COLORADO DEPARTMENT OF REGULATORY AGENCIES

Public Utilities Commission

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

PART 4
RULES REGULATING GAS UTILITIES

BASIS, PURPOSE, AND STATUTORY AUTHORITY.

The basis and purpose of these rules is to set forth rules describing the service to be provided by jurisdictional gas utilities and master meter operators to their customers and describing the manner of regulation over jurisdictional gas utilities, master meter operators, and the services they provide. 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, transportation service, flexible regulation, procedures for administering the Low-Income Energy Assistance Act, gas service low-income program, cost allocation between regulated and unregulated operations, recovery of gas costs, appeals regarding local government land use decisions, and authority of the Commission to impose civil penalties on public utilities. The statutory authority for these rules can be found at §§ 29-20-108, 40-1-103.5, 40-2-108, 40-2-115, 40-3-102, 40-3-103, 40-3-104.3, 40-3-106, 40-3-111, 40-3-114, 40-3-101, 40-4-101, 40-4-106, 40-4-108, 40-4-109, 40-5-103, 40-7-117, 40-7-113.5, 40-7-116.5; and 40-8.7-105(5), C.R.S.

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[indicates omission of unaffected rules]

BILLING AND SERVICE

4400. Applicability.

Rules 4400 through 4412 apply to residential customers, small commercial customers and agricultural customers served pursuant to a utility's rates or tariffs. Rules 4400 through 4405 and rules 4407 through 4412 shall not apply to customers served under a utility's transportation 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.

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[indicates omission of unaffected rules]

[new rules]

4412. Gas Service Low-Income Program.

(a) Scope and Applicability.

(I) Gas utilities with Colorado retail customers shall file with the Commission a proposal to provide low-income energy assistance by offering rates, charges, and services that grant a reasonable preference or advantage to residential low-income customers, as permitted by § 40-3-106, C.R.S.

(II) Rule 4412 is applicable to investor-owned gas utilities subject to rate regulation by the Public Utilities Commission of Colorado.

(b) Definitions. The following definitions apply only in the context of rule 4412. In the event of a conflict between these definitions and a statutory definition, the statutory definition shall apply:

(I) "Eligible low-income customer" means a residential utility customer who:

(A) Has a household income at or below one hundred eighty-five percent of the current federal poverty level, as published in the January 20, 2011 Federal Register, Vol. 76, No. 13, pp. 3637-3638, by the U.S. Department of Health and Human Services and set forth in the following table:

Persons in Family	Poverty Guideline
1	$10,890
2	14,710
3	18,530
4	22,350
5	26,170
6	29,990
7	33,810
8	37,630
For families with more than 8 persons, add $3,820 for each additional person.	

and

(B) Otherwise meets the eligibility criteria set forth in rules of the Colorado Department of Human Services adopted pursuant to § 40-8.5-105, C.R.S.

(II) "Non-participant" means a utility customer who is not receiving low-income assistance under rule 4412.

(III) "Participant" means an eligible low-income residential utility customer who is granted the reasonable preference or advantage through participation in a gas service low-income Program.

(IV) "Program" means a gas service low-income program approved under rule 4412.

(V) "Arrearage" means the past-due amount appearing, as of the date on which a participant newly enters the Program, on the then most recent prior bill rendered to a participant for which they received the benefit of service.

(VI) "Fixed credit" means an annual bill credit established at the beginning of a participant's participation in a Program each year delivered as a monthly credit on each participant's bill. The fixed credit is the participant's full annual bill minus the participant's affordable percentage of income payment obligation on the full annual bill.

(VII) "Full annual bill" means the current consumption of a participant billed at standard residential rates. The full annual bill of a participant is comprised of two parts: (1) that portion of the bill that is equal to the affordable percentage of income payment; and (2) that portion of the bill that exceeds the affordable percentage of income payment.

(VIII) "LEAP" means Low Energy Assistance Program, a county-run, federally-funded, Program supervised by the Colorado Department of Human Services, Division of Low-Income Energy Assistance.

(c) Program requirements.

(I) Program components. A utility's proposed Program, required by this rule, shall address the following four aspects of energy assistance.

(A) DSM participation. The utility's Program shall address how it integrates with existing energy efficiency or DSM programs offered by the utility or other entity.

(B) Weatherization participation. The utility's Program shall address how it integrates with existing weatherization programs offered by the state of Colorado or other entities.

