰ 723-1-40.1; 723-5-12.2.

Each proposed tariff must be accompanied by a serially-numbered advice letter. The letter shall list all sheets included in the filing by number, and show the sheets, being cancelled, if any. The purpose of the filing, the changes being proposed, the amounts, if any, by which the utility's revenues will be affected, and the extent to which customers will be affected shall be clearly summarized, along with information demonstrating that the proposed tariff is just and reasonable.

5111. Aggregate Water Service Providers.¹¹

Aggregate water service providers are exempt from regulation of rates under Articles 1 to 7 of Title 40, C.R.S., and need not file any tariff with the Commission.

5112. Simplified Regulatory Treatment.

- (a) Definitions. In addition to the definitions generally applicable to water utilities, the following definitions apply only in the context of this rule:

(I) "Customer" means any person or group of persons contracting for water service from any utility for domestic, commercial, or industrial use, or for wholesale distribution. Multi-residential units, multi-commercial units, and wholesale purchasers of water supplying water service to multiple end-users, are not considered as singular customers; instead, the number of singular customers is determined by the number of singular units or end-users.¹²

(II) "Privately owned water company" means a utility that is owned by one or more persons. "Privately owned water company" does not include any utility 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.

(III) "Small water company" means a utility that serves fewer than one thousand five hundred customers.

- (b) Simplified Regulatory Treatment. Five options are 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, shall 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.

¹¹ While § 40-1-103.5 does not apply to water regulation, its language has been duplicated here in order to exempt water "MMOs".

¹² 723-5-30.2.1.

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.

- (c) Procedures. The simplified regulatory treatment shall be implemented as follows:
- (I) 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 Regulating Practice and Procedure, 4 CCR 723-1. However, a small, privately owned water company is prohibited from participating in both the *Annual Rate Adjustment Option* and the *Resource Cost Pass-Through Option* at the same time.
 - (II) The application shall include any requirements of the respective option, as provided by paragraph (e) of this rule, and an explanation of how approval of the application will balance reasonable regulatory oversight with the costs and benefits of regulation, while continuing to consider the public interest, quality of service, financial condition, and just and reasonable rates.
 - (III) Within five days of the filing of the application, the applicant shall provide notice to its customers of the filing of the application. Such notice shall be given by filing with the Commission and keeping open for public inspection at the applicant's local business office the form established by the Commission. Additionally, the applicant shall either cause the notice to be published in each newspaper of general circulation in each county in which the applicant provides service, or shall issue notice by bill insert. Such additional notice shall contain the same information as contained in the notice filed with the Commission. An applicant electing to provide notice with a bill insert must take appropriate measures to provide each and every customer with the insert. Providing a bill insert to only the master meter operator is not sufficient customer notice. This notice shall allow interested parties 30 days to intervene or file comments. If the applicant elects to provide notice through newspaper publication, proof of said publication shall be provided to the Commission. Failure to provide the Commission with proof of publication may cause the Commission to deem the application incomplete.
 - (IV) A small, privately owned water company may file an application to change to an alternative simplified regulatory treatment at any time. The application shall request authorization to terminate the existing simplified

regulatory treatment and shall request a new simplified regulatory treatment.

- (V) A small, privately owned water company may file an application to terminate an existing simplified regulatory treatment and return to traditional rate base regulation at any time. The Commission may set the application for hearing and existing rates for water services may be adjusted. At the conclusion of such a rate case proceeding, the rates and conditions established in the rate case proceeding will replace the rates and conditions developed under any simplified regulatory treatment option.
 - (VI) A small, privately owned water company shall not be permitted to terminate participation in one or more simplified regulatory treatment options for the sole purpose of avoiding a potential decrease in rates to its customers.
 - (VII) Nothing in these rules shall limit a customer's right to file a complaint against a small, privately owned water company. Nothing in these rules shall prohibit or restrict the Commission from initiating an investigation or complaint proceeding against a small, privately owned water company.
- (d) Reporting Requirements. Consistent with the definition of "customer" under this rule, a small, privately owned water company shall require multi-residential entities, multi-commercial entities, and wholesale purchasers of water supplying water service to multiple end-users, to annually furnish the small, privately owned 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, privately owned 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.
- (e) Simplified Regulatory Treatment Options. The Commission may grant a small, privately owned water company authority to participate in any of the following simplified regulatory treatment options:
- (I) Annual Rate Adjustment Option.
 - (A) 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 adjustment to be effective May 1, of each year. As prescribed by subparagraph (e)(I)(B) of this rule, the percentage adjustment shall be determined using the following figures:

- (i) the annual percent change in the United States Gross Domestic Product Chain-Type Price Index (GDPPI) as published by the United States Department of Commerce, Bureau of Economic Analysis, and as published in the Economic Report Of The President,¹³ and;
 - (ii) an appropriate measure of productivity, specifically the "Private And Non-Farm Business Multifactor Productivity Percentage Change" (PNFBMPP) as published by the Bureau of Labor Statistics, and as published in The Economic Report Of The President.¹⁴
- (B) The percentage adjustment formula is:
Price Adjustment = GDPPI - PNFBMPP
- (C) On or before April 15 of each year, each small, privately owned water company participating in this simplified regulatory treatment shall file an advice letter and accompanying tariff sheets with the Commission to implement the change effective May 1.
- (II) 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.

¹³ 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,

¹⁴ Source: Department Of Labor, Bureau Of Labor Statistics.

