

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 20R-0349EG

IN THE MATTER OF THE PROPOSED RULES REGARDING IMPLEMENTATION OF SENATE BILL 20-030 AND THE REVISION OF DISCONNECTION STANDARDS FOR ELECTRIC AND GAS UTILITIES PURSUANT TO 4 CODE OF COLORADO REGULATIONS 723-3 AND 723-4.

**RECOMMENDED DECISION OF
ADMINISTRATIVE LAW JUDGE
MELODY MIRBABA
ADOPTING RULES**

Mailed Date: September 10, 2021

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I. STATEMENT AND BACKGROUND**A. Summary**

1. This Decision adopts amendments to the Colorado Public Utilities Commission's (Commission) Rules Regulating Electric Utilities, 4 *Code of Colorado Regulations* (CCR) 723-3 (Electric Rules) and Rules Regulating Gas Utilities, 4 CCR 723-4 (Gas Rules) (collectively, the Rules or the Electric and Gas Rules)¹ prompted by Senate Bill (SB) 20-030.² Generally, the changes amend and add rules relating to: customer deposits; the conditions under which utilities may discontinue service for nonpayment; service discontinuance and restoration processes; installment payment plans; reporting requirements; requirements to publish information on utility websites; medical exemptions from tiered electric rate plans; and civil penalty amounts for certain rule violations.

B. Background and Procedural History

2. The impetus behind this rulemaking proceeding is SB20-030. That bill was signed into law on June 29, 2020, and codified changes at §§ 40-3-103.6; 40-3-103.5; 40-3-106; and 40-3-110, C.R.S. (2020). The bill, titled "Consumer Protections for Utility Customers," establishes a series of requirements impacting investor-owned electric and gas utilities, and requires changes or additions to the Commission's existing Electric and Gas Rules.

¹ Except where specified, the Electric and Gas Rules are treated together in this Decision. In the context of discussing these Rules, the singular refers to the plural and vice versa. Throughout this Decision, headers, sub headers, and the like are for ease of reference only.

² The record reflects a significant volume of public comments on the proposed Rules, ranging from significant to minor suggested changes. This Decision does not discuss all public comments, and instead focuses on comments suggesting significant changes to specific rules, and generally does not repeat proposed changes when proposed by multiple commenters. In reaching this Decision, the Administrative Law Judge has considered the entire record in this proceeding, including all aspects of the proposed Rules, the relevant law, and all public comments submitted in this proceeding, even those discussed briefly or not at all.

3. During its weekly meeting held August 19, 2020, the Commission adopted a Notice of Proposed Rulemaking (NOPR) to amend its Electric and Gas Rules.³ The NOPR was accompanied by proposed Electric and Gas Rules in legislative and clean format.⁴ Concurrently, the Commission referred this proceeding to an Administrative Law Judge (ALJ); invited public comment generally and on identified items; took administrative notice of filings in other Commission proceedings; and scheduled a video-conference public comment hearing for October 20, 2020.⁵ Notice of that public comment hearing was published in *The Colorado Register*.

4. The ALJ held public comment hearings on October 20, 2020, March 4, 2021, and May 10, 2021.⁶ Members of the public provided verbal public comment during these hearings, including representatives from the following investor-owned electric and gas utilities: Atmos Energy Corporation (Atmos); Black Hills of Colorado Electric, LLC and Black Hills Colorado Gas, Inc. (collectively, Black Hills); Colorado Natural Gas, Inc. (CNG); and Public Service Company of Colorado (Public Service) (collectively, the utilities). These same entities also submitted written comment. In addition, Energy Outreach Colorado (EOC); the Sierra Club; the City and County of Denver (Denver); AARP; and the Colorado Public Utilities Commission Staff (Staff) also submitted written public comment.⁷

³ 4 *Code of Colorado Regulations* (CCR) 723-3 (Electric Rules); 4 CCR 723-4 (Gas Rules). All references in this Decision to such rules refer to these citations.

⁴ Attachments A and B (Electric Rules in legislative and clean format), and Attachments C and D (Gas Rules in legislative and clean format).

⁵ Decision No. C20-0622, adopted August 19, 2020.

⁶ See Decision Nos. R20-0801-I issued November 13, 2020, and R21-0160-I issued March 16, 2021.

⁷ Because many entities submitted numerous written public comments, the ALJ cites to them by first referring to the filer's name, the filing date, and then to the cited page number (*e.g.*, Public Service's 9/22/20 Comments at 1). This makes for a clearer and less confusing administrative record than if the Decision cited the filers' document titles.

5. Notably, with its final comments, Public Service submitted blue-line edits of the proposed Electric and Gas Rules that the other utilities support (filed as Attachments A and B to Public Service's April 26, 2021 Comments).⁸

6. Throughout the course of this proceeding, the ALJ took administrative notice⁹ of and invited public comment on filings in other Commission proceedings, and invited public comment on specific items.¹⁰ Of particular note, the ALJ took administrative notice of filings in multiple proceedings that directly relate to the issues presented here, such as Proceeding No. 20M-0267EG, opened to solicit information and comments to inform the Commission's efforts to implement SB20-030, and Proceeding No. 08M-305EG, used to receive utility quarterly filings on residential customer delinquencies and disconnections since 2008 through a standard template created by the National Association of Regulatory Utility Commissioners (NARUC) (NARUC Reports).

II. DISCUSSION, ANALYSIS, FINDINGS, AND CONCLUSIONS

A. Statutory Authority to Promulgate Rules

7. Under §§ 40-3-103.6(1) and 40-3-103.5(1), C.R.S., the Commission has specific authority to promulgate rules relating to service discontinuance and restoration (also referred to as service disconnection and reconnection), and medical exemptions from tiered electricity rates. In addition, under § 40-2-108(1), C.R.S., the Commission has authority to promulgate such rules as are necessary for the proper administration and enforcement of Title 40, Colorado

⁸ See CNG's 4/26/21 Comments at 7; Black Hills' 4/26/21 Comments at 1-2; and Atmos' 4/26/21 Comments at 1. Throughout this Decision, unless otherwise specified, references to the utilities' proposed changes or opposition to proposed changes refer to their support for the Rules and proposed changes thereto in Attachments A and B to Public Service's 4/26/21 Comments.

⁹ The ALJ took administrative notice of: filings made in Proceeding Nos. 08M-305EG, 17M-0848E, 19M-0240E, 20M-0267EG as of March 16, 2021; the 2020 Triennial Evaluation filed on October 13, 2020 in Proceeding No. 20M-0013EG. Decision Nos. R20-0801-I and R21-0160-I.

¹⁰ See Decision Nos. R20-0801-I, R21-0160-I, and R21-0199-I issued April 2, 2021.

Revised Statutes. Because the remaining proposed rule changes are intended to implement other provisions of SB20-030, or to administer and enforce other provisions of Title 40, the ALJ concludes that the Commission has authority to promulgate all of the proposed Rules, including the modifications discussed below.¹¹ The ALJ also finds that the rule changes made in this Decision are consistent with the subject matter as set forth in the NOPR, consistent with § 24-4-103(4)(c), C.R.S.¹²

8. Section 40-3-103.6, C.R.S., instructs the Commission to commence a rulemaking to adopt standard practices for utilities to follow when discontinuing service for nonpayment, and to address a series of subjects related to the same. Many of these subjects have already been considered and included in some form within existing Electric and Gas Rules, or are part of the utilities' practices. For the most part, § 40-3-103.6, C.R.S., does not provide specific direction as to how the Commission should evaluate existing rules and practices to assess what changes may be appropriate. But recent trends related to delinquencies and disconnection for nonpayment provides baseline information that helps inform the proposed rule amendments.

B. Overview of Recent Trends on Residential Customer Delinquency and Disconnection

9. The NARUC Reports filed in Proceeding No. 08M-305EG represent a continuous and reasonably consistent source of data to help identify trends associated with residential customers over time. Residential customers generally represent the largest class of customers and experience the largest number of disconnections. The below Table 1 is drawn from utilities' NARUC Reports (Question 1) and presents the total residential customers by utility. While customer numbers can fluctuate across a year, the numbers below represent total residential

¹¹ See §§ 40-3-106 and 40-3-110, C.R.S.

¹² See generally, Decision No. C20-0622.

customers at the end of each calendar year. The numbers of residential customers depicted in Table 1 are used as denominators for percentages calculated in Tables 2 and 3.