(C) LEAP Participation. The utility's Program shall address how it integrates with LEAP or other existing low-income energy assistance programs.

(D) Arrearage credit. The utility's Program shall address consideration of arrearage forgiveness for participants who enter the Program. Arrearage credits shall be sufficient to reduce the pre-existing arrearage to $0.00 over twenty-four months.

(II) Participant eligibility phase-in.

(A) A utility's plan shall phase in the eligibility requirements over three years in accordance with the following schedule:

(i) Phase I: Eligible participants are limited to those with a household income at or below one hundred twenty-five percent of the current federal poverty level during the first year of operation of the Program.

(ii) Phase II: Eligible participants are limited to those with a household income at or below one hundred fifty percent of the current federal poverty level during the second year of operation of the Program.

(iii) Phase III: Eligible participants are limited to those with a household income at or below one hundred eighty-five percent of the current federal poverty level during the third and subsequent years of operation of the Program.

(B) Utilities that have implemented a low-income Gas service pilot program prior to January 1, 2011 may continue to provide benefits to pilot program participants that are enrolled in the pilot program at the time of filing under rule 4412(d)(I), regardless of the customer's level of poverty, so long as the customer's household income is at or below 185% of Federal Poverty Limits.

(III) Maximum impact on non-participant.

(A) The utility shall quantify the anticipated impact of its Program on non-participants, for each phase identified in subparagraph 4412(c)(II)(A), as required by §-40-3-106(d)(III), C.R.S.

(B) If Program cost recovery is usage-based, then the Program's maximum cost impact on non-participant's volumetric rates are:

(i) Phase I: No more than $0.0037 per therm;

(ii) Phase II: No more than $0.0041 per therm;

(iii) Phase III: No more than $0.00465 per therm.

(C) If Program cost recovery is based on something other than usage, the utility shall specify in its filing the maximum cost impact to non-participants.

(d) Program implementation.

(I) Each utility shall file tariffs containing its proposed Program no later than March 19, 2012.

(II) At a minimum, the utility's filing shall include the following information:

(A) A tariff containing the rules that govern the operation of the Program, including all of the requirements of paragraph 4412(c).

(B) A narrative description of the proposed Program, including:

(i) An explanation of the manner and the extent to which the Program operates in an integrated manner with other components of utility billing, credit and collection policies and programs, and usage reduction processes of the utility to accomplish the Program goals.

(ii) A needs assessment identifying an estimate of the total number of low-income participants; the number of identified low-income participant accounts; and the projected Program enrollment.

(C) A hard budget cap for each year the plan is in operation, including Program administrative costs.

(D) The number of participants currently receiving low-income energy assistance from the utility; the average amount of base consumption that occurs in low-income homes; the potential impact of energy efficiency/DSM upon average low-income consumption.

(E) Other information necessary to adequately support its proposal to the Commission.

(e) Cost recovery.

(I) Each utility shall address in its filing how costs of the Program will be recovered.

(II) Each utility shall provide information regarding impacts on the various participant classes and on participants within a class.

(III) The following costs are eligible for recovery by a utility as Program costs:

(A) Program credits or discounts applied against bills for current usage.

(B) Program credits applied against pre-existing arrearages.

(C) Program administrative costs.

(D) Other reasonable costs that the utility is able to demonstrate are attributable to its Program.

(IV) The utility shall apply, as an offset to cost recovery, all Program expense reductions attributable to the Program. Program expense offsets include decreases in utility operating costs; decreases in the return requirement on cash working capital for carrying arrearages; decreases in the cost of credit and collection activities for dealing with low-income participants; and decreases in uncollectable account costs for these participants.

(f) Energy assistance grants.

(I) The utility shall apply energy assistance grants to the dollar value of credits granted to Program participants.

(II) A utility providing a Program as a percentage of income plan shall apply any energy assistance grant to that portion of the Program participant's full annual bill that exceeds the participant's affordable percentage of income payment.

(A) If the dollar value of the energy assistance grant is greater than the dollar value of the difference between the program participant's full annual bill and the participant's affordable percentage of income payment, the dollar amount by which the energy assistance grant exceeds the difference will be applied:

(i) First, to any pre-existing arrearages that at the time of the energy assistance grant continues to be outstanding.

(ii) Second, to the account of the program participant as a benefit to the participant.