- (III) 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.
- (IV) Reserve Account for Major Capital Improvements Option. An applicant may seek Commission authority to establish a reserve account to fund future major capital expenditures. Under this option, the small, privately owned 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.
- (A) The level and method for collecting money for the reserve account for major capital improvements must be specifically approved by the Commission. Accordingly, the applicant 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. Disbursements from the fund shall be restricted to the uses identified in 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.
- (B) The small, privately owned water company shall report all disbursements from the reserve account by written notice to the Commission and to other persons as the Commission may direct. Disbursements from the reserve account that are found by the Commission to have been made improperly, or in violation of any statute, regulation, or order of the Commission shall be returned to the account or refunded to ratepayers as the Commission may direct.
- (C) Plant capitalized by means of the reserve account shall be accounted for as a contribution in aid of construction.

(V) Company Specific, Customized Option.

- (A) A small, privately owned water company may file an application seeking Commission authorization to implement provisions of a company specific, customized option plan. The Commission shall consider the merits of any specific option presented and determine whether such provisions are consistent with the objectives of these rules.
- (B) In presenting an option for the Commission's consideration, the company shall bear the burden of proving that:
- (i) the proposals appropriately balance reasonable regulatory oversight with the costs and benefits of regulation;
 - (ii) the provisions are not discriminatory; and
 - (iii) implementation of such provisions is in the public interest, improves the quality of water service to customers, is financially compensatory, and promotes the development and maintenance of just and reasonable rates.
- (C) The small, privately owned water company must maintain accounting records to provide sufficient financial information for the Commission to assess the merits of the proposal and its projected impact on the company.
- (f) Transitional Provisions. When the number of customers, as reported in its annual report to the Commission, served by the utility meets or exceeds one thousand five hundred, the utility shall immediately notify the Commission and provide the Commission with a proposed transitional regulatory plan. For good cause shown, the Commission's regulatory oversight of the utility may continue to permit the utility to participate in regulatory treatment options as described in this rule when its customer count exceeds the established limit.

FACILITIES

5200. Construction, Installation, Maintenance, and Operation.¹⁵

The water plant, equipment, and facilities of the utility shall be constructed, installed, inspected, maintained, and operated in accordance with sound engineering and industry practices to assure continuity of

¹⁵ 723-5-4.

service, uniformity in the quality of service, and the safety of persons and property.

5201. Instrumentation.¹⁶

Each water utility shall install such indicating instruments or meters as may be necessary to obtain records of the water flow volume(s) of its plants. Each utility purchasing water shall install such instruments or meters as may be necessary to furnish the Commission with full information related to the purchases, including purchase dates, sources, volumes, and unit costs. Each utility shall keep a record of its periodic readings of such instruments.

5202. Purity and Pressure.¹⁷

- (a) Each utility supplying water for domestic, commercial, or industrial purposes shall ensure that all water intended for human consumption and general household purposes is free from disease producing organisms, bacteria, and injurious chemical and physical substances, and is agreeable to sight and smell. Each utility supplying such water shall comply with all applicable quality, purity, monitoring, testing, and record-keeping standards and requirements of:
 - (I) The federal Clean Water Act, Safe Drinking Water Act, and the rules and regulations promulgated thereunder.
 - (II) The drinking water regulations promulgated by the Water Quality Control Division of the Colorado Department of Public Health and Environment; and
 - (III) The water treatment standards adopted by AWWA.
- (b) A utility shall maintain a steady pressure, not at any time falling below the adequate minimum for domestic service. Each utility furnishing fire hydrant service must be able to supply added service to local fire fighting equipment and facilities in accordance with the best standard practice. A utility shall maintain pressure and keep records in accordance with AWWA standards, unless otherwise required by the Water Quality Control Division of the Colorado Department of Public Health and Environment or county or municipal codes or ordinances.

5203. Interruptions of Service.¹⁸

- (a) During times of threatened or actual water shortage a utility shall equitably apportion its available water supply among its customers with due regard to public health and safety.

¹⁶ 723-5-21.

¹⁷ 723-5-18; 723-5-19; 723-5-20.

¹⁸ 723-5-3; 723-5-15; 723-17-2.4; 723-4-3(b).

- (b) If a utility must restrict water distribution, it shall, except in emergencies:
 - (I) Give advance, written notice to the Commission, as prescribed by paragraph (c) of this rule.
 - (II) Give advance notice to the utility's customers, as prescribed by paragraph (c) of this rule.
- (c) The notice contemplated by paragraph (b) of this rule shall contain the following information:
 - (I) The reason for the restriction;
 - (II) The nature and extent of the restriction, including outdoor use, use by certain classes of customers, and similar matters;
 - (III) The date such restriction is to go into effect; and
 - (IV) The probable date of termination of such restriction.

5204. Accidents.¹⁹

- (a) Each utility shall verbally inform the Commission, in compliance with the polices adopted from time to time by the Commission to implement this Rules, within two hour (120) minutes of each accident occurring in connection with the operation of its property, facilities or service, resulting in any deaths, serious injuries, or serious property damage. The utility shall, within 30 calendar days submit a written report to the Director of the Commission describing in detail the:
 - (I) Date, time, place, and location of the accident;
 - (II) Type of accident;
 - (III) Names of all parties involved; and
 - (IV) Nature and extent of injuries and damage.
- (b) If the utility conducts an internal investigation of an accident, referred to in paragraph (a) above, it shall make its report available to the Commission upon request by the Commission.

