Decision No. C07-0381

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 06R-492E

IN THE MATTER OF THE PROPOSED RULES REGULATING ELECTRIC UTILITIES, 4 CODE OF COLORADO REGULATIONS 723-3.

ORDER GRANTING EXCEPTIONS, LIFTING STAY, AND ADOPTING RULES

Mailed Date: May 10, 2007
Adopted Date: April 25, 2007

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I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission for consideration of Exceptions to Recommended Decision No. R07-0134 filed by Aquila, Inc. on March 14, 2007.

2. Having been advised in this matter, we grant Aquila's sole exception to Rule 3108(a), and make several additional changes on our own motion. We also lift the stay we ordered in Decision No. C07-0188, adopt the rules appended to this decision as Attachment A, and set an effective date for the rules of August 1, 2007.

B. History

3. By Decision No. C06-1065, The Colorado Public Utilities Commission (Commission) issued a Notice of Proposed Rulemaking (NOPR) regarding its Rules Regulating Electric Utilities, 4 *Code of Colorado Regulations* (CCR) 723-3. The NOPR was published in the Colorado Register on October 10, 2006, and began this proceeding.

4. By Decision No. C07-0188, issued March 7, 2007, we stayed the Recommended Decision.

5. The Commission repealed and reenacted its entire body of rules on April 1, 2006. Due to the complexity of such an undertaking, the need for additional improvements to these rules is necessary.

6. The basis and purpose of the proposed amendments as stated in the NOPR is to ensure consistency, where possible, among the various sets of Commission rules; centralize common tariff and advice letter provisions in the Rules of Practice and Procedure and make conforming amendments to the substantive electric rules; clarify and supplement customer notice provisions and related definitions; make Rule 3665 consistent with other Commission rules by renumbering the alpha-numeric sequence within the rule; and make various stylistic, formatting, and grammatical changes.

7. The statutory authority for the proposed rules is found in §§ 29-20-108, 40-1-103.5, 40-2-108, 40-2-124(2), 40-3-102, 40-3-103, 40-3-104.3, 40-3-111, 40-3-114, 40-4-101, 40-4-106, 40-4-108, 40-4-109, 40-5-103, 40-8.7-105(5), and 40-9.5-107(5), C.R.S.

8. Considering the limited scope of the proceeding as set forth in the NOPR and the Commission's desire to refine the product of the preceding rulemakings, the Commission requested that interested persons limit their comments to the proposed amendments only. This docket was not to be construed as an opportunity to reopen contentious issues that have already been resolved in preceding rulemakings.

9. A public hearing was set before an Administrative Law Judge (ALJ) for November 15 and 16, 2006 at 9:00 a.m. in a Commission hearing room in Denver, Colorado. Prior to the hearing written comments were filed by Aquila, Inc. doing business as Aquila Networks-PNG (Aquila). Staff of the Commission and Public Service Company of Colorado presented oral testimony at the hearing. At the conclusion of the hearing the matter was taken under advisement. The ALJ then issued Recommended Decision R06-0134 which contained the recommended rules and the ALJ's decision.

10. We grant Aquila's Exception to proposed Rule 3108(a) and make several modifications on our own motion.

C. Discussion

11. We begin with two changes we make on our own motion. The ALJ adopted rules that contained the Commission's old address. We update the rules to reflect the Commission's new address: 1560 Broadway, Suite 250, Denver, Colorado 80202.

12. We have also found an incorrect citation in proposed rule 3108(c)(I)(G). The citation should be to 3657(a)(III), (V), (VI), and (VII). We make this change in this order and the attached rules.

13. We also make corrections to minor typographical errors in the rules.

1. Rule 3108(a).

14. Aquila argues that the Commission should change its language concerning contracts and tariffs. Reasoning that the definitions of "rate" and "tariff" contained redundancies, the ALJ deleted the terms "tolls," "rentals," "charges," and "contracts" from the definition of "tariff." Aquila takes exception, stating that the ALJ's redundancy analysis was not the real issue. Aquila believes that, even though the ALJ modified the term "contracts" to "forms of contracts," the term "contract" continues to appear in the definition of "rates," effectively reincorporating the term "contract." Aquila argues that this will have the effect of requiring utilities to file specific, executed contracts (including contracts executed by all customers, suppliers, and vendors); that such a requirement would be contrary to the Commission's historic practices; that there are hundreds of these contracts executed on an annual basis; and that many problems will arise, including internal conflicts in the rules, the necessity of waiver requests to protect specific contracts from public disclosure, and uncertainty of contract approval. Aquila believes that the definition of "rate" should be modified to delete the word "contract."

15. We agree that the rule should be modified, and we will grant Aquila's Exceptions, with one caveat. Because the term "contract" is specifically derived from statute (*see* § 40-3-103, C.R.S.), and because of the Commission's broad audit power (*see* § 40-6-106, C.R.S.), our ruling should not be construed to mean that the Commission has no discretion to mandate the filing of specific, executed contracts on a case-by-case basis. More generally, this decision

should not be construed to affect the Commission's jurisdiction over utility contracts in any fashion.

D. Conclusion

16. We grant Aquila's Exception, and make other modifications to the rules on our own motion, as discussed above. We lift the stay ordered in Decision No. C07-0188, and set an effective date of August 1, 2007.

II. ORDER

A. The Commission Orders That:

1. The Exception filed by Aquila, Inc. is granted.

2. The Rules governing Electric Utilities appended as Attachment A to this decision are adopted.

3. We lift the stay ordered in Decision No. C07-0188.

4. The rules shall become effective on August 1, 2007.

5. The 20-day time period provided by § 40-6-114(1), C.R.S. to file an application for rehearing, reargument or reconsideration shall begin on the first day after the effective date of this Order.

6. The opinion of the Attorney General of the State of Colorado shall be obtained regarding the constitutionality and legality of the rules.

7. A copy of the rules adopted by the Order shall be filed with the Office of the Secretary of State for publication in The Colorado Register. The rules shall be submitted to the Office of Legislative Legal Services, for review by the Committee on Legal Services as to whether the adopted rules conform with § 24-4-103, C.R.S.

8. This Order is effective upon its Mailed Date.

B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING April 25, 2007.

(S E A L)

ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

RON BINZ

POLLY PAGE

CARL MILLER

Commissioners

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COLORADO DEPARTMENT OF REGULATORY AGENCIES

Public Utilities Commission

4 *CODE OF COLORADO REGULATIONS* (CCR) 723-3

PART 3
RULES REGULATING ELECTRIC UTILITIES

BASIS, PURPOSE, AND STATUTORY AUTHORITY.

The basis and purpose of these rules is to describe the electric service to be provided by jurisdictional utilities and master meter operators to their customers; to designate the manner of regulation over such utilities and master meter operators; and to describe the services these utilities and master meter operators shall provide. In addition, these rules identify the specific provisions applicable to public utilities or other persons over which the Commission has limited jurisdiction. These 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, master meter operations, flexible regulation, procedures for administering the Low-Income Energy Assistance Act, cost allocation between regulated and unregulated operations, recovery of costs, the acquisition of renewable energy, small power producers and cogeneration facilities, and appeals regarding local government land use decisions. The statutory authority for these rules can be found at §§ 29-20-108, 40-1-103.5, 40-2-108, 40-2-124(2), 40-3-102, 40-3-103, 40-3-104.3, 40-3-111, 40-3-114, 40-4-101, 40-4-106, 40-4-108, 40-4-109, 40-5-103, 40-8.7-105(5), and 40-9.5-107(5), C.R.S.

GENERAL PROVISIONS

3000. Scope and Applicability.

(a) Absent a specific statute, rule, or Commission Order which provides otherwise, all rules in this Part 3 (the 3000 series) shall apply to all jurisdictional electric utilities and electric master meter operators and to Commission proceedings concerning electric utilities or electric master meter operators providing electric service.

(b) The following rules in this Part 3 shall apply to cooperative electric associations which have elected to exempt themselves from the Public Utilities Law pursuant to § 40-9.5-103, C.R.S.:

(I) Rules 3002 (a)(I), (a)(II), (a)(IV), (a)(V), (a)(XVI), (b), and (c) concerning the filing of applications for certificate of public convenience and necessity for franchise or service territory, for certificate amendments, to merge or transfer, or for appeals of local land use decisions.

(II) Rules 3005 (a)(III) (IV), (d), (e), (g), and (h) concerning records under RUS accounting system and preservation of records.

(III) Rule 3006 (a) (b) (c) (d) and (e) concerning the filing of annual reports, designation for service of process, and election of applicability of Title 40, Article 8.5.

(IV) Rules 3008 (b) and (d) concerning incorporation by reference.

(V) Rules 3100 and 3103 concerning application for and amendment of a certificate of public convenience and necessity relating to a franchise.

(VI) Rules 3101 and 3103 concerning application for and amendment of a certificate of public convenience and necessity relating to service territory.

(VII) Rule 3104 concerning application to transfer assets, to obtain a controlling interest, or to merge with another entity.

(VIII) Rule 3204 concerning incidents occurring in connection with the operation of facilities.

(IX) Rule 3207 (a) and (b), concerning construction and expansion of distribution facilities.

(X) Rules 3250 through 3253 concerning major event reporting.

(XI) Rule 3411 concerning the Low-Income Energy Assistance Act unless the cooperative electric association has exempted themselves pursuant to rule 3411(c).

(XII) Rules 3650- through 3655 provided the cooperative electric association has more than 40,000 customers and has not either voted to exempt themselves from rules 3650- through 3655 through the process in rule 3652 or has adopted a substantially similar program as outlined in rule 3653.

(XIII) Rules 3700 through 3707 concerning appeals of local governmental land use decisions actions.

(c) The following rules in this Part 3 shall apply to **cooperative electric generation and transmission associations**:

(I) Rules 3002 (a)(III), (a)(XVI), (b), and (c) concerning the filing of applications for certificates of public convenience and necessity for facilities or for appeals of local land use decisions.

(II) Rule 3006(h) concerning the filing of least-cost planning reports.

(III) Rule 3102 concerning applications for certificates of public convenience and necessity for facilities.

(IV) Rule 3103 concerning amendments to certificates of public convenience and necessity for facilities.

(V) Rule 3104 concerning application to transfer, to obtain a controlling interest, or to merger with another entity.

(VI) Rule 3200 concerning construction, installation, maintenance, and operation of facilities.

(VII) Rule 3204 concerning incidents occurring in connection with the operation of facilities.

(VIII) Rule 3205 concerning construction or expansion of generating capacity.

(IX) Rule 3206 concerning construction or extension of transmission facilities.

(X) Rule 3253(a) concerning major event reporting.

(XI) Rules 3602, 3605, and 3614(a) concerning least-cost resource planning.

(XII) Rules 3700 through 3707 concerning appeals of local governmental land use decisions actions.

3001. Definitions.

The following definitions apply throughout this Part 3, except where a specific rule or statute provides otherwise. In addition to the definitions stated here, the definitions found in the Public Utilities Law apply to these rules. In the event of a conflict between these definitions and a statutory definition, the statutory definition shall apply.

(a) "Affiliate" of a public utility means a subsidiary of a public utility, a parent corporation of a public utility, a joint venture organized as a separate corporation or partnership to the extent of the individual public utility's involvement with the joint venture, a subsidiary of a parent corporation of a public utility or where the public utility or the parent corporation has a controlling interest over an entity.

(b) "Applicant for service" means a person who applies for utility service and who either has taken no previous utility service from that utility or has not taken utility service from that utility within the most recent 30 days.

(c) "Average error" means the arithmetic average of the percent registration at light load and at heavy load, giving the heavy load registration a weight of four and the light load registration a weight of one.

(d) "Basis ~~P~~point" means one-hundredth of a percentage point (100 basis points = 1~~%).~~ percent).

(e) "Benefit of service" means the use of utility service by each person of legal age who resides at a premises to which service is delivered and who is not registered with the utility as the customer of record.

(f) "Commission" means the Colorado Public Utilities Commission.

(g) "Customer" means any person who is currently receiving utility service. Any person who moves within a utility's service territory and obtains utility service at a new location within 30 days shall be considered a "customer." Unless stated in a particular rule, "customer" applies to any class of customer as defined by the Commission or by utility tariff.

(h) "Creep" means that, with all load wires disconnected, a meter's moving element makes one complete revolution in ten minutes or less.

(i) "Distribution extension" is any construction of distribution facilities, including primary and secondary distribution lines, transformers, service laterals, and appurtenant facilities (except meters and meter installation facilities), necessary to supply service to one or more additional customers.

(j) "Distribution facilities" are those lines designed to operate at the utility's distribution voltages in the area as defined in the utility's tariffs including substation transformers that transform electricity to a distribution voltage and also includes other equipment within a transforming substation which is not integral to the circuitry of the utility's transmission system.

(k) "Energy assistance organization" means the nonprofit corporation established for low-income energy assistance pursuant to § 40-8.5-104, C.R.S.

(l) "Heavy load" means not less than 60 percent, but not more than 100 percent, of the nameplate-rated capacity of a meter.

(m) "Informal complaint" means an informal complaint as defined and discussed in the Commission's Rules Regulating Practice and Procedure.

(n) "Light load" means approximately five to ten percent of the nameplate-rated capacity of a meter.

(o) "Load" means the power consumed by an electric utility customer over time (measured in terms of either demand or energy or both).

(p) "Local office" means any Colorado office operated by a utility at which persons may make requests to establish or to discontinue utility service. If the utility does not operate an office in Colorado, "local office" means any office operated by a utility at which persons may make requests to establish or to discontinue utility service in Colorado.

(q) "Main service terminal" means the point at which the utility's metering connections terminate. Main service terminals are accessed by removing the meter dial face from the meter housing.

(r) "MVA" means mega-volt amperes and is the vector sum of the real power and the reactive power.

(s) "Output" means the energy and power produced by a generation system.

(t) "Past due" means the point at which a utility can affect a customer's account for regulated service due to non-payment of charges for regulated service.

(u) "Principal place of business" means the place, in or out of the State of Colorado, where the executive or managing principals who directly oversee the utility's operations in Colorado are located.

(v) "Reference standard" means suitable indicating electrical equipment permanently mounted in a utility's laboratory and used for no purpose other than testing rotating standards.

(w) "Regulated charges" means charges billed by a utility to a customer if such charges are approved by the Commission or contained in a tariff of the utility.

(x) "Rotating standard" means a portable meter used for testing service meters.

(y) "RUS" means the Rural Utilities Service of the United States Department of Agriculture, or its successor agencies.

(z) "Security" includes any stock, bond, note, or other evidence of indebtedness.

(aa) "Service connection" is the location on the customer's premises/facilities at which a point of delivery of power between the utility and the customer is established. For example, in the case of a typical residential customer served from overhead secondary supply, this is the location at which the utility's electric service drop conductors are physically connected to the customer's electric service entrance conductors.

(bb) "Staff" means Staff of the Public Utilities Commission.

(cc) "Transmission extension" is any construction of transmission facilities and appurtenant facilities, including meter installation facilities (except meters), which is connected to and enlarges the utility's transmission system and which is necessary to supply transmission service to one or more additional customers.

(dd) "Transmission facilities" are those lines and related substations designed and operating at voltage levels above the utility's voltages for distribution facilities , including but not limited to related substation facilities such as transformers, capacitor banks, or breakers that are integral to the circuitry of the utility's transmission system.

(ee) "Unregulated charges" means charges that are billed by a utility to a customer and that are not regulated or approved by the Commission, are not contained in a tariff filed with the Commission, and are for service or merchandise not required as a condition of receiving regulated utility service.

(ff) "Utility" means any public utility as defined in § 40-1-103, C.R.S., providing electric, steam, or associated services in the state of Colorado.

(gg) "Utility service" or "service" means a service offering of a public utility, which service offering is regulated by the Commission.

3002. Applications.

(a) By filing an appropriate application, any utility may ask that the Commission take action regarding any of the following matters:

(I) For the issuance or extension of a certificate of public convenience and necessity for a franchise, as provided in rule 3100.

(II) For the issuance or extension of a certificate of public convenience and necessity for service territory, as provided in rule 3101.

(III) For the issuance of a certificate of public convenience and necessity for construction of facilities, as provided in rule 3102.

(IV) For the amendment of a certificate of public convenience and necessity in order to change, extend, curtail, abandon, or discontinue any service or facility, as provided in rule 3103.

(V) To transfer a certificate of public convenience and necessity, to obtain a controlling interest in any utility, to transfer assets within the jurisdiction of the Commission or stock, or to merge a utility with another entity, as provided in rule 3104.

(VI) For approval of the issuance, or assumption of any security or to create a lien pursuant to § 40-1-104, as provided in rule 3105.

(VII) For flexible regulatory treatment to provide service without reference to tariffs, as provided in rule 3106.

(VIII) For approval of an air quality improvement program, as provided for in rule 3107.

(IX) To amend a tariff on less than statutory notice, as provided in rule 3109.

(X) For variance of voltage standards, as provided in rule 3202.

(XI) For approval of meter and equipment testing practices, as provided in rule 3303.

(XII) For approval of a meter sampling program, as provided in rule 3304.

(XIII) For approval of a refund plan, as provided in rule 3410.

(XIV) For approval of a Low-Income Energy Assistance Plan, as provided in rule 3411.

(XIV) For approval of a cost assignment and allocation manual, as provided in rule 3503.

(XVI) ~~(XV)~~ For approval of or for amendment to a least-cost resource plan, as provided in rules 3603, 3613, and 3615.

(XVII) For approval of a compliance plan, as provided in rule 3657.

(XVIII) For appeal of local government land use decision, as provided in rule 3703.

(XIX~~VIII~~) 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 applying utility.

(II) The name(s) under which the applying utility is, or will be, providing service in Colorado.

(III) The name, address, telephone number, facsimile number, and e-mail address of the applying utility's representative to whom all inquiries concerning the application should be made.

(IV) A statement that the applying utility agrees to answer all questions propounded by the Commission or its Staff concerning the application.

(V) A statement that the applying utility shall permit the Commission or any member of its Staff to inspect the applying utility's books and records as part of the investigation into the application.

(VI) A statement that the applying utility understands that, if any portion of the application is found to be false or to contain material misrepresentations, any authorities granted pursuant to the application may be revoked upon Commission order.

(VII) In lieu of the separate statements required by subparagraphs (b)(IV) through (VI) of this rule, a utility may include a statement that it has read, and agrees to abide by, the provisions of subparagraphs (b)(IV) through (VI) of this rule.

(VIII) A statement describing the applying utility's existing operations and general service area in Colorado.

(IX) For applications listed in subparagraphs (a)(I), (II), (III), (V), and (VI) of this rule, a copy of the applying utility's or parent company's and consolidated subsidiaries' most recent audited balance sheet, income statement, statement of retained earnings, and statement of cash flows so long as they provide Colorado specific financial information.

(X) A statement indicating the town or city, and any alternative town or city, in which the applying utility prefers any hearings be held.

(XI) Acknowledgment that, by signing the application, the applying utility understands that:

(A) The filing of the application does not by itself constitute approval of the application.

(B) If the application is granted, the applying utility shall not commence the requested action until the applying utility complies with applicable Commission rules and any conditions established by Commission order granting the application.

(C) If a hearing is held, the applying utility must present evidence at the hearing to establish its qualifications to undertake, and its right to undertake, the requested action.

(D) In lieu of the statements contained in subparagraphs (b)(XI)(A) through (C) of this rule, an applying utility may include a statement that it has read, and agrees to abide by, the provisions of subparagraphs (b)(XI)(A) through (C) of this rule.

(XII) An ~~statement~~ attestation which is made under penalty of perjury; which is signed by an officer, a partner, an owner, an employee of, an agent for, or an attorney for the applying utility, as appropriate, who is authorized to act on behalf of the applying utility; and which states that the contents of the application are true, accurate, and correct. The application shall contain the title and the complete address of the affiant.

(c) In addition to the requirements of specific rules, all applications ~~either shall include the following items or shall incorporate the following items by referring to information on file with the Commission in a miscellaneous docket created for that purpose. Applying utilities choosing to keep an item on file with the Commission in such miscellaneous docket shall keep the most current version on file and shall state in the application when the item was last filed with the Commission. Applying utilities choosing to include an item with the application shall include it in~~

~~the following order and specifically identified either in the application or in appropriately identified attached exhibits:~~shall include the information listed in subparagraphs (a)(I) through (V) of rule 1310. Applying utilities may either include the information in the application itself, or incorporate the information by reference to the miscellaneous docket created under rule 1310.

~~(I) A copy of the applying utility's applicable organizational documents (e.g., Articles of Incorporation, Partnership Agreement, Articles of Organization).~~

~~(II) If the applying utility is not organized in Colorado, a current copy of the certificate issued by the Colorado Secretary of State authorizing the applying utility to transact business in Colorado.~~

~~(III) The name, business address, and title of each officer, director, and partner.~~

~~(IV) The names and addresses of affiliated companies that conduct business with the Colorado utility.~~

~~(V) The name and address of the applying utility's Colorado agent for service of process.~~

(d) Customer notice. Except as required or permitted by § 40-3-104, C.R.S., if the applicant is required by statute, Commission rule, or order to provide notice to its customers of the application, the applicant shall, within seven days after filing an application with the Commission, cause to have published notice of the filing of the application in each newspaper of general circulation in the municipalities impacted by the application. The applicant shall provide proof of such customer notice within 14 days of the publication in the newspaper. Failure to provide such notice or failure to provide the Commission with proof of notice may cause the Commission to deem the application incomplete. The applicant may also be required by statute, Commission rule, or order to provide additional notice to its customers of the application by first-class mailing or by hand-delivery. Both the newspaper notice and any additional customer notice(s) shall include the following:

(I) The title "Notice of Application by [Name of the Utility] to [Purpose of Application]".

(II) State that [Name of Utility] has applied to the Colorado Public Utilities Commission for approval to [Purpose of Application]. If the utility commonly uses another name when conducting business with its customers, the "also known as" name should also be identified in the notice to customers.

(III) Provide a brief description of the proposal and the scope of the proposal, including an explanation of the possible impact upon persons receiving the notice.

(IV) Identify which customer class(es) will be affected and the monthly customer rate impact by customer class, if customers' rates are affected by the application.

(V) Identify the proposed effective date of the application.

(VI) Identify that the application was filed on less than statutory notice or if the applicant requests an expedited Commission decision, as applicable.

(VII) State that the filing is available for inspection in each local office of the applicant and at the Colorado Public Utilities Commission.

(VIII) Identify the docket number of the proceeding, if known at the time the customer notice is provided.

(IX) State that any person may file written comment(s) or objection(s) concerning the application with the Commission. As part of this statement, the notice shall identify both the address and e-mail address of the Commission and shall state that the Commission will consider all written comments and objections submitted prior to the evidentiary hearing on the application.

(X) State that if a person desires to participate as a party in any proceeding before the Commission regarding the filing, such person shall file an intervention in accordance with the rule 1401 of the Commissions Rules of Practice and Procedure or any applicable Commission order.

(XI) State that the Commission may hold a public hearing in addition to an evidentiary hearing on the application and that if such a hearing is held members of the public may attend and make statements even if they did not file comments, objections or an intervention. State that if the application is uncontested or unopposed, the Commission may determine the matter without a hearing and without further notice.

(XII) State that any person desiring information regarding if and when hearings may be held shall submit a written request to the Commission or, alternatively, shall contact the External Affairs section of the Commission at its local or toll-free phone number. Such statement shall also identify both the local and toll-free phone numbers of the Commission's External Affairs section.

3003. [Reserved].

3004. Disputes and Informal Complaints.

(a) For purposes of this rule, "dispute" means a concern, difficulty, or problem which needs resolution and which a customer or a person applying for service brings directly to the attention of the utility without the involvement of Staff or the Commission.

(b) A dispute may be initiated orally or in writing. Using the procedures found in rule 1301, a utility shall conduct a full and prompt investigation of all disputes concerning utility service.

(c) In accordance with the procedures in rule 1301, each utility shall conduct a full and prompt investigation of all informal complaints concerning utility service.

(d) A utility shall comply with all rules regarding the timelines for responding to informal complaints.

(e) If a current customer, or an applicant for service that is not a current customer, is dissatisfied with the utility's proposed adjustment or disposition of a dispute, the utility shall inform the person, customer or applicant for service of the right to make an informal complaint to the External Affairs

section of the Commission and shall provide to the person, customer or applicant for service the address and toll free number of the Commission's External Affairs section.

(f) Each utility shall keep a record of each informal complaint and of each dispute. The record shall show the name and address of the initiating customer or person applying for service, the date and character of the issue, and the adjustment or disposition made. This record shall be open at all times to inspection by the person who initiated the informal complaint or dispute, by the Commission, and by Staff.

3005. Records.

(a) Except as a specific rule may require, every utility shall maintain, for a period of not less than three years, and shall make available for inspection at its principal place of business during regular business hours, the following:

(I) Records concerning disputes and informal complaints, which records are created pursuant to rule 3004.

(II) Records of daily load and monthly plant output, which records are created pursuant to rule 3201.

(III) Records of service voltage measurements, which records are created pursuant to rule 3202(a).

(IV) Records concerning interruptions of service, which records are created pursuant to rule 3203.

(V) Records concerning certification and calibration of meter testing equipment, which records are created pursuant to rule 3303.

(VI) Records concerning meter testing upon customer request, which records are created pursuant to rule 3305.

(VII) Records concerning meters and their associated testing, which records are created pursuant to rule 3306.

(VIII) Customer billing records, which records are created pursuant to rule 3401(a).

(IX) Customer deposit records, which records are created pursuant to rule 3403.

(X) Records and supporting documentation concerning its cost assignment and allocation manual and fully-distributed cost study pursuant to rules 3503(g) and 3504(e), for so long as the manual and study are in effect or are the subject of a complaint or a proceeding before the Commission.

(XI) Records concerning the utility's inspection of Qualifying Facilities, which records are created pursuant to rules 3927(c) and (e).

(b) A utility shall maintain at each of its local offices and at its principal place of business all tariffs filed with the Commission and applying to Colorado rate areas. If the utility maintains a website, it shall also maintain its current and complete tariffs on its website.

(c) Each utility shall maintain its books of account and records in accordance with the provisions of 18 C.F.R. Part 101, the Uniform System of Accounts, amended as of April 1, 2005. A utility shall maintain its books of accounts and records separately from those of its affiliates.

(d) Each cooperative electric association which is a RUS borrower shall maintain its books of account and records in accordance with the provisions of 7 C.F.R. Part 1767, effective as of January 1, 2005.

(e) Each non-RUS borrower cooperative electric association shall maintain its books of account and records either consistent with the provisions of 18 C.F.R. Part 125, effective as of April 1, 2004, or consistent with the provisions of 7 C.F.R. Part 1767, effective as of January 1, 2005.

(f) Each utility shall preserve its records in accordance with the provisions of 18 C.F.R. Part 125, the Preservation of Records of Public Utilities and Licensees, amended as of April 1, 2005.

(g) Each cooperative electric association that is a RUS borrower shall preserve its records in accordance with the provisions of Rural Utilities Service Bulletin 180-2, effective June 26, 2003.

(h) Each non-RUS borrower cooperative electric association shall preserve records consistent with the provisions of 18 C.F.R. Part 101, effective as of April 1, 2004.

3006. Reports.

(a) On or before April 30th of each year, each utility shall file with the Commission an annual report for the preceding calendar year. The utility shall submit the annual report on forms prescribed 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; and shall file the required number of copies pursuant to rule 1204(a)(IV) of the Commission's Rules of Practice and Procedure. If the Commission grants the utility an extension of time to file the annual report, the utility nevertheless shall 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 certified public accountant prepares an annual report for a utility, the utility shall file two copies of the report with the Commission within 30 days after publication. ~~If a utility publishes an annual report or an annual statistical report to stockholders, other security holders or members, or if it receives an annual certified public accountant's report of its business, the utility shall file one copy of the report with the Commission within 30 days after publication or receipt of such report.~~

(c) A cooperative electric association shall file with the Commission a report listing its designation of service.

(d) A cooperative electric association shall file with the Commission a report of election to be governed by § 40-8.5-102, C.R.S., pertaining to unclaimed monies. This report shall be filed within 60 days of the election.

(e) Pursuant to rule 3204, a utility shall file with the Commission a report concerning any incident which results in death, serious injury, or significant property damage.

(f) Pursuant to rules 3252 and 3253, a utility shall file with the Commission a report concerning any major event.

(g) Pursuant to rule 3411(e)(IV), a utility shall file with the Commission a report concerning its fund administration of the Low-Income Energy Assistance Act.

(hg) Pursuant to rules 3503(a), 3504(a), and 3503(i), a utility shall file with the Commission cost assignment and allocation manuals, fully-distributed cost studies, and required updates.

(ih) Pursuant to rule 3614(a), a utility shall file with the Commission an annual progress report concerning the utility's least-cost resource plan.

(ji) Pursuant to rule 3614(b), a utility shall file with the Commission reports on competitive acquisition bidding of the utility's least-cost resource plan.

(k) Pursuant to rule 3662, a utility shall file with the Commission its annual compliance report.

(jl) A utility shall file with the Commission any report required by a rule in this 3000 series of rules.

(km) A utility shall file with the Commission such special reports as the Commission may require.

3007. [Reserved].

3008. Incorporation by Reference.

(a) The Commission incorporates by reference 18 C.F.R. Part 101 (as published on April 1, 20052006) regarding the Uniform System of Accounts Prescribed for Public Utilities and Licensees Subject to the Provisions of the Federal Power Act. No later amendments to or editions of 18 C.F.R. Part 101 are incorporated into these rules.

(b) The Commission incorporates by reference 7 C.F.R. Part 1767 (as published on January 1, 20052006) regarding the Uniform System of Accounts Prescribed for RUS Electric Borrowers. No later amendments to or editions of 7 C.F.R. Part 1767 are incorporated into these rules.

(c) The Commission incorporates by reference 18 C.F.R. Part 125 (as published on April 1, 20052006) regarding the Preservation of Records of Public Utilities and Licensees. No later amendments to or editions of 18 C.F.R. Part 125 are incorporated into these rules.

(d) The Commission incorporates by reference RUS Bulletin 180-2 (as published on June 26, 2003) regarding Record Retention Recommendations for RUS Electric Borrowers. No later amendments to or editions of RUS Bulletin 180-2 are incorporated into these rules.

(e) The Commission incorporates by reference the National Electrical Safety Code, C2-2002 2007 edition, published by the Institute of Electrical and Electronics Engineers and endorsed by the American National Standards Institute. No later amendments to or editions of the National Electrical Safety Code are incorporated into these rules.

(f) The Commission incorporates by reference 18 C.F.R., Subchapter K, Part 292, Subparts A, B and C (as published on April 1, ~~2005~~2006) regarding §§ 201 and 210 of the Public Utility Regulatory Policies Act of 1978. No later amendments to or editions of 18 C.F.R., Subchapter K, Part 292, Subparts A, B and C are incorporated into these rules.

(g) Any material incorporated by reference in this Part 3 may be examined at the offices of the Commission, ~~1580 Logan Street, OL-2~~1560 Broadway, Suite 250, Denver, Colorado 8020~~3~~2, during normal business hours, Monday through Friday, except when such days are state holidays. Certified copies of the incorporated standards shall be provided at cost upon request. The Director or the Director's designee will provide information regarding how the incorporated standards may be examined at any state public depository library.

3009. - 3099. [Reserved]

OPERATING AUTHORITY

3100. Certificate of Public Convenience and Necessity for a Franchise.

(a) A utility seeking authority to provide service pursuant to a franchise shall file an application pursuant to this rule. When a utility enters into a franchise agreement with a municipality for the first time, it shall obtain authority from the Commission pursuant to § 40-5-102, C.R.S. prior to providing service under that initial franchise agreement. A utility maintains the right and obligation to serve a municipality within its service territory after the expiration of any franchise agreement.

(b) An 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:

(I) The information required in rules 3002(b) and 3002(c).

(II) A statement of the facts (not conclusory statements) relied upon by the applying utility to show that the public convenience and necessity require the granting of the application.

(III) 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 city or town sought to be served.

(IV) A certified copy of the franchise ordinance; proof of publication, adoption, and acceptance by the applying utility; 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.

(V) A statement describing in detail the extent to which the applying utility is an affiliate of any other utility which holds authority duplicating in any respect the authority sought.

(VI) A copy of a feasibility study for areas previously not served by the applying utility, which study shall at least include estimated investment, income, and expense. An applying utility may request that its most recent audited balance sheet, income statement,

statement of retained earnings, and statement of cash flows be submitted in lieu of a feasibility study.

(VII) A statement of the names of public utilities and other entities of like character providing similar service in or near the area sought to be served.

3101. Certificate of Public Convenience and Necessity for Service Territory.

(a) A utility seeking authority to provide service in a new service territory shall file an application pursuant to this rule. A utility cannot provide service to a new geographic area without authority from the Commission, unless the utility extends its facilities and service:

(I) ~~w~~Within a city and county or city or town within which the utility has lawfully commenced operations~~,~~;

(II) ~~or the utility extends its facilities and service i~~Into territory contiguous to the utility's facility, line, plant, or system that is not ~~therefore~~ served by a public utility providing the same commodity or service~~,~~; or

(III) ~~the utility extends its facilities and service w~~Within or to territory already served by the utility and the extension is necessary in the ordinary course of business.

(b) An application for certificate of public convenience and necessity to provide service in a new territory 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 3002(b) and 3002(c).

(II) A statement of the facts (not conclusory statements) relied upon by the applying utility to show that the public convenience and necessity require the granting of the application.

(III) A description of the type of utility service to be rendered and a description of the area sought to be served.

(IV) A map showing the specific geographic area that the applying utility proposes to serve. If the applying utility 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.

(V) A statement describing in detail the extent to which the applying utility is an affiliate of any other utility which holds authority duplicating in any respect the territory sought.

(VI) 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.

(VII) A copy of a feasibility study for the proposed area to be served, which shall at least include estimated investment, income, and expense. An applying utility may request that its most recent audited balance sheet, income statement, statement of retained earnings, and statement of cash flows be submitted in lieu of a feasibility study.

3102. Certificate of Public Convenience and Necessity for Facilities.

(a) A utility seeking authority to construct and to operate a facility or an extension of a facility pursuant to § 40-5-101, C.R.S., shall file an application pursuant to this rule. The utility need not apply to the Commission for approval of construction and operation of a facility or an extension of a facility which is in the ordinary course of business. The utility shall apply to the Commission for approval of construction and operation of a facility or an extension of a facility which is not in the ordinary course of business.

(b) An application for certificate of public convenience and necessity to construct and to operate facilities or an extension of a facility pursuant to § 40-5-101, C.R.S., 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 3002(b) and 3002(c).

(II) A statement of the facts (not conclusory statements) relied upon by the applying utility to show that the public convenience and necessity require the granting of the application or citation to any Commission decision that is relevant to the proposed facilities.

(III) A description of the proposed facilities to be constructed.

(IV) Estimated cost of the proposed facilities to be constructed.

(V) Anticipated construction start date, construction period, and in-service date.

(VI) A map showing the general area or actual locations where facilities will be constructed, population centers, major highways, and county and state boundaries.

(VII) As applicable, electric one-line diagrams.

(VIII) As applicable, information on alternatives studied, costs for those alternatives, and criteria used to rank or eliminate alternatives.

(IX) As applicable, a report of prudent avoidance measures considered and justification for the measures selected to be implemented.

(X) For transmission construction or extension, the information required by paragraph (c) of this rule.

(c) For an application for a certificate of public convenience and necessity for construction or extension of transmission facilities, the applying utility shall describe its actions and techniques relating to cost-effective noise mitigation with respect to the planning, siting, construction, and operation of the proposed transmission construction or extension. The applying utility shall provide computer studies which show the potential noise levels expressed in db(A) and measured at the edge of the transmission line right-of-way. These computer studies shall be the output of utility standard programs, such as EPRI's EMF Workstation 2.51 ENVIRO Program -- Bonneville Power Administration model. The steps and techniques may include, without limitation, the following:

(I) Bundled conductors.

(II) Larger conductors.

(III) Design alternatives considering the spatial arrangement of phasing of conductors.

(IV) Corona-free attachment hardware.

(V) Conductor quality.

(VI) Handling and packaging of conductor.

(VII) Construction techniques.

(VIII) Line tension.

(d) For an application for a certificate of public convenience and necessity for construction or extension of transmission facilities, the applying utility shall describe its actions and techniques relating to prudent avoidance with respect to planning, siting, construction, and operation of the proposed construction or extension. As used in this paragraph, "prudent avoidance" means the striking of a reasonable balance between the potential health effects of exposure to magnetic fields and the cost and impacts of mitigation of such exposure, by taking steps to reduce the exposure at reasonable or modest cost. The steps and techniques may include, without limitation, the following:

(I) Design alternatives considering the spatial arrangement of phasing of conductors.

(II) Routing lines to limit exposures to areas of concentrated population and group facilities such as schools and hospitals.

(III) Installing higher structures.

(IV) Widening right of way corridors.

(V) Burying lines.

3103. Certificate Amendments for Changes in Service, in Service Territory, or in Facilities.

(a) A utility seeking authority to do the following shall file an application pursuant to this rule: amend a certificate of public convenience and necessity in order to extend, to restrict, to curtail, or to abandon or to discontinue without equivalent replacement any service, service area, or facility. A utility ~~can~~shall not extend, restrict, curtail, or abandon or discontinue without equivalent replacement, any service, service area, or facility not in the ordinary course of business without authority from the Commission.

(b) An application to amend a certificate of public convenience and necessity in order to change, to extend, to restrict, to curtail, to abandon, or to discontinue any service, service area, 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 3002(b) and 3002(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 3102.

(III) If the application for amendment pertains to a certificate of public convenience and necessity for franchise rights, all of the information required in rule 3100.

(IV) If the application for amendment pertains to a certificate of public convenience and necessity for service territory, all of the information required in rule 3101.

(V) If the application for amendment pertains to a service, the application shall include:

(A) The requested effective date for the extension, restriction, curtailment, or abandonment or discontinuance without equivalent replacement of the service.

(B) A description of the extension, restriction, curtailment, or abandonment or discontinuance without equivalent replacement sought. This shall include maps, as applicable. This shall also include a description of the applying utility's existing operations and general service area.

(c) Customer notice of application. In addition to complying with the notice requirements of the Commission's Rules Regulating Practice and Procedure, a utility applying to curtail, restrict, abandon or discontinue service without equivalent replacement shall prepare a written notice as provided in rule 3002(d)(I) - (XII) and shall mail or deliver the notice at least 30 days before the application's requested effective date to each of the applying utility's affected customers. The customer notice shall include a statement detailing the requested restriction, curtailment, or abandonment or discontinuance without equivalent replacement.

(d) If no customers will be affected by the grant of the application, the notice must meet the requirements of 3002(d)(I) – (XII) and 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) In addition to complying with the notice requirements of the Commission's Rules Regulating Practice and Procedure, a utility applying to curtail, restrict, abandon or discontinue service without equivalent replacement shall prepare a written notice as provided in paragraph (d) 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 applying utility'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.~~

~~(d) The notice required by paragraph (c) of the rule shall contain all of the following:~~

~~(I) The name of the applying utility.~~

~~(II) A statement detailing the requested restriction, curtailment, or abandonment or discontinuance without equivalent replacement and the requested effective date.~~

~~(III) A statement 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 that, in order to participate as a party, a person must file an appropriate and timely intervention according to the Commission's Rules Regulating Practice and Procedure.~~

~~(V) The Commission's full address.~~

~~(e) Not later than 15 days before the requested effective date, the applying utility shall file with the Commission a written affidavit stating its compliance with the notice requirements of paragraphs (c) and (d) of this rule. The affidavit shall state the date the notice was completed and the method used to give notice. The applying utility shall attach a copy of the notice to the affidavit.~~

3104. Transfers, Controlling Interest, and Mergers.

(a) A utility seeking authority to do any of the following shall file an application pursuant to this rule: transfer a certificate of public convenience and necessity; transfer or obtain a controlling interest in a utility, whether the transfer of control is effected by the transfer of assets, by the transfer of stock, by merger or by other form of business combination; or transfer assets subject to the jurisdiction of the Commission outside the normal course of business. A utility cannot transfer a certificate of public convenience and necessity; transfer or obtain a controlling interest in any utility; or transfer assets outside the normal course of business without authority from the Commission.

(b) An application to transfer a certificate of public convenience and necessity, to transfer or obtain a controlling interest in a utility, or to transfer assets subject to the jurisdiction of the Commission 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 3002(b) and 3002(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 transaction which is the subject of the application.