(B) No portion of an energy assistance grant provided to a program participant may be applied to the account of a participant other than the participant to whom the energy assistance grant was rendered.

(g) Annual report.

(I) No later than May 31 each year, each utility shall file an annual report, based on the previous 12-month period ending March 31, containing the following information:

(A) Monthly information on the Program including number of participants, amount of benefit disbursement, type of benefit disbursement, and revenue collection;

(B) The number of applicants for the Program;

(C) The number of applicants qualified for the Program;

(D) The number of participants;

(E) The average assistance provided, both mean and median;

(F) The maximum individual assistance provided to an individual participant;

(G) The minimum assistance provided to an individual participant;

(H) Total cost of the Program and the average rate impact on non-participants by rate class, including impact based on typical monthly consumption of both its residential and small business customers;

(I) The number of participants that had service discontinued as a result of late payment or non-payment, and the amount of uncollectable revenue from participants;

(J) An estimate of utility savings as a result of the implementation of the Program (*e.g.,* reduction in trips related to discontinuance of service, reduction in uncollectable revenue, etc.); and

(K) Recommended Program modifications based on report findings.

(h) Safe Harbor Program option.

Subparagraph (h) describes an option that each utility may propose as a low-income energy assistance Program. The Program detailed in this section may be adopted by a utility in satisfaction of the requirements of this rule 4412 and, as such, constitutes a "Safe Harbor" for compliance.

(I) Customer eligibility for the Safe Harbor Program shall be phased in as provided in subparagraph 4412(c)(II)(A).

(II) Safe Harbor design requirements. The following design requirements shall be included in the Safe Harbor tariff filing of a utility:

(A) Safe Harbor enrollment shall be limited to the utility's LEAP participants based on the three-year phase-in schedule contained in 4412 (c)(II)(A).

(B) Payment plan proposal. Participant payments for gas bills rendered to Safe Harbor participants shall not exceed a percentage of the Safe Harbor participant's annual income.

(i) Percentage of income plan. The total payment for all gas home energy under a percentage of income plan is determined based upon a percentage of the participant's annual gross household income. The participant's annual gross household income and household size place the participant at a particular poverty level based on federal poverty guidelines set forth in 4412 (b)(I)(A).

(1) For gas accounts, maximum participant payments shall be set at the following percentage of income burdens:

(a) Household income at or below 75 percent of Federal Poverty Level: two percent of income.

(b) Household income exceeding 75 percent but at or below 125 percent of Federal Poverty Level: two and one-half percent of income.

(c) Household income exceeding 125 percent but at or below 185 percent of Federal Poverty Level: three percent of income.

(ii) In the event that a primary heating fuel for any particular Safe Harbor participant has been identified by LEAP, that determination shall be final.

(C) Full annual bill calculation. The utility shall be responsible for estimating a Safe Harbor participant's full annual bill for the purpose of determining the participant's fixed credit.

(D) Fixed credit benefit delivery.

(i) A utility shall, unless infeasible, deliver Safe Harbor benefits as a percentage of income-based fixed credit on a participant's bill.

(ii) Fixed credits shall be adjusted during a Program year in the event that standard residential rates, including commodity or fuel charges, change to the extent that the full annual bill at the new rates would differ from the full annual bill upon which the fixed credits are currently based by 25 percent or more.

(iii) If a utility demonstrates that it is infeasible to deliver Safe Harbor benefits as a percentage of income-based fixed credits on a participant's bill, a participant's annual payment each year shall be calculated as a percentage of household income and converted to a percentage of the participant's full annual bill. A participant will pay that percentage of the total bill irrespective of the level of the full annual bill.

(E) Levelized budget billing participation. A utility shall, unless infeasible, enroll Safe Harbor participants in its levelized budget billing Program as a condition of participation in Safe Harbor. Should a Safe Harbor participant fail to meet monthly bill obligations and be placed by a utility in its regular delinquent collection cycle, the utility may remove the participant from levelized budget billing in accordance with the utility's levelized budget billing tariff.

(F) Arrearage credits.

(i) Arrearage credits shall be applied to pre-existing arrearages.

(ii) Arrearage credits shall be sufficient to reduce, when combined with participant copayments, if any, the pre-existing arrearages to $0.00 over twenty-four months.