5205. [Reserved].

5206. [Reserved].

5207. [Reserved].

¹⁹ 723-5-7.

5208. [Reserved].

5209. Service Connections.²⁰

- (a) Upon application of a bona fide applicant for service, the utility shall furnish, install, and maintain service pipe of suitable capacity, including the curb cock and curb box required, from its water main to the property line.
- (b) Except as provided in paragraphs (c) and (d) of this rule, service connections shall be furnished, installed, and maintained at the expense of the utility.
- (c) All meters used in connection with metered service shall be furnished, installed, and maintained at the expense of the utility, unless the Commission grants special authority to the contrary for good cause.
- (d) The utility may seek approval of tariff provisions that specifically allocate the cost of service connections, other than meters, between the utility and the customer. Such tariff proposals shall specify the terms and conditions that initiate such cost allocation.
- (e) Any facilities furnished or installed at the expense of the utility shall remain the utility's property and may be removed by the utility at any time after discontinuance of service.

5210. Line Extension.

- (a) Each utility shall have tariffs describing its line extension policies, procedures, and conditions. Specific provisions for making service line extensions and distribution line extensions shall include:
 - (I) The terms and conditions by customer class under which such connections and extensions will be made.
 - (II) Provisions requiring the utility to provide service connection information to a customer, upon request, necessary to allow the customer's facilities to be connected to the utility's system.
 - (III) Provisions requiring the utility to exercise due diligence in providing the customer with an estimate of the anticipated cost of a connection or extension.
 - (IV) Just and reasonable provisions with respect to the impact upon existing customers through rates and service, including equitably allowing future customers to share

²⁰ 723-5-14.

costs incurred by the initial or existing customers served by a connection or extension, including a refund of customer connection or extension payments when appropriate.

- (V) A description of specific customer categories within each customer class such as permanent, indeterminate, and temporary.

METERS

5300. Service Meters and Related Equipment.²¹

- (a) All meters used in connection with water metered service for billing purposes shall be furnished, installed, and maintained at the expense of the utility.
- (b) Any equipment, devices, or facilities furnished at the expense of the utility or for which the utility bears the expense of maintenance and renewal, including service meters, shall remain the property of the utility and may be removed by it at any time after discontinuance of service.
- (c) Each service meter shall indicate clearly the units of service in cubic feet or gallons for which charge is made to the customer. In cases where the register reading of a meter must be multiplied by a constant to obtain the units consumed, such constant shall be clearly marked on the meter.

5301. Location of Service Meters.²²

- (a) As of the time of meter installation, meters shall be located in conformity with:
- (I) applicable local building codes; and
- (II) applicable meter placement standards adopted by AWWA.

5302. Service Meter Accuracy and Capacity.²³

Each meter shall meet the accuracy and capacity requirements of the applicable AWWA meter standard for that meter type. Meters must immediately be repaired or replaced if they fail to meet the applicable AWWA standard at the time of testing.

²¹ 723-5-10.1.

²² Gas rules.

²³ 723-5-22.

5303. Meter Testing Equipment and Facilities.²⁴

- (a) Each utility furnishing metered water service shall, unless specifically exempted by the Commission, provide such meter laboratory, standard meters, instruments, and other equipment and facilities as may be necessary to make the tests required by these rules. Such equipment and facilities shall be acceptable to the Commission and shall be available at all reasonable times for inspection by the Commission's authorized representatives.
- (b) Each utility shall make such tests as are prescribed under these rules with such frequency, in such manner, and at such places as may be approved by this Commission. Each utility shall file an application for approval of such testing practices. The application shall include:
 - (I) A description of the test methods employed and the frequency of tests or observations for determining volume of water consumed.
 - (II) A description of meter testing equipment, including methods employed to ascertain and maintain accuracy of all testing equipment.
 - (III) A statement whether the meter testing equipment meets all applicable AWWA standards.
 - (IV) Rules covering testing and adjustment of service meters when installed and periodic tests after installation.
 - (V) Supporting information and justification for the items listed in subparagraphs (I) through (IV) of this paragraph.
- (c) Revisions to any portion of an approved application identified in paragraph (b) of this rule shall only be accomplished by the filing and approval of a new application.
- (d) If the utility does not have suitable means for testing, the utility must have a certificate from the meter manufacturer showing that each meter has been tested for accuracy and that it complies with the accuracy and capacity requirements of the applicable AWWA meter standards.
- (e) The utility shall keep records of certification and calibrations for all testing equipment required by this rule for the life of the equipment.
- (f) In its tariff, each utility shall include a description of its meter testing equipment, including methods employed to ascertain and maintain accuracy of all testing equipment.

²⁴ 723-5-5; 723-5-22.

5304. Scheduled Meter Testing.²⁵

- (a) Each utility shall test service meters in accordance with the schedule in this rule or in accordance with a sampling program approved by the Commission. The utility shall file an application to request approval of such sampling programs.
- (b) Every service meter must be tested and adjusted either before installation or no later than 60 days thereafter, to ensure that it registers accurately and conforms to applicable AWWA time intervals.
- (c) Every service meter must be periodically tested in accordance with AWWA C700-95, Table B.1 as shown below:
 - (I) Meter size of 1/2 or 5/8 inch, every 10 years,
 - (II) Meter size of 3/4 inch, every 8 years,
 - (III) Meter size of 1 inch, every 6 years,
 - (IV) Meter size of 1 1/2 inch and above, every 4 years.
- (d) In its tariff, each utility shall include a description of the utility's practices concerning:
 - (I) testing and adjustment of service meters at installation,
 - (II) periodic testing after installation, and
 - (III) certification and calibration of meters.