(III) Copies of any agreement for merger, sales agreement, or contract of sale pertinent to the transaction which is the subject of the application.

(IV) Facts showing that the transaction which is the subject of the application is not contrary to the public interest.

(V) An evaluation of the benefits and detriments to the customers of each party and to all other persons who will be affected by the transaction which is the subject of the application.

(VI) A comparison of the kinds and costs of service rendered before and after the transaction which is the subject of the application.

(c) An application to transfer a certificate of public convenience and necessity, an application to transfer assets subject to the jurisdiction of the Commission, or an application to transfer or obtain control of the utility may be made by joint or separate application of the transferor and the transferee.

(d) When control of a utility is transferred to another entity, or the utility's name is changed, the utility which will afterwards operate under the certificate of public convenience and necessity shall file with the Commission a tariff adoption notice, shall post the tariff adoption notice in a prominent public place in each local office and principal place of business of the utility, and shall have the tariff adoption notice available for public inspection at each local office and principal place of business. Adoption notice forms are available from the Commission. The tariff 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.

(IV) The number of the tariff after adoption and the description or title of the tariff after adoption.

(V) Unless otherwise requested by the applying utility in its application, a statement that the adopting utility is adopting as its own all rates, rules, terms, conditions, agreements, concurrences, instruments, and all other provisions that have been filed or adopted by the previous utility.

3105. Securities and Liens.

(a) Subject to the exception contained in paragraph (h) of this rule, a utility which either derives more than five percent of its consolidated gross revenues in Colorado as a public utility or derives a lesser percentage if its revenues are earned by supplying an amount of energy which equals five percent or more of Colorado's consumption shall file an application for Commission approval of any proposal to issue or to assume any security or to create a lien.

(b) An application for the issuance or assumption of securities with a maturity of 12 months or more or to create a lien 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 3002(b) and 3002(c).

(II) A copy of the resolution of the applying utility's board of directors approving the issuance, renewal, extension, or assumption of the securities or to create a lien, together with, as applicable and available, copies of the proposed indenture requirements, the mortgage note, the amendment to the loan contract, and the contract for sale of securities or creation of a lien.

(III) A statement describing ~~each~~ all short-term and long-term indebtedness outstanding on the date of the most recent balance sheet.

(IV) A statement describing the classes and amounts of capital stock authorized by the articles of incorporation and the amount by each class of capital stock outstanding on the date of the most recent balance sheet.

(V) A statement of capital structure showing common equity, long-term debt, preferred stock, if any, and pro forma capital structure on the date of the most recent balance sheet giving effect to the issuance of the proposed securities. Debt and equity percentages to total capitalization, actual and pro forma, shall be shown.

(VI) A statement of the amount and rate of dividends declared and paid, or the amount and year of capital credits assigned and capital credits refunded, during the previous four calendar years including the present year to the date of the most recent balance sheet.

(VII) A statement describing the type and amount of securities to be issued; the anticipated interest rate or dividend rate; the redemption or sinking fund provisions, if any; and, within ~~10~~ ten days of their filing with the Securities and Exchange Commission, a copy of the registration statement, related forms, and preliminary prospectus filed with the Securities and Exchange Commission relating to the proposed issuance.

(VIII) A statement of proposed uses, including construction, to which the funds will be or have been applied and a concise statement of the need for the funds.

(IX) A statement of the estimated cost of financing.

(c) For applications for the creation of a lien on the applying utility's property situated within the State of Colorado where the creation of the lien is not related to the issuance or assumption of a security, the application shall also include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attached exhibits:

(I) A description of the property which will be subject to the lien.

(II) The amount of the lien.

(III) The proposed use of the funds to be received from the lien.

(IV) The estimated cost for the creation of the lien.

(V) The anticipated duration of the lien.

(VI) The anticipated release date of the lien.

(VIII) The retirement payment plan to release the lien.

(IX) A ~~statement describing~~ description of how the applying utility will ensure that neither the creation of the lien nor the use of the proceeds will violate § 40-3-114, C.R.S.

(X) A statement that, for the duration of the lien, the applying utility will advise the Commission within ten days of any bankruptcy, foreclosure, or liquidation proceeding.

(XI) A statement that the applying utility will advise the Commission within ten days of any deviation from its lien retirement payment plan.

(d) The Commission shall ~~publish~~give notice of the application, which shall set a ten-day intervention period and a hearing date.

(e) ~~Within three days after the filing of an application to issue or to assume a security, the applying utility shall publish notice of the filing of the application in a newspaper of general circulation.~~Customer notice. ~~The notice shall~~ In addition to the requirements of paragraph 3002(d)(I) – (XII), the notice shall include ~~the address of the applicant.~~contain the following information:

~~(I) The name and address of the applying utility.~~

~~(II) A statement of the purpose of the application, including a statement of the effect the application would have upon existing customers if granted.~~

~~(III) A statement that any person may intervene in the application proceeding by complying with the applicable rule of the Commission's Rules Regulating Practice and Procedure.~~

(f) The applying utility shall file with the Commission a copy of the published notice and an affidavit of publication as soon as possible after the filing of the application. The Commission shall not grant the application without a filed copy of the notice and the affidavit of publication.

(g) The Commission shall give priority to an application made pursuant to this rule and shall grant or deny the application within 30 days after filing, unless the Commission, for good cause shown, enters an order granting an extension and stating fully the facts necessitating the extension. The Commission shall approve or disapprove an application made pursuant to this rule by written order.

(h) Pursuant to § 40-1-104, C.R.S., a utility may issue, renew, extend or assume liability on securities, other than stocks, with a maturity date of not more than 12 months after the date of issuance, whether secured or unsecured, without application to or order of the Commission provided that no such securities so issued shall be refunded, in whole or in part, by any issue of securities having a maturity of more than 12 months except on application to and approval of the Commission.

(i) Any security requiring Commission approval, but issued or assumed without such approval, shall be void.

3106. Flexible Regulation to Provide Jurisdictional Service Without Reference to Tariffs.

(a) A utility seeking authority to provide a jurisdictional service without reference to a tariff shall file an application pursuant to this rule. A utility cannot provide a jurisdictional service without reference to a tariff without authority from the Commission.

(b) An application for flexible regulation to provide jurisdictional service without reference to tariffs 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 3002(b) and 3002(c).

(II) The name of the customer or potential customer.

(III) A description of the jurisdictional service or services which the applying utility seeks to provide to a customer or a potential customer.

(IV) A ~~statement describing~~ description of the manner in which the applying utility will provide the jurisdictional service or services if it contracts with a customer or potential customer.

(V) ~~A statement of t~~The facts (not ~~in~~ conclusory ~~form~~statements) which the applying utility believes satisfy the requirements of § 40-3-104.3(1)(a), C.R.S.

(VI) A statement that the applying utility has provided, or will provide when available, copies of the application and contract as required by paragraph (c) of this rule.

(c) The contract which is the subject of the application shall be filed when available with the Commission under seal pursuant to rules 1100 – 1102 and § 40-3-104.3(1)(b), C.R.S. The applying utility shall furnish a copy of the application and, when it is available, of the contract, under seal, to the OCC. Unless the applying utility requests other treatment, the Commission and the OCC shall treat the contract as confidential. If the Commission grants a protective order preserving the confidentiality of the contents of an application, then the applying utility shall also furnish a non-confidential copy of the application without the contract to any utility then providing service to the customer or potential customer.

(d) The direct testimony and exhibits to be offered at hearing shall accompany the application unless the applying utility believes that the application will be uncontested and unopposed. If an exhibit is large or cumbersome, the applying utility shall file the exhibit with the Commission; shall provide, for the benefit of the intervenors, the title of the exhibit and a summary of the information contained in the exhibit; and shall state the location (other than the Commission) at which parties may inspect the exhibit.

(e) Prefiled testimony or exhibits shall not be modified once filed unless the modification is to correct typographical errors or misstatements of fact or unless all parties to the proceeding agree to the modification. In the event a substantive modification is made without the agreement of all parties, the Commission may consider the effect of the substantive modification as a basis for a motion to continue in order to allow the Staff or any other party a reasonable opportunity to investigate and, if necessary, to address the modification.

(f) The Commission shall ~~provide~~ give notice of the application. Any person desiring to intervene in a proceeding initiated pursuant to § 40-3-104.3, C.R.S., and this rule shall move to do so within five days of the date the Commission provides notice.

(g) Within five days of receiving written notice of an intervention in a proceeding initiated pursuant to § 40-3-104.3, C.R.S., and this rule, the applying utility shall hand-deliver or otherwise provide to

the intervenor a non-confidential copy of the application and the applying utility's prefiled testimony and exhibits.

(h) Unless the Commission orders otherwise, the applying utility shall publish notice of the application in a newspaper of general circulation within three days of the filing of the application.

(i) The notice provided by the applying utility shall include ~~contain~~ the following information, in addition to the information required by rule 3002(d)(I) – (XII):

(I) The ~~name and~~ address of the applying utility.

~~(II) A statement that the applying utility is seeking an order from the Commission authorizing the applying utility to provide jurisdictional service under contract without reference to its tariffs.~~

(II~~I~~) The name of the customer(s) or potential customer(s) involved.

(III~~V~~) A statement that the identified customer(s) or potential customer(s) may have the ability to provide its/their own service or may have competitive alternatives available to it/them.

(IV) A general description of the jurisdictional services to be provided.

(V~~I~~) A statement of where affected customers may call to obtain information concerning the application.

~~(VII) A statement that anyone may file a written objection to the application but that the mere filing of a written objection will not permit participation as a party in any proceeding before the Commission.~~

(VI~~II~~) A statement that anyone desiring to participate as a party must file a petition to intervene within five days from the date of Commission notice of the application and that the intervention must comport with the Commission's Rules Regulating Practice and Procedure.

(j) Within three days of providing notice, the applying utility shall file with the Commission an affidavit showing proof of publication of notice.

(k) On a case-by-case basis, the Commission may require the applying utility to provide additional information.

(l) Should an application be filed which the Commission determines is not complete, the Commission or Staff shall notify the applying utility within seven days from the date the application is filed of the need for additional information. The applying utility may then supplement the application so that it is complete. Once the application is complete, the Commission will process the application, with all applicable timelines running from the date the application is completed.

(m) The Commission shall issue an order approving or disapproving the application within the time permitted under § 40-3-104.3(1)(b), C.R.S.

(n) At the time of any proceeding in which a utility's overall rate levels are determined, the Commission shall require the utility to file a fully distributed cost method which segregates investments, revenues, and expenses associated with jurisdictional utility service provided pursuant to contract from other regulated utility operations in order to ensure that jurisdictional utility service provided pursuant to contract is not subsidized by revenues from other regulated utility operations. If revenues from a service provided by a utility pursuant to contract are less than the cost of service for that service, the rates for other regulated utility operations shall not be increased to recover the difference.

(o) The applying utility shall provide final contract or other description of the price and terms of service as specified in § 40-3-104.3(1)(e), C.R.S.

3107. Voluntary Air Quality Improvement Programs pursuant to § 40-3.2-102, C.R.S.

(a) A utility seeking authority for cost recovery of a voluntary air quality improvement program shall file an application pursuant to this rule. The utility cannot recover the cost of a voluntary air quality improvement program without authority from the Commission.

(b) An application for cost recovery of a voluntary air quality improvement program 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 3002(b) and 3002(c).

(II) A copy of the voluntary agreement entered into pursuant § 40-3.2-102(1), C.R.S.

(III) An analysis demonstrating that the proposed cost recovery mechanism complies with, and does not exceed, the rate impact cap, the total cost cap, and the recovery period limit established in § 40-3.2-102(3), C.R.S.

(IV) A written acknowledgment that any revenues the applying utility receives from transferring, selling, banking, or otherwise using allowances under title IV of the federal Clean Air Act shall be credited to the applying utility's customers to offset air quality improvement costs if such revenues are a result of a voluntary agreement entered into under part 12 of article 7 of title 25 C.R.S., as required by § 40-3.2-102(4), C.R.S.

(V) A statement as to whether the applying utility's generating capacity will increase under the voluntary agreement for air quality improvement.

(VI) A statement as to whether, pursuant to § 40-3.2-102(7), C.R.S., the applying utility intends to seek recovery of a portion of the air quality improvement costs from its wholesale customers and, if it does so intend, whether the applying utility intends to credit its retail customers for air quality improvement costs recovered from wholesale customers.

3108. Tariffs ~~and Contracts~~.

(a) A utility shall keep on file with the Commission the following documents pertaining to retail electric service: its current Colorado tariffs, forms of contracts~~, privileges, contract forms,~~ and electric

service agreements. These documents, unless filed under seal shall be available for public inspection at the Commission and at the principal place of business of the utility.

(b) All tariffs shall comply with rule 1210 of the Commission's Rules of Practice and Procedure. ~~Tariffs shall plainly show all terms, conditions, rates, tolls, rentals, charges, and classifications collected or enforced, or to be collected and enforced, with respect to regulated services and products. A utility's tariffs shall include at least the following:~~

(c) Filing and contents of tariff.

(I) In addition to the requirements and contents in rule 1210, the following shall be included in a utility's tariff, as applicable:

(~~I~~A) Information regarding the utility's voltages, pursuant to rule 3202.

~~(II) Information regarding the utility's line extension policies, procedures, and conditions, pursuant to rule 3210.~~

(~~III~~B) Information regarding the utility's meter testing equipment and facilities, scheduled meter testing, meter testing records, fees for meter testing upon request, and meter reading, pursuant to rules 3303, 3304, 3305, 3306, and 3309.

(~~IV~~C) Information regarding the utility's benefit of service transfer policies, pursuant to rule 3401(c).

~~(V) Information regarding the utility's customer deposit policy, pursuant to rule 3403.~~

(~~VI~~D) Information regarding the utility's installment payment plans and other plans, pursuant to rule 3404.

(~~VII~~E) Information regarding the utility's collection fees or miscellaneous service charges, pursuant to rules 3404(c)(VI) and (VIII).

(~~VIII~~F) Information regarding the utility's after-hour restoration fees, pursuant to rule 3409(b).

(G) Information regarding the utility's renewable energy program pursuant to rules 3657(a)~~(II) through (a)(VII).~~(III), (V), (VI) and (VII).

(~~I~~X~~H~~) Information regarding the utility's avoided costs, pursuant to rule 3902(b).

(~~X~~I) Rules, regulations, and policies covering the relations between the customer and the utility.

3109. New or Changed Tariffs.

(a) A utility shall file with the Commission any new or changed tariffs. No new or changed tariff shall be effective unless it is filed with the Commission and either is allowed to go into effect by operation of law or is approved by the Commission.

(b) A utility shall use one of the following processes to seek to add a new tariff or to change an existing tariff:

(I) The utility may file the proposed tariff, including the proposed effective date, accompanied by an advice letter pursuant to rule 1210. The utility shall provide notice in accordance with rule 1206(e) and (f). If the Commission does not suspend the proposed tariff in accordance with rule 1305 prior to the tariff's 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. The utility shall provide notice in accordance with rule 1206(e) and (f)~~1206~~. The application shall include the information required in rules 3002(b) and 3002(c); shall explain the details of the proposed tariff, including financial data if applicable; shall state the facts which are the basis for the request that the proposed tariff become effective on less than 30-days' notice; and shall note any prior Commission action, in any proceeding, pertaining to the present or proposed tariff.

(III) Unless the Commission orders otherwise, a utility shall be permitted to file new tariffs complying with an order of the Commission or updating adjustment clauses previously approved by the Commission on not less than one business days' notice. Any filing made on one business day's notice shall be filed by noon in order to become effective on the next business day. No additional notice beyond the tariff filing itself shall be required.

~~(c) Each tariff sheet which is 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 (for example, "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 Commission decision, the tariff sheet shall show the specific authority or Commission decision number in the space provided at the foot of the sheet.~~

~~(d) The Commission may reject any tariff that is not in the form, or does not contain the information, required by statute, by rule, or by Commission order and decision. Any tariff rejected by the Commission shall be void and shall not be used.~~

3110. Advice Letters.

(a) All advice letter filings shall comply with rule 1210 of the Commission's Rules of Practice and Procedure.

(b) In addition to the requirements and contents in rule 1210, the advice letter shall include the estimated amounts, if any, by which the utility's revenues will be affected, calculated on an annual basis.

(c) Customer notice of advice letter. If the utility is required by statute, Commission rule, or order to provide notice to its customers of the advice letter, such notice shall include the requirements of paragraph 3002(d)(I) – (XII).

~~Each proposed tariff shall be accompanied by a serially numbered advice letter. The letter shall list all sheets included in the filing by number and shall show the sheets being cancelled, if any. The advice letter shall state the purpose of the filing; shall identify each change being proposed; shall state the amounts, if any, by which the utility's revenues will be affected; shall summarize clearly the extent to which customers will be affected; and shall provide information demonstrating that the proposed tariff is just and reasonable.~~

3111. – 3199. [Reserved].

FACILITIES

3200. Construction, Installation, Maintenance, and Operation.

(a) The plant, equipment, and facilities of a utility shall be constructed, installed, inspected, maintained, and operated in accordance with accepted engineering practice in the electric industry to assure continuity of service, uniformity in the quality of service, and the safety of persons and property.

(b) For all electric plant construction or installation, the minimum standard of accepted engineering practice is the edition of the National Electrical Safety Code in effect at the time of commencing construction or installation of the electric plant.

(c) Any utility plant that was constructed or installed, and that is maintained and operated, in accordance with the National Electrical Safety Code in effect at the time of its construction or installation shall be presumed to be in compliance with accepted engineering practice in the electric industry and with the provisions of this rule.

3201. Production Plant Instruments.

Each electric utility shall install such indicating watt meters, watt-hour meters, or other instruments as may be necessary to obtain a daily record of the load and a monthly record of the output of its production plants. Each utility purchasing electrical energy shall install such instruments or meters as may be necessary to furnish full information as to the monthly purchases.

3202. Standard Voltage and Frequency; Applications for Variance.

(a) A utility must make every reasonable effort consistent with good engineering practices to maintain a constant frequency and constant voltage on its facilities at all times.

(b) A utility shall periodically measure and record service voltages maintained at the utility's main service terminals as installed for individual customers or groups of customers. Those service voltages shall be practically constant as follows:

(I) For service rendered under a lighting contract or primarily for lighting purposes, the voltage shall be maintained within five percent above or below the standard stated in the utility's tariff.

(II) For service rendered under a power contract or primarily for power purposes, the voltage shall be maintained within ten percent above or below the standard stated in the utility's tariff.

(c) The following shall not be considered a violation of paragraph (b) of this rule:

(I) A temporary variation in voltage in excess of those specified if caused by the operation of power apparatus on a customer's premises which necessarily require large starting currents, provided that only the customer's premises are affected. If other customers are affected, the utility shall work with the customer causing the variation to resolve the voltage fluctuation/violation problem or problems.

(II) A temporary variation in voltage in excess of those specified if caused by the action of the elements.

(III) A temporary variation in voltage in excess of those specified if caused by infrequent, unavoidable, and short-duration fluctuations due to necessary station or line operations.

(d) If a utility seeks to operate at a greater variation in voltages than permitted by paragraph (b) of this rule, the utility shall file an application for a variance. An application for variance shall include:

(I) All information required in rules 3002(b) and 3002(c).

(II) Delineation of the geographic boundaries of the service territory for which the variance is sought.

(III) A statement of the facts (not ~~in~~ conclusory ~~form~~ statements) which supports the need for the requested variance.

(IV) A demonstration that the applying utility proposes to provide the best voltage regulation practicable under the circumstances.

(e) The Commission may allow a greater variation of voltage when:

(I) Service is furnished directly from a transmission line.

(II) Service is furnished in a limited or extended area where customers are widely scattered and the business done within that area does not justify close voltage regulation (such as individual customers or small groups of customers whose service from a transmission line is incidental).

(f) Each utility's tariff shall include a description of test methods, equipment, and frequency of testing used to determine the voltage of electric service furnished.

(g) Each utility's tariff shall include a description of standard average voltage, or voltages, and frequency, or frequencies, as may be required by:

(I) The utility's distribution system,

(II) The utility's entire system, or

(III) Each of the several districts into which the utility's system may be divided.

3203. Interruptions of Service.

(a) Each utility shall keep a record of every service interruption (including, without limitation, forced outages caused by events outside of the utility's control, scheduled outages, or sustained outages) which occurs on its entire system or on a major division of its system. The record shall include at least a statement of the time, the duration, and the cause of any service interruption.

(b) The records of service interruptions and a statement of the utility's operating schedules shall be open at all times to the inspection of the duly authorized representatives of the Commission. The utility shall retain these records for five years.

(c) As used in this rule, "service interruption" means a loss of service consistent with IEEE Standard Number 1366, Guide for Electric Power Distribution Reliability Indices.

3204. Incidents Resulting in Death, Serious Injury or Significant Property Damage.

(a) Each utility shall inform the Commission of all incidents which occur in connection with the operation of its property, facilities, or service and which result in death, serious injury, or significant property damage ~~In compliance with the policies adopted from time to time by the Commission to implement this rule and~~ within two hours (120 minutes) of learning of the incident., ~~each utility shall inform the Commission of an incident which occurs in connection with the operation of its property, facilities, or service and which results in death, serious injury, or significant property damage~~.

(b) Within 30 calendar days of the incident, the utility shall submit a written report to the Director of the Commission. The report shall contain at least the following information:

(I) Date, time, place, and location of the incident.

(II) Type of incident.

(III) Names of all persons involved.

(IV) Nature and extent of injury and damage.

(c) If the utility conducts an internal investigation of an incident referred to in paragraph (a) above, the utility shall make its report available to the Commission upon request by the Commission. The utility may provide paragraphs (b)(III) and (b)(IV) of this report on a confidential basis under seal.

3205. Construction or Expansion of Generating Capacity.

(a) No utility may commence new construction or an expansion of generation facilities or projects until either the Commission notifies the utility that such facilities or projects do not require a certificate of public convenience and necessity or the Commission issues a certificate of public

convenience and necessity for the facility or project. Rural electric cooperatives do not need a certificate of public convenience and necessity for new construction or an expansion of generation facilities provided that such construction or expansion is contained entirely within the cooperative's certificated area.

(b) The following shall be deemed to occur in the ordinary course of business and shall not require a certificate of public convenience and necessity:

(I) New construction or expansion of existing generation, which will result in an increase in generating capacity of less than ten megawatts.

(II) A generating plant remodel, or installation of any equipment or building space, required for pollution control systems.

(c) For each new construction or expansion of existing generation that will result in an increase in generating capacity of ten megawatts or more, the electric utility shall submit to the Commission, no later than April 30 of each year, a filing for a determination of which of the utility's proposed new construction or expansions for the next three calendar years, commencing with the year following the filing, are necessary in the ordinary course of business and which require a certificate of public convenience and necessity prior to construction. For each project, the filing shall contain the following:

(I) The name, proposed location, and function or purpose of the project.

(II) The estimated cost of the project and the manner in which it is expected to be financed.

(III) The projected date for the start of construction, the estimated date of completion, and the estimated date of commencement of operation.

(d) The Commission will give notice of each filing made pursuant to paragraph (c) of this rule to all those who it believes may be interested. Any interested person may file comments regarding the projects by May 15.

(e) The Staff shall review the filing and any comments received and shall make recommendations in accordance with the following schedule:

(I) For any new construction or expansion project which is scheduled to begin in the year of the filing or the next calendar year and which will result in an increase in generating capacity of ten megawatts or more, the Staff shall make its recommendations by May 31 of the year in which the filing is made.

(II) For any new construction or expansion project which is scheduled to begin in the second or third calendar year following the year in which the filing is made and which will result in an increase in generating capacity of ten megawatts or more, the Staff shall make its recommendations by August 31 of the year in which the filing is made.

(f) The Commission shall issue its decision in accordance with the following schedule:

(I) For any new construction or expansion project which is scheduled to begin in the calendar year of the filing or in the next calendar year and which will result in an increase in generating capacity of ten megawatts or more, the decision designating each generation project that requires a certificate of public convenience and necessity will be issued by June 30 of the year in which the filing is made.

(II) For any new construction or expansion project which is scheduled to begin in the second or third calendar year following the year in which the filing is made and which will result in an increase in generating capacity of ten megawatts or more, the decision designating each generation project that requires a certificate of public convenience and necessity will be issued by October 31 of the year in which the filing is made.

3206. Construction or Extension of Transmission Facilities.

(a) No utility and no cooperative electric association which has voted to exempt itself pursuant to § 40-9.5-103, C.R.S., may commence new construction, or extension of transmission facilities or projects until either the Commission notifies the utility that such facilities or projects do not require a certificate of public convenience and necessity or the Commission issues a certificate of public convenience and necessity. Rural electric cooperatives which have elected to exempt themselves from the Public Utilities Law pursuant to § 40-9.5-103, C.R.S., do not need a certificate of public convenience and necessity for new construction or extension of transmission facilities or projects when such construction or expansion is contained entirely within the cooperative's certificated area.

(b) Certain modifications to transmission facilities that were not part of the construction design authorized through a previous Commission determination shall be reviewed by the Commission for determination of whether a certificate of public convenience and necessity is needed for the proposed modification or whether the proposed modification is in the ordinary course of business. Modifications requiring this Commission determination shall be limited to the following:

(I) ~~r~~Replacement of the existing conductor with another having a higher ampacity or with multiple conductors, with continued operation at the existing voltage;

(II) ~~m~~Modification of the transmission facility so that it will be operated at a higher voltage, with or without conductor replacement; and

(III) ~~e~~Extensions of existing substations that require acquisition of additional land for expansion of the substation yard.

All other modifications to existing transmission facilities shall not require a certificate of public convenience and necessity and shall be deemed to be in the ordinary course of business.

(c) No later than April 30 of each year, each electric utility and each cooperative electric association which has voted to exempt itself pursuant to § 40-9.5-103, C.R.S., shall submit to the Commission a filing for a determination of which of the utility's proposed new construction or extension of transmission facilities for the next three calendar years, commencing with the year following the filing, are necessary in the ordinary course of business and which require a certificate of public convenience and necessity prior to construction. The filing shall contain a reference to all such proposed new construction or extensions, regardless of whether the utility or

cooperative electric association has referenced such new construction or extensions in prior annual filings. For each project, the filing shall contain the following:

(I) The name, proposed location, and function or purpose of the project, including:

(A) If the project is a substation or related facilities: the voltage level and the MVA rating.

(B) If the project is a transmission line: the voltage, the length in miles, the substation termination points.

(II) The estimated cost of the project and the manner in which it is expected to be financed.

(III) The projected date for the start of construction, the estimated date of completion, and the estimated date of commencement of operation of each project.

(IV) For new construction or extensions that have been referenced in prior annual filings, an update of the status of, and any changes to, such new construction or extensions.

(d) In addition to the information provided in paragraph (c) of this rule, the filing shall describe the utility's actions and techniques relating to prudent avoidance with respect to planning, siting, construction, and operation of the proposed construction or extension. As used in this paragraph, "prudent avoidance" means the striking of a reasonable balance between the potential health effects of exposure to magnetic fields and the cost and impacts of mitigation of such exposure, by taking steps to reduce the exposure at reasonable or modest cost. The steps and techniques may include, without limitation, the following:

(I) Design alternatives that consider~~ing~~ the spatial arrangement of phasing of conductors.

(II) Routing lines to limit exposures to areas of concentrated population and group facilities such as schools and hospitals.

(III) Installing higher structures.

(IV) Widening right of way corridors.

(V) Burying lines.

(e) In addition to the information provided in paragraph (c) of this rule, the applying utility shall describe its actions and techniques relating to cost-effective noise mitigation with respect to the planning, siting, construction, and operation of the proposed transmission construction or extension. If the transmission facility has reached the design stage where noise levels can be calculated, the applying utility shall provide computer studies which show the potential noise levels expressed in db(A) and measured at the edge of the transmission line right-of-way. These computer studies shall be the output of utility standard programs, such as EPRI's EMF Workstation 2.51 ENVIRO Program -- Bonneville Power Administration model. The steps and techniques may include, without limitation, the following:

(I) Bundled conductors.

(II) Larger conductors.

(III) Design alternatives considering the spatial arrangement of phasing of conductors.

(IV) Corona-free attachment hardware.

(V) Conductor quality.

(VI) Handling and packaging of conductor.

(VII) Construction techniques.

(VIII) Line tension.

(f) The Commission will give notice of each filing made pursuant to this rule to all those who it believes may be interested. Any interested person may file comments regarding the projects by May 15.

(g) The Staff shall review the filing and any comments received and shall make recommendations according to the following schedule:

(I) For any new construction or extension which is scheduled to begin in the calendar year of the filing or in the next calendar year, the Staff shall make its recommendations by May 31 of the year in which the filing is made.

(II) For any new construction or extension which is scheduled to begin in the second or third calendar year following the year in which the filing is made, the staff shall make its recommendations by August 31 of the year in which the filing is made.

(h) The Commission shall issue its decision n accordance with the following schedule:

(I) For any new construction or extension of transmission facilities or projects which is scheduled to begin in the calendar year of the filing or in the next calendar year, the decision designating each transmission facility that requires a certificate of public convenience and necessity will be issued by June 30 of the year in which the filing is made.

(II) For any new construction or extension of transmission facilities which is scheduled to begin in the second or third calendar year following the year in which the filing is made, the decision designating each transmission facility that requires a certificate of public convenience and necessity will be issued by October 31 of the year in which the filing is made.

(i) The utility shall install and maintain service connections from transmission extensions consistent with conditions contained in the utility's tariff.

(j) In addition to the list of new construction or extension of transmission facilities, each utility shall provide by April 30 of each year a list of projects built during the past calendar year. These projects, considered as being done in the normal course of business, shall include the following:

(I) New and /or the replacement of transformers, breakers, or capacitor banks with larger transformers, breakers or capacitor banks.

(II) The raising and/or strategic placement of transmission structures in order to raise the conductor, thereby increasing clearance, permitting more current flow and increasing the MVA rating.

(III) The declaration of a higher rating for a line after an engineering and physical inspection such that existing line clearances are sufficient to allow more current flow, thereby increasing the MVA rating.

3207. Construction or Expansion of Distribution Facilities.

(a) Expansion of distribution facilities, as authorized in § 40-5-101, C.R.S., is deemed to occur in the ordinary course of business and shall not require a certificate of public convenience and necessity.

(b) The utility shall install and maintain service connections from distribution extensions consistent with conditions contained in the utility's tariff.

(c) When a customer or potential customer requests a cost estimate of a distribution line extension, the utility shall provide a photovoltaic system cost comparison, if the following conditions are met:

(I) The customer or potential customer provides the utility with load data (estimated monthly kilowatt-hour usage) as requested by the utility to conduct the comparison.

(II) The customer or potential customer's peak demand is estimated to be less than 25 KW.

(d) In performing a photovoltaic system cost comparison analysis, the utility will consider line extension distance, overhead/underground construction, terrain, other variable construction costs, and the probability of additions to the line extension within the life of the open extension period.

(e) If the customer or potential customer has a ratio of estimated monthly kilowatt-hour usage divided by line extension mileage that is less than or equal to 1,000 (i.e., kWh/Mileage is <=1,000), the utility shall provide the photovoltaic system cost comparison at no cost to the customer or potential customer. If the ratio is greater than 1,000, the customer or potential customer shall bear the cost of the comparison, if the cost comparison is requested by the customer or potential customer.

3208. Poles.

(a) In the case of two or more utilities jointly owning or using a pole or pole line structure, each of the utilities shall mark each pole or structure with the initials of its name, abbreviation of its name, corporate symbol, or other distinguishing mark so that the ownership of such structure may be readily and definitely determined.

(b) A utility shall mark each wood pole, post, tower, or other structure used for the support or attachment of electrical conductors, guys, or lamps, with dating nails or similar devices indicating the year in which the structure was installed.

(c) In accordance with prudent utility practices, a utility shall inspect, and shall timely repair or replace, each of the following which it owns or uses: poles, posts, towers, or other structures used for the support or attachment of electrical conductors, guys, or lamps.

(d) The requirements of this rule shall apply to all existing and future erected structures and to all changes in ownership.

3209. Service Connections.

Service connections to customer premises or property involving overhead or underground equipment shall be installed and maintained consistent with the conditions stated in the utility's tariff. In special cases involving either overhead or underground service connections and as necessary, the Commission will prescribe the proper charge.

3210. Line Extension.

(a) Each utility shall have tariffs which set out its line extension policies, procedures, and conditions.

(b) Specific tariff provisions for making overhead or underground service connections, for transmission line extensions, and for distribution line extensions shall include:

(I) Service connections and distribution line extensions by customer class and the appropriate terms and conditions under which those connections and extensions will be made.

(II) Provisions requiring the utility to provide to a customer or to a potential customer, upon request, service connection information necessary to allow the customer's or potential customer's facilities to be connected to the utility's system.

(III) Provisions requiring the utility to exercise due diligence in providing the customer or potential customer with an estimate of the anticipated cost of a connection or extension.

(IV) Provisions addressing steps to ameliorate the rate and service impact upon existing customers, including equitably allowing future customers to share costs incurred by the initial or existing customers served by a connection or extension (as, for example, by including a refund of customer connection or extension payments when appropriate).

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

(c) Upon request by a customer or a potential customer, the utility shall conduct a comparison of photovoltaic energy to any proposed distribution line extension if a customer or potential customer provides the utility with load data (estimated monthly kWh usage) requested by the utility to conduct the comparison and if the customer's or potential customer's peak demand is estimated to be less than 25 KW. In performing the comparison analysis, the utility will consider line extension distance, overhead/underground construction, terrain, other variable construction costs, and the probability of additions to the line extension during the life of the open extension period. If the customer has a ratio of estimated monthly kWh usage divided by line extension mileage that is less than or equal to 1,000 (i.e., kWh/Mileage is <=1,000), the utility shall provide

the photovoltaic system cost comparison at no cost to the customer or potential customer. If the ratio is greater than 1,000, the customer or potential customer shall bear the cost of the comparison, if the cost comparison is requested by the customer or potential customer.

3211. – 3249. [Reserved].

MAJOR EVENTS REPORTING

The purpose of this section is to provide timely information to the Commission regarding major events on electric systems that result in loss of electric service to its customers. The data gathered pursuant to this section will be for information purposes in order to provide the Commission with an active and current record as to the reliability of the electric systems in Colorado. The intent of these rules is to merely provide the Commission with information which is already compiled by the utilities following a major event on their system.

3250. Definitions.

The following definition applies to rules 3250- through 3253, unless a specific statute or rule provides otherwise. In the event of a conflict between these definitions and a statutory definition, the statutory definition shall apply. A "Major Event" means an event as defined in and consistent with IEEE Standard Number 1366-2003, Guide for Electric Power Distribution Reliability Indices.

3251. Notification to Commission.

Each utility shall notify the Commission of a major event as soon as possible, but in any event no later than the first business day following the major event.. The notification of the event should be by e-mail sent to the Chief Engineer of the Fixed Utilities Section of the Commission at the following e-mail address: PUC@dora.state.co.us.

3252. Report.

(a) Within 15 calendar days after the end of a major event, a utility shall submit a written report to the Director of the Commission.

(b) At a minimum, the report shall include the following:

(I) The date and time when the major event began; the date and time when the utility's control center began treating the situation as a major event; and the date and time when the utility classified the major event as closed.

(II) The total number of customers out-of-service over the course of the major event and the general (by city or district level) area in which the major event occurred.

(III) The total number of affected locations by facility classification.

(IV) The date and time at which any mutual aid and non-utility contractor crews were requested; the date and time when each such crew arrived for duty; the date and time when each such crew was released from duty; and the non-utility contractor response(s) to the request(s) for assistance.

(V) A timeline profile on the number of utility line crews, mutual aid crews, and non-utility contractor line and tree crews working on restoration activities during the major event.

(VI) Identification of the cause(s) of the major event and of the factors which contributed to the major event.

(VII) A listing of each new or existing policy, procedure, and guideline which the utility will implement or has implemented in order to prevent a similar major event or recurrence of the major event in the future.

(VIII) An affidavit of an officer of the utility, which affidavit verifies the information in the report.

3253. Supplemental or Additional Major Event Reporting.

(a) With respect to generation and transmission disturbances, utilities shall provide to Commission Staff, on a confidential basis, copies of any reports required by the Western Electricity Coordinating Council.

(b) With respect to generation and transmission disturbances, utilities shall provide to Commission Staff, on a confidential basis, copies of any Emergency Incident and Disturbance Reports filed with the Energy Information Administration of the United States Department of Energy on significant transmission or generation disturbances.

(c) At such time and in such form as the Commission may require, each utility shall furnish to the Commission a report in which the utility specifically answers all questions propounded regarding a major event or events and provides such other information relevant to the major event and the restoration of service as the Commission may request. The Commission may require utilities to provide these supplemental or additional reports at regular intervals, to be determined by the Commission, and on a form approved by the Commission. Periodic or special reports concerning any matter about which the Commission is concerned relative to the occurrence of one or more major events shall be furnished in a manner determined by the Commission and on a form approved by the Commission.

3254. – 3299. [Reserved].

METERS

3300. Service Meters and Related Equipment.

(a) All meters used in connection with electric metered service for billing purposes shall be furnished, installed, and maintained by the utility.

(b) ~~Any~~ All equipment, devices, or facilities (including, without limitation, service meters) furnished by the utility and which the utility maintains and renews shall remain the property of the utility and may be removed by it at any time after discontinuance of service.

(c) Each electric service meter shall indicate clearly the kWh and units of demand, where applicable, for which the customer is charged. In cases in which the register and/or chart reading must be multiplied by a constant or factor to obtain the units consumed, the factor, factors, or constant

shall be clearly marked either on the register or face of the meter or in permanently attached and clearly visible documentation at the meter location. In cases in which the metering installation is of such a complex nature that disclosure of the constant or factor used is unsuitable to inform the customer of quantities of utility service being consumed, the utility shall attach at the meter location instructions on how the customer can receive such information from the utility.

3301. Location of Service Meters.

(a) As of the time of installation, meters shall be located in accordance with the pertinent utility tariffs and in accordance with accepted safe practice and electric utility industry standards.

(b) As of the time of installation, meters shall be located so as to be easily accessible for reading, testing, and servicing in accordance with accepted safe practice and in accordance with electric utility industry standards.

3302. Service Meter Accuracy.

(a) No service watt-hour meter that has an incorrect register constant, test constant, gear ratio or dial train, or that creeps shall be placed in service or allowed to remain in service without proper adjustment and correction.

(b) No service watt-hour meter that has an error in registration of more than plus or minus two percent, either at light load or at heavy load, shall be placed in service. Whenever a meter is found to exceed these limits, it shall be adjusted or replaced.

(c) No demand meter shall have an allowable error of more than two percent of full-scale deflection, except that the allowable error for thermal type meters may be three percent. Whenever a meter is found to exceed these limits, it shall be adjusted or replaced.

(d) Meters used with instrument transformers or current transformers shall be adjusted or replaced so that the overall accuracy of the metering installation meets the requirements of this rule.

3303. Meter Testing Equipment and Facilities.

(a) Unless specifically exempted by the Commission, each utility furnishing metered electric service shall 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 its testing practices. The application shall include:

(I) All information required by rules 3002(b) and 3002(c).

(II) A description of the test methods employed and the frequency of tests or observations for determining voltage of electric service furnished.

(III) A description of meter testing equipment, including methods employed to ascertain and maintain accuracy of all testing equipment.

(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 (II) through (IV) of this paragraph.

(c) Revisions to any portion of testing practices approved pursuant to the procedure in paragraph (b) of this rule shall be accomplished by the filing and approval of a new application.

(d) Each utility furnishing metered electric service shall provide such portable indicating electrical testing instruments or portable watt-hour meters of suitable range and type for testing switchboard instruments, recording volt-meters, service watt-hour meters, and other electrical instruments in use, as may be deemed necessary and satisfactory by the Commission.

(e) Rotating standards that are used by the utility in testing service meters shall be tested for accuracy by using reference standards. If the reference standards used by the utility are service type watt-hour meters, those watt-hour meters must be permanently mounted in the utility's laboratory and may be used for no other purpose than testing rotating standards.

(f) Reference standards shall be submitted at least once each year to a laboratory of recognized standing, for the purpose of testing and adjustment. A utility that maintains its own standardizing laboratory shall be permitted to test and certify its own reference standards, provided the instruments and methods used are acceptable to the Commission.