Table 1 - Total Residential Customers by Utility as of December 31¹³

Utility	2018	2019	2020
Public Service (Electric)	355,852 ¹⁴	372,171 ¹⁵	386,167 ¹⁶
Public Service (Gas)	364,974	374,627	384,724
Public Service (Combination)	1,076,590	1,092,932	1,108,179
CNG (Gas)	21,351 ¹⁷	21,846 ¹⁸	22,577 ¹⁹
Atmos (Gas)	102,478 ²⁰	103,158 ²¹	110,859 ²²
Black Hills (Electric)	84,990 ²³	85,869 ²⁴	86,405 ²⁵
Black Hills (Gas)	171,415 ²⁶	176,485 ²⁷	180,057 ²⁸

10. Table 2 shows the number and proportion of residential customers that are past due by utility. As with Table 1, it is derived from utilities’ NARUC Reports (Question 2). NARUC Report data represents data on customers who were past-due as of December 31 of each

¹³ Citations within this Table are to the identified filings in Proceeding No. 08M-305EG, as noted below.

¹⁴ Public Service, Corrected NARUC 2018 Collections Survey 4th Quarter (July 15, 2019).

¹⁵ Public Service, NARUC 2019 Collections Survey 4th Quarter (April 17, 2020).

¹⁶ Public Service, NARUC 2020 Collections Survey 4th Quarter (January 29, 2021).

¹⁷ CNG, NARUC Q4 2018 Collections Survey (January 8, 2019).

¹⁸ CNG, NARUC Q4 2019 Collections Survey (January 23, 2020).

¹⁹ CNG, NARUC Q4 2020 Collections Survey (January 28, 2021).

²⁰ Atmos, NARUC 2019 Collections Survey 1st Quarter (January 30, 2019) (active customers).

²¹ Atmos, NARUC 2020 Collections Survey 1st Quarter (January 30, 2020) (active customers).

²² Atmos, NARUC 2021 Collections Survey 1st Quarter (February 1, 2021) (active customers).

²³ Black Hills, 4th Quarter NARUC 2018 Collections Survey (Corrected) (October 31, 2019).

²⁴ Black Hills, 4th Quarter NARUC 2019 Collections Survey (January 27, 2020).

²⁵ Black Hills, 3rd Quarter NARUC 2020 Collections Survey (November 5, 2020) (Question 1, residential customers as of September 30, 2020) (Black Hills Energy did not file a Q4 2020 report).

²⁶ Black Hills, 4th Quarter NARUC 2018 Collections Survey (Corrected) (October 31, 2019).

²⁷ Black Hills, 4th Quarter NARUC 2019 Collections Survey (January 27, 2020).

²⁸ Black Hills, 3rd Quarter NARUC 2020 Collections Survey (November 5, 2020) (Question 1, residential customers as of September 30, 2020) (Black Hills Energy did not file a Q4 2020 report).

calendar year. Thus, Table 2 does not reflect seasonal variations, or the total number of customers who may have been past-due during the entire calendar year.²⁹

**Table 2 - Residential Customers Past Due by Utility as of December 31
(Share of Total Residential Customers)³⁰**

Utility	2018	2019	2020
Public Service (Electric)	48,876 ³¹ (13.7%)	56,808 ³² (15.3%)	50,844 ³³ (13.2%)
Public Service (Gas)	35,022 (9.6%)	36,292 (9.7%)	29,016 (7.5%)
Public Service (Combination)	190,343 (17.7%)	205,807 (18.8%)	173,381 (15.6%)
CNG (Gas)	693 ³⁴ (3.2%)	469 ³⁵ (2.1%)	319 ³⁶ (1.4%)
Atmos (Gas)	1,103 ³⁷ (1.1%)	1,367 ³⁸ (1.3%)	4,454 ³⁹ (4.0%)
Black Hills (Electric)	10,376 ⁴⁰ (12.2%)	10,438 ⁴¹ (12.2%)	10,830 ⁴² (12.5%)
Black Hills (Gas)	9,294 ⁴³ (5.4%)	8,820 ⁴⁴ (5.0%)	6,994 ⁴⁵ (3.9%)

11. Table 3 shows the total number of residential disconnections for nonpayment by utility and year and is derived from both the NARUC Reports and from COVID Reports,

²⁹ Seasonality may particularly impact gas utilities. *See infra* ¶ 122.

³⁰ Citations within this Table are to the identified filings in Proceeding No. 08M-305EG, as noted below.

³¹ Public Service, Corrected NARUC 2018 Collections Survey 4th Quarter (July 15, 2019).

³² Public Service, NARUC 2019 Collections Survey 4th Quarter (April 17, 2020).

³³ Public Service, NARUC 2020 Collections Survey 4th Quarter (January 29, 2021).

³⁴ CNG, NARUC Q4 2018 Collections Survey (January 8, 2019).

³⁵ CNG, NARUC Q4 2019 Collections Survey (January 23, 2020).

³⁶ CNG, NARUC Q4 2020 Collections Survey (January 28, 2021).

³⁷ Atmos, NARUC 2019 Collections Survey 1st Quarter (January 30, 2019) (>30 days and \$100 past due).

³⁸ Atmos, NARUC 2020 Collections Survey 1st Quarter (January 30, 2020) (>30 days and \$100 past due).

³⁹ Atmos, NARUC 2021 Collections Survey 1st Quarter (February 1, 2021) (>30 days and \$100 past due).

⁴⁰ Black Hills, 4th Quarter NARUC 2018 Collections Survey (Corrected) (October 31, 2019).

⁴¹ Black Hills, 4th Quarter NARUC 2019 Collections Survey (January 27, 2020).

⁴² Black Hills, 3rd Quarter NARUC 2020 Collections Survey (November 5, 2020) (Question 2, past due as of September 30, 2020) (Black Hills Energy did not file a Q4 2020 report).

⁴³ Black Hills, 4th Quarter NARUC 2018 Collections Survey (Corrected) (October 31, 2019).

⁴⁴ Black Hills, 4th Quarter NARUC 2019 Collections Survey (January 27, 2020).

⁴⁵ Black Hills, 3rd Quarter NARUC 2020 Collections Survey (November 5, 2020) (Question 2, past due as of September 30, 2020) (Black Hills Energy did not file a Q4 2020 report).

depending on the utility. The percentages in Table 3 do not reflect data on residential customers who may have experienced multiple disconnections within a year; as such, these percentages are instructive, and not precise.⁴⁶

Table 3 - Total Residential Customer Disconnections for Nonpayment by Utility by Year⁴⁷

Utility	2018	2019	2020 ⁴⁸
Public Service (Electric) ⁴⁹	3,533 (1.0%)	1,722 (0.5%)	40 (0.0%)
Public Service (Gas) ⁵⁰	1,590 (0.4%)	2,778 (0.7%)	170 (0.0%)
Public Service (Combination) ⁵¹	10,022 (0.9%)	9,006 (0.8%)	887 (0.1%)
CNG (Gas) ⁵²	220 (1.0%)	203 (0.9%)	136 (0.6%)
Atmos (Gas) ⁵³	2,601 (2.5%)	5,331 (5.2%)	682 (0.6%)
Black Hills (Electric) ⁵⁴	5,391 (6.3%)	5,616 (6.5%)	3,046 (3.5%)
Black Hills (Gas) ⁵⁵	2,306 (1.3%)	1,808 (1.0%)	230 (0.1%)

⁴⁶ See *infra* ¶ 179.

⁴⁷ Except as specifically noted, citations within this Table are to the identified filings in Proceeding No. 08M-305EG.

⁴⁸ In 2020, disconnection moratoriums due to COVID-19 were in place. See e.g., Governor Jared Polis’ Executive Order D 2020-012.

⁴⁹ Public Service, NARUC 2018 Collections Surveys (Q1 April 30, 2018; Q2 July 30, 2018; Q3 October 30, 2018; Q4 Corrected July 15, 2019); NARUC 2019 Collections Surveys (Q1 Corrected July 30, 2019; Q2 July 30, 2019; Q3 October 30, 2019; Q4 April 17, 2020); NARUC 2020 Collections Surveys (Q1 April 30, 2020; Q2 July 30, 2020; Q3 October 30, 2020; Q4 January 29, 2021). The 2019 figure is an estimate as Q1 2019 data includes duplicates from Q4 2018.

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² CNG, NARUC 2018 Collections Surveys (Q1 April 10, 2018; Q2 August 2, 2018; Q3 October 31, 2018; Q4 January 8, 2019); NARUC 2019 Collections Surveys (Q1 April 26, 2019; Q2 July 31, 2019; Q3 October 31, 2019; Q4 January 23, 2020); NARUC 2020 Collections Surveys (Q1 April 17, 2020; Q2 July 27, 2020; Q3 October 15, 2020; Q4 January 28, 2021).