5305. Meter Testing Upon Request.²⁶

- (a) Each utility furnishing metered water service shall make a test of the accuracy of any water service meter upon request of a customer. The customer may be present during any meter test. The test shall be conducted free of charge if the meter has not been tested within the previous 12 months and the customer agrees to accept the results of the test for the purposes of any dispute regarding the meter's accuracy. The utility shall provide a written report of the test results to the customer and maintain a copy on file for at least two years.
- (b) Upon written request by a customer, the Commission will send a trained employee to witness the test of any service meter as performed by the utility. The request must be accompanied by payment of the applicable fee, as follows:

²⁵ 723-5-23.

²⁶ 723-5-24; 723-5-25.

- (I) For each water meter, regardless of the capacity of the meter, \$50 each.
- (c) In its tariff, each utility shall include any fees associated with customer-requested meter testing within twelve months of a prior test.

5306. Records of Tests and Meters.²⁷

- (a) A utility shall maintain a record for each meter owned or used by the utility, showing the date of purchase, manufacturer's serial number, record of the present location, and date and results of the last test performed by the utility, which record shall be retained for the life of the meter.
- (b) Whenever a meter is tested either on request or upon complaint, the test record shall include the information necessary for identifying the meter, the reason for making the test, the reading of the meter if removed from service, the result of the test, together with all data taken at the time of the test in a sufficiently complete form to permit the convenient checking of the methods employed and the calculations made. Such record shall be retained for at least two years.

5307. [Reserved].

5308. [Reserved].

5309. Meter Reading.²⁸

- (a) Upon the customer's request, the utility shall provide written documentation identifying the date of the reading of the customer's meter, and the total usage expressed in gallons or other unit of service recorded. Each utility supplying metered service, on request, shall explain to its customers the method of reading meters.
- (b) In its tariff, each utility shall include a clear statement describing when meters will be read by the utility and the circumstances, if any, under which the customer must read the meter and submit the data to the utility. This statement shall specify in detail the procedure that the customer must follow, and if special conditions apply to certain classes of service, such as residential, commercial, industrial or seasonal.

²⁷ 723-5-6.

²⁸ 723-5-9.2; 723-5-10.2.

BILLING AND SERVICE

5400. Billing Information and Procedures.²⁹

- (a) All bills issued to customers for metered service furnished shall show:
 - (I) The dates and meter readings beginning and ending the period during which service was rendered;
 - (II) An appropriate rate or rate code identification;
 - (III) Net amount due;
 - (IV) Last date payable after which the bill becomes past due, which shall not be any earlier than 15 days subsequent to the billing date;
 - (V) A distinct marking to identify an estimated bill;
 - (VI) All other essential facts upon which the bill is based, including factors and constants, as applicable;
 - (VII) Any unregulated charges, if applicable. A utility that bills for unregulated services or goods shall allocated any partial payments first to regulated charges and then to unregulated charges or non-tariffed charges; and
 - (VIII) Any transferred amount, or balance from any account other than the customer's current account. A utility that transfers balances in this manner shall file benefit of service transfer polices and criteria with the Commission in the Company's tariff.
- (b) Upon a request from a customer and where it is technically feasible, be available via electronic billing (e-billing) in lieu of a type or machine printed billing.
- (c) Each utility shall maintain customer billing records for a minimum of two years.

5401. Adjustments for Meter and Billing Errors.³⁰

- (a) A utility shall adjust customer charges for water incorrectly metered or billed as follows:
 - (I) When, upon any meter accuracy test, a meter is found to be running slow in excess of error tolerance levels allowed

²⁹ 723-5-10.3; 723-5-13.3.

³⁰ 723-5-26.

under Rule 5302, the utility may charge for one-half of the under-billed amount for the period dating from the discovery of the meter error to the previous meter test, with such period not exceeding two years.

- (II) When, upon any meter accuracy test, a meter is found to be running fast in excess of error tolerance levels allowed under Rule 5302, the utility shall refund one-half of the over-billed amount for the period dating from the discovery of the meter error to the previous meter test, with such period not exceeding two years.
 - (III) When a meter does not register, registers intermittently, or partially registers for any period, the utility may equitably estimate a charge for the water used based on amounts metered to the customer over similar periods in previous years. The period for which the utility charges the estimated amount shall not exceed two years.
 - (IV) In the event of under-billings not provided for in subparagraphs (I) or (III) of this rule, such as an incorrect multiplier, register, or billing error, the utility may charge for the period during which the under-billing occurred, with such period not exceeding two years.
 - (V) In the event of over-billings not provided for in subparagraph (II) of this rule, such as an incorrect multiplier, register, or billing error, the utility shall refund for the period during which the over-billing occurred with such period not exceeding two years.
- (b) In the event of an over-billing, the customer may elect to receive the refund as a credit to future billings or as a one-time payment. If the customer elects a one-time payment, the utility shall make the refund within 30 days. Such over-billings shall ~~not~~ be subject to interest at the Commission's established customer deposit interest rate.
- (c) In the event of under-billing, the customer may elect to enter into a payment arrangement on the under-billed amount equal in length to the time for which the under-billing was identified as allowed in Rule 5403(d). Such under-billings shall not be subject to interest.