(g) When in use, commutator-type rotating standards shall be compared with the reference standards in accordance with the manufacturer's recommended frequency. When in use, induction-type rotating standards shall be compared with the reference standards in accordance with the manufacturer's recommended frequency. If any working rotating standard tests within plus or minus one percent error at any load at which the standard will be used, the standard may be adjusted by comparison with the utility's reference standards. However, if any working rotating standard tests in error of more than plus or minus one percent, that standard shall be tested, adjusted, and certified in a standardizing laboratory of recognized standing. If a utility is exempted as provided in paragraph (a) of this rule, it shall have its working rotating standards tested by a standardizing laboratory of recognized standing at least once a year. Each rotating standard shall at all times be accompanied by a certificate or calibrating card signed by the standardizing laboratory, giving the date when it was last certified and adjusted.

(h) When in use, all electrical meter testing equipment shall have their calibration checked either annually or more frequently if specified by the manufacturer. For all instruments requiring an as found/as left date sheet, calibration certifications shall be kept on-site for a period of seven years or until the instruments are recertified by a laboratory of recognized standing, whichever is later. All instruments shall have a tag affixed stating the date calibrated and the date the instrument is due for recertification. If an instrument is found to be out of the manufacturer's specifications, the instrument shall be calibrated and certified to the manufacturer's specifications by a laboratory of recognized standing. Upon request from any person, a copy of the certification letter and date sheet shall be provided for the instrument in question.

(i) A utility shall keep records of certification and calibrations for all testing equipment required by this rule for the life of the equipment.

(j) In its tariff, a utility shall include a description of its meter testing equipment and of the methods employed to ascertain and to maintain accuracy of all testing equipment.

(k) For those paragraphs of this rule which require a utility to maintain facilities and equipment, a utility may meet those requirements by having the facilities and equipment readily available (as, for example and without limitation, by contracting with a testing facility). A utility which uses this paragraph of the rule is responsible for its compliance with the provisions of this entire rule.

(l) For those paragraphs of this rule which require a utility to test or to maintain equipment, a utility may meet those requirements by having the equipment tested by a third party (as, for example and without limitation, an independent testing facility). A utility which uses this paragraph of the rule is responsible for its compliance with the provisions of this entire rule.

3304. Scheduled Meter Testing.

(a) A utility shall test, or shall arrange for testing of, service meters in accordance with the schedule in this rule or in accordance with a sampling program approved by the Commission.

(b) If it wishes to use a sampling program, a utility shall file an application to request approval of a sampling program. The application shall include:

(I) The information required by rules 3002(b) and 3002(c).

(II) A description of the sampling program which the utility wishes to use. This description shall include, at a minimum the following:

(A) The type(s) of meters subject to the sampling plan.

(B) The frequency of testing.

(C) The procedures to be used for the sampling.

(D) The reference standard to be used for testing.

(E) The accuracy of the testing and of the sampling plan.

(III) An explanation of the reason(s) for the requested sampling program.

(IV) An analysis which demonstrates that, with respect to assuring the accuracy of the service meters tested, the requested sampling program is at least as effective as the schedule in this rule.

(c) Revisions to any portion of a sampling program approved pursuant to paragraph (b) of this rule shall be accomplished by the filing of, and Commission approval of, a new application.

(d) Every service meter must be tested and adjusted, either before installation or no later than 60 days after installation, to ensure that it registers accurately and conforms to the requirements of rule 3302. In addition, every service meter shall be tested on a periodic basis, as follows:

(I) Alternating current watt-hour meters:

(A) Polyphase meters used with instrument transformers, every four years.

(B) Single-phase meters used with instrument transformers, every eight years.

(C) Self-contained polyphase meters, every six years.

(D) Self-contained single-phase meters and three wire network meters, every eight years.

(II) Direct current watt-hour meters:

(A) Up to and including 6 KW, every 42 months.

(B) Over 6 KW up to and including 100 KW, every 18 months.

(C) Over 100 KW, every 12 months.

(III) Var-hour meters and lagged demand meters shall be tested on the same schedule as the associated watt-hour meters in subparagraph (c)(I) or (II) of this rule. Integrated (block interval) demand meters, including demand registers and associated control devices, shall be tested on the same schedule as the associated watt-hour meters in subparagraph (c)(I) or (II) of this rule, but at least every six years.

(e) ~~In its tariff, e~~Each utility shall include in its tariff a description of the utility's practices concerning ~~the following~~:

(I) Testing and adjustment of service meters at installation.

(II) Periodic testing after installation.

3305. Meter Testing Upon Request.

(a) Each utility furnishing metered electric service shall test the accuracy of any electric service meter upon request of a customer. The test shall be conducted free of charge if the meter has not been tested within the previous 12 months and if the customer agrees to accept the results of the test for the purposes of any dispute or informal complaint regarding the meter's accuracy; otherwise, the utility may charge a fee for performing the test. The utility shall provide a written report of the test results to the customer and shall maintain a copy on file for at least two years.

(b) Should a customer request and receive a meter test as prescribed in ~~R~~rule 3305(a) and continue to dispute the accuracy of a meter, upon written request by a customer the utility shall make the disputed meter available for independent testing by a qualified meter testing facility of the customer's choosing. The customer is not entitled to take physical possession of the disputed

meter. To be a qualified meter testing facility, the testing facility must be capable of testing the meter to meet all meter standards and requirements required by these rules.

(c) This rule applies only when there is disagreement between the customer and the utility regarding the accuracy of the meter. If, upon completion of an independent test as prescribed in rule 3305(b), the disputed meter is found to be accurate within the limits of rule 3302, the customer shall bear all costs associated with conducting the test. If, upon completion of an independent test as prescribed in rule 3305(b), the disputed meter is found to be inaccurate beyond the limits prescribed in rule 3302, the utility shall bear all costs associated with conducting the test.

(d) ~~In its tariff, e~~Each utility shall ~~include~~identify in its tariff the rates, terms, and conditions for all ~~any~~ fees associated with customer-requested meter testing conducted within 12 months of a prior test.

3306. Records of Tests and Meters.

(a) For each meter owned or used by it, a utility shall maintain a record showing the date of purchase, the manufacturer's serial number, the record of the present location, and the date and results of the last test performed by the utility. This record shall be retained for the life of the meter plus 30 months.

(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, and all data taken at the time of the test in a sufficiently complete form to permit the convenient checking of the method employed and the calculations made. This record shall be retained for at least two years.

3307. [Reserved].

3308. [Reserved].

3309. Meter Reading.

(a) Upon a customer's request, a utility shall provide written documentation showing the date of the most recent reading of the customer's meter and the total usage expressed in kilowatt-hours or other unit of service recorded. On request, a utility supplying metered service shall explain to its customers its method of reading meters.

(b) ~~In its tariff, a~~Each utility shall include in its tariff 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 shall specify any special conditions which apply only to certain classes of service.

(c) Absent good cause, a utility shall read a meter monthly. For good cause shown, a utility shall read a meter at least once every six months.

3310. – 3399. [Reserved].

BILLING AND SERVICE

3400. Applicability.

Rules 3400 through ~~3410~~ 3411 apply to residential customers, small commercial customers and agricultural customers served pursuant to a utility's rates or tariffs. In its tariffs, a utility shall define "residential," "small commercial" and "agricultural" customers to which these rules apply. The utility may elect to apply the same or different terms and conditions of service to other customers.

3401. Billing Information and Procedures.

(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) The net amount due for regulated charges.

(IV) The date by which payment is due, which shall not be earlier than 15 days after the mailing or the hand-delivery of the bill.

(V) A distinct marking to identify an estimated bill.

(VI) The total amount of all payments or other credits made to the customer's account during the billing period.

(VII) Any past due amount. Unless otherwise stated in a tariff or Commission rule, an account becomes "past due" on the 31st day following the due date of current charges.

(VIII) The identification of, and amount due for, unregulated charges, if applicable.

(IX) Any transferred amount or balance from any account other than the customer's current account.

(X) All other essential facts upon which the bill is based, including factors and constants, as applicable.

(b) A utility that bills for unregulated services or goods shall allocate ~~any~~ partial payments first to regulated charges and then to unregulated charges or non-tariff~~ed~~ charges and to the oldest balance due separately within each category.

(c) A utility that transfers to a customer a balance from the account of a person other than that customer shall have in its tariffs the utility's benefit of service transfer policies and criteria. The tariffs shall contain an explanation of the process by which the utility will verify, prior to billing a customer under the benefit of service tariff, that the person to be billed in fact received the benefit of service.

(d) A utility may transfer a prior unpaid debt to a customer's bill if the prior bill was in the name of the customer and the utility has informed the customer of the transferred amount and of the source of the unpaid debt (for example, and without limitation, the address of the premises to which service was provided and the period during which service was provided).

(e) If it is offered in a tariff, upon request from a customer and where it is technically feasible, a utility may have the option to provide electronic billing (e-billing), in lieu of a typed or machine-printed bill, to the requesting customer. If a utility offers the option of e-billing, the following shall apply:

(I) The utility shall obtain the affirmative consent of a customer to accept such a method of billing in lieu of printed bills.

(II) The utility shall not charge a fee for billing through the e-billing option.

(III) The utility shall not charge a fee based on customer payment options that is different from the fee charged for the use of the same customer payment options by customers who receive printed bills.

(IV) A bill issued electronically shall contain the same disclosures and Commission-required information as those contained in the printed bill provided to other customers.

3402. Adjustments for Meter and Billing Errors.

(a) A utility shall adjust customer charges for electricity 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 under rule 3302, the utility may charge for one-half of the weighted average error for the period dating from the discovery of the meter error back to the previous meter test, with such period not to exceed six months. As used in this subparagraph, "weighted average error" means the arithmetic average of the percent error at light load and at heavy load giving the heavy load error a weight of four and the light load error a weight of one.

(II) When, upon any meter accuracy test, a meter is found to be running fast in excess of error tolerance levels allowed under rule 3302, the utility shall refund one-half of the weighted average error for the period dating from the discovery of the meter error back to the previous meter test, with such period not to exceed two years. As used in this subparagraph, "weighted average error" means the arithmetic average of the percent error at light load and at heavy load giving the heavy load error a weight of four and the light load error a weight of one.

(III) When a meter does not register, registers intermittently, or partially registers for any period, the utility may estimate, using the method stated in its tariff, a charge for the electricity used based on amounts metered to the customer over a similar period in previous years. The period for which the utility charges the estimated amount shall not exceed six months.

(IV) In the event of under-billings not provided for in subparagraph (a)(I) or (III) of this rule (such as, but not limited to, an incorrect multiplier, an incorrect register, or a billing error),

the utility may charge for the period during which the under-billing occurred, with such period not to exceed six months.

(V) In the event of over-billings not provided for in subparagraph (a)(II) of this rule , the utility shall refund for the period during which the over-billing occurred, with such period not to exceed two years.

(b) The periods set out in paragraph (a) of this rule shall commence on the date on which (1) either the customer notifies the utility or the utility notifies the customer of a meter or billing error or (2) the customer informs the utility of a billing or metering error dispute or makes an informal complaint to the External Affairs section of the Commission.

(c) 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.

(d) In the event of under-billing, the customer may elect to enter into a payment arrangement on the under-billed amount. The payment arrangement shall be equal in length to the length of time during which the under-billing lasted. Such under-billings shall not be subject to interest.

3403. Applications for Service, Customer Deposits, and Third-Party Guarantee Arrangements.

(a) A utility shall process an application for utility service which is made either orally or in writing and shall apply nondiscriminatory criteria with respect to the requirement of a cash deposit prior to commencement of service.

(b) If billing records are available for a customer who has received service from the utility, the utility shall not require that person to make new or additional cash deposits to guarantee payment of current bills unless the records indicate recent or substantial delinquencies. All customers shall be treated without undue discrimination with respect to cash deposit requirements, pursuant to the utility's tariff.

(c) A utility shall not require a cash deposit from an applicant for service who provides written documentation of a 12 consecutive month good credit history from the utility from which that person received similar service. For purposes of this paragraph, the 12 consecutive months must have ended no earlier than 60 days prior to the date of the application for service.

(d) If a utility uses credit scoring to determine whether to require a cash deposit from an applicant for service or a customer, the utility shall have a tariff which describes, for each scoring model that it uses, the credit scoring evaluation criteria and the credit score limit which triggers a cash deposit requirement.

(e) All utilities requiring deposits shall offer customers at least one non-cash alternative that does not require the use of the customer’s social security number, in lieu of a cash deposit.

(f) If a utility uses credit scoring, prior payment history with the utility, or customer-provided prior payment history with a like utility as a criterion for establishing the need for a cash deposit, the utility shall include in its tariff the specific evaluation criteria which trigger the need for a cash deposit.

(g) If a utility denies an application for service or requires a cash deposit as a condition of providing service, the utility immediately shall inform the applicant for service of the decision and shall provide, within three business days, a written explanation to the applicant for service stating the reasons the application for service has been denied or a cash deposit is required.

(h) No utility shall require any security other than either a cash deposit to secure payment for utility services or a third-party guarantee of payment in lieu of a cash deposit. 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. Should the guarantor terminate service or terminate the third party guarantee before the customer has established a satisfactory payment record for 12 consecutive months, the utility, applying the criteria contained in its tariffs, may require a cash deposit or a new third party guarantor.(i) A cash 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 cash deposit shall not exceed an estimated 60 days' bill of the customer. The cash 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 in the utility's tariffs.

(j) A utility receiving cash deposits shall maintain records showing:

(I) The name of each customer making a cash deposit.

(II) The amount and date of the cash deposit.

(III) Each transaction, such as the payment of interest or interest credited, concerning the cash deposit.

(IV) Each premises where the customer receives service from the utility while the cash deposit is retained by the utility.

(V) If the cash deposit was returned to the customer, the date on which the cash deposit was returned to the customer.

(VI) If the unclaimed cash deposit was paid to the energy assistance organization, the date on which the cash deposit was paid to the energy assistance organization.

(k) ~~In its tariffs, a~~Each utility shall state in its tariff its customer deposit policy for establishing or maintaining service. The tariff shall state the circumstances under which a cash deposit will be required and the circumstances under which it will be returned.

(l) Each utility shall issue a receipt to every customer from whom a cash deposit is received. No utility shall refuse to return a cash deposit or any balance to which a customer may be entitled solely on the basis that the customer is unable to produce a receipt.

(m) The payment of a cash deposit shall not relieve any customer from the obligation to pay current bills as they become due. A utility is not required to apply any cash deposit to any indebtedness of the customer to the utility, except for utility services due or past due after service is terminated.

(n) A utility shall pay simple interest on a cash deposit at the percentage rate per annum as calculated by the Staff and in the manner provided in this paragraph.

(I) At the request of the customer, the interest shall be paid to the customer either on the return of the cash deposit or annually. The simple interest on a cash deposit shall be earned from the date the cash deposit is received by the utility to the date the customer is paid. At the option of the utility, interest payments may be paid directly to the customer or by a credit to the customer's account.

(II) The simple interest to be paid on a cash 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 12 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 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 cash 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 on an alternative date set by the Commission, containing the new rate of interest to be paid upon customers' cash deposits, except when there is no change in the rate of interest to be paid on such deposits.

(o) A utility shall have tariffs concerning third-party guarantee arrangements and, pursuant to those tariffs, shall offer the option of a third party guarantee arrangement for use in lieu of a cash deposit. The following shall apply to third-party guarantee arrangements:

(I) An applicant for service or a customer may elect to use a third-party guarantor in lieu of paying a cash deposit.

(II) The third-party guarantee form, signed by both the third-party guarantor and the applicant for service or the customer, shall be provided to the utility.

(III) The utility may refuse to accept a third-party guarantee if the guarantor is not a customer in good standing at the time of the guarantee.

(IV) The amount guaranteed shall not exceed the amount which the applicant for service or the customer would have been required to provide as a cash deposit.

(V) The guarantee shall remain in effect until the earlier of the following occurs: it is terminated in writing by the guarantor; if the guarantor was a customer at the time of undertaking the guarantee, the guarantor is no longer a customer of the utility; or the customer has established a satisfactory payment record, as defined in the utility's tariffs, for 12 consecutive months.

(VI) Should the guarantor terminate service or terminate the third party guarantee before the customer has established a satisfactory payment record for 12 consecutive months, the utility, applying the criteria contained in its tariffs, may require a cash deposit or a new third party guarantor.

(p) A utility shall pay all unclaimed monies, as defined in § 40-8.5-103(5), C.R.S., that remain unclaimed for more than two years to the energy assistance organization. "Unclaimed monies" shall not include (1) undistributed refunds for overcharges subject to other statutory provisions and rules and (2) credits to existing customers from cost adjustment mechanisms.

(I) Monies shall be deemed unclaimed and presumed abandoned when left with the utility for more than two years after termination of the services for which the cash deposit or the construction advance was made or when left with the utility for more than two years after the cash deposit or the construction advance becomes payable to the customer pursuant to a final Commission order establishing the terms and conditions for the return of such deposit or advance and the utility has made reasonable efforts to locate the customer.

(II) Interest on a cash deposit shall accrue at the rate established pursuant to paragraph (n) of this rule commencing on the date on which the utility receives the cash deposit and ending on the date on which the cash deposit is paid to the energy assistance organization. If the utility does not pay the unclaimed cash deposit to the energy assistance organization within four months of the date on which the unclaimed cash deposition is deemed to be unclaimed or abandoned pursuant to subparagraph (o)(I) of this rule, then at the conclusion of the four-month period, interest shall accrue on the unclaimed cash deposit at the rate established pursuant to paragraph (n) of this rule plus six percent.~~6%~~.

(III) If payable under the utility's line extension tariff provisions, interest on a construction advance shall accrue at the rate established pursuant to paragraph (n) of this rule commencing on the date on which the construction advance is deemed to be owed to the customer pursuant to the utility's extension policy and ending on the date on which the construction advance is paid to the energy assistance organization. If the utility does not pay the unclaimed construction advance to the energy assistance organization within four months of the date on which the unclaimed construction advance is deemed to be unclaimed or abandoned pursuant to subparagraph (o)(I) of this rule, then at the conclusion of the four-month period, interest shall accrue on the unclaimed construction advance at the rate established pursuant to paragraph (n) of this rule plus ~~6%~~six percent.

(q) A utility shall resolve all inquiries regarding a customer's unclaimed monies and shall not refer such inquiries to the energy assistance organization.

(r) If a utility has paid unclaimed monies to the energy assistance organization, a customer later makes an inquiry claiming those monies, and the utility resolves the inquiry by paying those monies to the customer, the utility may deduct the amount paid to the customer from future funds submitted to the energy assistance organization.

(s) For purposes of paragraphs (p), (q), (r) of this rule, "utility" means and includes (1) a cooperative electric association which elects to be so governed and (2) a utility as defined in rule 3001(ff).

3404. Installment Payments.

(a) In its tariffs, a utility shall have a budget or level~~ized~~ - payment plan available for its customers.

(b) In its tariff, a utility shall have an installment payment plan which permits a customer to make installment payments if one of the following applies:

(I) The plan is to pay regulated charges from past billing periods and the past due amount arises solely from events under the utility's control (such as, without limitation, 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). A utility shall advise a customer who is eligible for this type of plan of the customer's eligibility. At the request of the customer and at the customer's discretion, an installment payment plan under this subparagraph shall extend over a period equal in length to that during which the errors were accumulated and shall not include interest.

(II) The customer pays at least ten percent of the amount shown on the notice of discontinuance for regulated charges and enters into an installment payment plan on or before the expiration date of the notice of discontinuance.

(III) The customer pays at least ten percent of any regulated charges amount more than 30 days past due and enters into an installment payment plan on or before the last day covered by a medical certification. A customer who has entered into and failed to abide by an installment payment plan prior to receiving a medical certification shall pay all amounts that were due for regulated charges up to the date on which the customer presented a medical certification which meets the requirements of rule 3407(e)(IV) and then may resume the installment payment plan.

(IV) If service has been disconnected, the customer pays at least any collection and reconnection charges and enters into an installment payment plan. This subparagraph shall not apply if service was discontinued because the customer breached a prior payment arrangement.

(c) Installment payment plans shall include the following amounts that are applicable at the time the customer requests a payment arrangement:

(I) The unpaid remainder of amounts due for regulated charges shown on the notice of discontinuance.

(II) Any amounts due for regulated charges not included in the amount shown on the notice of discontinuance which have since become more than 30 days past due.

(III) All current regulated charges contained in any bill which is past due but is less than 30 days past the due date.

(IV) Any new regulated charges contained in any bill which has been issued but is not past due.

(V) Any regulated charges which the customer has incurred since the issuance of the most recent monthly bill.

(VI) Any collection fees as provided for in the utility's tariff, whether or not such fees have appeared on a regular monthly bill.

(VII) 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 a cash deposit required as a condition of initiating service.

(VIII) Any other regulated charges or fees provided in the utility's tariff (including without limitation miscellaneous service charges, investigative charges, and checks returned for insufficient funds charges), whether or not they have appeared on a regular monthly bill.

(d) Within seven calendar days of entering into a payment arrangement with a customer, a utility shall provide the customer with a copy of this rule and a statement describing the payment arrangement. The statement describing the payment arrangement shall include the following:

(I) The terms of the payment plan.

(II) A description of the steps which the utility will take if the customer does not abide by payment plan.

(e) Except as provided in subparagraph (b)(I) of this rule, an installment payment plan shall consist, at a minimum, of equal monthly installments for a term selected by the customer but not to exceed six months. In the alternative, the customer may choose a modified budget billing, leve~~liz~~led payment, or similar tariff~~ed~~ 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 changes. 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 shall follow other payment-setting practices consistent with the tariff~~ed~~ plan available.

(f) For an installment payment plan entered into pursuant to this rule, the first monthly installment payment, and with the new charges (unless the new charges have been made part of the arrangement amount) shall be due on a date which is not earlier than the next regularly-scheduled due date of the customer who is entering into the installment payment plan. Succeeding installment payments, together with the new charges, shall be due in accordance with the due date established in the installment payment plan. Any payment not made on the due date established in the installment payment plan shall be considered in default. Any new charges that are not paid by the due date shall be considered past due, excluding those circumstances covered in subparagraph (b)(I) of this rule.

(g) This rule shall not be construed to prevent a utility from offering any other installment payment plan terms to avoid discontinuance or terms for restoration of service, provided the terms are at least as favorable to the customer as the terms set out in this rule.

3405. Service, Rate, and Usage Information.

(a) In addition to the requirement found in rule 1206, a utility shall inform its customers of any change proposed or made in any term or condition of its service if that change or proposed change will affect the quality of the service provided.

(b) A utility shall transmit information provided pursuant to this rule through the use of a method (such as, without limitation, bill inserts or periodic direct mail) that will assure receipt by each customer.

(c) Upon request, a utility must provide the following information to a customer:

(I) A clear and concise summary of the existing rate schedule applicable to each major class of customers for which there is a separate rate.

(II) An identification of each class whose rates are not summarized.

(III) A clear and concise explanation of the existing rate schedule applicable to the customer. This shall be provided within ten days of a customer's request or, in the case of a new customer, within 60 days of the commencement of service.

(IV) A clear and concise statement of the customer's actual consumption or degree-day adjusted consumption of electricity for each billing period during the prior year, unless such consumption data are not reasonably ascertainable by the utility.

(V) Any other information and assistance as may be reasonably necessary to enable the customer to secure safe and efficient service.

3406. Component and Source Disclosures.

(a) Each utility shall provide, by a bill insert or a separate mailing, the following itemized information to its customers in April and October of each year:

(I) The percentage components, which include fixed and variable components, of the total average delivered price of electricity, residential or commercial, as applicable, attributable both to power supply and to power delivery for the previous calendar year. As used in this rule, "power supply" includes all generation, purchase power, and non-utility transmission components. As used in this rule, "power delivery" includes all utility transmission and distribution components.

(II) The power supply mix, which lists the fuel sources, expressed as a percentage of average annual power acquired and generated by the utility for the previous calendar year. The utility shall make reasonable efforts to identify and to include, to the extent that they are identifiable, all power supplied by non-utility generation sources in the power supply fuel source composition. Those sources which are not identifiable shall be listed as "imported, fuel source unknown." Fuel mixture information must use the following fuel type categories in the following order, rounded to the nearest tenth of one percent: biomass and waste; coal; geothermal; hydroelectric; natural gas; nuclear; solar; wind; and imported, fuel source unknown.

(b) Price components and sources of power supply shall appear together in a format no larger than one page and shall be clearly legible, as follows:

ELECTRICITY FACTS

Price Components

Percentage components for an average monthly residential* electric bill.

	Residential * Service
Power Supply (Generation & Purchase)	xx%
Power Delivery (Transmission & Distribution)	xx%

Power Supply Mix

(Generation & Purchase)

Fuel sources used in power generation and purchase for the calendar year xxxx for all utility customers.

Fuel Type	%
Bio-mass and Waste	x.x%
Coal	x.x%
Geothermal	x.x%
Hydroelectric	x.x%
Natural Gas	x.x%
Nuclear	x.x%
Solar	x.x%
Wind	x.x%
Imported, Fuel Source Unknown	x.x%
Total	100%

3407. Discontinuance of Service.

(a) A utility shall not discontinue the service of a customer for any reason other than the following:

(I) Nonpayment of regulated charges.

(II) Fraud or subterfuge.

(III) Service diversion.

(IV) Equipment tampering.

(V) Safety concerns.

(VI) Exigent circumstances.

(VII) Discontinuance ordered by any appropriate governmental authority.

(VIII) Properly discontinued service being restored by someone other than the utility when the original cause for proper discontinuance has not been cured.

(b) A utility shall not discontinue service for nonpayment of any of the following:

(I) Any amount which has not appeared on a regular monthly bill or which is not past due. Unless otherwise stated in a tariff or Commission rule, an account becomes "past due" on the 31st day following the due date of current charges.

(II) Any amount due on another account now or previously held or guaranteed by the customer, or with respect to which the customer received service, unless the amount has first been transferred either to an account which is for the same class of service or to an account 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 of discontinuance as if it had been billed for the first time.

(III) Any amount due on an 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. This subparagraph does not apply if the customer is or was obtaining service through fraud or subterfuge or if rule 3401(c) applies.

(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 and without the customer's knowledge or consent.

(V) Any delinquent amount, unless the utility can supply billing records from the time the delinquency occurred.

(VI) Any debt except that incurred for service rendered by the utility in Colorado.

(VII) Any unregulated charge.

(c) If the utility discovers any connection or device installed on the customer’s premises, including any energy-consuming device connected on the line side of the utility's meter, which would prevent the meter from registering the actual amount of energy used, the utility shall do one of the following:

(I) Remove or correct such devices or connections. If the utility takes this action, it shall leave at the premises a written notice which advises the customer of the violation, of the steps taken by the utility to correct it, and of the utility’s ability to bill the customer for any estimated energy consumption not properly registered. This notice shall be left at the time the removal or correction occurs.

(II) Provide the customer with written notice that the device or connection must be removed or corrected within 15 days and that the customer may be billed for any estimated energy consumption not properly registered. If the utility elects to take this action and the device or connection is not removed or corrected within the 15 days permitted, then

within seven calendar days from the expiration of the 15 days, the utility shall remove or correct the device or connection pursuant to subparagraph (c)(I) of this rule.

(d) If a utility discovers evidence that any utility-owned equipment has been tampered with or that service has been diverted, the utility shall provide the customer with written notice of the discovery. The written notice shall inform the customer of the steps the utility will take to determine whether non-registration of energy consumption has or will occur and shall inform the customer that the customer may be billed for any estimated energy consumption not properly registered. The utility shall mail or hand-deliver the written notice within three calendar days of making the discovery of tampering or service diversion.

(e) A utility shall not discontinue service, other than to address safety concerns or in exigent circumstances, if one of the following is met:

(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 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 plan with the utility, as provided in rule 3404.

(III) If it is between 12 Noon on Friday and 8 a.m. the following Monday; 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 utility's local office is not open.

~~(IV) If discontinuance of residential service would aggravate an existing medical condition or would 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 health practitioner acting under a physician's authority. The certification shall show clearly the name of the customer or individual whose illness is at issue and the Colorado medical identification number, the telephone number, and the signature of the physician or health care practitioner acting under a physician's authority who certifies the medical emergency. The certification shall be incontestable by the utility as to medical judgment, although the utility may use reasonable means to verify the authenticity of the certification. A medical certification is effective on the date it is received by the utility and is valid to prevent discontinuance of service for 60 days. The customer may receive one 30-day extension by providing a second medical certification prior to the expiration of the original 60-day period. A customer may invoke this subparagraph only once in any 12 consecutive month period.~~

(IV) Medical emergencies.

(A) A utility shall postpone discontinuance of electric service to a residential customer for 60 days from the date of a medical certificate issued by a Colorado-licensed physician or health care practitioner acting under a physician's authority which evidences that discontinuance of service will aggravate an existing medical

emergency or create a medical emergency for the customer or a permanent resident of the customer's household. 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 3407(e)(IV)(A) only once in any twelve consecutive months.

(B) As a condition of obtaining a new installment payment plan on or before the last day covered by a medical certificate, a customer who had already entered into a payment arrangement, but had broken the arrangement prior to seeking a medical certification, may be required to pay all amounts that were due up to the date of the original medical certificate as a condition of obtaining a new payment arrangement. At no time shall a payment from the customer be required as a condition of honoring a medical certificate.

(C) The certificate of medical emergency shall be in writing, sent to the utility from the office of a licensed physician, and show clearly the name of the customer or individual whose illness is at issue; the Colorado medical identification number, phone number, name, 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 the medical judgment, although the utility may use reasonable means to verify the authenticity of such certification.

3408. Notice of Discontinuance of Service.

(a) Except as provided in paragraphs (g) and (h) of this rule, a utility shall provide, by first class mail or by hand-delivery, written notice of discontinuance of service at least 15 days in advance of any proposed discontinuance of service. The notice shall 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 UTILITY SHUT OFF.

(b) The body of the notice of discontinuance under paragraph (a) of this rule shall advise the customer of the following:

(I) The reason for the discontinuance of service and of the particular rule (if any) which has been violated.

(II) The amount past due for utility service, deposits, or other regulated charges, if any.

(III) The date by which an installment payment plan must be entered into or full payment must be received in order to avoid discontinuance of service.

(IV) How and where the customer can pay or enter into an installment payment plan prior to the discontinuance of service.

(V) That the customer may avoid discontinuance of service by entering into an installment payment plan with the utility pursuant to rule 3404 and the utility's applicable tariff.

(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 make an informal complaint to the External Affairs section of the Commission in writing, by telephone, or in person, along with the Commission's address and local and toll-free telephone number.

(IX) That the customer has the right to file a formal complaint, in writing, with the Commission pursuant to rule 1302 and that this formal complaint process may involve a formal hearing.

(X) That in conjunction with the filing of a formal complaint, the customer has a right to file a motion for a Commission order ordering the utility not to disconnect service pending the outcome of the formal complaint process and that the Commission may grant the motion upon such terms as it deems reasonable, including but not limited to the posting of a cash deposit or bond with the utility or timely payment of all undisputed regulated charges.

(XI) That if service is discontinued for non-payment, the customer may be required, as a condition of restoring service, to pay reconnection and collection charges in accordance with the utility's tariff.

(XII) That qualified low-income customers may be able to obtain financial assistance to assist with the payment of the utility bill and that more detailed information on that assistance may be obtained by calling the utility toll-free. The utility shall state its toll-free telephone number.

(c) At the time it provides notice of discontinuance to the customer, a 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 ten percent who speak a specific language other than English as their primary language as determined by the latest U.S. Census information.

(e) A utility shall explain and shall offer the terms of an installment payment plan to each customer who contacts the utility in response to a notice of discontinuance of service.

(f) Following the issuance of the notice of discontinuance of service, and at least 24 hours prior to discontinuance of service, a utility shall 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 to do so, it shall leave written notice of the attempted contact and its purpose.

(g) If a customer has entered into an installment payment plan and has defaulted or allowed a new bill to remain unpaid past its due date, a utility shall provide, by first class mail or by hand-delivery, a written notice to the customer. The notice shall contain:

(I) A heading as follows: NOTICE OF BROKEN ARRANGEMENT.

(II) Statements that advise the customer:

(A) That the utility may discontinue service if it does not receive the monthly installment payment within ten days after the notice is mailed or hand-delivered.

(B) That the utility may discontinue service if it does not receive payment for the current bill within 30 days after its due date.

(C) That, if service is discontinued, the utility may refuse to restore service until the customer pays all amounts for regulated service more than 30 days past due and any collection or reconnection charges.

(D) 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) A utility is not required to provide notice under this rule if one of the following applies:

(I) The situation involves safety concerns or exigent circumstances.

(II) Discontinuance is ordered by any appropriate governmental authority.

(III) Either rule 3407(c) or rule 3407(d) applies.

(IV) 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 a utility knows that the service to be discontinued is used by customers in multi-unit dwellings, in places of business, or in 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 paragraphs (a) and (b) of this rule, except that:

(I) The notice period shall be 30 days.

(II) Such notice may include the current bill.

(III) The utility 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.

(IV) The utility shall post the notice in at least one of the common areas of the affected location.

3409. Restoration of Service.

(a) Unless prevented from doing so by safety concerns or exigent circumstances, a utility shall restore, without additional fee or charge, any discontinued service which was not properly discontinued or restored as provided in rules 3407, 3408, and 3409.

(b) Unless prevented by safety concerns or exigent circumstances, a utility shall restore service within 24 hours (excluding weekends and holidays), or within 12 hours if the customer pays any necessary after-hours charges established in tariffs, if the customer does any of the following:

(I) Pays in full the amount for regulated charges shown on the notice and 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 plan, and makes the first installment payment, unless the cause for discontinuance was the customer's breach of such an arrangement.

(III) Presents a medical certification, as provided in rule 3407(e)(IV).

(IV) Demonstrates to the utility that the cause for discontinuance, if other than non-payment, has been cured.

3410. Refunds.

(a) If it seeks to refund monies, a utility shall file an application for Commission approval of a refund plan.

(b) 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 3002(b) and 3002(c).

(II) The reason for the proposed refund.

(III) A detailed description of the proposed refund plan, including the type of utility service involved, the service area involved, the class(es) of customers to which the refund will be made, and the dollar amount (both the total amount and the amount to be paid to each customer class) of the proposed refund. The interest rate on the refund shall be the current interest rate in the applying utility’s customer deposits tariff.

(IV) The date the applying utility proposes to start making the refund, which shall be no more than 60 days after 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.

(V) If applicable, a reference (by docket number, decision number, and date) to any Commission decision requiring the refund or, if the refund is to be made because of receipt of monies by the applying utility under the order of a court or of another state or federal agency, a copy of the order.

(VI) A statement describing in detail the extent to which the applying utility has any financial interest in any other company involved in the refund plan.

(VII) A statement showing accounting entries under the Uniform System of Accounts.

(VIII) A statement that, if the application is granted, the applying utility will file an affidavit establishing that the refund has been made in accordance with the Commission's decision.

(c) A utility shall pay 90~~%~~ percent of all undistributed balances, plus associated interest, to the energy assistance organization. For purposes of this rule, a refund is deemed undistributed if, after good faith efforts, a utility is unable to find the person entitled to a refund within the period of time fixed by the Commission in its decision approving the refund plan.

(d) A utility shall pay an undistributed refund to the energy assistance organization within four months after the refund is deemed undistributed. A utility shall pay interest on an undistributed refund from the time it receives the refund until the refund is paid to the energy assistance organization. The interest rate shall be equal to the interest rate set by the Commission pursuant to rule 3403(m).

(e) Whenever a utility makes a refund, it shall provide written notice to those customers that it believes may be master meter operators. The notice shall contain:

(I) The definition of master meter operator, as set forth in these rules.

(II) A statement regarding a master meter operator's obligation to do the following:

(A) To notify its end users of their right to claim, within 90 days, their proportionate share of the refund.

(B) After 90 days, if the unclaimed balance exceeds $100, to remit the unclaimed balance to the energy assistance organization.

(f) A utility shall resolve all inquiries regarding a customer's undistributed refund and shall not refer such inquiries to the energy assistance organization.

(g) If a utility has paid an undistributed refund to the energy assistance organization, a customer later makes an inquiry claiming that refund, and the utility resolves the inquiry by paying that refund to the customer, the utility may deduct the amount paid to the customer from future funds submitted to the energy assistance organization.

(h) For purposes of paragraphs (c), (d), (e), (f), and (g) of this rule, "utility" means and includes (1) a cooperative electric association which elects to be so governed and (2) a utility as defined in rule 4001(ff).

3411. Low-Income Energy Assistance Act.

~~(a) Basis, Purpose, and Statutory Authority~~

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

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

(~~b~~a) Scope and ~~A~~applicability.

(I) Rule~~s~~ 3411 ~~(c) through 3411(f) are~~is applicable to electric utilities, combined gas and electric utilities, and cooperative electric association providers except those exempted under (II) or (III). Pursuant to §§ 40-8.7-101 through 111, C.R.S., utilities are required to provide an opportunity for their customers to contribute an optional amount through the customers' monthly billing statement.

(II) Municipally owned electric utilities, combined gas and electric utilities, or cooperative electric associations are exempt if, by September 1, 2006:

(A) The utility operates an Alternative Energy Assistance Program to support its low-income customers with their energy needs and self-certifies to the Organization through written statement that its program meets the following criteria:

(i). The amount and method for funding of the program has been determined by the governing body;

(ii). The program monies will be collected and distributed in a manner and under eligibility criteria determined by the governing body for the purpose of residential energy assistance to customers who are challenged with paying energy bills for financial reasons, including seniors on fixed incomes, individuals with disabilities, and low-income individuals~~,~~; or~~,~~

(B) The governing body of the utility determines its service area has a limited number of people who qualify for energy assistance and self-certifies to the Organization via written statement such determination.

(III) A municipally owned electric utility, combined gas and electric utility, or cooperative electric association not exempt under (II), is exempt if:

(A) The utility designs and implements a procedure to notify all customers at least twice each year of the option to conveniently contribute to the Organization by means of a monthly energy assistance charge. Such procedure shall be approved by the governing utility. The governing body of such utility shall determine the disposition and delivery of the optional energy assistance charge that it collects on the following basis:

(i). Delivering the collections to the Organization for distribution.

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

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

(IV) A municipally owned electric utility, combined gas and electric utility, or cooperative electric association that is exempt under (III) shall be entitled to participate in the Organization's low-income assistance program.

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

(eb) Definitions.

The following definitions apply only in the context of rule 3411. In the event of a conflict between these definitions and a statutory definition, the statutory definition shall apply:

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

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

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

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

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

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

(dc) Plan iimplementation and Mmaintenance.

(I) Except as provided in 3411(~~b~~a), no later than June 1, 2006, each utility shall file an application with the Commission detailing its initial plan to implement and maintain a customer opt-in contribution mechanism. The utility shall provide a copy of such application to the Organization. The utility's application shall include, at minimum, the following provisions:

(A) A description of the procedures the utility will use to notify its customers, including those customers that make payments electronically, about the opt-in provision prior to September 1, 2006. Utilities may combine their efforts to notify customers into a single state-wide or region-wide effort consistent with the participating utilities communication programs. Each participating utility shall clearly identify its support of the combined communications program, with its corporate name and/or logo visible to the intended audience.

(B) A description of the additional efforts the utility will use to inform its customers about the program to ensure that adequate notice of the opt-in provision is given to all customers. Notification shall include communication to all customers that the donation and related information will be passed through to the Organization.

(C) A description of the check-off mechanism that will be displayed on the monthly remittance device to solicit voluntary donations. The remittance device shall include, at minimum, check-off categories of five dollars, ten dollars, twenty dollars, and "other amount". The remittance device must also note the name of the program as the "voluntary energy assistance program," or if the utility is unable to identify the name of the program individually, the utility shall use a general energy assistance identifier approved by the Commission.

(D) A description or an example of how the utility will display the voluntary contribution as a separate line item on the customer's monthly billing statement and how the voluntary contribution will be included in the total amount due. The line item must identify the contribution as "voluntary".

(E) A description of the notification process that the utility will use to ensure that once a utility customer opts into the program, the energy assistance contribution will be assessed on a monthly basis until the customer notifies the utility of the customer's desire to stop contributing. The utility shall describe how it will manage participation in the program when customers miss one or more voluntary payment, or pay less than the pre-selected donation amount.

(F) Identification of the procedures the utility will use to notify customers of their ability to cancel or discontinue voluntary contributions along with a description of the mechanism the utility will use to allow customers who make electronic payments to discontinue their participation in the opt-in program.

(G) A description of the procedures the utility will use, where feasible, to notify customers participating in the program about the customer's ability to continue to contribute when the customer changes their address within the utility's service territory.