⁵³ Atmos, NARUC 2017 Collections Surveys (Q4 March 31, 2018); NARUC 2018 Collections Surveys (Q2 July 30, 2018; Q4 November 5, 2018); NARUC 2019 Collections Surveys (Q1 January 30, 2019; Q2 April 22, 2019; Q3 August 5, 2019; Q4 November 7, 2019); NARUC 2020 Collections Surveys (Q1 January 30, 2020; Q2 April 30, 2020; Q3 August 5, 2020; Q4 October 28, 2020); NARUC 2021 Collections Surveys (Q1 February 1, 2021). The 2018 figure is an estimate due to a potential change between year-to-date and quarterly presentation of data.

⁵⁴ Proceeding No. 20M-0267EG, Black Hills’ Monthly Report in Compliance with Decision Nos. R20-0664-I, R20-0916-I, and C21-0080-I (March 15, 2021), Public Attachment 1, at 19-20.

⁵⁵ *Id.*

12. While more specific rationales are presented with each rule, the above tables suggest several principles that impact the proposed rule amendments and priorities in this Decision overall. First, in recent years, generally, most utilities disconnect a small percent of residential gas and electric customers for nonpayment.⁵⁶ *Compare*, Tables 1 and 3. Second, utilities do not disconnect every customer who becomes past-due; in recent years, utilities disconnected far fewer residential electric and gas customers than the total who were past-due as of December 31st. *Compare*, Tables 2 and 3.⁵⁷ These principles advise in favor of rules that retain and enhance utility flexibility and opportunities to work with and support customers potentially facing disconnection, such as through arrearage management and payment plans, referrals to energy assistance organizations, and publishing easily understood information on their websites to facilitate all of this.

C. Proposed Rule Amendments

13. The Electric and Gas Rules at issue largely parallel each other.⁵⁸ As such, this Decision discusses the Rules together, citing the relevant Electric Rule number before the relevant parallel Gas Rule number. The NOPR proposes amendments to the following existing Electric and Gas Rules:⁵⁹

- Rules 3403 / 4403. Applications for Service, Customer Deposits, and Third-Party Guarantee Arrangements.
- Rules 3404 / 4404. Installment Payments.
- Rules 3407 / 4407. Discontinuance of Service.
- Rules 3408 / 4408. Notice of Discontinuance of Service.

⁵⁶ This does not imply that disconnection impacts are minimal.

⁵⁷ While Atmos' data appears to contradict this trend, this is more reflective of seasonality, as past-due customers in Table 2 reflect a point in time relatively early in the winter heating season.

⁵⁸ Where rules are described as "existing" or "current," they refer to the currently effective rules prior to proposed amendments. "Proposed" Rules refer to proposed rule changes, including new or reordered paragraphs, or revisions to language as laid out in the NOPR in this proceeding.

⁵⁹ The NOPR also makes other minor changes, such as renumbering paragraphs, and correcting punctuation and grammar.

- Rules 3409 / 4409. Restoration of Service.
- Rule 3413. Medical Exemption from Tiered Rate Plans.
- Rules 3976 / 4976. Regulated [Electric and Gas] Utility Rule Violations, Civil Enforcement, and Civil Penalties.

14. This Decision focuses on more significant or impactful proposed rule changes raised in public comments.⁶⁰

1. Rules 3403 / 4403. Applications for Service, Customer Deposits, and Third-Party Guarantee Arrangements.

15. Proposed Rules 3403 / 4403 establish the Commission’s requirements for when utilities may collect cash deposits from new customers, existing customers, and customers seeking to restore service after a discontinuance.

a. Terminology Throughout Rules 3403 / 4403

16. Throughout Rule 3403, the term “cash deposit” is used while the majority of the terminology in Rule 4403 refers to “deposit.” Several commenters suggest that references to “cash deposits” should be changed to “deposits,” and that the terminology be consistent in both sets of rules.⁶¹ Public Service suggests that the term “deposit” more accurately encompasses the requirement that non-cash deposit alternatives be made available.⁶² CNG supports using the term “deposit” because actual cash deposits are rare in practice.⁶³

(1) Discussion, Findings, and Conclusions

17. The ALJ finds that the term “deposit” is less prescriptive than “cash deposit.” And, given the numerous non-cash payment methods widely available today, there is little reason

⁶⁰ The Commission outlines each proposed change in the NOPR and reasons behind them in Decision No. C20-0622. The ALJ does not repeat that here, except where relevant to discussions about proposed rule changes.

⁶¹ Public Service’s 1/11/21 Comments at 4; CNG’s 1/11/21 Comments at 1; EOC’s 1/11/21 Comments at 2.

⁶² Public Service’s 1/11/21 Comments at 4.

⁶³ CNG’s 1/11/21 Comments at 1.

to continue to reference “cash deposit.” For this reason, and the reasons discussed above, the ALJ adopts changes to Rule 3403 to reference deposits, not cash deposits. Where this Decision provides specific proposed rule language below that includes deleting “cash,” this acknowledges these changes, but does not imply that the existing relevant Gas Rule also includes the term “cash,” unless otherwise stated.

b. Rules 3403(b) / 4403(b)

18. Proposed Rules 3403(b) / 4403(b) are identical to existing Rules 3403(e) / 4403(e). Thus, while the Rules are renumbered, the substance is no different than in existing rules. These Rules require utilities to 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” for deposits. Atmos states that its customers routinely use pre-paid credit cards, debit cards, and money orders for deposits, none of which require using a social security number.⁶⁴ Atmos requests the Commission confirm that these methods satisfy the Rules’ non-cash alternative requirement.⁶⁵

(1) Discussion, Findings, and Conclusions

19. In light of the terminology changes discussed above, the ALJ finds that modifications to this rule language are necessary to ensure clarity. And, as Atmos’ comments highlight, payment methods such as debit cards or prepaid credit cards that are funded by cash may raise questions as to the meaning of “non-cash alternative” as contemplated by these Rules. The ALJ finds that this language is no longer necessary given changes in available payment methods such as those which Atmos raises. The ALJ finds that modifying the Rules to eliminate such references appropriately clarifies that utilities must offer at least one deposit alternative that

⁶⁴ Atmos’ 9/22/20 Comments at 2.

⁶⁵ *Id.*

does not require a social security number. For the reasons discussed, the ALJ modifies⁶⁶ Rules 3403(b) / 4403(b) as follows:

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

c. Rules 3403(e) / 4403(e)

20. Proposed Rules 3403(e) / 4403(e) would prohibit utilities from collecting deposits from customers⁶⁷ who provide documentation that they are receiving “public benefits assistance” or who participate in “a low-income program consistent with rule 3412.” Current Rules do not prohibit utilities from collecting deposits from customers based on this or similar criteria. If adopted, the proposed changes would mark the beginning of a new requirement.

21. Generally, customer deposits are only used to pay or offset arrears for accounts that are closed (*i.e.*, they are applied to final bill balances).⁶⁸ As such, utilities generally do not use deposits to offset arrears on active accounts.⁶⁹ It is within this context that the ALJ considers the proposed rule.

22. Public comments on the proposed changes range from suggesting the proposed rule be deleted entirely, to suggesting that the rule be applied broadly.⁷⁰

⁶⁶ Where this Decision details the adopted rule language (as above), they are highlighted to show changes from the proposed Rules, with deleted language stricken, and new language underlined. Stricken language may also encompass language from the existing Rules. Attachments A and C to this Decision show these changes in the same format, but indicate changes as compared to the existing Rules. In addition, where this Decision's adopted rule language includes a cross-reference to both an Electric and Gas rule, brackets are used to indicate the specific Gas or Electric rule referenced, *e.g.*, “rule [3403(a) / 4403(a)]”.

⁶⁷ This includes new applicants for service and customers seeking reconnection.

⁶⁸ Black Hills' 1/11/21 Comments at 10; Public Service's 1/11/21 Comments at 4; CNG's 1/11/21 Comments at 5-6.

⁶⁹ Black Hills' 1/11/21 Comments at 10; Public Service's 1/11/21 Comments at 4.

⁷⁰ Atmos' 9/22/20 Comments at 2; CNG's 9/22/20 Comments at 2; Public Service's 9/22/20 Comments at 5; EOC's 1/11/2021 Comments at 2-4.