5402. Customer Deposits.³¹

- (a) A utility shall process an application for utility service made either orally or in writing, applying nondiscriminatory criteria for the requirement of a deposit prior to installation of service.

³¹ 723-5-11.

- (b) If detailed billing records are available for a new or existing customer who previously received service from the utility, the utility shall not require the customer to make new or additional deposits to guarantee payment of current bills, unless the records indicate recent or substantial delinquencies. All other customers shall be treated uniformly within each rate classification with respect to deposit requirements, pursuant to the utility's tariff.
- (c) A utility shall not require a deposit from an applicant or customer who provides written documentation of 12 consecutive months' good credit history from a utility which the applicant or customer received similar services within the past thirty (30) days.
- (d) If a utility uses credit scoring, prior payment history with the utility, or prior payment history with a like utility as criteria for establishing the need for a deposit, the utility shall include in its tariff the specific evaluation criteria that triggers the need for a deposit.
- (e) If a utility denies an application for service or requires a deposit as a condition of providing service, the utility shall provide an explanation to the applicant or customer stating the reasons why the application for service has been denied or why a deposit is required. The utility shall advise the applicant or customer of the right to file an informal complaint regarding the utility's decision to the External Affairs section of the Commission.
- (f) No utility shall require any security other than a cash deposit to secure payment for utility services, or a third-party guarantee of payment in lieu of a cash deposit. The customer may mail or deliver to the utility the third-party guarantee form, signed by both the customer and the third-party guarantor. In no event shall the furnishing of utility services or extension of utility facilities or any indebtedness in connection therewith result in a lien, mortgage, or other security interest in any real or personal property of the customer, unless such indebtedness has been reduced to a judgment.
- (g) Should a customer or applicant exercise use of a third-party guarantee form in lieu of a deposit, the guarantee shall remain in effect until terminated either in writing by the guarantor or until the customer has established a satisfactory payment record for 12 consecutive months.
- (h) A deposit shall not exceed an amount equal to an estimated 90 days' bill of the customer, except in the case of a customer whose bills are payable in advance of service, in which case the deposit shall not exceed an estimated 60 days' bill of the customer. The deposit may be in addition to any advance, contribution, or guarantee in connection with construction of

lines or facilities, as provided in the extension policy of the utility's tariffs.

- (i) Each utility receiving deposits shall maintain records showing:
 - (I) The name of each customer making a deposit;
 - (II) The amount and date of the deposit;
 - (III) Each transaction, such as the payment of interest or interest credited, concerning the deposit; and
 - (IV) Each premises occupied by the customer while the deposit is retained by the utility.
- (j) In its tariffs, each utility shall state its customer deposit policy for establishing service, explaining when a deposit will be required and when it will be returned.
- (k) Each utility shall issue a receipt to every customer from whom such deposit is received. However, no utility shall refuse to return a deposit or any balance to which a customer may be entitled solely upon the basis that the customer is unable to produce a receipt.
- (l) The making of a deposit shall not relieve any customer from payment of current bills as they become due, and the utility is not required to apply any deposit to any indebtedness of the customer to the utility, except for utility services due or past due after service is terminated.
- (m) Simple interest shall be paid by the utility upon a deposit at the percentage rate per annum as calculated by the Staff of the Commission and in the manner provided in this rule, payable upon the return of the deposit, or annually at the request of the customer. The utility shall pay simple interest upon each deposit, earned from the date the deposit is received by the utility to the date the customer is paid. Interest payments, at the option of the utility, may be paid directly to the customer or by a credit to the customer's account. Simple interest to be paid on a deposit during any calendar year shall be at a rate equal to the average for the period October 1 through September 30 (of the immediately preceding year) of the twelve monthly average rates of interest expressed in percent per annum, as quoted for one-year United States Treasury constant maturities, as published in the *Federal Reserve Bulletin*, by the Board of Governors of the Federal Reserve System. Each year, the Staff of the Commission shall compute the interest rate to be paid. If the difference between the existing customer deposit interest rate and the newly calculated customer deposit interest rate is less than 25 basis points, the existing customer deposit interest rate shall continue for the next calendar year. If the difference between the existing customer deposit interest rate

and the newly calculated customer deposit interest rate is 25 basis points or more, the newly calculated customer deposit interest rate shall be used. The Commission shall send a letter to each utility stating the rate of interest to be paid on deposits during the next calendar year. Annually following receipt of Staff's letter, if necessary, each utility shall file by advice letter, or application, as appropriate, a revised tariff, effective the first day of January of the following year, or an alternative date set by the Commission, containing the new rate of interest to be paid upon customers' deposits, except when there is no change in the rate of interest to be paid on such deposits.

5403. Installment Payments.³²

- (a) A utility shall have, in its tariff, an installment payment plan which permits a customer to make installment payments:
 - (I) To pay charges from past billing periods arising solely from events under the utility's control such as meter malfunctions, billing errors, utility meter reading errors, or failures to read the meter, except where the customer refuses to read the meter and it is not readily accessible to the utility. Such installment payments may extend over a period equal in length to that during which the errors were accumulated, and shall not bear interest.
 - (II) If the customer pays at least 10 percent of the amount shown on a notice of discontinuance and enters into an installment payment arrangement on or before the expiration date of the notice.
 - (III) If the customer pays at least 10 percent of any amount more than 30 days past due and enters into an installment payment arrangement on or before the last day covered by a medical certification. A customer that has already entered but broken an arrangement prior to receiving a medical certification must pay all amounts that were due up to that date and resume the installment payment arrangement.
 - (IV) If the customer pays at least any collection and reconnection charges and enters into an installment payment arrangement, if service has been discontinued, unless the service was discontinued because the customer breached a prior payment arrangement.
- (b) Installment payment arrangements must include any and all of the following amounts as may be applicable at the time the customer requests a payment arrangement:

³² 723-5-10.4; 723-5-13.2; 723-5-13.5; 723-5-13.6.