(H) A description of the method the utility will use to provide clear, periodic, and cost-effective notice of the opt-in provision to its customers at least twice per year. Acceptable methods include, but are not limited to, bill inserts, statements on the bill or envelope, and other utility communication pieces.

(I) An estimate of the start-up costs that the utility expects to incur in connection with the program along with supporting detailed justification for such costs. This estimate should include the utility's initial costs of setting up the collection mechanism and reformatting its billing systems to solicit the optional contribution but shall not include the cost of any notification efforts by the utility. Utilities may elect to recover all start-up costs before the remaining moneys generated by the program are distributed to the Organization or over a period of time from the funds generated by the program, subject to Commission review and approval.

(J) An estimate of the on-going costs that the utility expects to incur in connection with the program along with supporting detailed justification for such costs. This estimate shall not include the cost of any notification efforts by the utility.

(K) A detailed justification for the costs identified in (I) and (J). As stated in § 40-8.7-104(3), C.R.S., the costs incurred must be reasonable in connection with the program.

(L) Utilities shall recover the start up cost and on-going cost of administration associated with the program from funds generated from the program. Insert and notification costs shall be considered in the utility's cost of service.

(M) A description of the procedures the utility will use to account for and process program donations separately from customer payments for utility services.

(II) Upon application by the utility, the Commission shall expedite its approval or rejection of these initial plans and will render a decision within 60 days after notice has expired.

(III) No later than the first billing cycle prior to September 1, 2006, each utility shall notify its customers about the opt-in provision using the method approved by the Commission in its plan.

(IV) By no later than September 1, 2006, each utility shall begin participation in the energy assistance program consistent with the plan approved by the Commission and shall provide the opportunity for its customers to make an optional energy assistance contribution on the monthly remittance device on their utility billing statements beginning no later than September 1, 2006.

(V) The utility may submit an application to the Commission no later than April 1 of each year for approval of reimbursement costs the utility incurred for the program during the previous calendar year. Such application shall include a proposed schedule for the reimbursement of these costs to the utility. The applications shall include detailed supporting justification for approval of these costs. Such detailed justification includes, but is not limited to, copies of receipts and time sheets. Such applications shall not seek reimbursement of costs related to notification efforts. Participating utilities may include

reimbursement costs for such notification efforts in their periodic cost of service rate filings, subject to Commission review and approval.

(VI) A utility may seek modification of its initial plan or subsequent plans by filing an application with the Commission. Such application shall meet the requirements of (d)(I).

(~~e~~d) Fund ~~A~~administration.

(I) At a minimum, each utility shall transfer the funds collected from its customers under the Energy Assistance Program to the Organization under the following schedule:

(A) For the funds collected during the period of January 1 to March 31 of each year, the utility shall transfer the collected funds to the Organization before May 1 of such year;

(B) For the funds collected during the period of April 1 to June 30 of each year, the utility shall transfer the collected funds to the Organization before August 1 of such year;

(C) For the funds collected during the period of July 1 to September 30 of each year, the utility shall transfer the collected funds to the Organization before November 1 of such year;

(D) For the funds collected during the period of October 1 to December 31 of each year, the utility shall transfer the collected funds to the Organization before February 1 of the next year;

(E) Each utility shall maintain a separate accounting for all energy assistance program funds received by customers.

(II) Each utility shall provide the Organization with the following information:

(A) How the funds collected for the previous calendar year were generated, including the number of customers participating in the program. Such report shall include a summary of the number of program participants and funds collected by month, and shall be provided by February 1 of each year.

(B) At each time funds are remitted, a listing of all program participants including the donor's name, billing address, and monthly donation amount. The participant information provided to the Organization shall be used exclusively for complying with the requirements of § 40-8.7-101, C.R.S., et seq. and state and federal laws.

(III) The Public Utilities Commission shall submit, as necessary, a bill for payment to the Organization for any administrative costs incurred pursuant to the program.

(IV) The Organization shall provide the Office of Consumer Counsel and the Public Utilities Commission with a copy of the written report that is described in § 40-8.7-110, C.R.S. This report shall not contain individual participant information.

(~~f~~e) Prohibition of ~~D~~disconnection.

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

3412. – 3499. [Reserved].

UNREGULATED GOODS AND SERVICES

~~3501~~3500. Overview and ~~-~~Purpose.

The purpose of these rules is to establish cost assignment and allocation principles to assist the Commission in setting just and reasonable rates~~, as required by § 40-3-114 C.R.S.~~ and to ensure that utilities do not use ratepayer funds to subsidize non-regulated activities, in accordance with § 40-3-114, C.R.S. In order to promote these purposes, these rules also specify information that utilities must provide to the Commission. In providing for review of a utility's specific cost allocations in other states and jurisdictions, the rules merely contemplate a methodology to allow interested parties to obtain complete information regarding cost allocations. These rules do not expressly or implicitly allow this Commission to order a utility to revise its cost allocations in other jurisdictions or states.

~~3500~~3501. ~~Special~~ Definitions.

The following ~~special~~ definitions apply only to rules 3501 ~~–~~through 3505. In the event of a conflict between these definitions and a statutory definition, the statutory definition shall apply.

(a) "Activity" means a business activity, product or service whether offered by a Colorado utility, a division of a Colorado utility, or an affiliate of a Colorado utility.

(b) "Allocate" or "Allocated" or "Cost Allocation" means to distribute a joint or common cost to or from more than one activity or jurisdiction.

(c) "Assigned Costs" or "Cost Assignment" means a cost that is specifically identified with a particular activity or jurisdiction and charged directly to that activity or jurisdiction. At no point in the process of making the cost assignment is an allocation applied.

(d) "Cost Assignment and Allocation Manual" (CAAM) means the indexed document filed by a utility with the Commission that describes and explains the cost assignment and allocation methods the utility uses to segregate and account for revenues, expenses, assets, liabilities, and rate base cost components assigned or allocated to Colorado jurisdictional activities. It includes the cost assignment and allocation methods to segregate and account for costs between and among jurisdictions, between regulated and non-regulated activities, and between and among utility divisions.

(e) "Division" means an activity conducted by a Colorado utility but not through a legal entity separate from the Colorado utility. It includes the electric, gas, or thermal activities of a Colorado utility and any non-regulated activities provided by the Colorado utility.

(f) "Fully Distributed Cost" means the process of segregating, assigning, and allocating the revenues, expenses, assets, liabilities and rate base amounts recorded in the utility's accounting

books and records using cost accounting, engineering, and economic concepts, methods and standards. Fully distributed cost includes a return on investment in cases where assets are used.

(g) "Fully Distributed Cost Study" is a cost study that reflects the result of the fully distributed revenues, expenses, assets, liabilities and rate base amounts for the Colorado utility to and from the different activities, jurisdictions, divisions, and affiliates using cost accounting, engineering, and economic concepts, methods, and standards.

(h) "Incidental Services" means non-tariffed or non-regulated services that have traditionally been offered incidentally to the provisions of tariff services where the revenues for all such services do not exceed:

(I) The greater of $100,000 or one percent of the provider's total annual Colorado operating revenues for regulated services; or,

(II) Such amount established by the Commission considering the nature and frequency of the particular service.

(i) "Jurisdictional" means having regulatory rate authority over a utility. Jurisdiction can be at a state or federal level.

(j) "Regulated Activity" means any activity that is offered as a public utility service as defined in Title 40, Articles 1 to 7 C.R.S., and is regulated by the Commission or regulated by another state utility commission or the FERC, or any non-regulated activity which meets the criteria specified in rules 3502(g).

(k) "Non-regulated Activity" means any activity that is not offered as a public utility service as defined in Title 40, Articles 1 to 7, C.R.S., and is not regulated by this Commission or another state utility commission or the FERC.

(l) "Transaction" means the activity that results in the provision of products, services, or assets by one division or an affiliate to another division or an affiliate.

3502. Cost Assignment and Allocation Principles.

In determining fully distributed cost, the utility shall apply the following principles (listed in descending order of required application in (a), (b) and (c) below):

(a) Tariffed services provided to an activity will be charged to the activity at the tariffed rates.

(b) If only one activity or jurisdiction causes a cost to be incurred, that cost shall be directly assigned to that activity or jurisdiction.

(c) Costs that cannot be directly assigned to either regulated or non-regulated activities or jurisdictions will be described as common costs. Common costs shall be grouped into homogeneous cost categories designed to facilitate the proper allocation of costs between regulated and non-regulated activities or jurisdictions. Each cost category shall be fairly and equitably allocated between regulated and non-regulated activities or jurisdictions in accordance with the following principles:

(I) Cost causation. All activities or jurisdictions that cause a cost to be incurred shall be allocated a portion of that cost. Direct assignment of a cost is preferred to the extent that the cost can easily be traced to the specific activity or jurisdiction.

(II) Variability. If the fully distributed cost study indicates a direct correlation exists between a change in the incurrence of a cost and cost causation, that cost shall be allocated based upon that relationship.

(III) Traceability. A cost may be allocated using a measure that has a logical or observable correlation to all the activities or jurisdictions that cause the cost to be incurred.

(IV) Benefit. All activities or jurisdictions that benefit from a cost shall be allocated a portion of that cost.

(V) Residual. The residual of costs left after either direct or indirect assignment or allocation shall be allocated based upon an appropriate general allocator to be defined in the utility's CAAM.

(d) For cost assignment and allocation purposes, the value of all transactions from the Colorado utility to a non-regulated activity shall be determined as follows:

(I) If the transaction involves a product or service provided by the utility pursuant to tariff, the value of the transaction shall be at the tariff rate.

(II) If the transaction involves a product or service that is not provided pursuant to a tariff, the value of the transaction shall be the higher of the utility's fully distributed cost or market price. Market price shall be either the price charged by the utility, or if this condition cannot be met, the lowest price charged by another person for a comparable product or service.

(III) If the transaction involves the sale of an asset, the value of the transaction shall be the higher of net-book cost or market price. If the transaction involves the use of an asset, the value of the transaction shall be the higher of fully distributed cost or market price. Market price shall be either the price charged by the utility or if this condition cannot be met, the lowest price charged by another person in the market for the sale or use of a comparable asset, when such prices are publicly available.

(e) For cost assignment and allocation purposes, the value of all transactions from a non-regulated activity to the utility shall be determined as follows:

(I) If the transaction involves a product or service that is not provided pursuant to a tariff, the value of the transaction shall be the lower of the fully distributed cost or the market price except if the transaction results from a competitive solicitation process then the value of the transaction shall be the winning bid price. Fully distributed cost in this circumstance, shall be the cost that would be incurred by the utility to provide the service internally. Market price shall be either the price charged by the supplying non-regulated activity or if that condition is not met, the lowest price charged by other persons in the market for a comparable product or service, when such prices are publicly available.

(II) If the transaction involves the sale of an asset, the value of the transaction shall be the lower of net-book cost or market price. If the transaction involves the use of an asset, the value of the transaction shall be at the lower of fully distributed cost or market price. Market price shall be either the price charged by the non-regulated activity or, if this condition cannot be met, the lowest price charged by another person in the market for the sale or use of a comparable asset, where such prices are publicly available.

(f) If it is impracticable for the utility to establish a market price pursuant to paragraphs (d) or (e), the utility shall provide a statement to that effect, including its reasons in its fully distributed cost study as well as its proposed method and amount for valuing the transaction. Parties in a Commission proceeding retain the right to advocate alternative market prices pursuant to paragraphs (d) and (e).

(g) A utility may classify non-jurisdictional services as regulated if the services are rate-regulated by another agency (i.e., another state utility commission or the FERC) and where there are agency-accepted principles or methods for the development of rates associated with such services. This rule may apply, for example, to a provider's wholesale sales of electric power and energy. For such services, the utility shall identify the services in its manual, and account for the revenues, expenses, assets, liabilities, and rate base associated with these services as if these services are regulated.

(h) For cost assignment and allocation purposes, the value of all transactions between regulated divisions within a utility shall be determined as follows:

(I) If the transaction involves a service provided by the utility pursuant to tariff, the value of the transaction shall be at the tariff rate.

(II) If the transaction involves a service or function that is not provided pursuant to a tariff, the value of the transaction shall be at cost.

(i) If the utility offers a service that is a combination of regulated and non-regulated activities (i.e., a bundled service), the utility shall assign and/or allocate costs to the regulated and non-regulated activities separately.

(j) A utility may classify incidental activities as regulated activities. If an incidental activity is classified as a regulated activity, the utility shall clearly identify the activity as an incidental activity, and account for the revenues, expenses, assets, liabilities and rate base items as if that activity were a regulated activity.

(k) To the extent possible, all assigned and allocated costs between regulated and non-regulated activities should have an audit trail which is traceable on the books and records of the applicable regulated utility to the applicable accounts pursuant to the Federal Energy Regulatory Commission Uniform System of Accounts.

(l) In a rate proceeding involving the calculation of revenue requirements, a complaint proceeding where cost assignments or allocations are at issue, or a proceeding where CAAM approval is sought, the utility or any party may advocate a cost allocation principle other than that already in use, if the Commission has already approved the principle for that cost. The party requesting the

alternative approach shall have the burden of proving the need for an alternative principle and why the particular principle is appropriate for the particular cost.

3503. Cost Assignment and Allocation Manuals.

(a) Each utility shall maintain on file with the Commission an approved indexed cost assignment and allocation manual which describes and explains the calculation methods the utility uses to segregate and account for revenues, expenses, assets, liabilities, and rate base cost components assigned or allocated to Colorado jurisdictional activities. It includes the calculation methods to segregate and account for costs between and among jurisdictions, between regulated and non-regulated activities, and between and among utility divisions.

(b) Each utility shall include the following information in its CAAM:

(I) A listing of all regulated or non-regulated divisions of the Colorado utility together with an identification of the regulated or non-regulated activities conducted by each.

(II) A listing of all regulated or non-regulated affiliates of the Colorado utility together with an identification of which affiliates allocate or assign costs to and from the Colorado utility.

(III) A listing and description of each regulated and non-regulated activity offered by the Colorado utility. The Colorado utility shall provide a description in sufficient detail to identify the types of costs associated with the activity and shall identify how the activity is offered to the public and identify whether the Colorado utility provides the activity in more than one state. If an activity is offered subject to tariff, the Colorado utility may identify the tariff and the tariff section that describes the service offering in lieu of providing a service description.

(IV) A listing of the revenues, expenses, assets, liabilities and rate base items by Uniform System of Accounts (USoOA) account number that the utility proposes to include in its revenue requirement for Colorado jurisdictional activities including those items that are partially allocated to Colorado as well as those items that are exclusively assigned to Colorado.

(V) A detailed description showing how the revenues, expenses, assets, liabilities and rate base items by account and sub-account are assigned and/or allocated to the Colorado utility's non-regulated activities, along with a description of the methods used to perform the assignment and allocations.

(VI) A description of each transaction between the Colorado utility and a non-regulated activity which occurred since the Colorado utility's prior CAAM was filed and, for each transaction, a statement as to whether, for this Commission's jurisdictional cost assignment and allocation purposes, the value of the transactions is at cost or market as applicable.

(VII) A description of the basis for how the assignment or allocation is made.

(VIII) If the utility believes that specific cost assignments or allocations are under the jurisdiction of another authority, the utility shall so state in its CAAM and give a written

description of the prescribed methods. Nothing herein shall be construed to be a delegation of this Commission's ratemaking authority related to those assignments or allocations.

(IX) Any additional information specifically required by Commission order.

(c) A utility may treat certain transactions as confidential pursuant to the Commission rules on confidentially.

(d) Public Service Company of Colorado and Aquila, Inc. shall each initially file an application for approval of its CAAM within 180 days of the effective date of these rules. These utilities shall also simultaneously file a FDC study reflecting the assignment and allocation methods detailed and described in its manual.

(e) All other utilities shall each initially file an application for approval of its CAAM within 360 days of the effective date of these rules, or such other time to accommodate a staggered filing schedule if the Commission establishes one. These utilities shall also simultaneously file a FDC study reflecting the cost assignment and allocation methods detailed and described in its manual.

(f) Following the initial approval of its CAAM, the utility shall file an updated CAAM in each rate case proceeding where revenue requirements are determined or every five years following approval of the CAAM then in effect, whichever is earlier.

(g) The utility may, at its discretion, file an application seeking Commission approval of updates to its CAAM at any time.

(h) Whenever a utility files for approval of an update to its CAAM as a result of (f) or (g) above, the utility shall also simultaneously file a FDC study reflecting the results of the cost allocation methods in its updated manual.

(i) Each utility shall maintain all records and supporting documentation concerning its CAAMs for so long as such manual is in effect or are subject to a complaint or a proceeding before the Commission.

3504. Fully Distributed Cost Study.

(a) The utility shall submit its fully distributed cost study in both electronic and paper format simultaneously with filing its CAAM for all Colorado divisions and activities.

(b) The utility shall prepare a FDC study that identifies all the non-regulated activities provided by each division in Colorado. The FDC study shall show the revenues, expenses assets, liabilities and rate base items assigned and allocated to each non-regulated activity. If the utility has more than one division (e.g., gas, electric, thermal or non-utility) in Colorado, the FDC study shall include a summary of all assigned and allocated costs by division.

(c) In preparation of its FDC study, the utility shall complete an analysis of each non-regulated activity to identify the costs that are associated with and/or should be charged to each non-regulated activity to ensure each non-regulated activity is assigned and allocated the appropriate amount of revenues, expenses, assets, liabilities and rate base items.

(d) If the CAAM is filed in connection with a rate case, the FDC study shall be based on the same test year used in the utility's rate case filing. The utility's FDC study shall include revenues, expenses, assets, liabilities and rate base items in order for the Commission to determine if all appropriate revenues, expenses, assets, liabilities and rate base items have been appropriately assigned and allocated, and to determine the utility's compliance with the principles established in rule 3502. For each assignment and allocation the utility shall:

(I) Identify the revenues, expenses, assets, liabilities and rate base items by account number, sub-account number and account description; and

(II) For each account in (I) above, identify the assignment and allocation method used to assign and allocate costs in sufficient detail to verify the assignment and allocation method used to assign and allocate costs to Colorado divisions and activities is accurate and consistent with the utility's CAAM methodology and reference the CAAM section that describes the allocation.

(III) Provide the test year dollar itemized amounts of revenues, expenses, assets, liabilities, and rate base assigned and allocated to each Colorado division and non-regulated activity; the itemized amounts assigned and allocated to the Colorado utility for regulated activities; the itemized amounts assigned and allocated to the Colorado utility for Colorado non-regulated activities; and the itemized amounts assigned and allocated to other jurisdictions.

(e) Each utility shall maintain all records and supporting documentation concerning its FDC study for so long as such study is in effect or are subject to a complaint or a proceeding before the Commission.

3505. Disclosure of Non-regulated Goods and Services.

Whenever a Colorado utility engages in the provision or marketing of non-regulated goods or services in Colorado that are not subject to Commission regulation, and the Colorado utility's name or logo is used in connection with the provision of such non-regulated goods and services in Colorado, there must be conspicuous, clear, and concise disclosure to prospective customers that such non-regulated goods and services are not regulated by the Commission. Such disclosure to prospective customers in Colorado shall be included in all Colorado advertising or marketing materials, proposals, contracts, and bills for non-regulated goods and services, regardless of whether the Colorado utility provides such non-regulated goods or services in Colorado directly or through a division or affiliate.

3506. – 3599. [Reserved].

LEAST-COST PLANNING

~~3602~~3600. Applicability.

This rule shall apply to all jurisdictional electric utilities in the state of Colorado that are subject to the Commission's regulatory authority. Cooperative electric associations engaged in the distribution of electricity (*i.e.* rural electric associations) are exempt from these rules. Cooperative electric generation and transmission associations are subject only to reporting requirements as specified in rule 3605.

3601. Overview and Purpose.

The purpose of these rules is to establish a process to determine the need for additional electric resources by Commission jurisdictional electric utilities. ~~, pursuant to the power to regulate public utilities delegated to the Commission by Article XXV of the Colorado Constitution and by §§ 40-2-123, 40-3-102, 40-3-111, and 40-4-101, C.R.S.~~ It is the Commission's policy that a competitive acquisition process will normally be used to acquire new utility resources. This process is intended to result in least-cost resource portfolios, taking into consideration projected system needs, reliability of proposed resources, expected generation loading characteristics, and various risk factors. The rules are intended to be neutral with respect to fuel type or resource technology.

~~3600~~3602. ~~Special~~ Definitions.

The following definitions apply to rules 3600 ~~–~~through 3615. In the event of a conflict between these definitions and a statutory definition, the statutory definition shall apply.

(a) "Availability factor" means the ratio of the time a generating facility is available to produce energy at its rated capacity, to the total amount of time in the period being measured.

(b) "Annual capacity factor" means the ratio of the net energy produced by a generating facility in a year, to the amount of energy that could have been produced if the facility operated continuously at full capacity year round.

(c) "End-use" means the light, heat, cooling, refrigeration, motor drive, or other useful work produced by equipment that uses electricity or its substitutes.

(d) "Energy conservation" means the decrease in electricity requirements of specific customers during any selected time period, with end-use services of such customers held constant.

(e) "Energy efficiency" means increases in energy conservation, reduced demand or improved load factors resulting from hardware, equipment, devices, or practices that are installed or instituted at a customer facility. Energy efficiency measures can include fuel switching.

(f) "Heat Rate" means the ratio of energy inputs used by a generating facility expressed in BTUs (British Thermal Units), to the energy output of that facility expressed in kilowatt hours.

(g) "Least-cost resource plan" or "plan" means a utility plan consisting of the elements set forth in rule 3604.

(h) "Net present value of rate impact" means the current worth of the average annual rates associated with a particular resource portfolio, expressed in dollars per kilowatt hour in the year the plan is filed. The net present value of rate impact for a particular resource portfolio is first calculated by discounting the total annual revenue requirement by the appropriate discount rate. The discounted revenue requirement is then divided by the total utility kilowatt hour requirement for that year and averaged across the years of the planning period. The total annual revenue requirement for each year of the planning period is the total expected future revenue requirements associated with a particular resource portfolio.

(i) "Planning period" means the future period for which a utility develops its plan, and the period, over which net present value of rate impact for resources are calculated. For purposes of this rule, the planning period is twenty to forty years and begins from the date the utility files its plan with the Commission.

(j) "Renewable resource" means any facility, technology, measure, plan or action utilizing a renewable "fuel" source such as wind; solar; biomass; geothermal; municipal, animal, waste-tire or other waste; or hydroelectric generation of twenty megawatts or less.

(k) "Resource acquisition period" means the first six to ten years of the planning period, in which the utility acquires specific resources to meet projected electric system demand. The resource acquisition period begins from the date the utility files its plan with the Commission.

(l) "Resources" means supply-side resources, energy efficiency, or renewable resources used to meet electric system requirements.

(m) "Supply-side resource" means a resource that can provide electrical energy or capacity to the utility. Supply-side resources include utility owned generating facilities, and energy or capacity purchased from other utilities and non-utilities.

(n) "Typical day load pattern" means the electric demand placed on the utility's system for each hour of the day.

3603. Least-Cost Resource Plan Filing Requirements.

Jurisdictional electric utilities, as described in rule 3602, shall file a least-cost resource plan (plan) pursuant to these rules on or before October 31, 2003, and every four years thereafter. In addition to the required four-year cycle, a utility may file an interim plan, pursuant to rule 3604. If a utility chooses to file an interim plan more frequently than the required four-year cycle, its application must state the reasons and changed circumstances that justify the interim filing. Each utility shall file an original and fifteen copies of the plan with the Commission.

3604. Contents of the Least-Cost Resource Plan.

The utility shall file a plan with the Commission that contains the information specified below. When required by the Commission, the utility shall provide work-papers to support the information contained in the plan. The plan shall include the following:

(a) A statement of the utility-specified resource acquisition period, and planning period. The utility shall consistently use the specified resource acquisition and planning periods throughout the entire least-cost plan and resource acquisition process. The utility shall include a detailed explanation as to why the specific period lengths were chosen in light of the assessment of base-load, intermediate and peaking needs of the utility system.

(b) An annual electric demand and energy forecast developed pursuant to rule 3606.

(c) An evaluation of existing resources developed pursuant to rule 3607.

(d) An assessment of planning reserve margins and contingency plans for the acquisition of additional resources developed pursuant to rule 3608.

(e) An assessment of need for additional resources developed pursuant to rule 3609.

(f) A description of the utility's plan for acquiring these resources pursuant to rule 3610.

(g) The proposed RFP(s) the utility intends to use to solicit bids for the resources to be acquired through a competitive acquisition process, pursuant to rule 3612.

(h) An explanation stating whether current rate designs for each major customer class are consistent with the contents of its plan. The utility shall also explain whether possible future changes in rate design will facilitate its proposed resource planning and resource acquisition goals.

3605. Cooperative Electric Generation and Transmission Association Reporting Requirements.

Pursuant to the schedule established in rule 3603, each cooperative electric generation and transmission association shall report its forecasts, existing resource assessment, planning reserves, and needs assessment, consistent with the requirements specified in rules 3606, 3607, 3608(a) and 3609. Each cooperative generation and transmission association shall also file annual reports pursuant to rules 3614(a)(I) through 3614(a)(VI).

3606. Electric Energy and Demand Forecasts.

(a) Forecast ~~R~~requirements. The utility shall prepare the following energy and demand forecasts for each year within the planning period:

(I) Annual sales of energy and coincident summer and winter peak demand in total and disaggregated among Commission jurisdictional sales, FERC jurisdictional sales, and sales subject to the jurisdiction of other states.

(II) Annual sales of energy and coincident summer and winter peak demand on a system wide basis for each major customer class.

(III) Annual energy and capacity sales to other utilities; and capacity sales to other utilities at the time of coincident summer and winter peak demand.

(IV) Annual intra-utility energy and capacity use at the time of coincident summer and winter peak demand.

(V) Annual system losses and the allocation of such losses to the transmission and distribution components of the system. Coincident summer and winter peak system losses and the allocation of such losses to the transmission and distribution components of the systems.

(VI) Typical day load patterns on a system-wide basis for each major customer class. This information shall be provided for peak-day, average-day, and representative off-peak days for each calendar month.

(b) Range of forecasts. The utility shall develop and justify a range of forecasts of coincident summer and winter peak demand and energy sales that its system may reasonably be required to serve during the planning period. The range shall include base case, high, and low forecast scenarios of coincident summer and winter peak demand and energy sales, based on alternative assumptions about the determinants of coincident summer and winter peak demand and energy sales during the planning period.

(c) Required ~~D~~detail.

(I) In preparing forecasts, the utility shall develop forecasts of energy sales and coincident summer and winter peak demand for each major customer class. The utility shall use end-use, econometric or other supportable methodology as the basis for these forecasts. If the utility determines not to use end-use analysis, it shall explain the reason for its determination as well as the rationale for its chosen alternative methodology.

(II) The utility shall explain the effect on its energy and coincident peak demand forecast of all existing energy efficiency and energy conservation programs for each major customer class, as well as any such measures that have been approved by the Commission but are not included in the forecasts.

(III) The utility shall maintain, as confidential, information reflecting historical and forecasted demand and energy use for individual customers in those cases when an individual customer is responsible for the majority of the demand and energy used by a particular rate class. However, when necessary in the least-cost resource plan proceedings, such information may be disclosed to parties who intervene in accordance with the terms of non-disclosure agreements approved by the Commission and executed by the parties seeking disclosure.

(d) Historical ~~D~~data. The utility shall compare the annual forecast of coincident summer and winter peak demand and energy sales made by the utility to the actual coincident peak demand and energy sales experienced by the utility for the five years preceding the year in which the plan under consideration is filed. In addition, the utility shall compare the annual forecasts in its most recently filed resource plan to the annual forecasts in the current resource plan.

(e) Description and ~~J~~justification. The utility shall fully explain, justify, and document the data, assumptions, methodologies, models, determinants, and any other inputs upon which it relied to develop its coincident peak demand and energy sales forecasts pursuant to this rule, as well as the forecasts themselves.

(f) Format and ~~G~~graphical ~~P~~presentation of ~~D~~data. The utility shall include graphical presentation of the data to make the data more understandable to the public, and shall make the data available to requesting parties in such electronic formats as the Commission shall reasonably require.

3607. Evaluation of Existing Generation Resources.

(a) Existing ~~G~~generation ~~R~~resource ~~A~~assessment. The utility shall describe its existing generation resources, all utility-owned generating facilities for which the utility has obtained a CPCN from the Commission pursuant to ~~C.R.S.~~ § 40-5-101, C.R.S., at the time the plan is filed, and existing or

future purchases from other utilities or non-utilities pursuant to agreements effective at the time the plan is filed. The description shall include, when applicable, the following:

(I) Name(s) and location(s) of utility-owned generation facilities.

(II) Rated capacity and net dependable capacity of utility-owned generation facilities.

(III) Fuel type, heat rates, annual capacity factors and availability factors projected for utility-owned generation facilities over the planning period.

(IV) Estimated in-service dates for utility-owned generation facilities for which a CPCN has been granted but which are not in service at the time the plan under consideration is filed.

(V) Estimated remaining useful lives of existing generation facilities without significant new investment or maintenance expense.

(VI) The amount of capacity and/or energy purchased from utilities and non-utilities, the duration of such purchase contracts and a description of any contract provisions that allow for modification of the amount of capacity and energy purchased pursuant to such contracts.

(VII) The amount of capacity and energy provided pursuant to wheeling or coordination agreements, the duration of such wheeling or coordination agreements, and a description of any contract provisions that allow for modification of the amount of capacity and energy provided pursuant to such wheeling or coordination agreements.

(b) Utilities required to comply with these rules shall coordinate their plan filings such that the amount of electricity purchases and sales between utilities during the planning period is reflected uniformly in their respective plans. Disputes regarding the amount, timing, price, or other terms and conditions of such purchases and sales shall be fully explained in each utility's plan. If a utility files an interim plan as specified in rule 3603, the utility is not required to coordinate that filing with other utilities.

(c) Existing ~~T~~transmission c~~C~~apabilities and f~~F~~uture ~~N~~needs.

(I) The utility shall report its existing transmission capabilities, and future needs during the planning period, for facilities of 115 kilovolts and above, including associated substations and terminal facilities. The utility shall generally identify the location and extent of transfer capability limitations on its transmission network that may affect the future siting of resources. With respect to future needs, the utility shall explain the need for facilities based upon future load projections (including reserves). To the extent reasonably available, the utility shall include a description of the length and location of any additional facilities needed, their estimated costs, terminal points, voltage and megawatt rating, alternatives considered or under consideration, and other relevant information.

(II) In order to equitably compare possible resource alternatives, the utility shall consider all transmission costs required by, or imposed on the system by, a particular resource as part of the bid evaluation criteria.

3608. Planning Reserve Margins.

(a) The utility shall provide a description of, and justification for, the means by which it assesses the desired level of reliability on its system throughout the planning period (e.g., probabilistic or deterministic reliability indices).

(b) The utility shall develop and justify planning reserve margins for each year of the resource acquisition period for the base case, high, and low forecast scenarios established under rule 3606, to include risks associated with: (1) the development of generation, (2) losses of generation capacity, (3) purchase of power, (4) losses of transmission capability, (5) risks due to known or reasonably expected changes in environmental regulatory requirements, and (6) other risks. The utility shall develop planning reserve margins for its system for each year of the planning period outside of the resource acquisition period for the base case forecast scenario. The utility shall also quantify the recommended or required reliability performance criteria for reserve groups and power pools to which the utility is a party.

(c) Since actual circumstances may differ from the most likely estimate of future resource needs, the utility shall develop contingency plans for each year of the resource acquisition period. As a part of its plan, the utility shall provide, under seal, a description of its contingency plans for the acquisition of additional resources if actual circumstances deviate from the most likely estimate of future resource needs developed pursuant to rule 3609. The Commission will consider approval of contingency plans only after the utility receives bids, as described in rule 3614(b)(II). The provisions of rule 3613(d) shall not apply to the contingency plans unless explicitly ordered by the Commission.

3609. Assessment of Need for Additional Resources.

By comparing the electric energy and demand forecasts developed pursuant to rule 3606 with the existing level of resources developed pursuant to rule 3607, and planning reserve margins developed pursuant to rule 3608, the utility shall assess the need to acquire additional resources during the resource acquisition period.

3610. Utility Plan for Meeting the Resource Need.

(a) The utility shall describe its least-cost resource plan for acquiring the resources to meet the need identified in rule 3609. The utility shall specify the portion of the resource need that it intends to meet as a part of a stand-alone voluntary tariff service, where all costs are separate from standard tariff services, if any. If the utility chooses to offer a stand-alone voluntary service, it must comply with the provisions of rule 3610(e); and the costs associated with any independent auditor will be assigned to the stand-alone voluntary service offering and will not be borne by the general body of utility ratepayers. The utility shall specify the portion of the resource need that it intends to meet through a competitive acquisition process and the portion that it intends to meet through an alternative method of resource acquisition.

(b) The utility shall meet the resource need identified in the plan through a competitive acquisition process, unless the Commission approves an alternative method of resource acquisition. If the utility proposes that a portion of the resource need be met through an alternative method of resource acquisition, the utility shall identify the specific resource(s) that it wishes to acquire and the reason the specific resource(s) should not be acquired through a competitive acquisition

process. In addition, the utility shall provide a cost-benefit analysis to demonstrate the reason(s) why the public interest would be served by acquiring the specific resource(s) through an alternative method of resource acquisition. The least-cost resource plan shall describe and shall estimate the cost of all new transmission facilities associated with any specific resources proposed for acquisition other than through a competitive acquisition process. The utility shall also explain and shall justify how the alternative method of resource acquisition complies with the requirements of the Public Utility Regulatory Policies Act of 1978 and Commission rules implementing that act. The lesser of 250 megawatts or ten percent of the highest base case forecast peak requirement identified for the resource acquisition period shall be the maximum amount of power that the utility may obtain through such alternative method of resource acquisition (1) in any single resource acquisition period and (2) from any single specific resource, regardless of the number of resource acquisition periods over which the units, plants, or other components of the resource might be built or the output of the resource made available for purchase.

(c) The utility shall have the flexibility to propose multiple acquisitions at various times over the resource acquisition period. However, the limits specified in paragraph (b) of this rule shall apply to the total resources acquired though an alternative method during an entire four-year least-cost planning cycle.

(d) Each utility shall establish, and shall include as a part of its filing, a written bidding policy to ensure that bids are solicited and evaluated in a fair and reasonable manner. The utility shall specify the competitive acquisition procedures that it intends to use to obtain resources under the utility's plan.

(e) If the utility intends to accept proposals from the utility or from an affiliate of the utility, the utility shall include as part of its filing a written separation policy and the name of an independent auditor whom the utility proposes to hire to review, and to have report to the Commission on, the fairness of the competitive acquisition process. The independent auditor shall have at least five years' experience conducting and/or reviewing the conduct of competitive electric utility resource acquisition, including computerized portfolio costing analysis. The independent auditor shall be unaffiliated with the utility and shall not have benefited, directly or indirectly, from employment or contracts with the utility in the preceding five years, except as an independent auditor under these rules. The independent auditor shall not participate in, or advise the utility with respect to, any decisions in the bid solicitation or bid evaluation process. The independent auditor shall conduct an audit of the utility's bid solicitation and evaluation process to determine whether it was conducted fairly. For purposes of such audit, the utility shall provide the independent auditor immediate and continuing access to all documents and data reviewed, used, or produced by the utility in its bid solicitation and evaluation process. The utility shall make all its personnel, agents, and contractors involved in the bid solicitation and bid evaluation available for interview by the auditor. The utility shall conduct any additional modeling requested by the independent auditor to test the assumptions and results of the bid evaluation analyses. Within sixty days of the utility's selection of final resources, the independent auditor shall file a report with the Commission containing the auditor's views on whether the utility conducted a fair bid solicitation and bid evaluation process, with any deficiencies specifically reported. After the filing of the independent auditor's report, the utility, other bidders in the resource acquisition process and other interested parties shall be given the opportunity to review and to comment on the independent auditor's report.

(f) In selecting its final resource plan, the utility's objective shall be to minimize the net present value of rate impacts, consistent with reliability considerations and with financial and development risks. In its bid solicitation and evaluation process, the utility shall consider renewable resources; resources that produce minimal emissions or minimal environmental impact; energy-efficient technologies; and resources that provide beneficial contributions to Colorado's energy security, economic prosperity, environmental protection, and insulation from fuel price increases. Further, the utility shall grant a preference to such resources where cost and reliability considerations are equal.

3611. Exemptions from Cc~~c~~ompetitive a~~A~~cquisition.

The following resources need not be acquired through a competitive acquisition process and need not be included in an approved Least-Cost Plan prior to acquisition:

(a) Emergency maintenance or repairs made to utility-owned generation facilities.

(b) Capacity and/or energy from newly-constructed, utility-owned, supply-side resources with a nameplate rating of not more than 30 megawatts.

(c) Capacity and/or energy from the generation facilities of other utilities or from non-utility generators pursuant to agreements for not more than a two year term (including renewal terms) or for not more than 30 megawatts of capacity.

(d) Improvements or modifications to existing utility generation facilities that change the production capability of the generation facility site in question, by not more than 30 megawatts, based on the utility's share of the total power generation at the facility site and that have an estimated cost of not more than $30 million.

(e) Interruptible service provided to the utility's electric customers.

(f) Modification to, or amendment of, existing power purchase agreements provided the modification or amendment does not extend the agreement more than four years, does not add more than 30 MW of capacity to the utility's system, and is cost effective in comparison to other supply-side alternatives available to the utility.

(g) Utility investments in emission control equipment at existing generation plants.

3612. Request(s) For Proposals.

(a) Purpose of the ~~R~~r~~r~~equest(s) for ~~P~~p~~p~~roposals. The proposed RFP(s) filed by the utility shall be designed to solicit competitive bids to acquire additional resources pursuant to rule 3610.

(b) Contents of the ~~R~~r~~r~~equest(s) for ~~P~~p~~p~~roposals. The proposed RFP(s) shall include the bid evaluation criteria the utility plans to use in ranking the bids received. The utility shall also include in its proposed RFP(s): (1) base-load, intermediate, and/or peaking needs and preferred fuel type; (2) reasonable estimates of transmission costs for resources located in different areas; (3) the extent and degree to which resources must be dispatchable, including the requirement, if any, that resources be able to operate under automatic dispatch control; (4) the utility's proposed standard contract(s) for the acquisition of resources; (5) proposed contract term lengths; (6)

discount rate; (7) general planning assumptions; and (8) any other information necessary to implement a fair and reasonable bidding program.

3613. Commission Review and Approval of Least-Cost Resource Plans.

(a) Review on the ~~M~~merits. The utility's plan, as developed pursuant to rule 3604, shall be filed as an application; shall meet the requirements of rules 3002(b) and 3002(c); and shall be administered pursuant to the Commission's Rules Regulating Practice and Procedure. The Commission may hold a hearing for the purpose of reviewing, and rendering a decision regarding, the contents of the utility's filed least-cost resource plan.

(b) Basis for Commission ~~D~~decision. Based upon the evidence of record, the Commission shall issue a written decision approving, disapproving, or ordering modifications, in whole or in part, to the utility's plan. If the Commission declines to approve a plan, either in whole or in part, the utility shall make changes to the plan in response to the Commission's decision. Within 60 days of the Commission's rejection of a plan, the utility shall file an amended plan with the Commission and shall provide copies to all parties who participated in the application docket concerning the utility's plan. All such parties may participate in any hearings regarding the amended plan.

(c) Contents of the Commission ~~D~~decision. The Commission decision approving or denying the plan shall address the contents of the utility's plan filed in accordance with rule 3604. If the record contains sufficient evidence, the Commission shall specifically approve or modify: (1) the utility's assessment of need for additional resources in the resource acquisition period; (2) the utility's plans for acquiring additional resources through the competitive acquisition process or through an alternative acquisition process; and (3) components of the utility's proposed RFP, such as the proposed evaluation criteria.

(d) Effect of the Commission ~~D~~decision. A Commission decision specifically approving the components of a utility's plan creates a presumption that utility actions consistent with that approval are prudent. Because the Commission will not approve a utility's selection of specific resources, the Commission's approval of a plan creates no presumptions regarding those resources.

(I) In a proceeding concerning the utility's request to recover the investments or expenses associated with new resources:

(A) The utility must present prima facie evidence that its actions were consistent with Commission decisions specifically approving or modifying components of the plan.