23. While the utilities request that the rule be deleted, they also agree that if the Commission is inclined to promulgate the rule, that the Commission should limit eligibility to customers participating in the Colorado Low Income Energy Assistance Program (LEAP).⁷¹ Public Service explains that this is the better choice because the primary purpose of LEAP is to provide energy assistance; LEAP participants have been evaluated for having an unaffordable energy cost burden; and because LEAP uses a single standard to determine eligibility (federal poverty guidelines or a standard percent of state median income), thereby resulting in a consistent and equitable standard for customers throughout the state.⁷² Several utilities explain that using LEAP as the qualifier would result in lower implementation costs because utilities are able to readily identify LEAP participants based on information they already have, thereby eliminating the need to collect additional sensitive personal information from customers.⁷³

24. Given that LEAP enrollment is not year-round, if the rule were limited to LEAP participants, Black Hills initially suggested that eligibility be determined by considering whether the customer was enrolled in LEAP within the previous 12 months. If a customer enrolled in LEAP after paying a deposit, Black Hills would return it.⁷⁴

25. Customers apply for the LEAP program through the Colorado Department of Human Services (CDHS), which determines eligibility during a six-month application window (November 1 to April 30).⁷⁵ To be eligible, the customer's total household income must be at or

⁷¹ Attachments A and B to Public Service's 4/26/21 Comments at 1; *see* CNG's 4/26/21 Comments at 7; Black Hills' 4/26/21 Comments at 1-2; and Atmos' 4/26/21 Comments at 1. Unless otherwise noted, where this Decision cites to page numbers for Attachments A and B to Public Service's 4/26/2021 Comments, the citation first lists Attachment A's page number, then Attachment B's page number. Where only one page number is cited, as here, this refers to the same page number in each attachment.

⁷² Public Service's 2/10/21 Comments at 4.

⁷³ *See e.g.*, Atmos' 2/10/21 Comments at 3; CNG's 1/11/21 Comments at 2.

⁷⁴ Black Hills' 1/11/2021 Comments at 3. This suggestion is not reflected in Attachments A and B to Public Service's 4/26/21 Comments.

⁷⁵ Proceeding No. 20M-0267EG, EOC's 10/1/2020 Comments at 2; Rules 3412 / 4412 (b)(VIII) and (IX).

below 60 percent of the state median income, and the customer must also meet the eligibility criteria in CDHS's rules.⁷⁶ In the 2018 to 2019 program year, Public Service had 37,490 electric and gas residential customers enrolled in LEAP, but it had over 1.8 million electric, gas, and combination residential customers in 2019.⁷⁷

26. The utilities oppose using the phrase "public benefits assistance" in the Rules.⁷⁸ Several utilities assert that the phrase "public benefits assistance" is vague and overly broad.⁷⁹ Utilities are concerned that implementing the proposed rule as drafted would impose a significant financial burden on them.⁸⁰ As a smaller utility, CNG is particularly concerned about the potential cost of implementing the proposed rule as drafted, which it believes could be significant.⁸¹ While the utilities declined to quantify the costs, they anticipate the need to hire additional personnel; invest in system changes that would require significant time to design, test, and implement; and create new systems and process to gather, retain, and protect sensitive personal information.⁸²

27. EOC agrees that "public benefits assistance" should be defined to identify specific governmental programs, but suggests the definition include programs such as Supplemental Nutrition Assistance Program (SNAP), Temporary Assistance for Needy Families (TANF),

⁷⁶ Proceeding No. 20M-0267EG, EOC's 10/1/2020 Comments at 2-3; Rules 3412 / 4412 (c).

⁷⁷ Evaluation of the Percentage of Income Payment Plans, Final Report dated October 2020 (also known as the triennial review report), at 40 (Table 4-4), filed in this proceeding on November 13, 2020; Proceeding No. 08M-305EG, Public Service Company of Colorado, NARUC 2019 Collections Survey 4th Quarter (April 17, 2020) (Question 1, residential customers as of December 31, 2019).

⁷⁸ CNG's 9/22/20 Comments at 2; Public Service's 9/22/20 Comments at 5-6; Black Hills' 9/22/20 Comments at 3; Atmos' 9/22/20 Comments at 2.

⁷⁹ See e.g., Public Service's 9/22/20 Comments at 5-6; Black Hills' 9/22/20 Comments at 3.

⁸⁰ Public Service's 1/11/21 Comments at 7; CNG's 1/11/21 Comments at 2.

⁸¹ CNG's 1/11/21 Comments at 2.

⁸² See Public Service's 1/11/21 Comments at 7; CNG's 1/11/21 Comments at 2.

Medicaid, and those receiving EOC energy assistance.⁸³ EOC is a non-profit organization that administers moneys collected from electric and gas customers who voluntarily contribute toward income-qualified energy assistance.⁸⁴ EOC does not have all of the same eligibility requirements as LEAP and uses an income eligibility threshold of 80 percent of the state median income to provide bill assistance.⁸⁵ EOC provides bill assistance where it can guarantee that a customer will not be disconnected or will be reconnected.⁸⁶ EOC indicates that LEAP provided energy assistance to 68,192 households in 2018, and that EOC provided energy assistance to 15,718 households that year, for a total of 83,910 Colorado households receiving some form of bill assistance across all utilities.⁸⁷ From 2010 to 2017, EOC provided energy assistance in the range of 16,905 (on the low-end) and 23,462 (on the high-end) households.

28. EOC makes payments to energy providers and fuel vendors directly, on behalf of benefitting customers.⁸⁸ It believes that utilities flag accounts that have received energy assistance or energy efficiency support from EOC.⁸⁹ EOC submits that adding customers receiving EOC assistance to the rule would result in a more efficient use of limited EOC energy assistance funds.⁹⁰ For example, currently, when recipients are required to provide a deposit to restore service, EOC provides financial assistance for this.⁹¹ If EOC recipients are not required to

⁸³ EOC's 1/11/21 Comments at 4. EOC also suggests that customers may establish eligibility by providing an award letter from a governmental program (like TANF and SNAP). EOC's 2/10/21 Comments at 7. EOC estimates that over 250,000 households and 500,000 individuals were enrolled in the SNAP program in April 2020, but does not clarify whether these are Colorado-specific estimates, or nationwide estimates. Proceeding No. 20M-0267EG, EOC's 10/1/20 Comments at 5.

⁸⁴ See §§ 40-8.7-102 - 109, C.R.S.

⁸⁵ Proceeding No. 20M-0267EG, EOC's 10/1/2020 Comments at 3.

⁸⁶ *Id.* at 4.

⁸⁷ Proceeding No. 20M-0267EG, EOC's 7/29/20 CIM Presentation at 11.

⁸⁸ Proceeding No. 20M-0267EG, EOC's 7/29/20 CIM Presentation at 5.

⁸⁹ EOC's 1/11/21 Comments at 14, fn. 12.

⁹⁰ EOC's 1/11/21 Comments at 4.

⁹¹ *Id.*

pay a deposit, then EOC can use the funds that would have otherwise gone to pay the deposit to help EOC customers pay arrears or to help other customers in need.

29. EOC opposes the utilities' suggestion to limit the Rules' application to customers participating in LEAP because that program is not available in the summer.⁹² EOC submits that allowing other programs to qualify customers for a deposit exemption recognizes the need for utility services year-round, rather than just the months when LEAP enrollment occurs.⁹³

30. The utilities generally oppose suggestions to include SNAP, TANF, and Medicaid participants. Atmos suggests that this would impose significant costs to implement and would require it to collect sensitive personal information from customers.⁹⁴ Public Service also submits that including SNAP, TANF, and Medicaid is not appropriate because these programs are unrelated to energy affordability and do not apply a uniform eligibility standard.⁹⁵

31. Other concerns about the rule as drafted include that: it would be discriminatory because many customers would still be required to provide a deposit while others would not; the cost of making the necessary changes may eclipse the perceived benefit to income-qualified customers who bear those costs alongside other customers; the rule language contains no timing element to "public benefits assistance"; utilities are ill-equipped to evaluate or validate customers' receipt of public assistance; the rule could inappropriately result in cost-shifting onto other customers; and the rule would require utilities to obtain, track, and maintain additional sensitive personal information.⁹⁶

⁹² EOC's 1/11/21 Comments at 4.

⁹³ *Id.*

⁹⁴ Attachments A and B to Public Service's 4/26/21 Comments at 1; *see* CNG's 4/26/21 Comments at 7; Black Hills' 4/26/21 Comments at 1-2; and Atmos' 4/26/21 Comments at 1; Atmos' 2/10/21 Comments at 2.

⁹⁵ Public Service's 2/10/21 Comments at 4.

⁹⁶ CNG's 9/22/20 Comments at 2; Atmos' 9/22/20 Comments at 2; Public Service's 9/22/20 Comments at 5-7; Black Hills' 9/22/20 Comments at 3.