- (I) The unpaid remainder of the amount shown on the notice;
 - (II) Any amounts not included in the amount shown on the notice which have since become more than 30 days past due;
 - (III) All current charges, contained in any bill which is past due but is less than 30 days past the due date;
 - (IV) Any new charges, contained in any bill which has been issued but is not past due;
 - (V) Any collection fees as provided for in the utility's tariff, whether or not such fees have appeared on a regular monthly bill;
 - (VI) Any deposit, whether already billed, billed in part, or required by the utility's tariff due for discontinuance or delinquency or to establish initial credit, other than those required as a condition of initiating service; and
 - (VII) Any other charges or fees provided in the utility's tariff, whether or not they have appeared on a regular monthly bill, including but not limited to miscellaneous service charges, investigative charges, and insufficient-check charges.
- (c) The utility shall provide the customer with a copy of this rule and a statement describing the payment arrangement within 10 days of entering into a payment arrangement.
- (d) An installment payment plan arrangement shall consist of equal monthly installments, for a term selected by the customer not to exceed 6 months. In the alternative, the customer may choose a modified budget billing, leveled payment or similar tariffed payment arrangement, in which the total due shall be added to the preceding year's total billing to the customer's premises, modified for any base rate or cost adjustment increases. The resulting amount shall be divided and billed in 11 equal monthly budget billing payments, followed by a settlement billing in the twelfth month, or follow other payment setting practices consistent with the tariffed plan available.
- (e) The first monthly installment payment shall be due, together with the new charges unless the new charges have been made part of the arrangement amount, on the due date of the new charges. Succeeding installment payments shall be due, together with the new charges, on the due date of the new charges. Any installment or budget billing payment not paid on the due date of the new charges shall be considered in default. Any new charges which are not paid by the due date shall be considered past due for purposes of this rule only, excluding those circumstances covered in rule 5403(a)(I).

5404. Service, Rate, and Usage Information.³³

- (a) Each utility shall inform each customer of any change proposed or made in any term or condition of its service which would affect the quality of the service.
- (b) The utility must also provide customers with the following information upon request:
 - (I) A clear and concise summary of the existing rate schedule applicable to each of the major classes of customers for which there is a separate rate;
 - (II) An identification of any classes whose rates are not summarized;
 - (III) A clear and concise explanation of the existing rate schedule applicable to such consumer within 10 days of a customer's request, or within 60 days of the commencement of service if it is a new customer;
 - (IV) A clear and concise statement of the customer's actual consumption of water for each billing period during the prior year, unless such consumption data is not reasonably ascertainable by the utility; and
 - (V) Any other information and assistance as may be reasonably necessary to enable customers to secure safe and efficient service.
- (c) Information provided under this rule must be transmitted through a method which will assure receipt by each customer including bill inserts, or periodic direct mail.

5405. Meter Reading, Estimated Billing, and Customer Readings.³⁴

- (a) Except as provided in this rule, a utility shall render bills based on actual meter readings by utility company personnel.
 - (I) If a utility bills on a monthly basis, it may estimate usage of service every other billing month.
 - (II) A utility may estimate the bill of a customer if extreme weather conditions, emergencies, equipment failure, work stoppages or other circumstances prevent actual meter reading.

³³ 723-5-9.

³⁴ This rule is modeled on the Pennsylvania statute on estimated billings, generally.

- (III) A utility may estimate the bill of a customer if utility personnel are unable to gain access to obtain an actual meter reading. Similarly, the utility may provide the customer with the opportunity to read the meter and report the usage in lieu of the estimated bill; however, the utility, at least once every 12 months must obtain an actual meter reading to verify the accuracy of the readings, either estimated or customer read.
- (IV) If a water company has estimated bills and if the customer or occupant during that period has consumed an amount of water in excess of normal seasonal usage because of a verified leak that could not reasonably have been detected or other unknown loss of water, the customer is not liable for more than 150% of the average amount of water consumed for the corresponding period during the previous year. This provision does not apply when the water utility was unable to gain access.

5406. Discontinuance of Service.³⁵

- (a) No utility shall discontinue the service of any customer for any reason, other than nonpayment, fraud or subterfuge, service diversion, equipment tampering, safety concerns, or exigent circumstances, or discontinuance is ordered by any appropriate governmental authority, or if service, having been already properly discontinued, has been restored by someone other than the utility and the original cause for discontinuance has not been cured.
- (b) Service shall not be discontinued for nonpayment of:
- (I) Any amount which has not appeared on a regular monthly bill, or which is not past due;
- (II) Any amount due on another account presently or previously held or guaranteed by the customer, or with respect to which the customer received service, unless the amount has first been transferred to an account which is for the same class of service, or which the customer has agreed will secure the other account. Any amount so transferred shall be considered "due" on the regular due date of the bill on which it first appears and shall be subject to notice the same as if it had been billed for the first time;
- (III) Any amount due on any other account on which the customer is or was neither the customer of record nor a guarantor, or any amount due from a previous occupant of the premises, unless the customer is or was obtaining service through fraud or subterfuge, such as obtaining service in the name

³⁵ 723-5-13.