(B) To support a Commission decision to disallow investments or expenses associated with new resources on the grounds that the utility's actions were not consistent with a Commission approved plan, an intervenor must present evidence to overcome the utility's prima facie evidence that its actions were consistent with Commission decisions approving or modifying components of the plan. Alternatively, an intervenor may present evidence that, due to changed circumstances timely known to the utility or that should have been known to a prudent person, the utility's actions were not proper.

(II) In a proceeding concerning the utility's request for a certificate of public convenience and necessity to meet customer need specifically approved by the Commission in its decision on the least-cost resource plan, the Commission shall take administrative notice of its decision on the plan. Any party challenging the Commission's decision regarding need for additional resources has the burden of proving that, due to a change in circumstances, the Commission's decision on need is no longer valid.

3614. Reports.

(a) Annual ~~P~~progress ~~R~~reports. The utility shall file with the Commission, and shall provide to all parties to the most recent least-cost planning docket, annual progress reports after submission of its plan application. The annual progress reports will inform the Commission of the utility's efforts under the approved plan. Annual progress reports shall also contain the following:

(I) An updated annual electric demand and energy forecast developed pursuant to rule 3606.

(II) An updated evaluation of existing resources developed pursuant to rule 3607.

(III) An updated evaluation of planning reserve margins and contingency plans developed pursuant to rule 3608.

(IV) An updated assessment of need for additional resources developed pursuant to rule 3609.

(V) An updated report of the utility's plan to meet the resource need developed pursuant to rule 3610 and the resources the utility has acquired to date in implementation of the plan.

(VI) In addition to the items required in subparagraphs(a)(I) through (a)(V), a cooperative electric generation and transmission association shall include in its annual report a full explanation of how its future resource acquisition plans will give fullest possible consideration to the cost-effective implementation of new clean energy and energy-efficient technologies in its consideration of generation acquisitions for electric utilities, bearing in mind the beneficial contributions such technologies make to Colorado's energy security, economic prosperity, environmental protection, and insulation from fuel price increases.

(b) Reports of the competitive acquisition process. The utility shall provide reports to the Commission concerning the progress and results of the competitive acquisition of resources. The following reports shall be filed:

(I) Within 30 days after bids are received in response to the RFP(s), the utility shall report: (1) the number of bids received, (2) the quantity of MW offered by bidders, (3) a breakdown of the number of bids and MW received by resource type, and (4) a description of the prices of the resources offered.

(II) If, upon examination of the bids, the utility determines that the proposed resources may not meet the utility's expected resource needs, the utility shall file, within 30 days after bids are received, an application for approval of a contingency plan. The application shall

include the information required by rules 3002(b) and 3002(c), the justification for need of the contingency plan, the proposed action by the utility, the expected costs, and the expected timeframe for implementation.

(III) Within 45 days after the utility has selected the winning bidders, the utility shall report: (1) the number of winning bids; (2) the quantity of MW offered by the winning bidders; (3) a breakdown of the number and MW of winning bids by resource type, name, and location; and (4) a description of the prices of the winning bids.

3615. Amendment of an Approved ~~plan~~Plan.

The utility may file, at any time, an application to amend the contents of a plan approved pursuant to rule 3613. Such an application shall meet the requirements of rules 3002(b) and 3002(c), shall identify each proposed amendment, shall state the reason for each proposed amendment, and shall be administered pursuant to the Commission's Rules Regulating Practice and Procedure.

3616. – 3649. [Reserved]

RENEWABLE ENERGY STANDARD

~~3652~~3650. Applicability.

(a) Rules 3650 throughe 3665 shall apply to all jurisdictional electric utilities in the state of Colorado which serve over 40,000 customers, that have not voted to exempt themselves, and are subject to the Commission's regulatory authority.

(b) The board of directors of each QRU subject to these rules may, at its option, submit the question of its exemption from these rules to its consumers on a one meter equals one vote basis. Approval by a majority of those voting in the election shall be required for such exemption, providing that a minimum of 25~~%~~ percent of eligible consumers participate in the election.

(I) Within 45 days of the conclusion of any vote for exemption, the QRU shall provide written notification of the outcome of the vote to the Director of the Commission.

(c) The board of directors of each municipally owned electric utility or rural electric cooperative not subject to these rules may, at its option, submit the question of whether to be subject to these rules to its consumers on a one meter equals one vote basis. Approval by a majority of those voting in the election shall be required for such inclusion, providing that a minimum of 25~~%~~ percent of eligible consumers participates in the election.

(I) Within 45 days of the conclusion of any vote to be subject to these rules, the municipally owned electric utility or rural electric cooperative shall provide written notification of the outcome of the vote to the Director of the Commission.

(d) For municipal utilities and cooperative electric associations that become qualifying retail utilities after December 31, 2006, the percentage requirements identified in ~~R~~rule 3654(a) shall begin in the first calendar year following qualification as follows:

(I) Years one through four: Three percent of retail electricity sales;

(II) Years five through eight: Six percent of retail electricity sales; and

(III) Year nine and thereafter: Ten percent of retail electricity sales.

(e) Nothing in these rules is intended to expand the Commission's regulatory oversight and powers over municipally owned electric utilities or rural electric cooperatives.

3651. Overview and Purpose.

The purpose of these rules is to establish a process to implement the renewable energy standard for qualifying retail utilities in Colorado, pursuant to ~~the power to regulate public utilities delegated to the Commission by §24-4-101 C.R.S., *et seq.*, §40-2-108 C.R.S., §40-3-102 C.R.S., §40-3-103 C.R.S., §40-4-101 C.R.S., and~~ § 40-2-124, C.R.S.

Section 40-2-124, C.R.S., was enacted by the voters of the State of Colorado as 2004 Ballot Amendment 37 and was amended by the 2005 Colorado General Assembly by Senate Bill 05-143.

Energy is critically important to Colorado's welfare and development, and its use has a profound impact on the economy and environment. Growth of the state's population and economic base will continue to create a need for new energy resources, and Colorado's renewable energy resources are currently underutilized.

Therefore, in order to save consumers and businesses money, attract new businesses and jobs, promote development of rural economies, minimize water use for electricity generation, diversify Colorado's energy resources, reduce the impact of volatile fuel prices, and improve the natural environment of the state, it is in the best interests of the citizens of Colorado to develop and utilize renewable energy resources to the maximum practicable extent.

It is the policy of this State to encourage local ownership of renewable energy generation facilities to improve the financial stability of rural communities.

~~3650~~3652. ~~Special~~ Definitions.

The following definitions apply only to rules 3650 ~~–~~through 3665. In the event of a conflict between these definitions and a statutory definition, the statutory definition shall apply.

(a) "Annual ~~C~~compliance ~~R~~report" means the report a QRU is required to file annually with the Commission pursuant to ~~Rule~~ rule 3662 to demonstrate compliance with the Renewable Energy Standard.

(b) "Biomass" means nontoxic plant matter consisting of agricultural crops or their byproducts, urban wood waste, mill residue, slash, or brush; animal wastes and products of animal wastes; or methane produced at landfills or as a by-product of the treatment of wastewater residuals.

(c) "Compliance ~~P~~plan" means the annual plan a QRU is required to file with the Commission pursuant to ~~Rule~~ rule 3657.

(d) "Compliance ~~Y~~year" means a calendar year for which the ~~R~~renewable ~~E~~energy ~~S~~standard is applicable.

(e) "Eligible ~~R~~renewable ~~E~~energy" means either ~~R~~renewable ~~E~~energy or RECs or both

(f) "Eligible ~~R~~renewable ~~E~~energy ~~R~~resources" are facilities that generate electricity by means of the following energy sources: solar radiation, wind, geothermal, biomass, hydropower, and fuel cells using hydrogen derived from ~~E~~eligible ~~r~~Renewable ~~E~~energy ~~R~~resources. Fossil and nuclear fuels and their derivatives are not eligible energy sources. Hydropower resources in existence on January 1, 2005 must have a nameplate rating of thirty megawatts or less. Hydropower resources not in existence on January 1, 2005 must have a nameplate rating of ten megawatts or less.

(g) "Off-grid ~~O~~on-site ~~S~~solar ~~S~~system" means an ~~O~~on-site ~~S~~solar ~~S~~system located on the premises of an end-use electric consumer located within the service territory of a QRU or an electric utility that is eligible to become a QRU pursuant to § 40-2-124(5)(b), C.R.S., that is not connected to, and operates completely independently from, the distribution system or transmission system facilities of any electric utility.

(h) "On-site ~~S~~solar ~~S~~system" means a ~~S~~solar ~~R~~renewable ~~E~~energy ~~S~~system located on the premises of an end-use electric consumer located within the service territory of a QRU or an electric utility that is eligible to become a QRU pursuant to § 40-2-124(5)(b), C.R.S. For the purposes of this definition, the non-residential end-use electric customer, prior to the installation of the ~~S~~solar ~~R~~renewable ~~E~~energy ~~S~~system, shall not have its primary business being the generation of electricity for retail or wholesale sale from the same facility. In addition, at the time of the installation of the ~~S~~solar ~~R~~renewable ~~E~~energy ~~S~~system, the non-residential end-use electric customer must use its existing facility for a legitimate commercial, industrial, governmental, or educational purpose other than the generation of electricity. An On-site ~~S~~solar ~~S~~system is limited to a maximum size of ~~2~~two MW.

(i) "Person" means Commission staff or any individual, firm, partnership, corporation, company, association, cooperative association, joint stock association, joint venture, governmental entity, or other legal entity.

(j) "Qualifying ~~R~~retail ~~U~~utility" or "QRU" means any provider of retail electric service in the state of Colorado that serves over 40,000 customers.

(k) "Renewable ~~E~~energy" means energy generated from ~~E~~eligible ~~R~~renewable ~~E~~energy ~~R~~resources.

(l) "Renewable ~~E~~energy ~~C~~credit" or "REC" means a contractual right to the full set of non-energy attributes, including any and all credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, directly attributable to a specific amount of electric energy generated from an ~~E~~eligible ~~R~~renewable ~~E~~energy ~~R~~resource. One REC results from one megawatt-hour of electric energy generated from an ~~E~~eligible ~~R~~renewable ~~E~~energy ~~R~~resource. For the purposes of these rules, RECs include, but are not limited to, S-RECs and SO-RECs.

(m) "Renewable ~~E~~energy ~~C~~credit ~~C~~contract" means a contract for the sale of ~~R~~renewable ~~E~~energy ~~C~~credits without the associated energy.

(n) "Renewable ~~E~~energy ~~S~~standard" means the electric resource standard for ~~E~~eligible ~~R~~renewable ~~E~~energy ~~R~~resources specified in § 40-2-124, C.R.S.

(o) "Renewable ~~E~~energy ~~S~~supply ~~C~~contract" means a contract for the sale of ~~R~~renewable ~~E~~energy and the RECs associated with such ~~R~~renewable ~~E~~energy. If the contract is silent as to ~~R~~renewable ~~E~~energy ~~C~~credits, the ~~R~~renewable ~~E~~energy ~~C~~credits will be deemed to be combined with the energy transferred under the contract.

(p) "Solar ~~E~~electric ~~G~~generation ~~T~~technologies" means any technology that uses solar radiation energy to generate electricity.

(q) "Solar ~~O~~on-site ~~R~~renewable ~~E~~energy ~~C~~credit" or "SO-REC" means a R~~EC~~ created by an ~~O~~on-site ~~S~~solar ~~S~~system.

(r) "Solar ~~R~~renewable ~~E~~energy ~~C~~credit" or "S-REC" means a REC created by a ~~S~~solar ~~R~~renewable ~~E~~energy ~~S~~system. For the purposes of these rules, S-RECs include, but are not limited to, SO-RECs.

(s) "Solar ~~R~~renewable ~~E~~energy ~~S~~system" means a system that uses a ~~S~~solar ~~E~~electric ~~G~~generation ~~T~~technology to generate electricity.

(t) "Standard ~~R~~rebate ~~O~~offer" or "SRO" means a standardized incentive program offered by a QRU to its retail electric service customers for ~~O~~on-site ~~S~~solar ~~S~~systems that do not exceed 100 kW per installation.

(u) "Watt" means a unit of measure of alternating current electric power at a point in time, as capacity or demand. For the purposes of measurement of output from ~~S~~solar ~~R~~renewable ~~E~~energy ~~S~~systems used in the solar program, the watts referenced herein mean those determined by a nationally accepted testing organization.

3653. Municipal and Cooperative Utilities.

(a) If a municipally owned electric utility or a rural electric cooperative implements a renewable energy standard substantially similar to the provisions of § 40-2-124, C.R.S., then the municipally-owned electric utility or rural electric cooperative will have no obligations under this article.

(b) The municipally owned utility or rural electric cooperative implementing a renewable energy standard substantially similar to the provisions of § 40-2-124, C.R.S., shall submit a statement to the Commission that demonstrates its renewable energy standard program, at a minimum, meets the following criteria:

(I) The eligible renewable energy resources must be limited to those identified in subsection § 40-2-124(1)(a);

(II) The percentage requirements must be equal to or greater in the same years than those identified in subsection § 40-2-124(1)(c)(I) and counted in the manner allowed by Rule 3654(c); and

(III) The utility must have an optional pricing program in effect that allows retail customers the option to support through utility rates emerging renewable energy technologies.

(c) The statement to be submitted by a municipally owned utility or rural electric cooperative is for information purposes only and is not subject to approval by the Commission.

(d) Nothing in this section prohibits a municipally owned electric utility or a rural electric cooperative from buying and selling RECs.

3654. Renewable Energy Standard.

(a) Each QRU shall generate or cause to be generated (through purchase or by providing rebates or other form of incentive) eEligible Rrenewable Eenergy in the following minimum amounts:

(I) Three3% percent of its retail electric energy sales in Colorado for each of the cCompliance Yyears 2007 through 2010;

(II) 6%Six percent of its retail electric energy sales in Colorado for each of the cCompliance Yyears 2011 through 2014;

(III) 10%Ten percent of its retail electric energy sales in Colorado for each cCompliance yYear beginning in 2015 and continuing thereafter.

(b) Of the Eeligible Rrenewable Eenergy amounts specified in Rule 3654(a), at least four percent shall be derived from sSolar Eelectric Ggeneration Ttechnologies. At least one-half of this four percent shall be derived from oOn-site sSolar sSystems located at customers' facilities.

(c) For purposes of compliance with the Rrenewable Eenergy Sstandard, each kilowatt-hour of Eeligible Rrenewable Eenergy generated in Colorado shall be counted as 1.25 kilowatt-hours of Eeligible Rrenewable Eenergy.

(d) For purposes of compliance with this Rrenewable Eenergy Sstandard, a QRU may generate, or cause to be generated, and count eEligible rRenewable eEnergy for compliance:

(I) For the cCompliance Yyear immediately preceding the Ccompliance Yyear during which it was generated, provided that such eEligible rRenewable eEnergy is generated no later than July 1 of the calendar year immediately following the end of the Ccompliance Yyear for which it is being counted;

(II) For the cCompliance Yyear during which it was generated; or

(III) For the five Ccompliance Yyears immediately following the Ccompliance Yyear during which it was generated.

(IV) Eligible rRenewable eEnergy generated on or after January 1, 2004 may be counted for compliance with this Rrenewable Eenergy Sstandard. Renewable Eenergy or RECs generated on or before December 31, 2003 shall not be eligible for, and shall not be counted for, compliance with this rRenewable eEnergy sStandard. The eligibility for compliance of all eEligible rRenewable eEnergy shall expire at the end of the fifth calendar year following the calendar year during which it was generated.

(e) For purposes of compliance with this ~~R~~renewable ~~E~~energy ~~S~~standard, a QRU may substitute the equivalent RECs, S-RECs, or SO-RECs for ~~E~~eligible ~~R~~renewable ~~E~~energy.

(f) For the first four ~~C~~compliance ~~Y~~years, 2007 through 2010, the QRU may borrow forward ~~E~~eligible ~~R~~renewable ~~E~~energy generated during the following two ~~C~~compliance ~~Y~~years. Any borrowed ~~E~~eligible ~~R~~renewable ~~E~~energy generated during a ~~C~~compliance ~~Y~~year must be made up by actual ~~E~~eligible ~~R~~renewable ~~E~~energy generated during that ~~C~~compliance ~~Y~~year or borrowed from subsequent ~~C~~compliance ~~Y~~years, provided that the 2010 ~~C~~compliance ~~Y~~year is the last ~~C~~compliance ~~Y~~year that borrowing forward may occur pursuant to this rule. For purposes of this rule, the term "borrow forward" means that a QRU may count ~~E~~eligible ~~R~~renewable ~~E~~energy that it has not yet generated or caused to be generated to satisfy its current year obligations toward compliance with the ~~R~~renewable ~~E~~energy ~~S~~standard and the term "made up" means that any counting of ~~E~~eligible ~~R~~renewable ~~R~~resources by a QRU in a ~~C~~compliance ~~Y~~year that it had not actually generated nor caused to be generated shall be actually generated or caused to be generated in a subsequent year.

(g) For the first four ~~C~~compliance ~~Y~~years, 2007 through 2010, no administrative penalties shall be assessed against a QRU if the failure to meet the ~~R~~renewable ~~E~~energy ~~S~~standard results from events beyond the reasonable control of the QRU which could not have reasonably been mitigated by the QRU.

(h) For purposes of compliance with this ~~R~~renewable ~~E~~energy ~~S~~standard, there shall be no "double counting" of ~~R~~renewable ~~E~~energy or RECs. Notwithstanding the foregoing, ~~E~~eligible ~~R~~renewable ~~E~~energy generated or acquired by a QRU and counted toward compliance with a federal renewable energy standard may also be counted by the QRU toward compliance with the ~~R~~renewable ~~E~~energy ~~S~~standard.

(i) A QRU may apply to the Commission for a determination as to whether ~~E~~eligible ~~R~~renewable ~~E~~energy sold by the QRU under an optional renewable energy pricing program may be counted by the QRU toward compliance with the ~~R~~renewable ~~E~~energy ~~S~~standard. Such ~~E~~eligible ~~R~~renewable ~~E~~energy shall not be counted toward compliance with the ~~R~~renewable ~~E~~energy ~~S~~standard until the Commission grants approval of the utility's application following an evidentiary hearing.

(j) For purposes of compliance with this ~~R~~renewable ~~E~~energy ~~S~~standard, if a generation system uses a combination of fossil fuel and ~~E~~eligible ~~R~~renewable ~~E~~energy ~~R~~resources to generate electricity, a QRU may count only as ~~E~~eligible ~~R~~renewable ~~E~~energy the proportion of the total electric output of the generation system that results from the use of ~~E~~eligible ~~R~~renewable ~~E~~energy ~~R~~resources. The QRU shall include in its ~~A~~annual ~~C~~compliance ~~P~~plan the method of calculation used to determine the proportion of ~~E~~eligible ~~R~~renewable ~~E~~energy.

(k) The QRU may generate, or cause to be generated, ~~E~~eligible ~~R~~renewable ~~E~~energy without regard to economic dispatch procedures.

3655. Resource Acquisition.

(a) It is the Commission's policy that utilities should meet the renewable energy standard in the most cost-effective manner. To this end the QRU shall use competitive bidding for acquiring renewable energy from eligible renewable energy resources using solar electric generation technologies with nameplate rating greater than 100 kW.

(b) Competitive solicitations shall be conducted by each QRU to achieve the statutory policies contained in the legislative declaration of intent. Whenever a QRU acquires renewable energy and/or RECs by competitive acquisition, to the extent possible, the solicitations and evaluations of proposals should be coordinated to avoid redundancy and to minimize the cost of acquiring such renewable energy and/or RECs. A QRU may conduct, in its discretion, separate solicitations or combined solicitations, for any of the following:

(I) Renewable energy from on-site solar systems;

(II) Renewable energy from solar energy systems that are not on-site solar systems;

(III) Renewable energy from non-solar resources such as wind, geothermal, biomass, hydropower, fuel cells;

(IV) Renewable energy credits (RECs);

(V) Solar renewable energy credits (S-RECs); and

(VI) Solar on-site renewable energy credits (SO-RECs).

(c) The QRU may apply to the Commission, at any time, for review and approval of renewable energy supply contracts and renewable energy credit contracts. The Commission will review and rule on these contracts within sixty days of their filing. The Commission may set the contract for expedited hearing, if appropriate, under the Commission's Rules of Practice and Procedure. If the QRU enters into a renewable energy supply contract or a renewable energy credit contract in a form substantially similar to the form of contract approved by the Commission as part of the QRU's compliance plan, that contract shall be deemed approved by the Commission under this rule.

(d) Renewable energy supply contracts entered into after the effective date of these rules:

(I) Shall be for the acquisition of both renewable energy and the associated RECs;

(II) May reflect a fixed price, or a price that varies by year;

(III) Shall have a minimum term of 20 years (or shorter at the sole discretion of the seller); and

(IV) Shall require the seller to relinquish all REC ownership associated with contracted renewable energy to the buyer.

(e) Renewable eEnergy Ccredit Cccontracts entered into after the effective date of these rules:

(I) Shall be for the acquisition of RECs only;

(II) May reflect a fixed price, or a price that varies by time period; and

(III) Shall have a minimum term of 20 years if the REC is from an Oon-site Ssolar Sssystem.

(f) Competitive solicitations for eEligible rRenewable eEnergy from oOn-sSite sSolar sSystems that provide SO-RECs shall be conducted at least two times per year by each QRU in 2006 and 2007 and thereafter as necessary to comply with the Rrenewable Eenergy Sstandard.

(I) The treatment of any solar-generated electricity generated on-site in excess of the consumption of the host facility will be governed by the net metering provisions pursuant to Rule rule 3664.

(g) Competitive solicitations for the acquisition of S-RECs may be conducted by each QRU as needed to comply with the Rrenewable Eenergy Sstandard.

(h) Competitive solicitations for rRenewable eEnergy or RECs from Eeligible Rrenewable Eenergy Resources other than oOn-sSite sSolar sSystems shall be conducted by each QRU in a timeframe that takes into account the projected needs of the QRU.

(i) Each competitive solicitation pursuant to these rules shall be targeted toward acquiring the amount of eEligible rRenewable eEnergy required for compliance with each component of the rRenewable Eenergy Sstandard, and taking into account:

(I) The Rretail Rrate iimpact, and

(II) The estimated number of SO-RECs procured under and expected to be procured under the standing sSstandard Rrebate Ooffer.

(j) Each QRU shall provide all parties to the bid process timely notice of bidding procedure.

(k) Each QRU shall disclose, at the Commission's request, all information that will be used in the acquisition process, including but not limited to, interconnection and transmission studies, and methods for modeling or otherwise analyzing bids. Confidential information may be protected in accordance with Rrules 1100 through 1102 of the Commission's Rules of Practice and Procedure.

(l) If the QRU intends to accept proposals for renewable resources from the QRU or from an affiliate of the QRU, it shall include a written separation policy and name an independent auditor whom the utility proposes to hire to review and report to the Commission on the fairness of the competitive acquisition process. The independent auditor shall have at least five years' experience conducting and/or reviewing the conduct of competitive electric utility resource acquisition, including computerized portfolio costing analysis. The independent auditor shall be unaffiliated with the utility; and shall not, directly or indirectly, have benefited from employment or contracts with the utility in the preceding five years, except as an independent auditor under these rules. The independent auditor shall not participate in, or advise the utility with respect to, any

decisions in the bid-solicitation or bid-evaluation process. The independent auditor shall conduct an audit of the utility's bid solicitation and evaluation process to determine whether it was conducted fairly. For purposes of such audit, the utility shall provide the independent auditor immediate and continuing access to all documents and data reviewed, used or produced by the utility in its bid solicitation and evaluation process. The utility shall make all its personnel, agents and contractors involved in the bid solicitation and evaluation available for interview by the auditor. The utility shall conduct any additional modeling requested by the independent auditor to test the assumptions and results of the bid evaluation analyses. Within 60 days of the utility's selection of final resources, the independent auditor shall file a report with the Commission containing the auditor's views on whether the utility conducted a fair bid solicitation and bid evaluation process, with any deficiencies specifically reported. After the filing of the independent auditor's report, the utility, other bidders in the resource acquisition process and other interested parties shall be given the opportunity to review and comment on the independent auditor's report.

(m) Responses to competitive solicitations shall be evaluated and ranked by the QRU.

(I) In addition to the cost of the rRenewable ~~E~~energy and RECs, the QRU may take into consideration the characteristics of the underlying Eligible Renewable Energy Resource that may impact the ability of the bidder to fulfill the terms of the bid including, but not limited to project in-service date, resource reliability, viability, economic development benefits, energy security benefits, amount of water used, fuel cost savings, environmental impacts including tradable emissions allowances savings, load reduction during higher cost hours, transmission capacity and scheduling, and any other factor the QRU determines is relevant to the QRU's needs.

(II) Bids with prices that vary by year will be evaluated by discounting the yearly prices at the utility discount rate.

(III) A QRU is not required to accept any bid and may reject any and all bids offered. However, each solicitation shall culminate in a report detailing the outcome of the solicitation and identifying which bids were selected, which were rejected, and why.

(IV) For purposes of comparing bids for RECs only with bids for electricity and RECs, the QRU shall assign a value for the electricity and subtract this value from the electricity and RECs bid, and evaluate bids on the basis of RECs only. The QRU shall include, as part of its Compliance Plan, a description of its methodology and price(s) it intends to use for this evaluation.

(n) Within 15 days, the QRU shall notify respondents as to whether their bid has met the bid submission criteria.

(o) Upon ranking of eligible bids, each QRU shall within 15 days indicate to all respondents with which proposals it intends to pursue a contract

(p) If there is a dispute between a bidder and the QRU, either party may refer the dispute to the Commission for resolution.

3656. Environmental Impacts.

(a) Renewable electric generation facilities must meet all applicable federal, state, and local environmental permitting requirements

(b) For ~~E~~eligible ~~R~~renewable e~~E~~nergy ~~R~~resources larger than ~~2~~two MW with any wind turbine structures extending over 50 feet in height, the QRU shall require project developers to include in the bid package written documentation that consultation occurred with appropriate governmental agencies (for example, the Colorado Division of Wildlife or the U.S. Fish and Wildlife Service) responsible for reviewing potential project development impacts to state and federally listed wildlife species, as well as species and habitats of concern.

(c) For e~~E~~ligible r~~R~~enewable e~~E~~nergy r~~R~~esources larger than ~~2~~two MW with any wind turbine structures extending over 50 feet in height, the QRU ~~R~~renewable ~~E~~energy ~~S~~supply ~~C~~contract shall require project developers to certify, as a condition precedent to achieving commercial operation, that the developer has performed and made publicly available site specific avian and other wildlife surveys conducted on the facility's site prior to construction. The developer shall further certify that the developer used the results of these surveys in the design, placement, and management of the facilities to ensure that the environmental impacts of facility development are minimized to state and federally listed species and species of special concern, sites shown to be local bird migration pathways, critical habitat and areas where birds or other wildlife are highly concentrated and are considered at risk.

3657. QRU Compliance Plan.

(a) Every year on or before July 1, beginning in 2007, each QRU shall file with the Commission, by application, its proposed plan detailing how the QRU intends to comply with these rules during the next ~~C~~compliance ~~Y~~year. Each QRU shall file with the Commission, by application, its proposed plan for the 2007 ~~C~~compliance ~~Y~~year within 60 days after the effective date of these rules. Each annual QRU plan shall include rules, regulations and tariffs, if applicable, and the following:

(I) The QRU's:

(A) Determination of the retail rate impact pursuant to ~~R~~rule 3661;

(B) Estimate of its retail electricity sales;

(C) Estimate of the ~~E~~eligible ~~R~~renewable ~~E~~energy that the QRU already has acquired and the QRU's estimate of the additional ~~E~~eligible ~~R~~renewable ~~E~~energy that will be needed to meet the r~~R~~enewable e~~E~~nergy s~~S~~tandards;

(D) Estimate of the funds that the QRU will have available to generate, or cause to be generated, additional ~~E~~eligible ~~R~~renewable ~~E~~energy under the ~~R~~retail ~~R~~rate ~~I~~impact rule;

(E) Plan to acquire additional e~~E~~ligible r~~R~~enewable ~~E~~energy given the constraints of the r~~R~~etail r~~R~~ate i~~I~~mpact rule, including the allocation of the funds available under the ~~R~~retail ~~R~~rate ~~I~~impact rule to acquire ~~R~~renewable ~~E~~energy or RECs from each

of the following: oOn-site sSolar sSystems; sSolar rRenewable eEnergy sSystems that are not oOn-site sSolar sSystems; and non-solar Rrenewable eEnergy;

(F) Standard Rrebate Ooffer and the QRU's estimate of the Eeligible Rrenewable Eenergy that will be acquired under the sStandard rRebate oOffer;

(G) Plan to track how it is responding to customers participating in the Sstandard Rrebate Ooffer program. The QRU shall track from the start of the application process to when the photovoltaic system commences generation.

(H) Plan to acquire the additional Eeligible Rrenewable Eenergy, including the QRU's use of competitive acquisitions to obtain the additional solar Eeligible Rrenewable Eenergy it needs to meet the Rrenewable Eenergy Sstandard;

(I) The proposed Rrequest for Pproposal including any standard contracts to be included with the acquisition for all Eeligible Rrenewable Eenergy that the QRU plans to acquire by competitive acquisition; and

(J) Proposed ownership investment, if any, in Eeligible Rrenewable Eenergy Rresources and estimate of whether its investment will provide net economic benefits to the QRU's customers, entitling the QRU to extra profit on its investment, pursuant to Rule rule 3660.

(II) The competitive acquisition process for renewable energy resources, pursuant to Rule rule 3655;

(III) The establishment of the initial level and adjustments to the sStandard rRebate Ooffer for solar electric generation resources, pursuant to Rule rule 3658;

(IV) The treatment, tracking, counting and trading of RECs, pursuant to Rule rule 3659;

(V) The establishment of a cost recovery mechanism, pursuant to Rule rule 3660;

(VI) The net metering for renewable energy resources, pursuant to Rule rule 3664; and

(VII) The interconnection of renewable energy resources, pursuant to Rule rule 3665.

(b) The Commission shall either approve the QRU's cCompliance pPlan or order modifications to the CCcompliance Pplan. QRU actions consistent with an approved compliance plan will be presumed prudent.

(c) The QRU may apply to the Commission at any time for approval of amendments to an approved cCompliance Pplan.

3658. Standard Rebate Offer.

(a) Each QRU shall make available to its retail electricity customers a sStandard rRebate oOffer of $2.00 per watt for oOn-site sSolar sSystems, up to a maximum of 100 kW per system, that

become operational on or after December 1, 2004. At the QRU's option, the ~~S~~standard ~~R~~rebate ~~O~~offer may be paid based upon the direct current (DC) watts produced by the o~~O~~n-site s~~S~~olar s~~S~~ystems. Any SO-RECs acquired by the QRU pursuant to such SRO program, regardless of whether the associated r~~R~~enewable e~~E~~nergy is specifically metered or contractually specified without specific metering, may be counted by the QRU for purposes of compliance with the r~~R~~enewable e~~E~~nergy ~~S~~standard.

(b) On or before June 1, 2006, each QRU shall make a one-time offer to purchase, under a r~~R~~enewable ~~E~~energy ~~C~~credit ~~C~~contract, the SO-RECs associated with ~~O~~on-site s~~S~~olar ~~S~~systems, up to a maximum of ~~10~~ ten kW per system existing prior to December 1, 2004, and o~~O~~ff-grid ~~O~~on-site ~~S~~solar ~~S~~systems, up to a maximum of ~~10~~ten kW per system. The purchase price offered by the QRU for such SO-RECs shall be no less than the QRU's then current standard offer payment rate for SO-RECs, exclusive of the standard rebate payment, associated with the QRU's ~~S~~standard ~~R~~rebate ~~O~~offer and established pursuant to ~~Rule~~ rule 3658. Subsequent offers shall be made at the discretion of the QRU. SO-RECs purchased by a QRU pursuant to this rule may be counted for purposes of compliance with the ~~R~~renewable ~~E~~energy ~~S~~standard.

(c) The ~~S~~standard ~~R~~rebate ~~O~~offer of the QRU shall be set forth at least annually and shall meet the following requirements:

(I) The QRU need not offer a rebate for an ~~O~~on-site ~~S~~solar ~~S~~system smaller than 500 watts.

(II) The rebate must be made available to all retail utility customers of the QRU on a non-discriminatory, first-come, first-served basis, based upon the date of contract execution.

(III) Applicants who are accepted for SRO rebates shall have one year from the date of contract execution to demonstrate substantial completion of their proposed ~~O~~on-site ~~S~~solar ~~S~~system. Substantial completion means the purchase and installation on the customer's premises of all major system components of the ~~O~~on-site ~~S~~solar ~~S~~system. Customers who do not achieve substantial completion within one year will not receive a rebate, unless the substantial completion date is extended. When substantial completion of an ~~O~~on-site ~~S~~solar ~~S~~system has been achieved by an applicant pursuant to this rule the SO-RECs may be counted for purposes of compliance with the ~~R~~renewable ~~E~~energy ~~S~~standard. Within 30 days of substantial completion, the SRO rebate, pursuant to ~~R~~rule 3658(a), and SO-REC payment, pursuant to ~~R~~rule 3658(c)(VIII), shall be paid to the applicant.

(IV) With the exception of batteries, all ~~O~~on-site ~~S~~solar ~~S~~systems eligible for SRO rebates shall be covered by a minimum five-year warranty. Contracts will require customers to maintain the ~~O~~on-site ~~S~~solar ~~S~~system so that it remains operational for the term of the contract.

(V) On-site ~~S~~solar ~~S~~systems must consist of equipment that is commercially available and factory new when installed on the original customer's premises to be eligible for the SRO rebate. Rebuilt, used, or refurbished equipment is not eligible to receive the rebate.

(VI) Customers may contract to expand their ~~O~~on-site ~~S~~solar ~~S~~systems and obtain a rebate for the expanded capacity.

(VII) In order to receive the SRO rebate payment, the customer must enter into an agreement with the QRU, with a minimum term of 20 years, that transfers the SO-RECs generated by the oOn-site sSolar sSystem during the term of the agreement from the customer to the QRU.

(VIII) For oOn-site Ssolar Ssystems, up to and including 10ten kW, that become operational on or after December 1, 2004, the QRU shall offer to make a one-time payment, in addition to the standard rebate payment, for the SO-RECs contracted to be transferred from the customer to the QRU. Any customer that receives the rebate payment and one-time SO-REC payment under this program shall not be entitled to any other compensation for the SO-RECs contracted to be transferred to the QRU. To facilitate installation of these small systems, all procedures, forms, and requirements shall be clear, simple, and straightforward to minimize the time and effort of homeowners and small businesses.

(IX) For oOn-site sSolar Ssystems greater than ten10 kW that become operational on or after December 1, 2004, the QRU, in addition to the standard rebate payment, shall offer to pay for the SO-RECs contracted to be transferred from the customer to the QRU. Such SO-RECs and the associated payments shall be determined by the specifically metered rRenewable Eenergy output from the Oon-site Ssolar Ssystem.

(X) The customer or its representative shall provide a calculation of the annual expected kilowatt-hour production from the customer's Oon-Ssite sSolar Ssystem. The customer or its representative shall provide the following documentation to back up the customer's calculation:

(A) Tilt of the system in degrees (horizontal = 0 degrees);

(B) Orientation of the system in degrees (south = 180 degrees);

(C) A representation that the orientation of the system is free of trees, buildings and or other obstructions that might shade the system measured from the center point of the solar array through a horizontal angle plus or minus 60 degrees and a through vertical angle between 15 degrees and 90 degrees above the horizontal plane.

(D) A calculation of the annual expected kWh of electricity produced by the system. For PV systems, the calculation of annual expected kWh of electricity will be based on the public domain solar calculator PVWatts Version 1 (or equivalent upgrade).

(i) The weather station that is either nearest to or most similar in weather to the installation site;

(ii) The Ssystem Ooutput rating which equals the module rating times the inverter efficiency times the number of modules;

(iii) Array Ttype: fixed tilt, single axis tracking, or 2 axis tracking; For variable tilt systems, the PVWatts calculations can be run multiple times

corresponding to the number of times per year that the system tilt is expected to be changed using those months corresponding to the specific tilt angle used;

(iv) Array ~~T~~tilt (degrees); and

(v) Array ~~A~~azimuth (degrees).

(E) In the event PVWatts is no longer available, an equivalent tool shall be established.

(F) For ~~O~~on-~~S~~site ~~S~~solar ~~S~~systems up to and including ~~10~~ten kW, the REC payment may be adjusted, either up or down, based on the calculation of expected kWh of electric output derived from ~~R~~rule 3658(X)(D) as compared with an optimally oriented fixed, i.e. non-tracking, system at the customer's location, but only if the calculated system output differs from the optimally oriented system output by more than ~~10~~ ten ~~%~~percent.

(XI) The level of SO-REC payments for systems of ~~10~~ ten kW and smaller offered in connection with a QRU's SRO program may be adjusted from time to time as needed to achieve compliance with the ~~R~~renewable ~~E~~energy ~~S~~standard.

(XII) The ~~O~~on-site ~~S~~solar ~~S~~system installed must remain in place on the customer's premises for the duration of its useful life. The customer's equipment must have electrical connections in accordance with industry practice for permanently installed equipment, and it must be secured to a permanent surface (e.g., foundation, roof, etc.). Any indication of portability, including, but not limited to, wheels, carrying handles, dolly, trailer or platform, will render the system ineligible for participation and payments under the SRO program.

3659. Renewable Energy Credits.

(a) Renewable ~~E~~energy ~~C~~credits will be used to comply with the renewable energy standard. Eligible RECs acquired by contracts or through a system of tradable renewable energy credits, exchanges, or brokers may also be used by QRUs to comply with this standard. In calculating compliance, the total RECs acquired from ~~E~~eligible ~~R~~renewable ~~E~~energy ~~R~~resources during a compliance year may include:

(I) RECs generated by ~~E~~eligible ~~R~~renewable ~~E~~energy ~~R~~resources owned by the QRU or by a QRU affiliate;

(II) RECs acquired by the QRU pursuant to ~~R~~renewable ~~E~~energy ~~S~~supply ~~C~~contracts;

(III) RECs acquired by the QRU pursuant to ~~R~~renewable ~~E~~energy ~~C~~credit ~~C~~contracts;

(IV) RECs acquired by the QRU pursuant to a standing offer program;

(V) RECs acquired through a system of tradable renewable energy credits, from exchanges or from brokers

(VI) RECs carried forward from previous compliance years, pursuant to ~~R~~rule 3654(d);

(VII) RECs borrowed forward from future compliance years, pursuant to ~~R~~rule 3654(f).

(b) RECs representing electricity generated at ~~E~~eligible ~~R~~renewable ~~E~~energy ~~R~~resources located in the state of Colorado shall be counted as 1.25 RECs for the purpose of compliance with ~~R~~rule 3654.

(c) All contracts between QRUs and the owners of ~~E~~eligible ~~R~~renewable ~~E~~energy ~~R~~resources entered into after the effective day of these rules shall clearly specify the entity who shall own the RECs associated with the energy generated by the facility.

(d) A ~~R~~renewable ~~E~~energy ~~C~~credit shall expire at the end of the fifth calendar year following the calendar year during which it was generated.

(e) Renewable ~~E~~energy ~~C~~credits that are generated on or after January 1, 2004 may be counted for compliance with this ~~R~~renewable ~~E~~energy ~~S~~standard.

(f) RECs shall be used for a single purpose only, and shall expire or be retired upon use for that purpose. All RECs utilized by the QRU to comply with the ~~R~~renewable ~~E~~energy ~~S~~standard:

(I) May not be sold or otherwise exchanged with any other party, or in any other state or jurisdiction;

(II) May not be included within a blended energy product certified to include a fixed percentage of renewable energy in any other state or jurisdiction;

(III) May be counted simultaneously toward compliance with a federal renewable portfolio standard and with the ~~R~~renewable ~~E~~energy ~~S~~standard.

(g) RECs that are generated with fuel cell energy using hydrogen derived from an ~~E~~eligible ~~R~~renewable ~~E~~energy ~~R~~resource are eligible for compliance purposes only to the extent that the energy used to generate the hydrogen did not create ~~R~~renewable ~~E~~energy ~~C~~credits.

(h) If a renewable energy system uses an ~~E~~eligible ~~R~~renewable ~~E~~energy ~~R~~resource in combination with a nonrenewable energy source to generate electricity, only the RECs associated with the proportion of the total electric output of the renewable energy system that results from the use of ~~E~~eligible ~~R~~renewable ~~E~~energy ~~R~~resources shall be eligible to count toward compliance with the renewable energy standard.