32. Utility commenters submit that deposits are beneficial because they: reduce the amount of bad debt to be collected thereby lowering the overall cost of service; decrease collection costs; mitigate the potential for cost-shifting bad debt to other customers; lower the overall cost of service because deposits are offset against rate base; and signal to customers that they must keep their account in good standing.⁹⁷

33. EOC counters that deposits are not beneficial to income-qualified customers who are required to pay one.⁹⁸ EOC suggests that requiring deposits from income-qualified utility customers may create a spiral effect ultimately causing customers to be unable to pay their utility bill.⁹⁹ EOC suggests that there be further investigation as to whether deposits are having an impact that justifies their existence, and states that has not been possible here because the utilities' deposit and disconnection practices vary.¹⁰⁰ As a result, much of the data does not provide an apples to apples comparison that could shed light on whether deposits are justified.¹⁰¹

(1) Discussion, Findings, and Conclusions

34. The Commission proposed the rules to address a policy concern that “[c]ustomers who are eligible for income or bill assistance may not have access to savings that could pay for deposits which may be held by utilities for 12 months.”¹⁰² Utility deposit criteria and reported data varies significantly, making it difficult to interpret the combined data, understand its

⁹⁷ See Atmos' 1/11/21 Comments at 7; Public Service's 1/21/21 Comments at 4; CNG's 9/22/20 Comments at 2; Black Hills' 1/11/21 Comments at 2; and Public Service's 1/11/21 Comments at 8.

⁹⁸ EOC's 1/11/21 Comments at 3.

⁹⁹ *Id.* at 5.

¹⁰⁰ EOC's 2/10/21 Comments at 7.

¹⁰¹ *Id.* at 7-8.

¹⁰² Decision No. C20-0622, at 11.

significance, or make a reasonable comparison between utilities.¹⁰³ While there can be little question that deposits broadly serve utility customers by reducing the dollar amount of utility bad debt which impacts rates, the record does not provide a picture of the extent to which deposits reduce bad debt, and how that would be impacted by the proposed rules. For these reasons, the ALJ declines to make changes that eliminate deposit requirements entirely and finds that a measured approach to decreasing the number of customers required to provide deposits is appropriate.

35. The ALJ shares commenters' concerns that the term "public benefits assistance" is broad and vague, making it difficult to implement. Defined standards for deposit waiver eligibility will facilitate implementation, and help utilities and the public understand eligibility for the Rules' deposit exemption.

36. While the utilities have indicated that implementing a targeted deposit waiver could have costs, they have not provided support to indicate that such costs would outweigh the benefits. Indeed, the utilities declined to estimate or otherwise quantify the costs, which they suggest could be significant. But their comments suggest that narrowing the deposit waiver to customers receiving energy assistance would reduce these concerns because they already have processes in place to identify customers who participate in LEAP.

37. LEAP and EOC energy assistance data suggest that in recent years, as compared to utility customer counts, a relatively low number of customers receive LEAP and EOC energy

¹⁰³ The Rules authorize, but do not require utilities to collect deposits. The utilities have developed their own practices for determining when a deposit is required, many of which are outlined in their tariffs. *See e.g.*, Public Service's 1/11/21 Comments at 8; Black Hills' 1/11/21 Comments at 5. The ALJ asked for, and the utilities provided data on their criteria for requiring a deposit. Decision No. R20-0801-I, ¶ 14; Decision No. R21-0199-I, issued April 2, 2021 at ¶¶ 11-17; *see* Public Service's 1/11/21 Comments at 9 and 11; Public Service's 4/26/21 Comments at 9-11; Black Hills' 1/11/21 Comments at 2-7; Black Hills' 4/26/21 Comments at 5; CNG's 1/11/21 Comments at 3 and Attachment A to the same at 2; CNG's 4/26/21 Comments at 4-5; Atmos' 1/11/21 Comments at 3-5; and Atmos' 4/26/21 Comments at 2-3.

assistance.¹⁰⁴ This also means that specifically including customers who receive EOC assistance is unlikely to significantly increase the scope of a targeted deposit waiver. Thus, the potential downsides to deposit exemptions—increased administration costs and potentially increased utility bad debt—are minimized by limiting deposit exemptions to those receiving LEAP and EOC energy assistance.¹⁰⁵ What is more, using LEAP and EOC assistance as the criteria is particularly appropriate because both programs are designed to assist customers who have been determined to need energy assistance. And, doing so provides clear criteria to facilitate utilities' ability to implement the rule, while also providing transparency.

38. Adding customers who receive energy assistance from EOC also helps address concerns about LEAP's limited enrollment period and is consistent with the General Assembly's intent that EOC provide assistance during the periods where LEAP enrollment is closed.¹⁰⁶ For the same reason, the ALJ recommends including participation in both LEAP and programs authorized by Rules 3412 / 4412 (PIPP programs). The ALJ also agrees with Black Hills that including language requiring eligibility determinations to consider the previous 12 months helps address concerns about LEAP's limited enrollment timeframe.

39. For all these reasons, the ALJ adopts the following language for Rules 3403(e) / 4403(e):

A utility shall not require a ~~cash~~ deposit from an applicant for service or restoration of service who is or was within the last 12 months, a participant in the Low-Income Energy Assistance Program or provides documentation that they are receiving public benefits assistance, or is a participant in a low-income program consistent with rule [3412 / 4412], or who received energy bill assistance from Energy Outreach Colorado within the last 12 months.

¹⁰⁴ *Supra* at ¶¶ 25 and 27.

¹⁰⁵ The utilities do not respond to EOC's assertion that they track customers who receive EOC assistance. *See* EOC's 1/11/21 Comments at 14, fn. 12. If utilities do not track this information, given EOC suggested language change, the ALJ expects that EOC would be willing to work with utilities to fill this gap efficiently and without significant administrative cost.

¹⁰⁶ *See* § 40-8.7-112(2)(b), C.R.S.

d. Rules 3403(j) / 4403(j)

40. Existing Rules 3403(j) / 4403(j) prohibit utilities from collecting a deposit that exceeds customers' estimated 90 days' bill, or 60 days' bill for customers whose bills are payable in advance. The NOPR does not suggest changes to this language, but instead adds a sentence allowing deposits to be paid in installments.

41. Black Hills supports the addition but only for residential and small commercial customers. Black Hills explains that large commercial customers can have monthly bills in excess of \$1 million, and as such, they should be required to pay deposits in full.¹⁰⁷

42. In response to proposed changes to Rules 3403(l) / 4403(l) intended to prevent deposits from pancaking, Atmos suggests that a simpler approach is to create a limit on the total amount of deposits that could be required at once.¹⁰⁸ Atmos proposes that the limit could be based upon a percentage of past actual or estimated usage.¹⁰⁹ Atmos argues that it is prudent to limit customer deposits based on customer use because it appropriately scales the size of a customer's deposit with the charges they are likely to incur.¹¹⁰

43. EOC opposes Atmos' suggestion, arguing that this would be akin to requesting a deposit to pay an arrearage.¹¹¹ EOC opines that customers would be required to pay an additional deposit while the utility still has the original deposit, and that this is unmanageable for income-qualified customers who struggle to pay their balance in the first place.¹¹²

¹⁰⁷ Black Hills' 9/22/20 Comments at 3.

¹⁰⁸ Atmos' 9/22/20 Comments at 3.

¹⁰⁹ *Id.*

¹¹⁰ Atmos' 2/10/21 Comments at 6.

¹¹¹ EOC's 1/11/21 Comments at 3.

¹¹² *Id.* at 3-4.

(1) Discussion, Findings, and Conclusions

44. The plain language of Rules 3400 and 4400 limits the application of Rules 3400 through 3413 and Rules 4400 through 4412 to residential customers, small commercial customers, and agricultural customers. As such, Black Hills' suggestion to clarify that proposed paragraph (j) does not apply to large customers is unnecessary and is rejected.

45. The Commission proposed changes to Rules 3403(l) / 4403(l), to prevent deposits from pancaking by requiring utilities to apply at least one-half of the deposit amount to a customer's account before assessing a new deposit for service disconnection and restoration. As explained in detail below, the ALJ does not adopt that language. However, similar to Atmos' suggestion above, the ALJ sees a simple and straight-forward way to achieve the Commission's goal to avoid deposit pancaking by making a minor change to proposed Rules 3403(j) / 4303(j). Specifically, adding language that clarifies that the caps in paragraph (j) apply to the total deposit amount that a utility may require and hold at any one time would achieve the Commission's goal to prevent deposit pancaking while continuing to scale the size of a customer's deposit with the charges they are likely to incur. And, as discussed below, this approach is consistent with several utilities' existing practices.¹¹³ This change also complies with direction in § 40-3-103.6(1)(e), C.R.S., that the Commission's rulemaking address a standardized methodology for deposit requirements for reconnection because they apply to the total deposit amount that a utility may require or hold at any one time, including deposits for reconnection.