- of another party by an applicant whose account is delinquent;
- (IV) Any amount due on any account for which the present customer is or was the customer of record, if another person established the account through fraud or subterfuge without the customer's knowledge or consent;
 - (V) Any delinquent amount unless the utility can supply detailed billing records from the time the delinquency occurred; or
 - (VI) Any debt except that incurred for service rendered by the utility in Colorado.
- (c) If the utility discovers any connections or devices installed on the customer's premises which would prevent the meter from metering the actual amount of water used, it may:
- (I) Remove or correct such devices or connections and leave written notice at the premises, advising the customer of the violation, the steps taken by the utility to correct it, and that the customer may be billed for any estimated water consumption not properly metered; or
 - (II) Provide the customer written notice that the devices or connections must be removed within 10 days, and that the customer may be billed for any estimated water consumed but not properly metered.
- (d) If the utility discovers evidence that any equipment has been tampered with or service diverted, it must provide the customer written notice of the discovery, the steps the utility will take to determine whether non-metering of water has or will occur, and that the customer may be billed for any estimated water consumption not properly metered.
- (e) No utility shall discontinue any service for any reason other than safety concerns or exigent circumstances:
- (I) If a customer at any time tenders full payment in accordance with the terms and conditions of the notice of discontinuance to a utility employee authorized to receive payment, including any employee dispatched to discontinue service. Payment of a charge for a service call shall not be required to avoid discontinuance.
 - (II) If a residential customer pays, on or before the expiration date of the notice of discontinuance, at least one-tenth of the amount shown on the notice and enters into an installment payment arrangement with the utility, as provided in rule 5403.

- (III) Between 12 Noon on Friday and 8 a.m. the following Monday, or between 12 Noon on the day prior to and 8:00 a.m. on the day following any state or federal holiday, or between 12 Noon on the day prior to and 8:00 a.m. on the day following any day during which the company's local office is not open.
- (IV) If discontinuance would aggravate an existing medical condition or create a medical emergency for the customer or a permanent resident of the customer's household, as evidenced by a written medical certification from a Colorado-licensed physician or licensed health practitioner acting under a physician's authority. Such certification shall show clearly the name of the customer or individual whose illness is at issue, Colorado medical identification number, phone number, and signature of the physician or health care practitioner acting under a physician's authority certifying the medical emergency. Such certification shall be incontestable by the utility as to medical judgment, although the utility may use reasonable means to verify the authenticity of such certifications. A medical certification is valid to prevent discontinuance of service for 60 days. The customer may receive a single 30-day extension by providing a second medical certification prior to the expiration of the original 60-day period. A customer may invoke this rule 5406(e)(IV) only once in any twelve consecutive months.

5407. Notice of Discontinuance.³⁶

- (a) The utility must provide written notice by first class mail or hand delivery, or if the customer receives e-billing an electronic notice at least 10 days in advance of any proposed discontinuance of service, except in cases of broken arrangements as provided in section (f) of this rule. The notice must be conspicuous and in easily understood language, and the heading shall contain, in capital letters, the following warning:
- THIS IS A FINAL NOTICE OF DISCONTINUANCE OF
UTILITY SERVICE AND CONTAINS IMPORTANT
INFORMATION ABOUT YOUR LEGAL RIGHTS AND REMEDIES.
YOU MUST ACT PROMPTLY TO AVOID SHUT OFF.
- (b) The body of the notice of discontinuance under section (a) of this rule must advise the customer:
- (I) The reason for the discontinuance or service and what particular rule has been violated, if any;
- (II) The amount past due for utility service, deposits, or other regulated charges, if any;

³⁶ 723-5-13; Gas rules.

- (III) The date by which an installment payment arrangement must be entered into or full payment must be received to avoid discontinuance;
- (IV) How and where the customer can pay or enter into an installment payment arrangement plan prior to the discontinuance;
- (V) That a customer may avoid discontinuance of service by paying, on or before the expiration date of the notice, at least one-tenth of the amount shown on the notice and entering into an installment arrangement with the utility to pay the remaining past due balance in equal monthly installments, according to rule 5403;
- (VI) That the customer has certain rights if the customer or a member of the customer's household is seriously ill or has a medical emergency;
- (VII) That the customer has the right to dispute the discontinuance directly with the utility by contacting the utility, and how to contact the utility toll-free from within the utility's service area;
- (VIII) That the customer has the right to file an informal complaint with the External Affairs section of the Commission in writing, by telephone, or in person, along with the Commission's address and toll-free telephone number;
- (IX) That the customer has the right to hearing by filing a formal complaint, in writing, with the Commission pursuant to Rule 1302;
- (X) That the customer has a right to file a motion for an order to the utility not to disconnect service pending the outcome of the hearing on the formal complaint, and that the Commission may grant the motion upon such terms as it deems reasonable, including but not limited to the posting of a deposit or bond with the utility or timely payment of all undisputed charges;
- (XI) That if service is discontinued for non-payment, service may be restored if a customer pays any reconnection and collection charges as may be specifically required according to the utility's tariff and enters into an installment payment arrangement or the customer provides a medical certification; and
- (XII) Of federal, state, local government, non-profit community agencies or organizations which the utility believes may provide customer assistance or benefits relating to utility service.