(i) If an ~~O~~on-~~S~~site ~~S~~solar ~~S~~systems of ~~10~~ ten kW or below has received a one-time REC payment from a QRU under ~~Rule~~ rule 3658, the QRU shall be entitled to count the anticipated SO-RECs purchased by the one-time REC payment for compliance with the ~~R~~renewable ~~E~~energy ~~S~~standard even if the ~~O~~on-~~S~~site ~~S~~solar ~~S~~systems is removed or becomes inoperable.

(j) A QRU:

(I) Shall develop an auditable process to account for RECs using a central database. In the absence of a central third-party database, the QRU shall maintain its own REC internal

database and shall make an extract of the REC information available on the utility's website.

(II) Shall designate within its database any REC sold to a wholesaler if the REC has been assigned to that wholesaler.

(III) Shall apply for the inclusion of any losses or gains from the purchase or sale of RECs through an appropriate adjustment clause mechanism.

(IV) Shall hire an independent auditor to verify the accuracy of the QRU internal database which tracks REC. The independent verification shall occur after two years then every three years thereafter.

(k) The QRU shall record REC information from ~~E~~eligible ~~R~~renewable ~~E~~energy ~~R~~resources in a central database. The database shall include, but not be limited to, a list of all ~~E~~eligible ~~R~~renewable ~~E~~energy ~~R~~resources the QRU intends to use for compliance with the ~~R~~renewable ~~E~~energy ~~S~~standard, including their type, location, owner, operator, start of operation, actual REC generation, ownership, transfer and retirement. A summary database shall be provided to the Commission Staff and be publicly viewable via the Commission's worldwide web. Owners of ~~e~~Eligible ~~R~~renewable ~~E~~energy ~~R~~resources with nameplate ratings of 100kW or below and larger ~~E~~eligible ~~R~~renewable ~~R~~resources, at their option, shall have their name and address encoded for privacy. Systems that are encoded for privacy shall have a unique identifying number assigned, and will continue to have the zip code reported.

(l) In conjunction with the QRU Compliance plans specified in ~~Rule~~ rule 3657, a QRU may make a request that the Commission allow the use of a central third-party database to account for RECs. If a QRU proposes to use a central third-party database for the accounting of RECs, the QRU must show that the central third-party database can be readily audited by the Commission Staff to verify that the renewable energy standard is met and that the alternative system is cost effective.

3660. Cost Recovery.

(a) The QRU shall be entitled to timely cost recovery through retail rate mechanisms for all funds prudently expended to comply with these rules, including the costs the QRU incurs to administer the ~~S~~standard ~~R~~rebate ~~O~~offer and the acquisitions of ~~E~~eligible ~~R~~renewable ~~E~~energy ~~R~~resources. The QRU shall be entitled to recover its investment and expenses associated with these rules through appropriate adjustment clauses that allow recovery of expenditures without the full resetting of electric rates.

(b) In advance of the approval of the first ~~C~~compliance ~~P~~plan, a QRU may propose, by application, to implement a forward-looking cost recovery mechanism to provide funding for implementing the ~~R~~renewable ~~E~~energy ~~S~~standard. In its application, the QRU must demonstrate that the funding mechanism proposed will not exceed the retail rate impact test. If approved, the forward-looking funding mechanism may be implemented prior to the first ~~C~~compliance ~~Y~~year. Each QRU with a forward-looking cost recovery mechanism shall separately identify the forward-looking cost recovery mechanism on its customers' bills.

(I) Interest shall accrue on the unexpended balance of funds collected from a forward-looking rider. The interest rate shall be at the Commission's customer deposit interest

rate at the time of the rider. A QRU may request interest on any funds it expends in excess of those collected through the forward-looking rider. The request for interest on excess expenditures shall include the reason(s) for the excess expenditures. The request for interest shall be included as part of the ~~A~~annual ~~C~~compliance ~~R~~report, pursuant to ~~Rule~~ rule 3662.

(c) If the QRU incurs costs in acquiring ~~E~~eligible ~~R~~renewable ~~E~~energy to meet the ~~R~~renewable ~~E~~energy ~~S~~standard that exceed the maximum retail rate impact, the QRU shall be entitled to carry forward these costs to a future year for cost recovery. These carried forward amounts shall not increase the amounts that a QRU may charge customers under the ~~R~~retail ~~R~~rate ~~I~~impact rule.

(d) The QRU shall be entitled to earn an extra profit on the QRU's ownership investment in a specific ~~E~~eligible ~~R~~renewable ~~E~~energy ~~R~~resource if that ~~E~~eligible ~~R~~renewable ~~E~~energy ~~R~~resource provides net economic benefits to customers. For these investments, the QRU shall be entitled to a return equal to the QRU's most recent authorized rate of return on rate base plus a bonus limited to 50~~%~~ percent of the of the net economic benefit as long as the QRU is in compliance with these rules implementing the r~~R~~enewable e~~E~~nergy s~~S~~tandard. If the QRU's investment in a specific e~~E~~ligible ~~R~~renewable ~~E~~energy ~~R~~resource does not provide a net economic benefit to customers, the QRU shall be entitled to a return equal to the QRU's most recent authorized rate of return on rate base.

(I) For the purposes of this ~~Rule~~ rule 3660, net economic benefit shall mean that the specific ~~E~~eligible ~~R~~renewable ~~E~~energy ~~R~~resource in which the QRU has made an ownership investment results in an average retail rate impact less than the rate impact that would have resulted from the acquisition of the alternative ~~E~~eligible ~~R~~renewable ~~E~~energy ~~R~~resource meeting the same component of the r~~R~~enewable e~~E~~nergy ~~S~~standard that would have been selected absent the QRU's investment. The QRU shall set forth its calculation of the proposed net economic benefit either at the time of a ~~C~~compliance ~~P~~plan filing, an ~~A~~annual ~~C~~compliance ~~R~~report filing, a QRU rate filing or by application. The Commission shall determine the level of the net economic benefit and the level of the bonus after review of the utility's filing. The Commission may set the matter for hearing if appropriate under the Commission's Rules of Practice and Procedure.

(II) To the extent that a QRU uses computer modeling in its analysis of net economic benefit, the QRU shall use the same methodologies and assumptions it used in its most recently approved ~~L~~least-~~C~~cost ~~P~~planning case, except as otherwise approved by the Commission. Confidential information may be protected in accordance with ~~Rule~~ rules 1100 through 1102 of the Commission's Rules of Practice and Procedure~~s~~.

(III) Any net economic benefit for which the QRU qualifies to receive a bonus shall be included in the calculation of the retail rate impact rule pursuant to ~~Rule~~ rule 3661.

(e) The utility is entitled to recover through rates, its prudently incurred expenditures. While not the exclusive method for establishing prudence, if the Commission approves a ~~R~~renewable ~~E~~energy ~~S~~supply ~~C~~contract or a ~~R~~renewable ~~E~~energy ~~C~~credit ~~C~~contract, the expenditures of the QRU under the contract shall be deemed to be prudent expenditures.

(f) If the QRU recovers fuel and purchased energy expense through an incentive adjustment clause, the QRU shall not receive a benefit from the incentive adjustment clause for the energy

generated from QRU-owned eEligible Rrenewable Eenergy Rresources, but the QRU shall be entitled to recover all the fuel and purchased energy costs associated with the Eeligible Rrenewable Eenergy Rresource.

(g) If a wholesale customer agrees to pay the full costs associated with the acquisition of renewable resources and associated RECs by its wholesale provider, the wholesale customer shall be entitled to receive the appropriate credit toward the Rrenewable Eenergy Sstandard as well as any associated RECs. To the extent that the full costs are not recovered from wholesale customers, a QRU shall be entitled to recover those costs from retail customers.

3661. Retail Rate Impact.

(a) The net rate impact of actions taken by a QRU to comply with the rRenewable Eenergy Sstandard shall not exceed one percent of the total electric bill annually for each customer of that QRU.

(b) The net rate impact shall include the prudently incurred direct and indirect costs of all actions by a QRU to meet the Rrenewable Eenergy Sstandard, including, but not limited to, program administration, rebates and performance-based incentives, payments under Rrenewable eEnergy Ssupply Ccontracts, payments under Rrenewable Eenergy Ccredit Ccontracts, payments made for RECs purchased through brokers or exchanges, computer modeling and analysis time, and QRU investment in and return on investment for Eeligible Rrenewable Eenergy Rresources.

(c) The administrative costs of a QRU to implement these rules is capped at ten percent per year of the total annual collection. A QRU may include in its Ccompliance Pplan a waiver request of this rule during the initial ramp-up stage of the QRU's program.

(d) For purposes of calculating the retail rate impact, the QRU shall use the same methodologies and assumptions it used in its most recently approved Least-Ccost Pplanning case, unless otherwise approved by the Commission. Confidential information may be protected in accordance with Rules rules 1100 through1102 of the Commission's Rules of Practice and Procedure.

(e) In its Ccompliance Pplan filed under Rule rule 3657, the QRU shall estimate the retail rate impact of its plan to comply with the Rrenewable Eenergy Sstandard over the upcoming Ccompliance Yyear and shall submit a report detailing the development of the retail rate impact estimate. The Ccompliance Pplan shall identify the funds that need to be made available to the QRU to comply with the Rrenewable Eenergy Sstandard and the Rretail Rrate iImpact rule. By approving the QRU's Ccompliance Pplan, the Commission will be approving the QRU's budget for acquiring Eeligible Rrenewable Eenergy over the Ccompliance Yyear. Once approved by the Commission, the QRU shall implement its Ccompliance Pplan. Actions taken by a QRU in compliance with the filed and approved Ccompliance Pplan shall be deemed prudent.

(f) The basic method for performing the estimate of the retail rate impact limit is as follows:

(I) The QRU shall determine all commercially available resources to the QRU, either through ownership or by contract, at the time of the beginning of the Ccompliance Yyear and for a minimum of the ten years thereafter (the "RES pPlanning pPeriod"). The projected costs of these available resources shall be reflected in both of the scenarios analyzed by the QRU's computer planning models under this paragraph. The QRU shall determine the

QRU's capacity and energy requirements over the RES ~~P~~planning ~~P~~period. The QRU shall develop two scenarios to estimate the resource composition of the QRU's future electric system and the cost of that system over the RES Planning Period. The first scenario, a ~~R~~renewable ~~E~~energy ~~S~~standard ~~P~~plan or "RES ~~P~~plan" should reflect the QRU's plans and actions to acquire new ~~E~~eligible ~~R~~renewable ~~E~~energy necessary to meet the ~~R~~renewable ~~E~~energy ~~S~~standard reflecting a gradual ramp-up to the ~~10%~~ten percent level. The second scenario, a "No RES ~~P~~plan" should reflect the QRU's resource plan that meets the QRU's capacity and energy requirements over the RES ~~P~~planning ~~P~~period by replacing the new ~~E~~eligible ~~R~~renewable ~~E~~energy ~~R~~resources in the RES ~~P~~plan with new nonrenewable resources reasonably available. For purposes of this rule, new ~~E~~eligible ~~R~~renewable ~~E~~energy means ~~E~~eligible ~~R~~renewable ~~E~~energy from resources which are not commercially operational at the time these two modeling scenarios are performed.

(II) The QRU shall use the comparison of the two model runs of the RES p~~P~~lanning p~~P~~eriod along with any additional analysis needed to calculate the estimated annual net retail rate impact for the first ~~C~~compliance ~~Y~~year of the RES ~~P~~planning ~~P~~period. The maximum retail rate impact shall not exceed one percent of the total retail bill annually for each customer. To the extent the RES ~~P~~plan exceeds this maximum retail rate impact, the QRU shall modify the RES ~~P~~plan to limit the acquisition of ~~E~~eligible ~~R~~renewable ~~E~~energy so that the QRU ~~C~~compliance ~~P~~plan does not exceed the maximum retail rate impact for the first c~~C~~ompliance ~~Y~~year of the RES ~~P~~planning ~~P~~period. In calculating the annual net retail rate impact in each ~~C~~compliance ~~P~~plan for the first ~~C~~compliance ~~Y~~year of the RES ~~P~~planning ~~P~~period, the QRU shall take into account the on-going annual costs of all ~~E~~eligible ~~R~~renewable ~~E~~energy that the QRU has contracted to acquire under the s~~S~~tandard r~~R~~ebate o~~O~~ffer under ~~Rule~~ rule 3658 and all Eligible r~~R~~enewable e~~E~~nergy from resources that were constructed by the QRU or contracted for by the QRU after the effective date of these r~~R~~ules.

(g) Any QRU with annual retail sales of less than five million megawatt-hours can use an alternate method to determine the estimate of the retail rate impact. The alternative method can be used for those RES ~~P~~planning ~~P~~period years when the only remaining portion of the ~~R~~renewable ~~E~~energy ~~S~~standard with which the QRU needs to comply is the ~~E~~eligible r~~R~~enewable ~~E~~energy that must be acquired from s~~S~~olar e~~E~~lectric g~~G~~enerating t~~T~~echnologies.

(I) The retail rate impact will be determined by using the estimated costs of the proposed ~~S~~solar ~~E~~electric ~~G~~generating ~~T~~technologies less the estimated annual average costs of energy of existing resources that would be replaced with energy generated by the proposed ~~S~~solar ~~E~~electric ~~G~~generating ~~T~~technologies. The QRU shall also incorporate into this retail rate impact analysis other cost savings created by the deployment of the ~~S~~solar ~~E~~electric ~~G~~generating ~~T~~technologies and any other cost savings from the deployment of other non-solar renewable energy resources used to meet the ~~S~~standard. These cost savings include, but are not limited to, the avoided or deferred costs of generation, transmission and distribution facilities.

(II) The QRU will then convert this net cost figure into a percent of total electric bill annually for each customer. In no event shall the percent of total electric bill annually exceed one percent for each customer. To the extent that the net cost figure results in the QRU exceeding the one percent for each customer threshold, the QRU shall modify its

acquisition of ~~S~~solar ~~E~~electric ~~G~~generating ~~T~~technologies in order to not exceed the maximum retail rate impact.

3662. Annual Compliance Report.

(a) Beginning in 2007, the QRU shall file an ~~A~~annual ~~c~~Compliance ~~R~~report on June 1 to report on the status of the QRU's compliance with the ~~r~~Renewable ~~e~~Energy ~~S~~standard for the most recently completed ~~c~~Compliance ~~y~~Year. The ~~a~~Annual ~~C~~compliance ~~R~~report shall provide the following information for the most recently completed ~~C~~compliance ~~Y~~year:

(I) The total megawatt-hours sold by the QRU to its retail customers in Colorado and the associated ~~E~~eligible ~~R~~renewable ~~E~~energy required for compliance with each component of the ~~R~~renewable ~~E~~energy ~~S~~standard;

(II) The total amount and source of ~~E~~eligible ~~R~~renewable ~~E~~energy acquired by the QRU during the ~~C~~compliance ~~Y~~year for each component of the ~~R~~renewable ~~E~~energy ~~S~~standard. The QRU shall separately identify amounts of ~~E~~eligible ~~R~~renewable ~~E~~energy by each type of resource;

(III) The total amount of ~~E~~eligible ~~R~~renewable ~~E~~energy borrowed forward, pursuant to ~~R~~rule 3654(f), in previous ~~C~~compliance ~~Y~~years that was made up during the ~~C~~compliance ~~Y~~year to achieve compliance with each component of the ~~R~~renewable ~~E~~energy ~~S~~standard;

(IV) The total amount of ~~E~~eligible ~~R~~renewable ~~E~~energy borrowed forward, pursuant to ~~R~~rule 3654(f), from future ~~c~~Compliance ~~y~~Years to achieve compliance with each component of the ~~r~~Renewable ~~E~~energy ~~S~~standard in the ~~C~~compliance ~~Y~~year;

(V) The total amount and source of ~~E~~eligible ~~R~~renewable ~~E~~energy the QRU is carrying back from the year following the ~~C~~compliance ~~y~~Year under ~~R~~rule 3654(d)(I) to achieve compliance with each component of the ~~R~~renewable ~~E~~energy ~~S~~standard in the ~~C~~compliance ~~Y~~year;

(VI) The total amount of ~~E~~eligible ~~R~~renewable ~~e~~Energy the QRU has carried forward from prior calendar years under ~~R~~rule 3654(d)(III) to apply in the ~~C~~compliance ~~Y~~year for each component of the ~~R~~renewable ~~E~~energy ~~S~~standard.

(VI) The total amount of ~~E~~eligible ~~R~~renewable ~~E~~energy the QRU has acquired in the ~~C~~compliance ~~Y~~year that the QRU proposes to carry forward under ~~R~~rule 3654(d)(III) to future years for each component of the ~~R~~renewable ~~E~~energy ~~S~~standard;

(VIII) The total amount of ~~e~~Eligible ~~r~~Renewable ~~e~~Energy the QRU has counted toward compliance with each component of the ~~R~~renewable ~~E~~energy ~~S~~standard in the ~~C~~compliance ~~Y~~year. The QRU shall separately identify amounts of ~~e~~Eligible ~~r~~Renewable ~~e~~Energy by each type of resource;

(IX) The total amount of ~~r~~Renewable ~~e~~Energy or RECs acquired by the QRU during the ~~c~~Compliance ~~Y~~year pursuant to the ~~S~~standard ~~R~~rebate ~~O~~offer ~~P~~program;

(X) Whether the QRU has invested in any eEligible Rrenewable Eenergy Rresource and whether that resource is under construction or in operation; and

(XI) The funds expended and the retail rate impact of the Eeligible Rrenewable Eenergy acquired. The Rretail Rrate iImpact cap shall be recalculated based on the actual Ccompliance Yyear values if the QRU developed the rRetail rRate iImpact cap pursuant to Rrule 3661(f). To the extent the recalculation of the Rretail Rrate iImpact cap demonstrates that additional funds are available based on actual Ccompliance Yyear values, the QRU shall use those additional funds to acquire RECs, to the extent necessary, to achieve the compliance levels set forth in Rrules 3654(a) and (b) or until the additional funds have been spent if the QRU intends to claim that the rRetail Rrate iImpact cap prevented it from achieving compliance with the sStandard.

(b) In the Aannual Ccompliance Rreport, the QRU must explain whether it achieved compliance with each component of the Rrenewable Eenergy Sstandard during the most recently completed cCompliance Yyear, or explain why the QRU had difficulty meeting the Rrenewable Eenergy Sstandard.

(c) If, in its Aannual Ccompliance Rreport, the QRU did not comply with its Rrenewable Eenergy Sstandard for each of the RES components as a direct result of absolute limitations within a requirements contract from a wholesale electric supplier, then the QRU must explain whether it acquired a sufficient amount of either eligible RECs or documented and verified energy savings through energy efficiency and/or conservation programs, or both to rectify the noncompliance so as to excuse the QRU from any administrative fine or other administrative action.

(d) On the same date that the QRU files its Aannual cCompliance rReport, the QRU shall post an electronic copy of its aAnnual cCompliance Rreport excluding confidential material on its website to facilitate public access and review.

(e) On the same date that the QRU files its aAnnual Ccompliance Rreport, it shall provide the Commission with an electronic copy of its Aannual Ccompliance Rreport excluding confidential material. The Commission may place the non-confidential portion of each QRU's Aannual Ccompliance Rreport on the Commission's website in order to facilitate public review.

3663. Compliance Report Review.

(a) Compliance Rreporting.

(I) In the Aannual Ccompliance Rreport, the QRU must explain whether it complied with its Rrenewable Eenergy Sstandard for the solar, on-site solar and non-solar components during the most recently completed Ccompliance Yyear.

(II) Upon receipt of the QRU Aannual Ccompliance Rreport, the Commission will provide notice to interested persons. Interested persons will have 30 days within which to provide comment to the Commission on the content of the Aannual Ccompliance Rreport. The QRU shall have the opportunity to reply to all comments on or before 45 days following the filing of the Aannual Ccompliance Rreport.

(III) The Staff of the Commission shall review the ~~A~~annual ~~C~~compliance ~~R~~report and any comments received and within 60 days of the filing of the ~~A~~annual ~~C~~compliance ~~R~~report make a recommendation to the Commission as to whether the QRU has met the ~~R~~renewable ~~E~~energy ~~S~~standard and no action should be taken by the Commission, whether any changes are needed to the compliance report, or whether a hearing is necessary.

(IV) Upon review of the QRU's ~~A~~annual ~~C~~compliance ~~R~~report, the Staff recommendation and all comments filed, the Commission will issue an order stating whether the QRU complied with the components of its ~~R~~renewable ~~E~~energy ~~S~~standard during the most recently completed c~~C~~ompliance ~~Y~~year and state whether a hearing is necessary.

(V) If the Commission determines that the total number of RECs which the QRU generated or acquired from renewable energy systems during the most recently completed ~~C~~compliance ~~Y~~year exceeded the total number of RECs which the QRU needed to comply with each component of its ~~R~~renewable ~~E~~energy ~~S~~standard for the recently completed c~~C~~ompliance y~~Y~~ear:

(A) The Commission will state in its order the number of excess solar, on-site solar and/or non-solar RECs which the QRU has available to carry forward from that ~~C~~compliance ~~Y~~year or use for any other legal purpose.

(B) The QRU may use those excess solar, on-site solar and/or non-solar RECs to comply with its ~~R~~renewable ~~E~~energy ~~S~~standard for the five ~~C~~compliance y~~Y~~ears immediately following that ~~C~~compliance ~~Y~~year.

(b) Compliance ~~R~~report ~~H~~hearing.

(I) If the Commission determines that the QRU did not comply with the solar, on-site solar or non-solar components of its ~~R~~renewable ~~E~~energy ~~S~~standard during the most recently completed ~~C~~compliance ~~Y~~year, the Commission will determine whether the QRU failed to meet the ~~R~~renewable ~~E~~energy ~~S~~standard because of the ~~R~~retail ~~R~~rate ~~I~~impact limit. The Commission will:

(A) State in its order the number of RECs by which the QRU failed to comply with each of the solar, on-site solar and non-solar components of its ~~R~~renewable ~~E~~energy ~~S~~standard; and

(B) State whether the Commission is satisfied that the failure to meet the ~~R~~renewable ~~E~~energy ~~S~~standard was due to the ~~R~~retail ~~R~~rate ~~I~~impact limit. If the Commission is not satisfied on this issue, the Commission will issue a notice of possible noncompliance and schedule an evidentiary hearing on the matter.

(II) At the evidentiary hearing, if the QRU asserts that the ~~R~~renewable ~~E~~energy ~~S~~standard was not met due to the ~~R~~retail ~~R~~rate ~~I~~impact, it will have the burden of proof that it failed to comply with the solar, on-site solar and non-solar components of its ~~R~~renewable ~~E~~energy ~~S~~standard during the most recently completed ~~C~~compliance ~~Y~~year because of the ~~R~~retail ~~R~~rate ~~I~~impact.

(III) At the evidentiary hearing, any party that advocates that the QRU failed to comply with the components of the QRU's ~~R~~renewable ~~E~~energy ~~S~~standard during the most recently completed ~~C~~compliance ~~Y~~ear is the proponent of a Commission order finding non-compliance, and that party shall have the burden of proof that the QRU failed to comply with the solar, on-site solar and non-solar components of its ~~R~~renewable ~~E~~energy ~~S~~standard during the most recently completed ~~C~~compliance ~~Y~~ear. The QRU may assert that the ~~R~~renewable ~~E~~nergy ~~S~~tandard was not met due to events beyond the reasonable control of the QRU that could not have been reasonably mitigated.

(c) Compliance ~~P~~penalties.

(I) After notice and hearing, if the Commission determines that the QRU did not fully comply with any of the solar, on-site solar and non-solar components of its ~~R~~renewable ~~E~~energy ~~S~~standard during the most recently completed ~~C~~compliance ~~Y~~ear, the Commission shall determine what, if any, administrative penalties should be assessed against the QRU for its failure to meet the ~~R~~renewable ~~E~~energy ~~S~~standard. In assessing penalties, the Commission may take one or more of the following actions:

(A) Determine for each component for which there was noncompliance the cost that would have been incurred by the QRU to fully comply with such component standard through the acquisition of RECs and assess all or part of this amount as part of an administrative penalty.

(B) No administrative penalties shall be assessed against a QRU if the amount of the shortfall is attributable to the ~~R~~retail ~~R~~rate ~~I~~impact limit.

(C) Assess no administrative penalties against a QRU if the failure to meet the ~~R~~renewable ~~E~~energy ~~S~~standard results from events beyond the reasonable control of the QRU that could not have been reasonably mitigated including, but not limited to, failures to perform by counterparties to ~~R~~renewable ~~E~~energy ~~S~~supply ~~C~~contracts and ~~R~~renewable ~~E~~nergy ~~C~~redit ~~C~~ontracts, events that delay the construction or commercial operation of QRU-owned ~~E~~eligible ~~R~~renewable ~~E~~energy ~~R~~resources, and lack of customer interest in the ~~S~~standard ~~R~~ebate ~~O~~ffer.

(II) The cost of such administrative penalties shall not be recovered from retail customers through the QRU's rates.

3664. Net Metering.

(a) All QRUs shall allow the customer's retail electricity consumption to be offset by the electricity generated from ~~E~~eligible ~~R~~renewable ~~E~~energy ~~R~~resources on the customer's side of the meter that are interconnected with the QRU, provided that the generating capacity of the customer's facility meets the following two criteria:

(I) The rated capacity of the generator does not exceed 2000 kW; and

(II) The rated capacity of the generator does not exceed the customer's service entrance capacity**.**

(b) If a customer with an ~~E~~eligible ~~R~~renewable ~~E~~energy ~~R~~resource generates ~~R~~renewable ~~E~~energy pursuant to subsection (a) of ~~Rule~~ rule 3664 in excess of the customer's consumption, the excess kilowatt-hours shall be carried forward from month to month and credited at a ratio of 1:1 against the customer's retail kilowatt-hour consumption in subsequent months. Within 60 days of the end of each calendar year, or within 60 days of when the customer terminates its retail service, the QRU shall compensate the customer for any accrued excess kilowatt-hour credits, at the QRU's average hourly incremental cost of electricity supply over the most recent calendar year.

(c) The QRU shall file tariffs that comply with these rules within 30 days of the effective date of these rules.

(d) A customer's facility that generates ~~R~~renewable ~~E~~energy from an ~~E~~eligible ~~R~~renewable ~~E~~energy ~~R~~resource shall be equipped with metering equipment that can measure the flow of electric energy in both directions. The QRU shall utilize a single bi-directional electric revenue meter.

(e) If the customer's existing electric revenue meter does not meet the requirements of these rules, the QRU shall install and maintain a new revenue meter for the customer, at the company's expense. Any subsequent revenue meter change necessitated by the customer shall be paid for by the customer.

(f) The QRU shall not require more than one meter per customer to comply with this ~~Rule~~ rule 3664. Nothing in this ~~Rule~~ rule 3664 shall preclude the QRU from placing a second meter to measure the output of a ~~S~~solar ~~R~~renewable ~~E~~energy ~~S~~system for the counting of RECs subject to the following conditions:

(I) For customer facilities over ~~10~~ ten kW, a second meter shall be required to measure the ~~S~~solar ~~R~~renewable ~~E~~energy ~~S~~system output for the counting of RECs.

(II) For systems ~~10~~ ten kW and smaller, an additional meter may be installed under either of the following circumstances:

(A) The QRU may install an additional production meter on the ~~S~~solar ~~R~~renewable ~~E~~energy ~~S~~system output at its own expense if the customer consents; or

(B) The customer may request that the QRU install a production meter on the ~~S~~solar ~~R~~renewable ~~E~~energy ~~S~~system output in addition to the revenue meter at the customer's expense.

(g) A QRU shall provide net metering service at non-discriminatory rates to customers with ~~E~~eligible ~~R~~renewable ~~E~~energy ~~R~~resources. A customer shall not be required to change the rate under which the customer received retail service in order for the customer to install an eligible renewable energy resource. Nothing in this rule shall prohibit a QRU from requesting changes in rates at any time.

3665. Small Generation Interconnection Procedures.

~~**NOTE: The following rule is numbered using the FERC's numbering convention and not the Colorado Commission's numbering convention. This rule largely tracks FERC Order 2006.**~~

~~**Small Generator Interconnection Procedures (SGIP)**~~

The following ~~S~~small ~~G~~generator ~~I~~interconnection ~~P~~procedures (SGIP) shall apply to all small generation resources including ~~E~~eligible ~~R~~renewable ~~E~~energy ~~R~~resources connected to the utility. Each utility shall also provide, on their web site, interconnection standards not included in these procedures. This rule largely tracks FERC Order 2006.

(a) Definitions. The following definitions apply only to rule 3665.

(I) "Business ~~D~~day" means Monday through Friday, excluding Federal Holidays.

(II) "Distribution ~~S~~system" means ~~T~~ the utility's facilities and equipment used to transmit electricity to ultimate usage points such as homes and industries directly from nearby generators or from interchanges with higher voltage transmission networks which transport bulk power over longer distances. The voltage levels at which ~~D~~distribution ~~S~~systems operate differ among areas.

(III) "Distribution ~~U~~upgrades" means ~~T~~the additions, modifications, and upgrades to the utility's ~~D~~distribution ~~S~~system at or beyond the ~~P~~point of ~~I~~interconnection to facilitate interconnection of the ~~S~~small ~~G~~generating ~~F~~facility and render the service necessary to effect the ~~I~~interconnection ~~C~~customer's operation of on-site generation. Distribution ~~U~~upgrades do not include ~~I~~interconnection ~~F~~facilities.

(IV) "Interconnection ~~C~~customer" means ~~A~~any entity, including the utility, any affiliates or subsidiaries of either, that proposes to interconnect its ~~S~~small ~~G~~generating ~~F~~facility with the utility's ~~S~~system.

(V) "Interconnection ~~F~~facilities" means ~~T~~the utility's ~~I~~interconnection ~~F~~facilities and the ~~I~~interconnection ~~C~~customer's ~~I~~interconnection ~~F~~facilities. Collectively, ~~I~~interconnection ~~F~~facilities include all facilities and equipment between the ~~S~~small ~~G~~generating ~~F~~facility and the ~~P~~point of ~~I~~interconnection, including any modification, additions or upgrades that are necessary to physically and electrically interconnect the ~~S~~small ~~G~~generating ~~F~~facility to the utility's ~~S~~system. Interconnection ~~F~~facilities are sole use facilities and shall not include ~~D~~distribution ~~U~~upgrades.

(VI) "Interconnection ~~R~~request" means ~~T~~the ~~I~~interconnection ~~C~~customer's request, in accordance with any applicable utility~~the~~ ~~T~~tariff, to interconnect a new ~~S~~small ~~G~~generating ~~F~~facility, ~~[We will have a Tariff]~~ or to increase the capacity of, or make a ~~M~~material ~~M~~modification to the operating characteristics of, an existing ~~S~~small ~~G~~generating ~~F~~facility that is interconnected with the utility's ~~S~~system.

(VII) "Party" or "Parties" means ~~T~~the utility, ~~I~~interconnection ~~C~~customer, or any combination of the above.

(VIII) "Point of ~~i~~interconnection" means~~—~~ ~~T~~the point where the ~~i~~Interconnection ~~F~~facilities connect with the utility's ~~S~~system.

(IX) "Small ~~G~~generating ~~F~~facility" means~~—~~ ~~T~~the ~~i~~interconnection ~~C~~customer's device for the production of electricity identified in the ~~i~~interconnection ~~R~~request, but shall not include the ~~i~~interconnection ~~F~~facilities not owned by the ~~i~~interconnection ~~C~~customer.

(X) "Study ~~P~~process" means~~—~~ ~~T~~the procedure for evaluating an ~~i~~interconnection ~~R~~request that includes the Level 3 scoping meeting, feasibility study, system impact study, and facilities study.

(XI) "System" means~~—~~ ~~T~~the facilities owned, controlled, or operated by the utility that are used to provide electric service under the ~~T~~tariff.

(XII) "Upgrades" means~~—~~ ~~T~~the required additions and modifications to the utility's ~~S~~system at or beyond the ~~P~~point of ~~i~~interconnection. Upgrades do not include ~~i~~interconnection ~~F~~facilities.

(~~a~~b) General ~~O~~overview.

(~~i~~I) Applicability.

(~~1~~A) A request to interconnect a certified ~~S~~small ~~G~~generating ~~F~~facility no larger than ~~2~~two MW shall be evaluated under the Level 2 Process. A request to interconnect a certified inverter-based ~~S~~small ~~G~~generating ~~F~~facility no larger than ~~10~~ten kW shall be evaluated under the Level 1 Process. A request to interconnect a ~~S~~small ~~G~~generating ~~F~~facility larger than ~~2~~two MW but no larger than ~~10~~ten MW or a ~~s~~Small ~~G~~generating ~~F~~facility that does not pass the Level 1 or Level 2 Process, shall be evaluated under the Level 3 Process.

(~~2~~B) ~~Capitalized terms~~ Defined terms used herein shall have the meanings specified in the ~~Glossary of Terms in Attachment 1 of the body of these procedures~~paragraph (a) of this rule.

(~~3~~C) Prior to submitting its ~~i~~interconnection ~~R~~request, the ~~i~~Interconnection ~~C~~customer may ask the utility interconnection contact employee or office whether the proposed interconnection is subject to these procedures. The utility shall respond within 15 ~~B~~business ~~D~~days.

(~~4~~D) Infrastructure security of electric system equipment and operations and control hardware and software is essential to ensure day-to-day reliability and operational security. The Commission expects all utilities, market participants, and Interconnection Customers interconnected with electric systems to comply with the recommendations offered by the President's Critical Infrastructure Protection Board and best practice recommendations from the electric reliability authority. All public utilities are expected to meet basic standards for electric system infrastructure and operational security, including physical, operational, and cyber-security practices.

(~~5~~E) References in these procedures to interconnection agreement are to the Small Generator Interconnection Agreement (SGIA).

(~~ii~~II) Pre-~~A~~application.
The utility shall designate an employee or office from which information on the application process and on an ~~A~~affected ~~S~~system can be obtained through informal requests from the ~~I~~interconnection ~~C~~customer presenting a proposed project for a specific site. The name, telephone number, and e-mail address of such contact employee or office shall be made available on the utility's Internet web site. Electric system information for specific locations, feeders, or small areas shall be provided to the ~~I~~interconnection ~~C~~customer upon request and may include relevant system studies, interconnection studies, and other materials useful to an understanding of an interconnection at a particular point on the utility's ~~S~~system, to the extent such provision does not violate confidentiality provisions of prior agreements or critical infrastructure requirements. The utility shall comply with reasonable requests for such information unless such information is proprietary or confidential and cannot be provided pursuant to a confidentiality agreement.

(~~iii~~III) Interconnection ~~R~~request.
The ~~I~~interconnection ~~C~~customer (IC) shall submit its ~~I~~interconnection ~~R~~request to the utility, together with the processing fee or deposit specified in the ~~I~~interconnection ~~R~~request. The ~~I~~interconnection ~~R~~request shall be date- and time-stamped upon receipt. The original date- and time-stamp applied to the ~~I~~interconnection ~~R~~request at the time of its original submission shall be accepted as the qualifying date- and time-stamp for the purposes of any timetable in these procedures. The ~~I~~interconnection ~~C~~customer shall be notified of receipt by the utility within three ~~B~~business ~~D~~days of receiving the ~~I~~interconnection ~~R~~request which notification may be to an e-mail address or fax number provided by IC. The utility shall notify the ~~I~~interconnection ~~C~~customer within ten ~~B~~business ~~D~~days of the receipt of the ~~I~~interconnection ~~R~~request as to whether the ~~I~~interconnection ~~R~~request is complete or incomplete. If the ~~I~~interconnection ~~R~~request is incomplete, the utility shall provide, along with the notice that the ~~I~~interconnection ~~R~~request is incomplete, a written list detailing all information that must be provided to complete the ~~I~~interconnection ~~R~~request. The ~~I~~interconnection ~~C~~customer will have ten ~~B~~business ~~D~~days after receipt of the notice to submit the listed information or to request an extension of time to provide such information. If the ~~Interconnection Customer~~IC does not provide the listed information or a request for an extension of time within the deadline, the ~~I~~interconnection ~~R~~request will be deemed withdrawn. An ~~I~~interconnection ~~R~~request will be deemed complete upon submission of the listed information to the utility.

(~~iv~~IV) Modification of the ~~I~~interconnection ~~R~~request.
Any modification to machine data or equipment configuration or to the interconnection site of the ~~S~~small ~~G~~generating ~~F~~facility not agreed to in writing by the utility and the ~~Interconnection Customer~~IC may be deemed a withdrawal of the ~~I~~interconnection ~~R~~request and may require submission of a new ~~I~~interconnection ~~R~~request, unless proper notification of each ~~P~~party by the other and a reasonable time to cure the problems created by the changes are undertaken.

(~~v~~V) Site ~~C~~control. Documentation of site control must be submitted with the ~~I~~interconnection ~~R~~request. Site control may be demonstrated through:

(~~1~~A) Ownership of, a leasehold interest in, or a right to develop a site for the purpose of constructing the ~~S~~small ~~G~~generating ~~F~~facility;

(~~2~~B) An option to purchase or acquire a leasehold site for such purpose; or

(~~3~~C) An exclusivity or other business relationship between the ~~Interconnection Customer~~ IC and the entity having the right to sell, lease, or grant the ~~Interconnection Customer~~IC the right to possess or occupy a site for such purpose.

(~~vi~~VI) Queue ~~P~~position.
The utility shall place ~~i~~interconnection ~~R~~requests in a first come, first served order per feeder and per substation based upon the date- and time-stamp of the ~~i~~interconnection ~~R~~request. The order of each ~~i~~interconnection ~~R~~request will be used to determine the cost responsibility for the ~~U~~upgrades necessary to accommodate the interconnection. At the utility's option, ~~i~~interconnection ~~R~~requests may be studied serially or in clusters for the purpose of the system impact study.

(~~b~~c) Level 2 - ~~F~~fast ~~T~~track ~~P~~process.

(~~i~~I) Applicability.
The ~~F~~fast ~~T~~track ~~P~~process is available to an ~~Interconnection Custome~~IC ~~r~~ proposing to interconnect its ~~S~~small ~~G~~generating ~~F~~facility with the utility's ~~S~~system if the ~~S~~small ~~G~~generating ~~F~~facility is no larger than ~~2~~two MW and if the ~~Interconnection Customer's~~IC's proposed ~~S~~small ~~G~~generating ~~F~~facility meets the codes, standards, and certification requirements of Attachments 3 and 4 of these procedures.

(~~ii~~II) Initial ~~R~~review.
Within 15 ~~B~~business ~~D~~days after the utility notifies the ~~i~~interconnection ~~C~~customer it has received a complete ~~i~~interconnection ~~R~~request, the utility shall perform an initial review using the screens set forth below, shall notify the ~~i~~interconnection ~~C~~customer of the results, and include with the notification copies of the analysis and data underlying the utility's determinations under the screens.

(~~1~~A) Screens.

~~A.~~(i) The proposed ~~S~~small ~~G~~generating ~~F~~facility's ~~P~~point of ~~i~~interconnection must be on a portion of the utility's ~~D~~distribution ~~S~~system that is subject to the ~~T~~tariff.

~~B~~(ii)~~.~~ For interconnection of a proposed ~~S~~small ~~G~~generating ~~F~~facility to a radial distribution circuit, the aggregated generation, including the proposed ~~S~~small ~~G~~generating ~~F~~facility, on the circuit shall not exceed 15 ~~%~~percent of the line section's annual peak load as most recently measured at the substation or calculated for the line segment. A line section is that portion of a utility's electric system connected to a customer bounded by automatic sectionalizing devices or the end of the distribution line.

~~C.~~(iii) The proposed ~~S~~small ~~G~~generating ~~F~~facility, in aggregation with other generation on the distribution circuit, shall not contribute more than ~~10 %~~ten percent to the distribution circuit's maximum fault current at the point on the distribution feeder voltage (primary) level nearest the proposed point of change of ownership.

~~D.~~(iv) The proposed ~~S~~small ~~G~~generating ~~F~~facility, in aggregate with other generation on the distribution circuit, shall not cause any distribution protective devices and equipment (including, but not limited to, substation breakers, fuse cutouts, and line reclosers), or Interconnection Customer equipment on the system to exceed 87.5 ~~%~~percent of the short circuit interrupting capability; nor shall the interconnection be proposed for a circuit that already exceeds 87.5 ~~%~~percent of the short circuit interrupting capability.