46. The ALJ concludes that limiting the total amount that the utility may require or hold at any one time appropriately addresses EOC's concerns, mentioned above.¹¹⁴ What is more,

¹¹³ See Atmos' 9/22/20 Comments at 3; Public Service's 1/11/21 Comments at 5; cf. Black Hills' 9/22/20 Comments at 5 and CNG's 9/22/20 Comments at 3.

¹¹⁴ The ALJ notes that some of EOC's comments appear to object to any deposit requirement for service restoration. The proposed rule changes do not seek to eliminate deposits for service restoration, and, other than EOC's comments, the record does not reflect a discussion of this issue.

other rule changes (Rules 3403(e) / 4403(e)), also provide relief from deposit requirements for income-qualified customers. For all these reasons, the ALJ adopts the following language¹¹⁵ for Rules 3403(j) / 4403(j):

The total A deposit a utility may require or hold at any one time shall not exceed an amount equal to an estimated 90 days' bill of the customer, except in the case of a customer whose bills are payable in advance of service, in which case the deposit shall not exceed an estimated 60 days' bill of the customer. The ~~cash~~ deposit may be in addition to any advance, contribution in aid of construction or guarantee required by the utility tariff in connection with construction of lines or facilities, as provided in the extension policy in the utility's tariffs. A ~~cash~~ deposit may be paid in installments.

e. Rules 3403(l) / 4303(l)

47. Proposed changes to Rules 3403(l) / 4303(l) add the following language: “A utility shall return any cash deposit paid by a customer who has made timely payments for 12 consecutive months. If the customer has previously paid a cash deposit that has not been returned to the customer, at least one-half of that prior deposit must be applied to the customer’s account prior to assessing a new deposit for continuation or restoration of service.”

48. The utilities generally support the proposed rule changes, though many note concerns.¹¹⁶ For example, CNG posits that applying one-half of a deposit to a customer’s account while at the same time requiring a new deposit would not typically benefit the customer.¹¹⁷ CNG explains that it is unlikely that applying one-half of the original deposit would substantially lower the past due balance.¹¹⁸ CNG also states that its systems do not allow it to post partial refunds of a deposit while simultaneously posting an additional deposit. It is only able to apply a

¹¹⁵ The ALJ finds that these changes are consistent with the subject matter as set forth in the NOPR and the purpose of proposed rule changes stated in the NOPR, consistent with § 24-4-103(4)(c), C.R.S. *See* Decision No. C20-0622, ¶ 31 (noting that rule changes are designed to prevent multiple deposits from pancaking).

¹¹⁶ Attachments A and B to Public Service’s 4/26/21 Comments at 2-3; Public Service’s 4/26/21 Comments at 11; *see* CNG’s 4/26/21 Comments at 7; Black Hills’ 4/26/21 Comments at 1-2; Atmos’ 4/26/21 Comments at 1-2.

¹¹⁷ CNG’s 9/22/20 Comments at 3.

¹¹⁸ *Id.*

deposit to a past due balance once the account is “closed out as inactive.”¹¹⁹ Without providing specifics, CNG submits that changes to system programming would be significant and costly, and that these costs would be passed to customers without giving them a material benefit.¹²⁰

49. Black Hills also does not see how applying one-half of the deposit benefits customers. Black Hills explains that it applies 100 percent of an existing deposit to the arrears on an account disconnected for nonpayment.¹²¹ This happens when the customer does not reconnect service and the final bill issued, usually within five to seven business days of disconnection.¹²² If the customer seeks reconnection, the customer can pay a new deposit in installments (per proposed Rules 3403(j) / 4303(j)).¹²³ Black Hills explains that arrears are typically more than the deposit amount, so applying the deposit to arrears completely exhausts the deposit.¹²⁴

50. Black Hills notes that requiring utilities to return deposits to customers who have made timely payments for 12 consecutive months is consistent with its current practice, except that it returns deposits if customers have not had more than one late payment in that 12-month period.¹²⁵ Black Hills initially suggested that the rule language be modified to encompass this practice.¹²⁶ Public Service does not object to this suggestion, and notes that it does not pancake deposits, instead returning deposits with interest¹²⁷ to customers who: pay their balance in full for

¹¹⁹ *Id.*

¹²⁰ *Id.*

¹²¹ Black Hills’ 9/22/20 Comments at 5.

¹²² Black Hills’ 1/11/21 Comments at 10.

¹²³ Black Hills’ 9/22/20 Comments at 5.

¹²⁴ *Id.*

¹²⁵ *Id.* at 4.

¹²⁶ *Id.*

¹²⁷ Existing Rules 3403(n) / 4403(n) (the NOPR rennumbers these as Rules 3403(o) / 4403(o)), require utilities to pay interest on customer deposits.

12 consecutive months; have no service disconnects for nonpayment; make no more than two late payments; and have not paid late in the current month.¹²⁸

(1) Discussion, Findings, and Conclusions

51. The Commission proposed these changes to clarify customers' rights relating to their deposits.¹²⁹ As to the requirements to return deposits, Black Hills' suggested clarification may help ensure consistency in how the Rules are applied across utilities. But, the ALJ adopts language consistent with Public Service's approach, that is, that deposits be refunded where a customer has made no more than two late payments in 12 consecutive months. The ALJ finds that this better serves the public interest by providing customers and utilities more flexibility.

52. The other aspect of the proposed Rules—requiring that utilities apply at least one-half of a retained deposit to a customer account before assessing a new deposit for service continuation or restoration—is intended to prevent multiple deposits from “pancaking” and to require utilities to apply existing deposits to customer's past due bill.¹³⁰ The ALJ is concerned that the proposed language does not accomplish the intended goals and does not benefit customers. For example, assume a disconnected customer owes \$100 for past service, and the customer has a \$50 deposit with the utility. Under the proposed Rules, the utility must apply at least \$25 of the deposit toward the \$100 balance, leaving \$75 in arrears that the customer must pay before reconnection. Since the rule merely requires that the utility apply \$25 of the deposit to the account *before* it may assess an additional deposit, the utility could require a new deposit that replenishes the \$25 applied to arrears. The customer's net gain from having a portion of the deposit applied to arrears would be zero. The rule would not decrease the total amount the

¹²⁸ Attachments A and B to Public Service's 4/26/21 Comments at 2-3; Public Service's 1/11/21 Comments at 8.

¹²⁹ Decision No. C20-0622 at ¶ 31.

¹³⁰ *Id.*

customer pays to restore service, but merely changes the descriptors for the amounts that customers must pay. This added confusion does not help anyone, and, as the utilities note, will require system changes that come at a cost that all ratepayers must bear. The language may also require utilities to apply deposits to pay arrears on active accounts, rather than on closed accounts or accounts for which a final bill has been issued. As discussed earlier in this Decision, this is different from how utilities use deposits. The record does not include enough information to assess the impact such a change would have. For all these reasons, the ALJ recommends that the last sentence of the proposed Rules not be adopted, and that instead, the changes to proposed Rules 3403(j) / 4303(j) be adopted. For the reasons discussed, the ALJ adopts the following language for Rules 3403(l) / 4303(l):

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. A utility shall return any ~~cash~~ deposit paid by a customer who has made ~~timely payments~~ no more than two late payments in for 12 consecutive months. ~~If the customer has previously paid a cash deposit that has not been returned to the customer, at least one-half of that prior deposit must be applied to the customer's account prior to assessing a new deposit for continuation or restoration of service.~~

2. Rules 3404 / 4404. Installment Payments.

53. Rules 3404 / 4404 establish the Commission's requirements for utilities to provide installment payments and other rate plans designed to reduce arrears, and specifies the kinds of charges or fees that can be included in installment plans.

a. Rules 3404(a) / 4404(a)

54. Proposed Rules 3404(a) / 4404(a) combine language from other paragraphs, but are new as written. The proposed Rule states:

- (a) In its tariffs, a utility shall provide a description of all charges or fees for which a customer may be assessed resulting from regulated charges that are past due, discontinuance of service, and restoration of service. A

utility is authorized to assess the following charges or fees at no higher than cost:

- (I) a late payment charge for regulated charges that are past due and exceed \$50;
- (II) a cash deposit, consistent with rule 3403;
- (III) a fee for discontinuance of service;
- (IV) a fee for restoration of service;
- (V) collection fees; and
- (VI) any other regulated charges or fees provided in the utility's tariff.