- (c) The utility shall also provide written notice by first class mail or hand delivery to any third-party the customer has designated in writing to receive notices of discontinuance or broken arrangement.
- (d) A discontinuance notice shall be printed in English and a specific language or languages other than English where the utility's service territory contains a population of at least 10 percent who speak a specific language other than English as their primary language as determined by the latest U.S. Census information.
- (e) The terms of an installment payment arrangement, including a modified budget billing arrangement, must be explained and offered to each customer who contacts the utility in response to a notice of discontinuance.
- (f) Following the issuance of the notice of discontinuance, and at least 24 hours prior to discontinuance, the utility must attempt to give notice of the proposed discontinuance in person or by telephone both to the customer and to any third-party the customer has designated in writing to receive such notices. If the utility attempts to notify the customer in person but fails, it shall leave written notice of the attempted contact and its purpose.
- (g) If the customer has entered into an installment payment arrangement, and defaults or allows a new bill to remain unpaid past its due date, the utility shall provide, by first class mail or hand delivery, a written notice, with the following heading:

NOTICE OF BROKEN ARRANGEMENT

The body of the notice must advise the customer:

- (I) That the utility may discontinue service if it does not receive the monthly installment payment within 10 days after the notice is sent or delivered;
- (II) That the utility may discontinue service if it does not receive payment for the current bill within 30 days after its due date;
- (III) That if service is discontinued, the utility may refuse to restore service until all amounts more than 30 days past due have been paid, together with any collection or reconnection charges; and
- (IV) That the customer has certain rights if the customer or a member of the customer's household is seriously ill or has a medical emergency;

- (h) The utility is not required to provide notice under this rule in situations involving safety concerns, or exigent circumstances, or if discontinuance is ordered by any appropriate governmental authority, or if service, having been already properly discontinued, has been restored by someone other than the utility and the original cause for discontinuance has not been cured.
- (i) Where the utility knows that the service to be discontinued is used by customers in multi-unit dwellings or place of business, or a cluster of dwellings, or places of business, and the utility service is recorded on a single meter used either directly or indirectly by more than one unit, the utility shall issue notice as required in sections (a) and (b) of this rule, except that:
 - (I) The notice period shall be 30 days;
 - (II) The such notice also may include the current bill;
 - (III) The utility shall also shall provide written notice to each individual unit, stating that a notice of discontinuance has been sent to the party responsible for the payment of utility bills for the unit, and that the occupants of the units may avoid discontinuance by paying the next new bill in full within 30 days of its issuance and successive new bills within 30 days of issuance; and
 - (IV) The utility must post the notice in at least one of the common areas of the affected location.

5408. Restoration of Service.³⁷

- (a) Any service already discontinued must be restored without additional fee or charge if it was not properly discontinued or restored as provided in rule 5406 and 5408.
- (b) Service must be restored within 24 hours (excluding weekends and holidays), or within 12 hours if the customer pays any necessary after-hours charges established in tariffs, unless prevented by safety concerns, or exigent circumstances, if the customer:
 - (I) Pays in full the amount shown on the notice, plus any deposit and/or fees as may be specifically required by the utility's tariff in the event of discontinuance of service;
 - (II) Pays any reconnection and collection charges specifically required by the utility's tariff, enters into an installment payment arrangement and makes the first installment payment, unless the cause for discontinuance was the customer's breach of such an arrangement;

³⁷ 723-5-13; Gas rules.

- (III) Presents a medical certification, as provided in rule 5406(e)(IV); or
- (IV) Demonstrates to the utility that the cause for discontinuance, if other than non-payment, has been cured.

5409. Refund Plans.³⁸

- (a) Contents. The application for approval of a refund plan shall include, in the following order and specifically identified, the following information either in the application or in the appropriately identified attached exhibits:
 - (I) All the information required in rules 5002(b) and (c);
 - (II) A detailed description of the proposed refund plan, including the type of utility service involved, the service area involved, and the dollar amount of the proposed refund. The interest rate on the refund shall be the current interest rate in the applicant's customer deposits tariff.
 - (III) The date the applicant proposes to start making the refund, which must be within 60 days of the filing of the application, the date by which the refund will be completed, and the means by which the refund is proposed to be made.
 - (IV) A reference by docket number, decision number and date of any Commission decision requiring the refund or, if the refund is to be made because of receipt of monies by the applicant under the order of another state or federal agency, a copy of the order.
 - (V) A statement describing in detail the extent to which the applicant has any financial interest in any other company involved in the refund plan.
 - (VI) A statement showing accounting entries under the Uniform System of Accounts.
 - (VII) A statement that if the application is granted, the applicant will file an affidavit establishing that the refund has been made in accordance with the Commission decision.

³⁸ 723-1-58.

GLOSSARY OF ACRONYMS

AWWA - American Water Works Association
CCR - Colorado Code of Regulations
CFR - Code of Federal Regulations
CPCN - Certificate of Public Convenience and Necessity
CRCP - Colorado Rules of Civil Procedure
C.R.S. - Colorado Revised Statutes
e-mail - Electronic mail
GAAP - Generally Accepted Accounting Principles
OCC - Colorado Office of Consumer Counsel
P&P Rules - Rules of Practice and Procedure
USOA - Uniform System of Accounts

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