~~E.~~(v) Using the table below, determine the type of interconnection to a primary distribution line. This screen includes a review of the type of electrical service provided to the ~~Interconnecting Customer~~IC, including line configuration and the transformer connection to limit the potential for creating over-voltages on the utility's electric power system due to a loss of ground during the operating time of any anti-islanding function.

~~(1) Primary Distribution Line~~ ~~Type~~	~~Type of Interconnection to~~ ~~Primary Distribution Line~~	~~Result/Criteria~~
~~Three-phase, three wire~~	~~3-phase or single phase, phase-to-phase~~	~~Pass screen~~
~~Three-phase, four wire~~	~~Effectively-grounded 3 phase or Single-phase, line-to-neutral~~	~~Pass screen~~

Primary Distribution Line Type	Type of Interconnection to Primary Distribution Line	Result/Criteria
Three-phase, three wire	3-phase or single phase, phase-to-phase	Pass screen
Three-phase, four wire	Effectively-grounded 3 phase or Single-phase, line-to-neutral	Pass screen

~~F.~~(vi) If the proposed ~~S~~small ~~G~~generating ~~F~~facility is to be interconnected on single-phase shared secondary, the aggregate generation capacity on the shared secondary, including the proposed ~~S~~small ~~G~~generating ~~F~~facility, shall not exceed 20 kW.

~~G.~~(vii) If the proposed ~~S~~small ~~G~~generating ~~F~~facility is single-phase and is to be interconnected on a center tap neutral of a 240 volt service, its addition shall not create an imbalance between the two sides of the 240 volt service of more than 20 ~~%~~percent of the nameplate rating of the service transformer.

~~H.~~(viii) No construction of facilities by the utility on its own system shall be required to accommodate the ~~S~~small ~~G~~generating ~~F~~facility.

~~I.~~(ix) Interconnections to ~~D~~distribution ~~N~~networks.

~~1~~(1) For interconnection of a proposed s~~S~~mall ~~G~~generating ~~F~~facility to the load side of spot network protectors serving more than a single customer, the proposed ~~S~~small ~~G~~generating ~~F~~facility must utilize an inverter-based equipment package and, together with the aggregated other inverter-based generation, shall not exceed the smaller of ~~5 %~~ five percent of a spot network's maximum load or 300 kW. For spot networks serving a single customer, the ~~S~~small ~~G~~generator ~~F~~facility must use inverter-based equipment package and either meet the requirements above or shall use a protection scheme or operate the generator so as not to exceed on-site load or otherwise prevent nuisance operation of the spot network protectors.

(2) For interconnection of a proposed ~~S~~small ~~G~~generating ~~F~~facility to the load side of area network protectors, the proposed ~~S~~small ~~G~~generating ~~F~~facility must utilize an inverter-based equipment package and, together with the aggregated other inverter-based

generation, shall not exceed the smaller of ~~10%~~ten percent of an area network's minimum load or 500 kW.

(3) Notwithstanding sub-sections (1) or (2) above, each utility may incorporate into its interconnection standards, any change in interconnection guidelines related to networks pursuant to standards developed under IEEE 1547 for interconnections to networks. To the extent the new IEEE standards conflict with these existing guidelines, the new standards shall apply. In addition, and with the consent of the utility, a ~~S~~small ~~G~~generator ~~F~~facility may be interconnected to a spot or area network provided the ~~F~~facility ~~utilizes~~ uses a protection scheme that will prevent any power export from the customer's site including inadvertent export under fault conditions or otherwise prevent nuisance operation of the network protectors.

(~~2~~B) If the proposed interconnection passes the screens, the ~~I~~interconnection ~~R~~request shall be approved and the utility will provide the ~~Interconnection Customer~~IC an executable interconnection agreement within five ~~B~~business ~~D~~days after the determination.

(~~3~~C) If the proposed interconnection fails the screens, but the utility determines that the ~~S~~small ~~G~~generating ~~F~~facility may nevertheless be interconnected consistent with safety, reliability, and power quality standards, the utility shall provide the ~~Interconnection Customer~~IC an executable interconnection agreement within five ~~B~~business ~~D~~days after the determination.

(~~4~~D) If the proposed interconnection fails the screens, but the utility does not or cannot determine from the initial review that the ~~S~~small ~~G~~generating ~~F~~facility may nevertheless be interconnected consistent with safety, reliability, and power quality standards unless the ~~Interconnection Customer~~ IC is willing to consider minor modifications or further study, the utility shall provide the ~~Interconnection Customer~~IC with the opportunity to attend a customer options meeting.

(~~5~~E) Customer ~~O~~options ~~M~~meeting.
If the utility determines the ~~I~~interconnection ~~R~~request cannot be approved without minor modifications at minimal cost; or a supplemental study or other additional studies or actions; or at significant cost to address safety, reliability, or power quality problems, within the five ~~B~~business ~~D~~day period after the determination, the utility shall notify the ~~Interconnection Customer~~IC and provide copies of the data and analyses underlying its conclusion. Within ten ~~B~~business ~~D~~days of the utility's determination, the utility shall offer to convene a customer options meeting with the utility to review possible ~~Interconnection Customer~~IC facility modifications or the screen analysis and related results, to determine what further steps are needed to permit the ~~S~~small ~~G~~generating ~~F~~facility to be connected safely and reliably. At the time of notification of the utility's determination, or at the customer options meeting, the utility shall:

~~A.~~(i) Offer to perform facility modifications or minor modifications to the utility's electric system (e.g., changing meters, fuses, relay settings) and provide a non-binding good faith estimate of the limited cost to make such modifications to the utility's electric system; or

~~B.~~(ii) Offer to perform a supplemental review if the utility concludes that the supplemental review might determine that the sSmall ~~G~~generating ~~F~~facility could continue to qualify for interconnection pursuant to the ~~F~~fast ~~T~~track ~~P~~process, and provide a non-binding good faith estimate of the costs and time of such review; or

~~C.~~(iii) Obtain the ~~I~~interconnection ~~C~~customer's agreement to continue evaluating the ~~I~~interconnection ~~R~~request under the Level 3 Study Process.

(~~iii~~III) Supplemental Review.
If the ~~I~~interconnection ~~C~~customer agrees to a supplemental review, the ~~I~~interconnection ~~C~~customer shall agree in writing within 15 ~~B~~business ~~D~~days of the offer, and submit a deposit for the estimated costs provided in ~~(iii) (1) (B)~~subsection (c)(III)(A)(ii) of this rule. The ~~Interconnection Customer~~IC shall be responsible for the utility's actual costs for conducting the supplemental review. The ~~Interconnection Customer~~IC must pay any review costs that exceed the deposit within 20 ~~B~~business ~~D~~days of receipt of the invoice or resolution of any dispute. If the deposit exceeds the invoiced costs, the utility will return such excess within 20 ~~B~~business ~~D~~days of the invoice without interest.

(~~1~~A) Within ten ~~B~~business ~~D~~days following receipt of the deposit for a supplemental review, the utility will determine if the Small Generating Facility can be interconnected safely and reliably.

~~A.~~(i) If so, the utility shall forward an executable interconnection agreement to the ~~Interconnection Customer~~IC within five ~~B~~business ~~D~~days.

~~B.~~(ii) If so, and ~~Interconnection Customer~~IC facility modifications are required to allow the ~~S~~small ~~G~~generating ~~F~~facility to be interconnected consistent with safety, reliability, and power quality standards under these procedures, the utility shall forward an executable interconnection agreement to the ~~Interconnection Customer~~IC within five ~~B~~business ~~D~~days after confirmation that the ~~I~~interconnection ~~C~~customer has agreed to make the necessary changes at the ~~I~~interconnection ~~C~~customer's cost.

~~C.~~(iii) If so, and minor modifications to the utility's electric system are required to allow the ~~S~~small ~~G~~generating ~~F~~facility to be interconnected consistent with safety, reliability, and power quality standards under the Level 2 Fast Track Process, the utility shall forward an executable interconnection agreement to the ~~Interconnection Customer~~IC within ten ~~B~~business ~~D~~days that requires the ~~Interconnection Customer~~IC to pay the costs of such system modifications prior to interconnection.

~~D.~~(iv) If not, the ~~i~~interconnection ~~R~~request will continue to be evaluated under the Level 3 Study Process.

(~~c~~d) Level 3 - Study Process.

(~~i~~I) Applicability.
The ~~S~~study ~~P~~process shall be used by an ~~i~~interconnection ~~C~~customer proposing to interconnect its ~~S~~small ~~G~~generating ~~F~~facility with the utility's ~~S~~system if the ~~S~~small ~~G~~generating ~~F~~facility (1) is larger than ~~2~~two MW but no larger than ~~10~~ten MW, (2) is not certified, or (3) is certified but did not pass the Fast Track Process or the ~~10~~ten kW Inverter Process.

(~~ii~~II) Scoping m~~M~~eeting.

(~~1~~A) A scoping meeting will be held within ten ~~B~~business ~~D~~days after the ~~i~~interconnection ~~R~~request is deemed complete, or as otherwise mutually agreed to by the ~~P~~parties. The utility and the ~~i~~interconnection ~~C~~customer will bring to the meeting personnel, including system engineers and other resources as may be reasonably required to accomplish the purpose of the meeting.

(~~2~~B) The purpose of the scoping meeting is to discuss the ~~i~~interconnection ~~R~~request. The ~~P~~parties shall further discuss whether the utility should perform a feasibility study or proceed directly to a system impact study, or a facilities study, or an interconnection agreement. If the ~~P~~parties agree that a feasibility study should be performed, the utility shall provide the ~~Interconnection Customer~~IC, as soon as possible, but not later than five ~~B~~business ~~D~~days after the scoping meeting, a feasibility study agreement including an outline of the scope of the study and a non-binding good faith estimate of the cost to perform the study.

(~~3~~C) The scoping meeting may be omitted by mutual agreement. In order to remain in consideration for interconnection, an ~~Interconnection Customer~~IC who has requested a feasibility study must return the executed feasibility study agreement within 15 ~~B~~business ~~D~~days. If the ~~P~~parties agree not to perform a feasibility study, the utility shall provide the ~~Interconnection Customer~~IC, no later than five ~~B~~business ~~D~~days after the scoping meeting, a system impact study agreement including an outline of the scope of the study and a non-binding good faith estimate of the cost to perform the study.

(~~4~~D) Feasibility ~~S~~studies, ~~S~~scoping ~~S~~studies, and ~~F~~facility ~~S~~studies may be combined for simpler projects by mutual agreement of the utility and the ~~P~~parties.

(~~iii~~III) Feasibility ~~S~~study.

(~~1~~A) The feasibility study shall identify any potential adverse system impacts that would result from the interconnection of the ~~S~~small ~~G~~generating ~~F~~facility.

(~~2~~B) A deposit of the lesser of 50 percent of the good faith estimated feasibility study costs or earnest money of $1,000 may be required from the ~~i~~interconnection ~~C~~customer.

(~~3~~C) The scope of and cost responsibilities for the feasibility study are described in the attached feasibility study agreement.

(~~4~~D) If the feasibility study shows no potential for adverse system impacts, the utility shall send the Interconnection Customer a facilities study agreement, including an outline of the scope of the study and a non-binding good faith estimate of the cost to perform the study.

(~~5~~E) If the feasibility study shows the potential for adverse system impacts, the review process shall proceed to the appropriate system impact study(s).

(~~iv~~IV) System ~~I~~impact ~~S~~study.

(~~1~~A) A system impact study shall identify and detail the electric system impacts that would result if the proposed ~~S~~small ~~G~~generating ~~F~~facility were interconnected without project modifications or electric system modifications, focusing on the adverse system impacts identified in the feasibility study, or to study potential impacts, including but not limited to those identified in the scoping meeting. A system impact study shall evaluate the impact of the proposed interconnection on the reliability of the electric system.

(~~2~~B) If no transmission system impact study is required, but potential electric power ~~D~~distribution ~~S~~system adverse system impacts are identified in the scoping meeting or shown in the feasibility study, a distribution system impact study must be performed. The utility shall send the ~~Interconnection Customer~~IC a distribution system impact study agreement within 15 ~~B~~business ~~D~~days of transmittal of the feasibility study report, including an outline of the scope of the study and a non-binding good faith estimate of the cost to perform the study, or following the scoping meeting if no feasibility study is to be performed.

(~~3~~C) In instances where the feasibility study or the distribution system impact study shows potential for transmission system adverse system impacts, within five ~~B~~business ~~D~~days following transmittal of the feasibility study report, the utility shall send the ~~Interconnection Customer~~IC a transmission system impact study agreement, including an outline of the scope of the study and a non-binding good faith estimate of the cost to perform the study, if such a study is required.

(~~4~~D) If a transmission system impact study is not required, but electric power ~~D~~distribution ~~S~~system adverse system impacts are shown by the feasibility study to be possible and no distribution system impact study has been conducted, the utility shall send the ~~Interconnection Customer~~IC a distribution system impact study agreement.

(~~5~~E) If the feasibility study shows no potential for transmission system or ~~D~~distribution ~~S~~system adverse system impacts, the utility shall send the ~~Interconnection Customer~~IC either a facilities study agreement, including an outline of the scope of the study and a non-binding good faith estimate of the cost to perform the study, or an executable interconnection agreement, as applicable.

(~~6~~F) In order to remain under consideration for interconnection, the ~~Interconnection Customer~~IC must return executed system impact study agreements, if applicable, within 30 ~~B~~business ~~D~~days.

(~~7~~G) A deposit of the good faith estimated costs for each system impact study may be required from the ~~Interconnection Customer~~IC.

(~~8~~H) The scope of and cost responsibilities for a system impact study are described in the ~~attached~~ system impact study agreement.

(~~9~~I) Where transmission systems and ~~D~~distribution ~~S~~systems have separate owners, such as is the case with transmission-dependent utilities (~~"~~TDUs~~"~~) – whether investor-owned or not – the ~~Interconnection Customer~~IC may apply to the nearest utility (Transmission Owner, Regional Transmission Operator, or Independent utility) providing transmission service to the TDU to request project coordination. Affected ~~S~~systems shall participate in the study and provide all information necessary to prepare the study.

(~~v~~V) Facilities ~~S~~study.

(~~1~~A) Once the required system impact study(s) is completed, a system impact study report shall be prepared and transmitted to the ~~Interconnection Customer~~IC along with a facilities study agreement within five ~~B~~business ~~D~~days, including an outline of the scope of the study and a non-binding good faith estimate of the cost to perform the facilities study. In the case where one or both impact studies are determined to be unnecessary, a notice of the fact shall be transmitted to the ~~Interconnection Customer~~IC within the same timeframe.

(~~2~~B) In order to remain under consideration for interconnection, or, as appropriate, in the utility's interconnection queue, the ~~Interconnection Customer~~IC must return the executed facilities study agreement or a request for an extension of time within 30 ~~B~~business ~~D~~days.

(~~3~~C) The facilities study shall specify and estimate the cost of the equipment, engineering, procurement, and construction work (including overheads) needed to implement the conclusions of the system impact study(s).

(~~4~~D) Design for any required ~~i~~interconnection ~~F~~facilities and/or ~~U~~upgrades shall be performed under the facilities study agreement. The utility may contract with consultants to perform activities required under the facilities study agreement. The ~~Interconnection Customer~~IC and the utility may agree to allow the ~~Interconnection Customer~~IC to separately arrange for the design of some of the ~~i~~interconnection ~~F~~facilities. In such cases, facilities design will be reviewed and/or modified prior to acceptance by the utility, under the provisions of the facilities study agreement. If the ~~P~~parties agree to separately arrange for design and construction, and provided security and confidentiality requirements can be met, the utility shall make sufficient information available to the ~~Interconnection Customer~~IC in accordance with confidentiality and critical infrastructure

requirements to permit the ~~Interconnection Customer~~IC to obtain an independent design and cost estimate for any necessary facilities.

(~~5~~E) A deposit of the good faith estimated costs for the facilities study may be required from the ~~Interconnection Customer~~IC.

(~~6~~F) The scope of and cost responsibilities for the facilities study are described in ~~the attached~~ a facilities study agreement.

(~~7~~G) Upon completion of the facilities study, and with the agreement of the ~~Interconnection Customer~~IC to pay for ~~i~~interconnection ~~F~~facilities and ~~U~~upgrades identified in the facilities study, the utility shall provide the ~~Interconnection Customer~~IC an executable interconnection agreement within five ~~B~~business ~~D~~days.

(~~d~~e) Provisions that ~~A~~apply to ~~A~~all ~~i~~interconnection ~~R~~requests.

(~~i~~I) Reasonable ~~E~~efforts.
The utility shall make reasonable efforts to meet all time frames provided in these procedures unless the utility and the ~~Interconnection Customer~~IC agree to a different schedule. If the utility cannot meet a deadline provided herein, it shall notify the ~~Interconnection Customer,~~IC explain the reason for the failure to meet the deadline, and provide an estimated time by which it will complete the applicable interconnection procedure in the process.

(~~ii~~II) Disputes.

(~~1~~A) The ~~P~~parties agree to attempt to resolve all disputes arising out of the interconnection process according to the provisions of this article.

(~~2~~B) In the event of a dispute, either ~~P~~party shall provide the other ~~P~~party with a written ~~N~~notice of ~~D~~dispute. Such ~~n~~Notice shall describe in detail the nature of the dispute. ~~4.2.3~~ If the dispute has not been resolved within five ~~B~~business ~~D~~days after receipt of the ~~N~~notice, either ~~P~~party may contact a mutually agreed upon third party dispute resolution service for assistance in resolving the dispute.

(~~3~~C) The dispute resolution service will assist the ~~P~~parties in either resolving their dispute or in selecting an appropriate dispute resolution venue (e.g., mediation, settlement judge, early neutral evaluation, or technical expert) to assist the ~~P~~parties in resolving their dispute.

(~~4~~D) Each ~~P~~party agrees to conduct all negotiations in good faith and will be responsible for one-half of any costs paid to neutral third-parties.

(~~5~~E) If neither ~~P~~party elects to seek assistance from the dispute resolution service, or if the attempted dispute resolution fails, then either ~~P~~party may exercise whatever rights and remedies it may have in equity or law consistent with the

terms of the agreements between the ~~P~~parties or it may seek resolution at the Commission.

(~~iii~~III) Interconnection ~~M~~metering.
Except as otherwise required by ~~Rule~~ rule 3664, any metering necessitated by the use of the ~~S~~small ~~G~~generating ~~F~~facility shall be installed at the ~~Interconnection Customer's~~IC's expense in accordance with Commission requirements or the utility's specifications.

(~~iv~~IV) Commissioning tests.
Commissioning tests of the ~~Interconnection Customer's~~IC's installed equipment shall be performed pursuant to applicable codes and standards, including IEEE1547.1 2005 "IEEE Standard Conformance Test Procedures for Equipment Interconnecting Distributed Resources with Electric Power Systems". The utility must be given at least five ~~B~~business ~~D~~days written notice, or as otherwise mutually agreed to by the ~~P~~parties, of the tests and may be present to witness the commissioning tests. The utility shall be compensated by the ~~Interconnection Customer~~IC for its expense in witnessing level 2 and Level 3 commissioning tests.

(~~v~~V) Confidentiality.

(~~1~~A) Confidential information shall mean any confidential and/or proprietary information provided by one ~~P~~party to the other ~~P~~party that is clearly marked or otherwise designated "Confidential." All design, operating specifications, and metering data provided by the ~~Interconnection Customer~~IC shall be deemed confidential information regardless of whether it is clearly marked or otherwise designated as such.

(~~2~~B) Confidential ~~i~~information does not include information previously in the public domain, required to be publicly submitted or divulged by ~~G~~governmental ~~A~~authorities (after notice to the other ~~P~~party and after exhausting any opportunity to oppose such publication or release), or necessary to be divulged in an action to enforce an agreement between the ~~P~~parties. Each ~~P~~party receiving ~~C~~confidential ~~i~~information shall hold such information in confidence and shall not disclose it to any third party nor to the public without the prior written authorization from the ~~P~~party providing that information, except to fulfill obligations under agreements between the ~~P~~parties, or to fulfill legal or regulatory requirements.

~~A.~~(i) Each ~~P~~party shall employ at least the same standard of care to protect ~~C~~confidential ~~i~~information obtained from the other ~~P~~party as it employs to protect its own ~~C~~confidential ~~i~~information.

~~B.~~(ii) Each ~~P~~party is entitled to equitable relief, by injunction or otherwise, to enforce its rights under this provision to prevent the release of ~~C~~confidential ~~i~~information without bond or proof of damages, and may seek other remedies available at law or in equity for breach of this provision.

(~~3~~C) Notwithstanding anything in this article to the contrary, if the Commission, during the course of an investigation or otherwise, requests information from one of the ~~P~~parties that is otherwise required to be maintained in confidence, the ~~P~~party shall provide the requested information to the Commission, within the time provided for in the request for information. In providing the information to the Commission, the ~~P~~party may request that the information be treated as confidential and non-public by the Commission and that the information be withheld from public disclosure. Parties are prohibited from notifying the other ~~P~~party prior to the release of the ~~C~~confidential ~~i~~information to the Commission. The ~~P~~party shall notify the other ~~P~~party when it is notified by the Commission that a request to release ~~C~~confidential ~~i~~information has been received by the Commission, at which time either of the ~~P~~parties may respond before such information would be made public.

(~~vi~~VI) Comparability.
The utility shall receive, process, and analyze all ~~i~~interconnection ~~R~~requests in a timely manner as set forth in this document. The utility shall use the same reasonable efforts in processing and analyzing ~~i~~interconnection ~~R~~requests from all ~~i~~interconnection ~~C~~customers, whether the ~~S~~small ~~G~~generating ~~F~~facility is owned or operated by the utility, its subsidiaries or affiliates, or others.

(~~vii~~VII) Record ~~R~~retention.
The utility shall maintain for three years records, subject to audit, of all ~~i~~interconnection ~~R~~requests received under these procedures, the times required to complete Interconnection Request approvals and disapprovals, and justification for the actions taken on the ~~i~~interconnection ~~R~~requests.

(~~viii~~VIII) Interconnection ~~A~~agreement.
After receiving an interconnection agreement from the utility, the ~~Interconnection Customer~~IC shall have 30 ~~B~~business ~~D~~days or another mutually agreeable time-frame to sign and return the interconnection agreement, or request that the utility file an unexecuted interconnection agreement with the Commission. If the ~~Interconnection Customer~~IC does not sign the interconnection agreement, or ask that it be filed unexecuted by the utility within 30 ~~B~~business ~~D~~days, the ~~i~~interconnection ~~R~~request shall be deemed withdrawn. After the interconnection agreement is signed by the ~~P~~parties, the interconnection of the ~~S~~small ~~G~~generating ~~F~~facility shall proceed under the provisions of the interconnection agreement.

(~~ix~~IX) Coordination with ~~A~~affected ~~S~~systems.
The utility shall coordinate the conduct of any studies required to determine the impact of the ~~i~~interconnection ~~R~~request on ~~A~~affected ~~S~~systems with ~~A~~affected ~~S~~system operators and, if possible, include those results (if available) in its applicable interconnection study within the time frame specified in these procedures. The utility will include such ~~A~~affected ~~S~~system operators in all meetings held with the ~~Interconnection Customer~~IC as required by these procedures. The ~~Interconnection Customer~~IC will cooperate with the utility in all matters related to the conduct of studies and the determination of modifications to ~~A~~affected ~~S~~systems. A utility which may be an ~~A~~affected ~~S~~system shall cooperate with the utility with whom interconnection has been requested in all matters

related to the conduct of studies and the determination of modifications to ~~A~~affected ~~S~~systems.

(~~x~~X) Capacity of the ~~S~~small ~~G~~generating ~~F~~facility.

(~~1~~A) If the ~~i~~interconnection ~~R~~request is for an increase in capacity for an existing ~~S~~small ~~G~~generating ~~F~~facility, the ~~i~~interconnection ~~R~~request shall be evaluated on the basis of the new total capacity of the ~~S~~small ~~G~~generating ~~F~~facility.

(~~2~~B) If the ~~-i~~Interconnection ~~R~~request is for a ~~S~~small ~~G~~generating ~~F~~facility that includes multiple energy production devices at a site for which the ~~i~~interconnection ~~C~~customer seeks a single ~~P~~point of ~~i~~interconnection, the ~~i~~interconnection ~~R~~request shall be evaluated on the basis of the aggregate capacity of the multiple devices.

(~~3~~C) The ~~i~~interconnection ~~R~~request shall be evaluated using the maximum rated capacity of the ~~S~~small ~~G~~generating ~~F~~facility.

(~~xi~~XI) Insurance.

(~~1~~A) For systems of ~~10~~ten kW or less, the ~~C~~customer, at its own expense, shall secure and maintain in effect during the term of the ~~A~~agreement liability insurance with a combined single limit for bodily injury and property damage of not less than $300,000 for each occurrence. For systems above ~~10~~ten kW and up to ~~-two~~2 MW, ~~C~~customer, at its own expense, shall secure and maintain in effect during the term of the ~~A~~agreement liability insurance with a combined single limit for bodily injury and property damage of not less than $2,000,000 for each occurrence. Insurance coverage for systems greater than ~~2~~two MW shall be determined on a case-by-case basis by the utility and shall reflect the size of the installation and the potential for system damage.

(~~2~~B) Except for those solar systems installed on a residential premise which have a design capacity of ~~10~~ten kW or less, the utility shall be named as an additional insured by endorsement to the insurance policy and the policy shall provide that written notice be given to the utility at least ~~thirty (~~30~~)~~ days prior to any cancellation or reduction of any coverage. Such liability insurance shall provide, by endorsement to the policy, that the utility shall not by reason of its inclusion as an additional insured incur liability to the insurance carrier for the payment of premium of such insurance. For all solar systems, the liability insurance shall not exclude coverage for any incident related to the subject generator or its operation.

(~~3~~C) Certificates of Insurance evidencing the requisite coverage and provision(s) shall be furnished to utility prior to the ~~D~~date of ~~i~~interconnection of the ~~G~~generation ~~S~~system. Utilities shall be permitted to periodically obtain proof of current insurance coverage form the generating customer in order to verify proper liability insurance coverage. Customer will not be allowed to commence or continue interconnected operations unless evidence is provided that satisfactory insurance coverage is in effect at all times.

(ef) Level 1 ~~10~~ ten kW ~~i~~inverter ~~P~~process.
The procedure for evaluating an ~~i~~interconnection ~~R~~request for a certified inverter-based ~~S~~small ~~G~~generating ~~F~~facility no larger than ~~10~~ten kW. The application process uses an all-in-one document that includes a simplified Interconnection Request, simplified procedures, and a brief set of terms and conditions.

(~~i~~I) The ~~i~~interconnection ~~C~~customer (~~"C~~customer~~"~~) completes the ~~i~~interconnection ~~R~~request (~~"~~Application~~"~~) and submits it to the utility.

(~~ii~~II) The utility acknowledges to the ~~C~~customer receipt of the ~~A~~application within three ~~B~~business ~~D~~days of receipt.

(~~iii~~III) The utility evaluates the ~~A~~application for completeness and notifies the ~~C~~customer within ten ~~B~~business ~~D~~days of receipt that the ~~A~~application is or is not complete and, if not, advises what material is missing.

(~~iv~~IV) Within 15 days the utility shall conduct an initial review, which shall include the following screening criteria:

(~~1~~A) For interconnection of a proposed ~~S~~small ~~G~~generating ~~F~~facility to a radial distribution circuit, the aggregated generation, including the proposed ~~S~~small ~~G~~generating ~~F~~facility, on the circuit shall not exceed 15 ~~%~~percent of the line section annual peak load as most recently measured at the substation or calculated for the line section. A line section is that portion of a utility's electric system connected to a customer bounded by automatic sectionalizing devices or the end of the distribution line.

(~~2~~B) If the proposed ~~S~~small ~~G~~generating ~~F~~facility is to be interconnected on single-phase shared secondary, the aggregate generation capacity on the shared secondary, including the proposed ~~S~~small ~~G~~generating ~~F~~facility, shall not exceed 20 kW.

(~~3~~C) If the proposed ~~S~~small ~~G~~generating ~~F~~facility is single-phase and is to be interconnected on a center tap neutral of a 240 volt service, its addition shall not create an imbalance between the two sides of the 240 volt service of more than 20 ~~%~~percent of the nameplate rating of the service transformer.

(~~4~~D) No construction of facilities by the utility on its own system shall be required to accommodate the ~~S~~small ~~G~~generating ~~F~~facility.

(~~5~~E) Provided all the criteria in ~~Section 5.4~~paragraph (g) of this rule are met, unless the utility determines and demonstrates that the ~~S~~small ~~G~~generating ~~F~~facility cannot be interconnected safely and reliably, the utility approves and executes the ~~A~~application and returns it to the ~~C~~customer.

(~~6~~F) After installation, the ~~C~~customer returns the ~~C~~certificate of ~~C~~completion to the utility. Prior to parallel operation, the utility may inspect the ~~S~~small ~~G~~generating ~~F~~facility for compliance with standards, which may include a witness test, and may schedule appropriate metering replacement, if necessary.

(~~7~~G) The utility notifies the ~~C~~customer in writing or by fax or e-mail that interconnection of the ~~S~~small ~~G~~generating ~~F~~facility is authorized within five business days. If the witness test is not satisfactory, the utility has the right to disconnect the ~~S~~small ~~G~~generating ~~F~~facility. The ~~C~~customer has no right to operate in parallel until a witness test has been performed, or previously waived on the ~~A~~application. The utility is obligated to complete this witness test within ten ~~B~~business ~~D~~days of the receipt of the ~~C~~certificate of ~~C~~completion.

(~~8~~H) Contact ~~I~~information. ~~—~~ The ~~C~~customer must provide the contact information for the legal applicant (i.e., the ~~I~~interconnection ~~C~~customer). If another entity is responsible for interfacing with the utility, that contact information must be provided on the ~~A~~application.

~~**Attachment 1 - Definitions**~~

~~Attachment 2 - —~~(g) Level 1 10 kW Inverter Process. The following constitutes an application for interconnecting a certified inverter-based small generating facility no larger than ten KW.

Application for Interconnecting a Certified Inverter-Based Small Generating Facility No Larger than 10kW

This Application is considered complete when it provides all applicable and correct information required below. Additional information to evaluate the ~~A~~application may be required.

Processing ~~F~~fee:

_____A fee of _____ must accompany this ~~A~~application.

Interconnection ~~C~~customer

_____Name:

_____Contact Person:

_____Address:

_____City: State: Zip:

_____Telephone (Day): (Evening):

_____Fax: E-Mail Address:

Engineering ~~F~~firm (If ~~A~~applicable):

_____Contact Person:

_____Address:

_____City: State: Zip:

_____Telephone:

_____Fax: E-Mail Address:

Contact (if different from Interconnection ~~C~~customer):

_____Name:

_____Address:

_____City: State: Zip:

_____Telephone (Day): (Evening):

_____Fax: E-Mail Address:

_____Owner of the facility (include ~~%~~percent ownership by any electric utility):

Small ~~G~~generating ~~F~~facility ~~I~~information:

_____Location (if different from above):

_____Electric ~~S~~service ~~C~~company:

_____Account ~~N~~number:

_____Small ~~G~~generator ~~10~~ten kW ~~I~~inverter ~~P~~process:

_____Inverter ~~M~~manufacturer: _____Model

_____Nameplate ~~R~~rating: (kW) (kVA) (AC Volts)

_____Single ~~P~~phase _____ Three ~~P~~phase_____

_____System ~~D~~design ~~C~~capacity: _____ (kW) _____ (kVA)

_____Prime ~~M~~mover: Photovoltaic Reciprocating Engine Fuel Cell

Turbine Other

_____Energy ~~S~~source: Solar Wind Hydro Diesel Natural Gas

Fuel Oil Other (describe)

_____Is the equipment UL1741 Listed? Yes ____ No ____

_____If Yes, attach manufacturer's cut-sheet showing UL1741 listing.

_____Estimated ~~i~~installation ~~D~~date: _____ Estimated ~~i~~n-~~S~~service ~~D~~date: _____

The ~~10~~ten kW ~~i~~nverter ~~P~~process is available only for inverter-based ~~S~~small ~~G~~generating ~~F~~facilities no larger than ~~10~~ten kW that meet the codes, standards, and certification requirements of ~~Attachments 3 and 4~~paragraphs (h) and (i) of this rule ~~of the Small Generator Interconnection Procedures (SGIP)~~, or the QRU has reviewed the design or tested the proposed ~~S~~small ~~G~~generating ~~F~~facility and is satisfied that it is safe to operate.

List components of the ~~S~~small ~~G~~generating ~~F~~facility equipment package that are currently certified:

Equipment ~~T~~type ~~C~~certifying ~~E~~entity:

1.

2.

3.

4.

5.

Interconnection ~~C~~customer ~~S~~signature: _____

I hereby certify that, to the best of my knowledge, the information provided in this Application is true. I agree to abide by the Terms and Conditions for Interconnecting an Inverter-Based Small Generating Facility No Larger than 10kW and return the Certificate of Completion when the Small Generating Facility has been installed. I further agree to relinquish my claims to any REC that will be generated with my equipment as part of this agreement.

Signed: _____

Title: Date:

Contingent ~~A~~approval to ~~i~~nterconnect the ~~S~~small ~~G~~generating ~~F~~facility.

(For ~~C~~company use only)

Interconnection of the ~~S~~small ~~G~~generating ~~F~~facility is approved contingent upon the ~~T~~terms and ~~C~~conditions for ~~i~~nterconnecting an ~~i~~nverter-~~B~~based ~~s~~Small ~~G~~generating ~~F~~facility ~~N~~no ~~L~~larger than ~~10~~ten kW and return of the ~~C~~certificate of ~~C~~completion.

_____Company ~~S~~signature: _____

_____Title: Date:

_____Application ID number: _____

_____Company waives inspection/witness test? Yes ____ No ____

(h) ~~Attachment 3~~

Certification ~~C~~codes and ~~S~~standards.

IEEE1547 Standard for Interconnecting Distributed Resources with Electric Power Systems (including use of IEEE 1547.1 testing protocols to establish conformity)

UL 1741 Inverters, Converters, and Controllers for Use in Independent Power Systems

IEEE Std 929-2000 IEEE Recommended Practice for Utility Interface of Photovoltaic (PV) Systems

NFPA 70 (2005), National Electrical Code

IEEE Std C37.90.1-1989 (R1994), IEEE Standard Surge Withstand Capability (SWC) Tests for Protective Relays and Relay Systems

IEEE Std C37.90.2 (1995), IEEE Standard Withstand Capability of Relay Systems to Radiated Electromagnetic Interference from Transceivers

IEEE Std C37.108-1989 (R2002), IEEE Guide for the Protection of Network Transformers

IEEE Std C57.12.44-2000, IEEE Standard Requirements for Secondary Network Protectors

IEEE Std C62.41.2-2002, IEEE Recommended Practice on Characterization of Surges in Low Voltage (1000V and Less) AC Power Circuits

IEEE Std C62.45-1992 (R2002), IEEE Recommended Practice on Surge Testing for Equipment Connected to Low-Voltage (1000V and Less) AC Power Circuits

ANSI C84.1-1995 Electric Power Systems and Equipment – Voltage Ratings (60 Hertz)

IEEE Std 100-2000, IEEE Standard Dictionary of Electrical and Electronic Terms

NEMA MG 1-1998, Motors and Small Resources, Revision 3

IEEE Std 519-1992, IEEE Recommended Practices and Requirements for Harmonic Control in Electrical Power Systems

NEMA MG 1-2003 (Rev 2004), Motors and Generators, Revision 1

~~Attachment 4~~

(i) Certification of ~~S~~small ~~G~~generator ~~E~~equipment ~~P~~packages.

~~1.0~~ (I) Small ~~G~~generating ~~F~~facility equipment proposed for use separately or packaged with other equipment in an interconnection system shall be considered certified for

interconnected operation if (1) it has been tested in accordance with industry standards for continuous utility interactive operation in compliance with the appropriate codes and standards referenced below by any Nationally Recognized Testing Laboratory (NRTL) recognized by the United States Occupational Safety and Health Administration to test and certify interconnection equipment pursuant to the relevant codes and standards listed in ~~SGIP Attachment 3~~paragraph (h), (2) it has been labeled and is publicly listed by such NRTL at the time of the interconnection application, and (3) such NRTL makes readily available for verification all test standards and procedures it utilized in performing such equipment certification, and, with consumer approval, the test data itself. The NRTL may make such information available on its website and by encouraging such information to be included in the manufacturer's literature accompanying the equipment.

~~2.0~~(II) ~~———~~The ~~i~~interconnection ~~C~~customer must verify that the intended use of the equipment falls within the use or uses for which the equipment was tested, labeled, and listed by the NRTL.

~~3.0~~(III) Certified equipment shall not require further type-test review, testing, or additional equipment to meet the requirements of this interconnection procedure; however, nothing herein shall preclude the need for an on-site commissioning test by the parties to the interconnection nor follow-up production testing by the NRTL.

~~4.0~~(IV) If the certified equipment package includes only interface components (switchgear, inverters, or other interface devices), then an Interconnection Customer must show that the generator or other electric source being utilized with the equipment package is compatible with the equipment package and is consistent with the testing and listing specified for this type of interconnection equipment.

~~5.0~~(V) Provided the generator or electric source, when combined with the equipment package, is within the range of capabilities for which it was tested by the NRTL, and does not violate the interface components' labeling and listing performed by the NRTL, no further design review, testing or additional equipment on the customer side of the point of common coupling shall be required to meet the requirements of this interconnection procedure.

~~6.0~~(VI) An equipment package does not include equipment provided by the utility.

~~Attachment 5~~

(j) Terms and ~~C~~conditions for Level 1 ~~i~~interconnections -- ~~S~~small ~~G~~generating ~~F~~facility ~~N~~no ~~L~~larger than ~~10~~ten kW.

~~1.0~~ (I) Construction of the ~~F~~facility.

The ~~i~~interconnection ~~C~~customer ~~(the "Customer")~~ may proceed to construct the ~~S~~small ~~G~~generating ~~F~~facility when the utility approves the ~~i~~interconnection ~~R~~request (the ~~"A~~application~~"~~) and returns it to the ~~Customer~~IC.

~~2.0~~ (II) Interconnection and ~~O~~operation.

The ~~Customer~~ IC may operate ~~S~~small ~~G~~generating ~~F~~facility and interconnect with the utility's electric system once all of the following have occurred:

~~2.1~~ (A) Upon completing construction, the interconnection ~~C~~customer will cause the ~~S~~small ~~G~~generating ~~F~~facility to be inspected or otherwise certified by the appropriate local electrical wiring inspector with jurisdiction, and

~~2.2~~ (B) The ~~C~~customer returns the ~~C~~certificate of ~~C~~completion to the utility, and

~~2.3~~(C) The utility has completed its inspection of the ~~S~~small ~~G~~generating ~~F~~facility. All inspections must be conducted by the utility, at its own expense, within ten ~~B~~business ~~D~~days after receipt of the ~~C~~certificate of ~~C~~completion and shall take place at a time agreeable to the ~~P~~parties. The utility shall provide a written statement that the ~~S~~small ~~G~~generating ~~F~~facility has passed inspection or shall notify the ~~C~~customer of what steps it must take to pass inspection as soon as practicable after the inspection takes place.

~~2.4~~(D) The utility has the right to disconnect the ~~S~~small ~~G~~generating ~~F~~facility in the event of improper installation or failure to return the ~~C~~certificate of ~~C~~completion.

~~3.0~~ (III) Safe ~~O~~operations and ~~M~~maintenance.

The interconnection ~~C~~customer shall be fully responsible to operate, maintain, and repair the ~~S~~small ~~G~~generating ~~F~~facility as required to ensure that it complies at all times with the interconnection standards to which it has been certified.

~~4.0~~ (IV) Access.

The utility shall have access to the disconnect switch and metering equipment of the ~~S~~small ~~G~~generating ~~F~~facility at all times. The utility shall provide reasonable notice to the ~~C~~customer when possible prior to using its right of access.

~~5.0~~ (V) Disconnection.

The utility may temporarily disconnect the ~~S~~small ~~G~~generating ~~F~~facility upon the following conditions:

~~5.1~~(A) For scheduled outages per notice requirements in the utility's tariff or Commission rules.

~~5.2~~(B) For unscheduled outages or emergency conditions pursuant to the utility's tariff or Commission rules.

~~5.3~~(C) If the ~~S~~small ~~G~~generating ~~F~~facility does not operate in the manner consistent with these ~~T~~terms and ~~C~~conditions.