55. The utilities suggest that the phrase "at no higher than cost" be replaced with "as set forth in the Commission approved tariff" to clarify that a utility is authorized to assess charges and fees as stated in its tariff.¹³¹ Atmos notes that while its fees are "cost-based," it has been a while since fees related to the rule have been examined as a part of a comprehensive rate case, and that it is more appropriate to adjust fees in that context.¹³²

56. Sierra Club urges the Commission to eliminate disconnection and reconnection fees, "at least for the remainder of the current pandemic."¹³³ Sierra Club suggests that this continues until the Colorado Department of Public Health and Environment "has rescinded all public health guidelines and restrictions related to containing the spread of SARS CoV-2."¹³⁴

57. The utilities generally object to Sierra Club's suggestion, and urge the Commission to address COVID-related issues in proceedings and orders specifically designed for that purpose.¹³⁵ They argue that this issue is too specific for a rulemaking proceeding of general applicability, and that COVID-specific considerations are better addressed through COVID-specific orders, such as the Governor's executive orders or temporary waivers that the

¹³¹ Attachments A and B to Public Service's 4/26/21 Comments at 5; Public Service's 4/26/21 Comments at 11; *see* CNG's 4/26/21 Comments at 7; Black Hills' 4/26/21 Comments at 1-2; Atmos' 4/26/21 Comments at 1-2.

¹³² Atmos' 9/22/20 Comments at 3.

¹³³ Sierra Club's 9/22/20 Comments at 1.

¹³⁴ *Id.* at 2.

¹³⁵ Public Service's 10/8/20 Comments at 3; Atmos' 10/8/20 Comments at 3; CNG's 10/8/20 Comments at 1-2.

Commission may grant relating to reconnection and late payment charges.¹³⁶ CNG adds that it is unlikely there will be a clear “end” to the pandemic, making it difficult to know when such a prohibition could end.¹³⁷

(1) Discussion, Findings, and Conclusions

58. For many reasons, the ALJ is unpersuaded that the terms “at no higher than cost” should be replaced with a reference to charges approved by tariff. To start, § 40-3-103.6(1)(e), C.R.S., directs the Commission’s rulemaking to address a standardized methodology to be used in determining reconnection fees, which is one of the items included in this rule. Requiring the fees listed in this rule to be no higher than cost accomplishes this. And, including the cost-based language does not set a new standard, but merely confirms an existing standard that such fees and charges may not be set higher than the cost of the relevant service. Indeed, to the extent that utilities charge fees relating to the listed items, such fees should already be no higher than cost. If a utility’s charges or fees are higher than cost, that is an issue that can and should be addressed in an appropriate proceeding or filing. The rule language does not negate that process, or a utility’s ability to fully vet its charges through an advice letter proceeding, but merely confirms existing standards.

59. That said, the ALJ finds that a few changes will improve the Rules. First, the ALJ finds that adding a reference to tariffs immediately after “at no higher than cost” effectuates the Commission’s intent to incorporate the cost-based requirement in rules while also confirming that the utility’s tariffs set the dollar amount of the charges. Second, the ALJ deletes subparagraph (a)(II) as unnecessary and a poor fit here. That subparagraph references deposits

¹³⁶ See Atmos’ 10/8/20 Comments at 3; *see also*, Public Service’s 10/8/20 Comments at 3; Black Hills’ 10/8/20 Comments at 4; and CNG’s 10/8/20 Comments at 1-2.

¹³⁷ CNG’s 10/8/20 Comments at 2.

authorized by Rules 3403 / 4303, which are not assessed “at no higher than cost.” Instead, deposits are calculated based on the customer’s estimated 60 days’ use (or 90 days’ use for customers whose bills are payable in advance).¹³⁸ This is different than the cost concept that is integral to this rule. In addition, Rules 3403(l) / 4403(l) already require utilities to include information in their tariffs stating the circumstances under which a deposit will be assessed, rendering this requirement unnecessary here.

60. The ALJ also makes changes clarifying that utilities who do not assess the referenced fees are not required to include a description of them in their tariffs.¹³⁹ This helps ensure the Commission’s intent behind the rule changes are effectuated and that utilities have clear direction on what is expected of them.¹⁴⁰ The ALJ also replaces “is authorized to” with “may” to clarify that the Rules do not require utilities to charge the listed fees, or to charge fees at the upper limit of “no higher than cost,” consistent with the Commission’s stated intent.¹⁴¹

61. For several reasons, the ALJ rejects Sierra Club’s request to change the Rules to indefinitely suspend utility action and fees based upon COVID-19. First, rules are an agency’s statement of “general applicability and future effect implementing, interpreting, or declaring law or policy or setting forth the procedure or practice requirements of any agency.”¹⁴² Rules carry the force and effect of law, and apply in perpetuity until changed. Using rules to address

¹³⁸ Rules 3403(j) / 4403(j).

¹³⁹ Not every utility assesses every authorized charge or fee. Decision No. C20-0622, ¶¶ 36-37. To be clear, this Decision does not address or otherwise imply an outcome as to whether a utility’s charges or decision not to charge fees are prudent.

¹⁴⁰ See Decision No. C20-0622, ¶ 36.

¹⁴¹ Decision No. C20-0622, ¶¶ 36-37.

¹⁴² § 24-4-102(15), C.R.S.

COVID-specific issues does not fit within this framework. Such issues are better addressed outside a rulemaking proceeding, through specific proceedings or other authorized actions narrowly drawn to address the unique issues that the COVID-19 pandemic may have raised. Second, Sierra Club's proposed language would leave the public and utilities in the dark as to when the proposed fee moratorium may be lifted. This further highlights why it is inappropriate to use rules of general applicability to address unique and temporal issues such as those involving the COVID-19 pandemic.

62. Consistent with the above discussion, the ALJ adopts the following language for Rules 3404(a) / 4404(a):

- (a) In its tariffs, a utility shall provide a description of all charges or fees that the utility assesses for which a customer may be assessed resulting from regulated charges that are past due, and service discontinuance of service, and restoration of service. A utility may ~~is authorized to~~ assess the following charges or fees at no higher than cost, as stated in its tariff:
- (I) a late payment charge for regulated charges that are past due and exceed \$50;
 - ~~(II) a cash deposit, consistent with rule 3403;~~
 - (III) a fee for discontinuance of service;
 - ~~(III)~~ (IV) a fee for restoration of service;
 - (IV) collection fees; and
 - (V) any other regulated charges or fees provided in the utility's tariff.

b. Rules 3404(b) / 4404(b)

63. Proposed Rules 3404(b) / 4404(b) would require utilities to provide customers with an option to waive fees referenced in Rules 3404(a) / 4404(a) if the customer enrolls in a regulated demand-side management (DSM) program.

64. For various reasons, the utilities oppose the proposed Rules.¹⁴³ But, they generally support a modification that would require them to provide customers information on participating in a DSM program in discontinuance notices, in lieu of the proposed rule.¹⁴⁴

65. The utilities explain that because the fees are cost-based, the rule language could result in utilities under-recovering costs to serve their customers, or shifting those costs onto customers who did not incur the charges (*i.e.*, cross-subsidization).¹⁴⁵ While no utility questions whether increasing participation in DSM programs is a valuable policy goal, they do not believe that it fits within a fundamental utility-recovery framework that entitles them to recover the entire cost of providing service.¹⁴⁶

66. Atmos questions how the rule would operate for customers who are already enrolled in a DSM program, and whether the rule is intended to essentially waive the referenced fees for all customers enrolled in a DSM program.¹⁴⁷ Atmos also notes that its DSM programs have financial parameters that “limit the amounts and types of DSM that can be undertaken in a DSM plan year.”¹⁴⁸ Black Hills notes that DSM programs typically provide customers more long-term opportunities to reduce their bills, but this does not mean that participating in a DSM program is always feasible.¹⁴⁹ Black Hills also notes that the upfront DSM costs may be more than the fees or charges that the proposed Rules seek to waive.¹⁵⁰

¹⁴³ Atmos 9/22/20 Comments at 4; CNG’s 9/22/20 Comments at 3; Public Service’s 9/22/20 Comments at 8; Black Hills’ 9/22/20 Comments at 5-6.

¹⁴⁴ Attachments A and B to Public Service’s 4/26/21 Comments at 5; Public Service’s 4/26/21 Comments at 11; *see* CNG’s 4/26/21 Comments at 7; Black Hills’ 4/26/21 Comments at 1-2; Atmos’ 4/26/21 Comments at 1-2.

¹⁴⁵ *See* Atmos’ 9/22/20 Comments at 4; CNG’s 9/22/20 Comments at 3; Public Service’s 9/22/20 Comments at 8.

¹⁴⁶ *See e.g.*, Atmos’ 9/22/20 Comments at 4.

¹⁴⁷ Atmos’ 9/22/20 Comments at 4.

¹⁴⁸ Atmos’ 1/11/21 Comments at 8.

¹⁴⁹ *See* Black Hills’ 9/22/20 Comments at 5-6.

¹⁵⁰ *Id.* at 6.