(iii) Application of an arrearage credit to a Safe Harbor account may be conditioned by the utility on one or more of the following:

(1) The receipt of regular participant payments toward Safe Harbor bills for current usage; or

(2) The payment of a participant copayment toward the arrearages so long as the participant copayment does not exceed one percent of gross household income.

(iv) Pre-existing arrears under this subparagraph shall not serve as the basis for the termination of service for nonpayment or as the basis for any other utility collection activity while the customer is participating in the Safe Harbor Program.

(v) A participant may receive arrearage credits under this section even if that participant does not receive a credit toward current bills, if the participant enters into and maintains a levelized budget billing plan.

(G) Cost Recovery.

(i) Each utility shall include as part of its Safe Harbor the cost recovery requirements listed in rule 4412 (e).

(ii) Safe Harbor Program costs shall be allocated to all retail rate classes based on usage. Cost recovery shall also be based on usage.

(iii) Each utility shall include as part of its Safe Harbor a hard budget cap for each year the Program is in operation, including Program administrative costs, that complies with 4412 (c)(III).

(H) Energy Assistance Grants. The utility shall apply energy assistance grants to the dollar value of credits granted to the individual Program participants as set forth in rule 4412 (f).

(I) Cost control features.

(i) A utility shall refer Safe Harbor participants who historically use 150 percent or more of the median use of its residential class participants to public or private usage reduction programs, including the utility's own demand side management programs and the usage reduction programs of local weatherization agencies that provide free energy efficiency upgrades to income-qualified consumers based on availability of funding.

(ii) Households approved to receive an Safe Harbor benefit must agree to have their dwelling weatherized if contacted by a state-authorized weatherization agency. Failure to permit or complete weatherization may result in the denial of Safe Harbor benefits for the following year, subject to the following exceptions:

(1) Households containing a member(s) whose mental or physical health could be jeopardized because of weatherization shall be exempt from this requirement. Such participants must provide a certificate of medical hardship which shall be in writing sent to the utility from the office of a licensed physician, and show clearly the name of the participant or individual whose health 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 hardship.

(2) A household whose landlord refuses to allow weatherization shall not have benefits denied.

(3) A household shall not have Safe Harbor benefits denied for failure to provide matching funds for weatherization.

(J) Targeted outreach. Within its residential customer base, a utility shall make special efforts to target Safe Harbor outreach to payment-troubled customers.

(K) Portability of benefits. A Safe Harbor participant may continue to participate in Safe Harbor, without reapplication, should the participant change service addresses, but remain within the service territory of the utility providing the benefit, provided that the utility may make necessary adjustments in the levelized budget billing amount to reflect the changed circumstances. A Safe Harbor participant who changes service addresses and does not remain within the service territory of the utility providing the benefit must reapply to become a participant at the participant's new service address.

(L) Maximum cost impact on non-participants. The maximum cost impact to non-participants shall be no more than the limits established in subparagraph 4412(c)(III).

(M) Program requirements conflict. In the event there is a conflict between participant benefits in subparagraphs 4412(h)(II)(B) and (F) and non-participant impacts in subparagraph 4412(h)(II)(L), the non-participant impact limits shall not be exceeded.

(N) Administrative Program components. The Safe Harbor Program administration shall include:

(i) A written explanation of Safe Harbor provided to participants.

(ii) Consumer education programs that shall include information on the benefits of energy conservation, and that may include referrals to other appropriate weatherization and income supplement programs.

(iii) An annual process that verifies a participant's continuing income eligibility for benefits, provided that:

(1) A process through which a participant may reapply on a less frequent basis may be implemented for categories of participants that are not likely to experience annual fluctuations in income; and

(2) A process through which a participant must verify income on a more frequent basis may be implemented for participants for whom the calculation of benefits is based on a $0 income.

(3) A utility shall notify the participant for whom the benefit is based on a $0 income of the frequency with which income must be verified.

(4) A utility must provide an income verification process for a participant for whom the benefit is based on a $0 income.

(5) A participant whose benefit is based on a $0 income who fails to timely verify income shall be removed from Safe Harbor.

(O) Payment default provisions. Failure of a participant to make his or her monthly bill payments will result in a utility placing the participant in its regular collection cycle. Nonpayment shall not result in the automatic removal of a participant from Safe Harbor.

4413. – 4499. [Reserved].

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[indicates omission of unaffected rules]