~~5.4~~(D) The utility shall inform the interconnection ~~C~~customer in advance of any scheduled disconnection, or as is reasonable after an unscheduled disconnection.

~~6.0~~ (VI) Indemnification.

The ~~P~~parties shall at all times indemnify, defend, and save the other ~~P~~party harmless from, any and all damages, losses, claims, including claims and actions relating to injury to or death of any person or damage to property, demand, suits, recoveries, costs and expenses, court costs, attorney fees, and all other obligations by or to third parties, arising out of or resulting from the other ~~P~~party's action or inactions of its obligations under this agreement on behalf of the indemnifying ~~P~~party, except in cases of gross negligence or intentional wrongdoing by the indemnified ~~P~~party.

~~7.0~~ (VII) Insurance.

The interconnection ~~C~~customer, at its own expense, shall secure and maintain in effect during the term of this ~~A~~agreement, liability insurance with a combined single limit for bodily injury and property damage of not less than $300,000 each occurrence. Such liability insurance shall not exclude coverage for any incident related to the subject generator or its operation. The utility shall be named as an additional insured under the liability policy unless the system is a solar system installed on a premise using the residential tariff and has a design capacity of ~~10~~ten kW or less. The policy shall include that written notice be given to the utility at least ~~thirty (~~30~~)~~ days prior to any cancellation or reduction of any coverage. A copy of the liability insurance certificate must be received by the utility prior to plant operation.

Certificates of ~~i~~insurance evidencing the requisite coverage and provision(s) shall be furnished to utility prior to ~~D~~date of ~~i~~interconnection of the ~~G~~generation ~~S~~system. Utilities shall be permitted to periodically obtain proof of current insurance coverage from the generating customer in order to verify proper liability insurance coverage. The interconnection ~~C~~customer will not be allowed to commence or continue interconnected operations unless evidence is provided that satisfactory insurance coverage is in effect at all times.

~~8.0~~ (VIII) Limitation of ~~L~~liability.

Each party's liability to the other party for any loss, cost, claim, injury, liability, or expense, including reasonable attorney's fees, relating to or arising from any act or omission in its performance of this ~~A~~agreement, shall be limited to the amount of direct damage actually incurred.

In no event shall either party be liable to the other party for any indirect, incidental, special, consequential, or punitive damages of any kind whatsoever, except as allowed under subparagraph (i)(VI) of this rule~~6.0~~.

~~9.0~~ (IX) Termination.

The agreement to operate in parallel may be terminated under the following conditions:

~~9.1~~(A) By the Customer

~~B~~ by providing written notice to the utility.

~~9.2~~(B) By the utility

~~I~~ if the ~~S~~small ~~G~~generating ~~F~~facility fails to operate for any consecutive 12 month period or the ~~C~~customer fails to remedy a violation of these ~~T~~terms and ~~C~~conditions.

~~9.3~~(C) Permanent ~~D~~disconnection.

In the event this ~~A~~agreement is terminated, the utility shall have the right to disconnect its facilities or direct the ~~C~~customer to disconnect its ~~S~~small ~~G~~generating ~~F~~facility.

~~9.4~~(D) Survival ~~R~~rights.

This ~~A~~agreement shall continue in effect after termination to the extent necessary to allow or require either ~~P~~party to fulfill rights or obligations that arose under the ~~A~~agreement.

~~10.0~~(X) Assignment/Transfer of ~~O~~ownership of the ~~F~~facility.

This ~~A~~agreement shall survive the transfer of ownership of the ~~S~~small ~~G~~generating ~~F~~facility to a new owner when the new owner agrees in writing to comply with the terms of this ~~A~~agreement and so notifies the utility.

3666. – 3699. [Reserved]

APPEALS OF LOCAL GOVERNMENT LAND USE DECISIONS

3700. Scope and Applicability.

Rules 3700 through 3707 apply to all utilities or power authorities which seek to appeal a local government action concerning a major electrical facility.

3701. ~~Special~~ Definitions.

The following definitions apply to rules 3700 through ~~-~~ 3 ~~3~~707, unless a specific statute or rule provides otherwise. In the event of a conflict between these definitions and a statutory definition, the statutory definition shall apply.

(a) "Local g~~G~~overnment" means a county, a home rule or statutory city, town, a territorial charter city, a or city and county.

(b) "Local government action" means (1) any decision, in whole or in part, by a local government which has the effect or result of denying a permit or application of a utility or power authority that relates to the location, construction, or improvement of a major electrical facility or (2) a decision which imposes requirements or conditions upon such permit or application that will unreasonably impair the ability of the utility or power authority to provide safe, reliable, and economical service to the public.

(c) "Local land use decision" means the decision of a local government within its jurisdiction to plan for and regulate the use of land.

(d) "Major electrical facility" shall have that meaning set forth in § 29-20-108(3)(a), (b), (c), and (d), C.R.S., or in any other applicable statute.

(e) "Power authority" means an authority created pursuant to § 29-1-204, C.R.S.

3702. Precondition to Application.

In order for a utility or power authority to appeal a local government action to the Commission pursuant to this rule and pursuant to § 29-20-108, C.R.S., one or more of the following conditions must be met:

(a) The utility or power authority has applied for or has obtained a certificate of public convenience and necessity from the Commission pursuant to § 40-5-101, C.R.S., to construct the major electrical facility that is the subject of the local government action.

(b) A certificate of public convenience and necessity is not required for the utility or power authority to construct the major electrical facility that is the subject of the local government action.

(c) The Commission has previously entered an order pursuant to § 40-4-102, C.R.S., that conflicts with the local government action.

3703. Applications.

(a) To commence an appeal of a local government land use decision, a utility or power authority shall file with the Commission an application pursuant to this rule.

(b) An application filed in accordance with §§ 29-20-108, C.R.S., and this rule shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attached exhibits:

(I) All of information required in rules 3002(b) and 3002(c).

(II) A showing that one of the preconditions set out in rule 3702 has been met.

(III) Identification of the major electrical facility.

(IV) Identification of the local government action and its impact on the major electrical facility.

(V) A statement of the reasons the applying utility or power authority believes that the local government action would unreasonably impair its ability to provide safe, reliable, and economical service to the public.

(VI) The demonstrated need for the major electrical facility or reference to the application made to the Commission with respect to the major electrical facility and the resulting decision of the Commission regarding such facility.

(VII) The extent to which the proposed facility is inconsistent with existing applicable local or regional land use ordinances, resolutions, or master or comprehensive plans.

(VIII) Whether the proposed facility would exacerbate a natural hazard.

(IX) Applicable utility engineering standards, including supply adequacy, system reliability, and public safety standards.

(X) The relative merit, as determined through use of the normal system planning evaluation techniques of the utility or power authority, of any reasonably available and economically feasible alternatives proposed by the utility, the power authority, or the local government.

(XI) The impact that the local government action would have on the customers of the utility or power authority who reside within and without the boundaries of the jurisdiction of the local government.

(XII) The basis for the local government action. If available, the utility or power authority shall attach a copy of the local government action.

(XIII) The impact the proposed facility would have on residents within the local government's jurisdiction including, in the case of a right-of-way in which facilities have been placed underground, whether those residents have already paid to place such facilities underground. If the residents have already paid to place facilities underground, the Commission will give strong consideration to that fact.

(XIV) Information concerning how the proposed major electrical facility will affect the safety of residents within and without the boundaries of the jurisdiction of the local government.

(XV) An attestation that the utility or power authority will, upon filing the application with the Commission, simultaneously send a copy of the application to the local government body which took the local government action which is the subject of the appeal.

3704. Public Hearing.

Pursuant to § 29-20-108(5)(b), C.R.S., and in addition to the formal evidentiary hearing on the appeal, the Commission shall take statements from the public concerning the appealed local government action at a public hearing held at a location specified by the local government.

3705. Prehearing Conference, Parties, and Public Notice.

(a) In order to assist the parties in scheduling the public hearing, determining the scheduling of the evidentiary hearing, developing the list of persons to receive notice of these hearings, and addressing other pertinent issues, the Commission will hold a prehearing conference.

(b) The Commission shall conduct a prehearing conference within 15 days after the application is deemed complete by the Commission.

(c) The Commission shall join as an indispensable party the local government which took the contested local government action.

(d) Ten days before the commencement of the prehearing conference, the local government shall submit to the parties and the Commission its preference for the location of the public hearing to be held in accordance with § 29-20-108(5)(b), C.R.S., and rule 3704.

(e) The Commission will decide the date and time of the public hearing after receiving comments from the parties at the prehearing conference.

(f) By the date of the prehearing conference, each party shall provide to the utility or power authority a list of individuals and groups to receive notice of the public hearing.

(g) The utility or power authority shall give notice of the public hearing to the identified individuals and groups in a manner specified by the Commission. Notice may be accomplished by newspaper publication, bill insert, first class mail, or any other manner deemed appropriate by the Commission.

(h) If the local government is unable to provide meeting space for the public hearing, and space needs to be acquired, then the utility or power authority shall bear any cost associated with the rental of such space for the public hearing.

(i) The parties are encouraged to confer prior to the prehearing conference to develop a schedule for the filing of testimony and the dates for the formal evidentiary hearing.

3706. Denial of Appeal.

In accordance with § 29-20-108(5)(e), C.R.S., the Commission shall deny an appeal of a local government action if the utility or power authority has failed to comply with the following notification and consultation requirements:

(a) A utility or power authority shall notify the affected local government of its plans to site a major electrical facility within the jurisdiction of the local government prior to submitting the preliminary or final permit application, but in no event later than filing a request for a certificate of public convenience and necessity pursuant to Article 5 of Title 40, C.R.S., or the filing of any annual filing with the Commission that proposes or recognizes the need for construction of a new major electrical facility or the extension of an existing facility. If a utility or power authority is not required to obtain a certificate of public convenience and necessity pursuant to Article 5 of Title 40, C.R.S., or to file annually with the Commission to notify the Commission of the proposed construction of a new major electrical facility or the extension of an existing facility, the utility or power authority shall notify any affected local government of its intention to site a major electrical facility within the jurisdiction of the local government when such utility or power authority determines that it intends to proceed to permit and to construct the facility. Following such notification, the utility or power authority shall consult with the affected local governments in order to identify the specific routes or geographic locations under consideration for the site of the major electrical facility and to attempt to resolve land use issues that may arise from the contemplated permit application.

(b) In addition to its preferred alternative within its permit application, the utility or power authority shall consider and present reasonable siting and design alternatives to the local government or shall explain why no reasonable alternatives are available.

3707. Procedural Rules.

Pursuant to § 29-20-108(5)(b), C.R.S., any appeal brought by a utility or power authority under this section shall be conducted in accordance with the procedural requirements of Article 6, Title 40, C.R.S.,

including § 40-6-109.5, C.R.S. Evidentiary hearings on any such appeals shall be conducted in accordance with § 40-6-109, C.R.S.

3708. – 3799. [Reserved]

MASTER METERS

3800. Scope and Applicability.
These rules are applicable to any person who purchases electric service from a utility for the purpose of delivery of that service to end-users whose aggregate usage is to be measured by a master meter or other composite measurement device.

3801. ~~Special~~ Definitions.
The following definitions apply to ~~Rules~~ rules 3800 ~~—~~ through 3805, unless a specific statute or rule provides otherwise. ~~In addition to these definitions, the definitions in rule 3001 apply.~~In the event of a conflict between these definitions and a statutory definition, the statutory definition shall apply.

(a) "Check-meter" means a meter or other composite measurement device which is used by a master meter operator and which is used to determine electric consumption by end-users served by the master meter operator.

(b) "Master meter" means a meter or other composite measurement device which a serving utility uses to bill a master meter operator.

(c) "Master meter operator" or "MMO" means a person who purchases electric service from a serving utility for the purpose of delivering that service to end-users whose aggregate usage is measured by a master meter.

(d) "Refund" means a refund, rebate, rate reduction, or similar adjustment.

(e) "Serving utility" means the utility from which the master meter operator receives the electric service which the master meter operator then delivers to end-users.

3802. Exemption from Rate Regulation.

(a) Pursuant to § 40-1-103.5, C.R.S., and by this rule, the Commission exempts from rate regulation under Articles 1 to 7 of Title 40, C.R.S., a master meter operator which is in compliance with rules 3803 and 3804.

(b) A master meter operator which is not in compliance with rules 3803 and 3804 is subject to rate regulation under Articles 1 to 7 of Title 40, C.R.S., and shall comply with the applicable rules.

3803. Exemption Requirements.

(a) In order to retain its exemption from rate regulation, a MMO shall do the following:

(I) As part of its billing for utility service, the MMO shall charge its end-users only the actual cost billed to the MMO by the serving utility. The MMO shall not charge end-users for any other costs (such as, without limitation, the costs of construction, maintenance,

financing, administration, metering, or billing for the equipment and facilities owned by the MMO) in addition to the actual costs billed to the MMO by the serving utility.

(II) If the MMO bills its end-users separately for service, the sum of such billings shall not exceed the amount billed to the MMO by the serving utility.

(III) If the MMO bills its end-users separately for service, the MMO shall pass on to its end-users all refunds the MMO receives from the serving utility or otherwise.

(IV) The MMO shall establish procedures for giving notice of a refund to those who are not current end-users but who were end-users during the period for which the refund is paid.

(V) A master meter operator shall retain, for a period of not less than three years, all records of original utility billings made to the master meter operator and all records of billings made by the master meter operator to its end-users.

(b) In order to retain its exemption from rate regulation, a MMO shall not resell electricity for profit. Resale is a basis for revocation of an exemption from rate regulation.

(c) A MMO may check-meter tenants, lessees, or other persons to whom the electricity ultimately is distributed but may do so only if the following conditions are met:

(I) The check-meter is used solely for the purpose of reimbursing the MMO by means of an appropriate allocation procedure.

(II) The MMO does not receive more than the actual amount billed to the MMO by the serving utility.

3804. Refunds.

(a) When a serving utility notifies a MMO of a refund or when a refund is otherwise made, a MMO shall notify its end-users of the refund and shall inform the end-users that they may claim the refunds within 90 days after receipt of the notice. The notification shall be made either by first-class mail with a certificate of mailing or by inclusion in any monthly or more frequent regular written communication. The MMO shall also notify former customers who were end-users during the period for which the refund is made. The MMO shall give the notice required by this paragraph within 30 days of notification about the refund or, if there is no prior notification, within 30 days of receipt of the refund.

(b) A MMO may retain any portion of a refund which rightfully belongs to the MMO.

(c) If the aggregate amount of a refund which remains unclaimed after 90 days exceeds $100, the MMO shall contribute that unclaimed amount to the energy assistance organization in accordance with rules 3410(d), (f), and (g). If the aggregate amount which remains unclaimed after 90 days does not exceed $100, the MMO may retain the aggregate amount.

(d) A MMO shall pay interest on undistributed refunds in accordance with rule 3410(d).

3805. Complaints, Penalties, and Revocation of Exemption.

(a) Pursuant to rules 1301 and 1302, a person (including without limitation anyone subject to a master meter) may make an informal complaint to the External Affairs section of the Commission or may file a formal complaint with the Commission with the respect to an alleged violation of rules 3803 and 3804.

(b) As a result of a complaint or on its own motion, the Commission will investigate complaints concerning MMOs. If the Commission determines after investigation that an MMO has violated any of the requirements of rules 3803 and 3804, the MMO may have its exempt status revoked or may be subject to penalties as set forth in § 40-7-107, C.R.S., or both.

3806. – 3899. [Reserved].

SMALL POWER PRODUCERS AND COGENERATORS

3900. Scope and Applicability.

Rules 3900 through 3954 apply to utilities which purchase power from small power producers and cogenerators. These rules also apply to small power producers and cogenerators which sell power to utilities. However, for qualifying facilities with a nameplate rating of 10MW or less, to the extent that ~~Rules~~ rules 3900 through 3954 are inconsistent with ~~Rule~~ rule 3665, ~~Rule~~ rule 3665 shall control.

3901. Definitions.

The following definitions apply to rules 3900 through 3954, except where a specific rule or statute provides otherwise. In addition to the definitions stated here, the definitions found in the Public Utilities Law, in the Public Utility Regulatory Policies Act of 1978, and in the federal regulations which are incorporated by reference apply to these rules. In the event of a conflict between these definitions and a statutory definition, the statutory definition shall apply.

(a) "Avoided cost" means the incremental or marginal cost to an electrical utility of electrical energy or capacity, or both, which, but for the purchase of such energy and/or capacity from qualifying facility or qualifying facilities, the utility would generate itself or would purchase from another source.

(b) "Qualifying facility" means any small power production facility or cogeneration facility which is a qualifying facility under federal law.

(c) "Rate" means any price, rate, charge, or classification made, demanded, observed, or received with respect to the sale or purchase of electrical energy or capacity; any rule or practice respecting any such rate, charge, or classification; and any contract pertaining to the sale or purchase of electrical energy or capacity.

3902. Avoided Costs.

(a) Each utility shall pay qualifying facilities a rate for energy and capacity purchases based on the utility's avoided costs..

(b) Each electric utility shall file tariffs setting forth standard rates for purchases from qualifying facilities with a design capacity of 100 kilowatts or less.

(c) A utility shall use a bid or an auction or a combination procedure to establish its avoided costs for facilities with a design capacity of greater than 100 kilowatts. The utility is obligated to purchase capacity or energy from a qualifying facility only if the qualifying facility is awarded a contract under the bid or auction or combination process.

(d) If a utility can demonstrate to the Commission that a qualifying facility should receive a different rate from that established by these rules, the Commission may authorize such. The burden of establishing such different rate shall be on the utility, and the rate shall be based on the utility's system wide costing principles and other appropriate load and cost data.

(e) Nothing in this rule requires a utility to pay more than its avoided costs of energy and capacity, of energy, or of capacity for purchases from qualifying facilities.

3903. Payment of Interconnection Costs.

(a) Each qualifying facility shall pay the cost of interconnecting with an electric utility for purchases and sales of capacity and energy. To the extent that interconnection costs can be determined in advance of interconnection, each electric utility shall establish the cost of interconnection for purchases of energy and capacity. The interconnection costs shall be fair, reasonable, and nondiscriminatory to each qualifying facility.

(b) The utility and qualifying facility may agree to an installment payment arrangement for interconnection costs.

3904. – 3909. [Reserved].

3910. Standards for Operating Reliability and Safety.

Rules 3910 through 3929 establish standards, as authorized by 18 C.F.R. § 292.308, to ensure the safe and reliable interconnected operations of qualifying facilities with utilities regulated by the Commission.

3911. Responsibility of a Utility to Provide Quality Service.

(a) A utility shall provide substantially the same quality of service to its customers and to the qualifying facility after interconnection of the qualifying facility as the utility provided prior to interconnection of the qualifying facility. The interconnection of the qualifying facility to the utility shall not degrade the utility's quality of service to its other customers. The qualifying facility shall pay for the interconnection facilities necessary to preserve the utility's quality of service to its other customers.

(b) At the request of a qualifying facility or a utility prior to interconnection, a utility may evaluate the quality of service to be provided to the qualifying facility. The cost of conducting an evaluation shall be included as an interconnection cost of a qualifying facility. The evaluation may be used for the following purposes:

(I) To estimate the effects of interconnection on the quality of service to be provided.

(II) To establish the quality of service that a utility shall provide to a qualifying facility after interconnection.

(c) If the qualifying facility desires a superior quality of service to that established by an evaluation performed pursuant to paragraph (b) of this rule, any increased cost shall be an interconnection cost of the qualifying facility.

3912. Submission of Design Information by a Qualifying Facility.

(a) This rule shall apply only to qualifying facilities with nameplate ratings greater than ~~10~~ ten MW. For facilities ~~10~~ ten MW or less, see ~~Rule~~ rule 3655.

(b) Any person seeking to establish interconnected operations as a qualifying facility shall provide to the utility with which it proposes to interconnect detailed design information of its proposed facilities at least 150 days prior to the proposed interconnection date. At any time after submission of design information, the utility and the qualifying facility may agree to an interconnection date sooner than 150 days. At the time it provides the detailed design information to the utility, the qualifying facility also shall provide the utility with a copy of all available manufacturers' literature for the equipment to be installed, including installation and operating instructions.

(c) The design information submitted by a qualifying facility shall be sufficient to enable a utility to assess the impact of the proposed interconnection on the utility's system, operating plans, and system expansion plans.

(d) Within 25 days after the receipt of design information, or such longer period as agreed by them, a utility shall notify a qualifying facility whether the design information is adequate or whether additional information is required. If additional information is required, the utility shall specify in writing what additional information is needed; and the qualifying facility shall promptly submit the additional information.

3913. Conferences between a Utility and a Qualifying Facility.

(a) This rule shall apply only to qualifying facilities with nameplate ratings greater than ~~10~~ ten MW. For facilities ~~10~~ ten MW or less, see ~~Rule~~ rule 3655.

(b) No later than 30 days after a qualifying facility has provided design information to a utility, the utility and the qualifying facility shall confer.

(c) At the conference, the utility shall provide the qualifying facility with the names of governmental agencies which have requirements (such as, without limitation, electrical codes, construction codes, sizing criteria, setback distances, physical clearances, protective devices, inspections, and grounding practices) regulating interconnection.

(d) At the conference, the utility shall inform the qualifying facility of these rules and of the system operation requirements and the safety standards and procedures (such as, without limitation, harmonic content for output voltage levels, recommended use of induction generators, line-commutated inverters, and reliable disconnection equipment) required for interconnection.

3914. Establishment of Requirements for a Qualifying Facility.

(a) Within 25 days after submission of complete design information by a qualifying facility, a utility shall:

(I) Establish written operations requirements for the qualifying facility so that interconnection with the qualifying facility will not cause abnormal operation of the utility's protective equipment.

(II) Inform the qualifying facility of the existing phase conductors and utility's requirements for system electrical phase sequence/rotation available to the qualifying facility and encourage the qualifying facility to use the existing phasing for the proposed interconnection. The utility shall inform the qualifying facility that any phase imbalances may affect the safety of the proposed service or neighboring customer's loads.

(b) In the event that phased loadings of interconnection cause phase imbalances, the cost of equipment to correct the imbalances shall be an interconnection cost of the qualifying facility.

3915. Compliance with Requirements and Rule Standards.

(a) No utility shall interconnect with a qualifying facility until the qualifying facility has established, to the satisfaction of the utility, that it has complied with the utility's requirements for interconnected operations and the standards established in rules 3910 ~~to~~through 3929.

(b) When a qualifying facility determines that it has complied with all of the requirements of a utility and the standards established in these rules for interconnected operations, the qualifying facility shall give written notice of that fact to the utility. Within 25 days after receipt of that notice, the utility and the qualifying facility shall arrange for an onsite inspection of the qualifying facility. The utility shall inspect the facilities related to the qualifying facility's interconnection with the utility. The qualifying facility shall provide the personnel necessary to operate the facility in order to demonstrate to the utility the proper operation of the qualifying facility's equipment.

(I) If the utility determines from the inspection that the qualifying facility has complied with all of the requirements of the utility and the standards established in these rules, the utility shall certify in writing that the qualifying facility complies.

(II) If the utility determines that the qualifying facility has failed to comply with any requirement of the utility or any standard established in these rules, the utility shall notify the qualifying facility in writing of the requirements or standards that the qualifying facility must meet for interconnection. Upon compliance, the qualifying facility shall give written notice to the utility; and the parties shall proceed as provided in paragraph (b) of this rule.

(c) When the qualifying facility has obtained compliance certification, the qualifying facility and the utility shall schedule a date for the initial energizing and start-up testing of the qualifying facility's generating equipment. The utility at its option may be present at this test.

(I) At the conclusion of the test, the utility shall certify in writing whether the qualifying facility may commence interconnected operations.

(II) If the qualifying facility fails the start-up test, the utility shall so notify the qualifying facility in writing and within five business days. When the qualifying facility has corrected the deficiencies, the parties shall schedule a new start-up test; and the parties shall proceed as provided in paragraph (c) of this rule.

(d) In the event of a disagreement between a qualifying facility and a utility regarding (1) compliance by the qualifying facility with the utility's requirements or with the standards established in these rules or (2) the qualifying facility's failure of the start-up test, either party may file with the Commission a petition for a declaratory order under rule 1304(j) seeking resolution of the disagreement.

(e) In the event that either party files a petition for a declaratory order, the Commission shall enter an order resolving the dispute. The qualifying facility or the utility shall comply with the Commission's order prior to interconnection.

3916. Code Certification by a Qualifying Facility.

(a) A qualifying facility shall provide a utility with certification that it has complied with all applicable governmental codes (such as, without limitation, electrical codes, construction codes, sizing criteria, set-back distances, physical clearances, protective devices, inspections, and grounding practices).

(b) A qualifying facility shall obtain all necessary certifications at its own cost.

3917. Utility Access to Premises of a Qualifying Facility.

(a) A utility shall have access to a qualifying facility prior to construction to determine if minimum setback distances and physical clearances will be met for the safety of the utility's equipment. The cost of said inspection shall be included as an interconnection cost of the qualifying facility.

(b) A utility shall have access to a qualifying facility to repair, to maintain, or to retrieve any of the utility's equipment affected by a failure of the utility's or qualifying facility's equipment.

(c) A utility shall have access to a qualifying facility to conduct an inspection for the purpose stated in rule 3921(d).

(d) A utility shall have access to a qualifying facility to conduct an inspection pursuant to the procedures established pursuant to rule 3927(b).

(e) A utility shall have access to a qualifying facility to conduct an inspection pursuant to rule 3927(d).

(f) A utility shall have access to a qualifying facility to conduct an inspection pursuant to rule 3927(e).

3918. Coordination of Circuit Protection Equipment.

(a) Prior to interconnection and at the earliest time possible after a qualifying facility provides its complete design information, but in no event later than 25 days after submission of complete design information, a utility shall provide a written statement to the qualifying facility as to whether the utility's circuit protection equipment can accommodate the equipment of the qualifying facility.

(b) A utility shall evaluate the effects of a proposed interconnection, together with the aggregate effects of all other interconnections, on the utility's installed circuit protection equipment. Costs of the evaluation shall be an interconnection cost paid by the qualifying facility. (c) As part of normal planning, a utility shall evaluate the interaction between a qualifying facility's operations and the utility's installed circuit protection equipment. The cost of evaluation shall be an interconnection cost of the qualifying facility.

(d) If the design of a qualifying facility causes replacement or significant re-coordination of the utility's circuit protection equipment, or if the design reasonably can be expected to require extraordinary operation of the utility's installed protection equipment, the utility shall not interconnect with the qualifying facility. The utility shall decline to interconnect until either the design has been modified to eliminate the problems or specific modified designs for the interconnection are established. Replacement and re-coordination costs shall be an interconnection cost of the qualifying facility.

(e) A qualifying facility shall provide the utility with a description of the qualifying facility's electrical and mechanical equipment sufficient for the utility to determine the safety and adequacy of its installed service drops and supply equipment. The qualifying facility shall provide this information at the time it submits its design information to the utility.

3919. Installation of Protective Equipment by a Qualifying Facility to Accommodate Protection Equipment of a Utility.

(a) Within 25 days after a qualifying facility submits its complete design information, a utility shall notify the qualifying facility of any necessity to install protective equipment to accommodate the utility's system protection equipment.

(b) Such notification shall be made in writing and shall list the specific types of protective equipment required and the operations of the utility which necessitate protection.

(c) The qualifying facility shall be responsible for installing protective equipment to accommodate the utility's system protection equipment. The cost of this installation shall be an interconnection cost of the qualifying facility.

(d) A utility shall not be responsible for the effects on a qualifying facility's equipment and systems that are caused by the utility's system or equipment.

3920. Grounding Qualifying Facility Equipment.

(a) A utility shall establish grounding practices that are commensurate with those in the area, taking into consideration soil conditions, the nature of other loads in the area, and the utility's experience. Grounding practices shall be consistent with applicable national, state, and local codes.

(b) A qualifying facility shall ground all equipment to meet governmental codes and the utility's requirements.

(c) A utility shall advise, in writing, a qualifying facility of its grounding requirements within 25 days after the qualifying facility submits its complete design information.

(d) If the grounding of a qualifying facility's equipment degrades safety, necessitating improvements or modifications of the interconnection, the utility shall have the right to approve the improvements or modifications made to the interconnection to assure that they are sufficient to address the safety issue caused by the degradation. The qualifying facility shall bear the responsibility for and the cost of such improvements or modifications.

(e) In the event that grounding of a qualifying facility causes electro-magnetic interference with telephone service, radio or television reception, or the operation of other electrical devices, the qualifying facility shall make the necessary grounding modifications to remove such interference. The cost of such modifications shall be an interconnection cost of the qualifying facility.

(f) No qualifying facility shall commence interconnected operations until it obtains written certification that it has complied with all applicable governmental codes and until the utility approves the grounding of the qualifying facility's equipment.

3921. Standards for Harmonics and Frequency.

(a) A utility shall establish non-discriminatory standards for the harmonic content of power and energy generated by qualifying facilities.

(b) No qualifying facility shall commence interconnected operations until it establishes, to the satisfaction of the utility, that it will produce power and energy at a fundamental frequency of 60 HZ and that such power will not exceed the utility's established standards for harmonic content.

(c) A utility shall not be responsible for onsite interference caused by harmonics, failure of motors, interference with telephone service or television or radio reception, and other manifestations of degraded quality of service which are caused by the failure of a qualifying facility to produce power and energy at 60 HZ.

(d) A qualifying facility shall not operate its generators in such a fashion as to impact negatively the utility's or the utility's customers' voltage range or other voltage characteristics. The qualifying facility shall have adequate voltage regulation and related protective and control equipment as required by the utility.

(e) A qualifying facility shall operate within the utility's power factor and voltage characteristic requirements.

3922. Interconnection at Different Voltage Levels.

(a) A qualifying facility shall interconnect with a utility at the utility's established voltage level.

(b) An interconnection at a voltage level that requires the utility to install different or additional protective equipment, or that requires the utility to make other modifications of its system, shall be an interconnection cost of the qualifying facility.

3923. Types of Generators and Inverting Equipment.

(a) A utility shall establish standards to encourage qualifying facilities to use generators that minimize the safety hazard associated with the possibility of reverse power flow during periods of line outages.

(b) A utility shall adopt power factor standards at the point of interconnection. Such standards shall recognize that a qualifying facility may not produce excessive reactive power during off-peak conditions and may not consume excessive reactive power during on-peak conditions. The qualifying facility shall be responsible for installing, at its expense, the equipment necessary to maintain power factor requirements.

(c) If a qualifying facility's abnormal power factor causes deleterious effects on a utility's system,, unless otherwise provided by contract, the utility shall correct the deleterious effects on its system at the expense of the qualifying facility. Deleterious effects on a qualifying facility's system caused by its abnormal power factor shall be corrected by the qualifying facility at its own expense.

3924. System Protection Equipment.

(a) Prior to interconnection, a qualifying facility shall install protective equipment that will automatically disconnect its generating equipment from a utility's power lines in the event of failure of the qualifying facility's generating equipment, a power line outage, or a nearby system fault.

(I) The protective equipment, or separate equipment, shall have the ability to isolate the energy generated or supplied by a utility or by a qualifying facility. The equipment shall be accessible to and by the utility and the qualifying facility.

(II) A utility shall have the right to operate the protective equipment whenever, in its judgment, it is necessary to maintain safe operating conditions or whenever the operations of a qualifying facility adversely affect the utility's system.

(III) A qualifying facility shall have the right to operate the protective equipment whenever, in its judgment, it is necessary to maintain safe operating conditions or whenever the operations of a utility adversely affect the qualifying facility's equipment.

(IV) Protective equipment that isolates a qualifying facility's generation shall be lockable by a utility only in the open position. Equipment that isolates a utility's generation or supply shall be lockable by a qualifying facility only in the open position. This equipment shall be installed so that there can be visual verification that the equipment is locked in the open position.

(b) Prior to interconnection, a utility shall require a qualifying facility to demonstrate the proper functioning and operation of its protective equipment to the satisfaction of the utility.

(c) A qualifying facility shall install overcurrent protection between major components of all switched interconnections.

(d) A qualifying facility shall install protective relaying equipment to confine the effects of faults, lightning strikes, or other abnormalities and to protect its and a utility's equipment.

(e) Prior to making significant modifications to its equipment, a qualifying facility shall notify a utility with which the QF is interconnected of the proposed modifications. If a qualifying facility plans to make significant modifications to its equipment, or if future difficulties arise on the systems of the qualifying facility or the utility as a result of the interconnection, the utility may require different or additional protective equipment or may require modifications as a condition of continued interconnected operations. The cost of such protective equipment or modifications shall be a cost of the qualifying facility.

(f) No specific number of system protective devices is required by this rule.

3925. Meters.

(a) A utility shall own, install, and maintain meters and associated metering equipment to measure the generation of a qualifying facility.

(b) A qualifying facility shall supply, at no expense to the utility, a suitable location for the installation of metering equipment.

(c) The cost of meters and associated metering equipment, their installation, and their maintenance shall be an interconnection cost of the qualifying facility.

3926. Maintenance and Inspection of a Qualifying Facility.

(a) Prior to interconnection, a qualifying facility shall establish a planned maintenance schedule containing dates, times, and procedures. No qualifying facility shall commence interconnected operations until the utility approves the proposed maintenance schedule. The utility shall not withhold approval unreasonably.

(b) A utility shall establish written procedures for inspecting a qualifying facility and shall provide a copy of the procedures to the qualifying facility prior to interconnection. Inspection procedures may be modified on a case-by-case basis.

(c) A qualifying facility shall keep records of maintenance, and a utility shall keep records of inspections. Each shall have access to the records of the other.

(d) A utility may inspect a qualifying facility, on demand, to determine if the qualifying facility is complying with the previously-approved maintenance schedule and is safely operating all protective equipment.

(e) A utility may inspect the qualifying facility and its records, on demand, to determine if the qualifying facility is, or has been, reselling the utility's energy and/or capacity to the utility.

(f) Personnel from both a utility and a qualifying facility shall have the right to witness inspections. For inspections to determine safety or the reselling of the utility's energy or capacity to the utility, the utility shall inform the qualifying facility that it intends to inspect the facility. If the qualifying facility declines, the inspection shall be conducted without the presence of qualifying facility

personnel. If the qualifying facility fails the inspection, the utility shall have the right to disconnect the qualifying facility from the utility's system until the qualifying facility can demonstrate the proper functioning of the qualifying facility's protection and control equipment to the satisfaction of utility representatives.

3927. Disconnection of a Qualifying Facility.

(a) If a utility determines that a qualifying facility has not complied with its maintenance schedule, that a qualifying facility's protective equipment is not operating properly, or that a qualifying facility has been reselling the utility's energy or capacity to the utility, the utility may disconnect the qualifying facility without notice or may give the qualifying facility up to 30 days notice of disconnection.

(b) A notice of disconnection shall inform the qualifying facility of the maintenance to be performed, the operational practices to be modified or terminated, or the repairs to be made to protective equipment to prevent disconnection. To avoid disconnection, the qualifying facility shall comply with all requirements prior to the date of the proposed disconnection. The qualifying facility shall notify the utility when it has complied, at which time the utility shall re-inspect the qualifying facility. If the utility determines that the qualifying facility has complied, the qualifying facility shall not be disconnected. If the utility determines that the qualifying facility has not complied, the qualifying facility shall be disconnected as provided in the notice of disconnection.

(c) A utility and a qualifying facility may agree to a reasonable continuance of a disconnection, or to a reconnection where the qualifying facility has been disconnected, if the utility believes that the qualifying facility is making a bona fide effort to comply. If the qualifying facility has been disconnected for reselling the utility's energy and/or capacity to the utility, the agreement shall be conditioned on the qualifying facility's paying the utility for the resold energy and/or capacity.

3928. Qualifying Facility to File Generation Schedule.

A qualifying facility shall provide a utility with a proposed schedule of generation prior to interconnection. The schedule may be used by the utility to coordinate normal maintenance of its distribution facilities, to coordinate its bulk power supplies, or to coordinate regular operations for the safety of maintenance personnel.

3929. – 3949. [Reserved].

3950. Indemnification and Insurance.

(a) A utility shall indemnify a qualifying facility against all loss, damage, expense, and liability to third persons for injury or death caused by the utility's ownership, construction, operation, maintenance, or failure of its facilities used in the interconnected operations. The utility, at the request of the qualifying facility, shall defend any suit asserting a claim covered by its indemnification. The utility shall pay all costs incurred by the qualifying facility to enforce this indemnification.

(b) A qualifying facility shall indemnify a utility against all loss, damage, expense, and liability to third persons for injury or death caused by the qualifying facility's ownership, construction, maintenance, or failure of its facilities used in the interconnected operations. The qualifying facility, at the request of the utility, shall defend any suit asserting a claim covered by its

indemnification. The qualifying facility shall pay all costs incurred by the utility to enforce this indemnification.

(c) Absent a written agreement to the contrary, a utility and a qualifying facility shall hold each other harmless from liability for all damages caused to the facilities of the other party by reason of the improper or faulty operation of, or non-operation of, their facilities.

(d) A qualifying facility shall obtain liability insurance in an amount the utility determines to be reasonably adequate to protect the public and the utility against damages caused by the interconnected operations. Prior to interconnection, the qualifying facility shall provide the utility with a current, valid certificate of insurance naming the utility as a beneficiary. A utility may waive the right to be named as an additional insured.

3951. Discontinuance of Sales or Purchases During System Emergencies, and Notice.

(a) A qualifying facility shall provide energy or capacity to a utility during a system emergency on the utility's system to the extent required by 18 C.F.R. § 292.307.

(b) Unless waived by the utility, a qualifying facility which discontinues sales to or purchases from a utility due to a system emergency:

(I) Shall make a reasonable effort to notify the utility by telephone prior to discontinuance. If the qualifying facility is unable to give prior telephone notice to the utility, the qualifying facility shall notify the utility by telephone no later than two hours after the termination of the emergency. No utility shall be entitled to telephone notification under this rule unless it provides its current telephone number to the qualifying facility.

(II) Shall give written notice to the utility no later than five days after the termination of the emergency causing the discontinuance. The written notice shall describe the emergency, the duration of the emergency, and the reasons for the discontinuance.

(c) During a system emergency, a utility may discontinue purchases from a qualifying facility as provided in 18 C.F.R. § 292.307. Unless waived by the qualifying facility, a utility which discontinues purchases from or sales to a qualifying facility due to a system emergency shall give written notice to the qualifying facility no later than ten days after termination of the emergency causing the discontinuance. The written notice shall describe the emergency, the duration of the system emergency, and the reasons for the discontinuance.

(d) As used in this rule, "system emergency" means a condition on a utility’s system that is likely to result in imminent and significant disruption of service to customers or that is likely imminently to endanger life or property.

3952. Other Discontinuances.

Within ten days prior to any type of temporary discontinuance of purchases or sales other than one due to a system emergency, the utility or the qualifying facility shall notify the other party , except that this notification shall not be required if the parties previously have agreed upon the discontinuance or if the discontinuance is less than 15 minutes in duration.

3953. Exemption of Qualifying Facilities From Certain Colorado Laws and Regulations.

(a) A qualifying facility shall be exempt from Colorado law and regulations as provided in 18 C.F.R. § 292.602(c), except that a qualifying facility shall not be exempt from rules 3900 through 3954.

(b) The exemption provided for in 18 C.F.R. § 292.602(c) shall not divest the Commission of the authority to review contracts for purchases and sales of power and energy under §§ 201 and 210 of the Public Utility Regulatory Policies Act of 1978.

3954. – 3999. [Reserved]

GLOSSARY OF ACRONYMS

CAAM –	Cost Allocation and Assignment Manual
CCR –	Colorado Code of Regulations
C.F.R. –	Code of Federal Regulations
CPCN -	Certificate of Public Convenience and Necessity
CRCP –	Colorado Rules of Civil Procedure
C.R.S. -	Colorado Revised Statutes
EAO –	Energy Assistance Organization
e-mail -	Electronic mail
FERC –	Federal Energy Regulatory Commission
FDC -	Fully Distributed Cost
GAAP -	Generally Accepted Accounting Principles
HZ –	Hertz (cycles per second)
IEEE –	the Institute of Electrical and Electronics Engineers
IPP –	Independent Power Producer
KW –	KiloWatt (1 KW = 1,000 Watts)
kWh –	Kilowatt-hour
MMO –	Master Meter Operator
MW –	MegaWatt (1 MW = 1,000 KiloWatts)
MWH –	MegaWatt-hour
OCC –	Colorado Office of Consumer Counsel
RUS –	Rural Utilities Service of the United States Department of Agriculture
USOA –	Uniform System of Accounts