67. Public Service states that the proposed requirements cannot be supported by its existing personnel or systems and that—although it does not provide specifics—significant investment would be needed to implement them.¹⁵¹ Public Service adds that because there is no income qualification requirement, the proposed rule could result in a significant number of customers who could avoid paying the referenced cost-based fees.¹⁵²

68. EOC raises multiple practical questions about what would happen when a customer enrolls in a DSM program but is unable to participate, such as whether they would later be charged the waived fees or be subject to disconnection until they paid such fees.¹⁵³ EOC also asks what burdens the utility would bear in determining eligibility for available DSM measures for which the customer qualifies.¹⁵⁴

69. AARP questions the merits of waiving service restoration fees only if a customer enrolls in DSM.¹⁵⁵

(1) Discussion, Findings, and Conclusions

70. In proposing these Rules, the Commission intended to provide customers with an option to reduce the amounts they owe while participating in a program that could result in lower long-term costs, and a greater ability to understand and manage their energy use.¹⁵⁶ The underlying concept is that it may be cost-effective to waive certain near-term fees as an incentive for a customer to take action—reducing energy use—that could reduce long-term costs, both

¹⁵¹ Public Service's 9/22/20 Comments at 8-9.

¹⁵² Public Service's 9/22/20 Comments at 8.

¹⁵³ EOC's 1/11/21 Comments at 6.

¹⁵⁴ *Id.*

¹⁵⁵ AARP's 1/11/21 Comments at 1.

¹⁵⁶ Decision No. C20-0622, ¶ 39.

directly for the individual customer, and for ratepayers generally by improving grid use, and potentially reducing utility bad debt.

71. The ALJ acknowledges the utilities' concerns that waiving fees associated with reconnection in exchange for enrolling in a DSM program may raise questions relating to cost recovery and cross-subsidization. But the ALJ finds that the more immediate issue with the proposed Rules is the lack of solutions to the many practical and legitimate concerns that commenters raise. While the comments helpfully highlight practical issues with the Rules, no real solutions were offered.¹⁵⁷ For example, there were no comments suggesting a path forward in the circumstance where a customer enrolls in a DSM program, has their restoration fee waived, then later does not participate in the DSM program for any variety of reasons. While the ALJ sees potentially numerous solutions to this and other issues the comments raise, solutions would likely involve significant rule changes.¹⁵⁸ The ALJ is unwilling to make the type of significant changes that are necessary without the benefit of public comments, particularly comments speaking to the impact of such changes, and whether solutions are feasible. For all these reasons, the ALJ recommends that the Commission not adopt proposed Rules 3404(b) / 4404(b).

72. Utility comments indicate that they are already providing customers information on DSM programs through various channels.¹⁵⁹ It is unclear whether requiring such information

¹⁵⁷ It is possible that this is the case because commenters do not see solutions, but they do not say as much.

¹⁵⁸ For example, the Rules could be modified to require utilities to create a process to vet customers' ability to participate in a DSM program before waiving fees, to minimize concerns that customers may have their fees waived then later not participate. Utilities could be allowed to reinstate the waived fees if customers later refuse to participate in a DSM program, or if utilities later discover additional information that alters their initial determination that participation is feasible. Changes could be made to set reasonable timeframes for customers to respond to utility's determinations as to DSM participation, and for utilities to reinstate waived fees, or resulting potential disconnection.

¹⁵⁹ Utilities currently provide information on DSM participation in a variety of ways, including through: bill inserts, trade shows, end-use equipment vendors, energy service companies, call center representatives, newsletters, customer events, direct mail, email, awareness advertising, utility websites, social media, targeted community outreach, energy usage reports, EOC partnerships, and utility energy assistance programs. Atmos' 1/11/21 Comments at 7-8; Black Hills' 1/11/21 Comments at 12; CNG's 1/11/21 Comments at 6; Public Service's 1/11/21 Comments at 14.

to be included in discontinuance notices as suggested would provide the type of benefit that the Commission sought to realize. For example, it is unclear that merely providing information that DSM programs exist on a discontinuance notice would stand out to a customer focused on avoiding disconnection, particularly given other options that may provide more immediate relief, such as entering into a payment plan. Engaging customers regarding DSM program options may be better left for other interactions or venues. For this reason, the ALJ does not adopt such changes here or in Rules 3408 / 4408, but instead adds a requirement in Rules 3407(f) / 4407(f) that DSM program information be published on the utility's website.

c. Rules 3404(e) / 4404(e)

73. Proposed Rules 3404(e) / 4404(e) require installment payment plans to include the applicable fees or amounts listed within subparagraphs (I) through (VI); modifies existing language in subparagraph (VI) to reference Rules 3404(a) / 4404(a); and deletes subparagraphs (VII) and (VIII). By adding a reference to proposed paragraph (a), the proposed Rules expand the scope of the charges and fees that must be included in installment payment plans to include: late payment charges that exceed \$50; deposits; service disconnection and restoration fees; collection fees; and any other regulated charges or fees provided in the utility's tariff.

74. Black Hills is concerned that the proposed Rules would require it to include tariff fees relating to service diversion in installment payment plans, and suggests that the rule explicitly except such fees.¹⁶⁰ Service diversion occurs when a customer's meter is tampered with, or that service has been unlawfully diverted from the Company's meter.¹⁶¹ In such a circumstance, Black Hills disconnects the customer, bills them for estimated energy consumption

¹⁶⁰ Black Hills' 9/22/20 Comments at 6.

¹⁶¹ *Id.*

not properly registered, and charges a service diversion fee, consistent with tariffs. Black Hills does not restore service until customers pay service diversion fees in full.¹⁶² Public Service shares Black Hills' concerns and agrees that service diversion fees should be excluded from the Rules.¹⁶³ It explains that charges associated with tampering with meters and diverting service are distinct from other reconnection fees, and typically involve unique circumstances and associated costs.¹⁶⁴

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75. Given that this Decision deletes deposits from Rules 3404(a) / 4404(a), the reference in this rule to Rules 3404(a) / 4404(a) will not include deposits. The ALJ modifies Rules 3404(e) / 4404(e) to address this so that a utility's installment payment plan under this rule must include applicable deposits. This is also consistent with proposed Rules 3403(j) / 4403(j), which allow deposits to be paid in installments. As to the issues relating to service diversion fees, the ALJ finds that service diversion can be harmful to ratepayers for numerous reasons, and should be discouraged. Allowing customers to pay service diversion fees in installments does not do this. As such, the ALJ agrees that the proposed Rules should be modified to except such fees. For the reasons discussed, the ALJ adopts the following language for Rules 3404(d) / 4404(d):¹⁶⁵

(~~e~~) 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;

¹⁶² *Id.*

¹⁶³ Public Service's 10/8/20 Comments at 3. Public Service notes that it supports such a change if it is the Commission's intent to include service diversion fees in installment payment plans. The above rule language explicitly refers to Rules 3404(a) / 4404(a), which includes "any other regulated charges or fees provided in the utility's tariff" that result from charges that are past due, and service discontinuance and restoration. The ALJ notes this to make clear that best practices advise in favor of utilities reviewing their tariffs for fees and charges to ensure they understand the full impact of the rule changes.

¹⁶⁴ *Id.*

¹⁶⁵ Proposed changes include renumbering paragraph (e), as needed to align with other changes. Similar numbering changes are made to the paragraphs that follow.

- (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; ~~and~~
- (VI) any other regulated charges and fees as described in paragraph (a) of this rule, except fees relating to service diversion, whether or not such fees have appeared on a regular monthly bill; and
- (VII) any applicable deposit, consistent with rule [3403 / 4403];

d. Rules 3404(f) / 4404(f)

76. Proposed Rules 3404(f) / 4404(f) state that “[a] customer entering into a payment arrangement as described in paragraph (c) may be allowed to modify their billing period going forward.”

77. For many reasons, the utilities oppose the proposed Rules, and suggest that they be modified to allow changes to bill due date, rather than billing period to the extent available within the utility’s billing system.¹⁶⁶ The utilities’ billing systems have varying capabilities that impact their ability to comply with the proposed Rules as drafted. Based on the limits of their billing systems, Public Service and CNG are concerned that implementing the Rules as drafted would be extremely costly.¹⁶⁷ For example, CNG’s billing cycles are based on when meter readings are taken, which is done in-person.¹⁶⁸ To accommodate a change in billing cycle, CNG would have to send technicians to read meters at each location on days that align with each requested billing cycle change, in addition to its regular in-person meter reading schedule.¹⁶⁹

¹⁶⁶ Attachments A and B to Public Service’s 4/26/21 Comments at 7; CNG’s 4/26/21 Comments at 7; Black Hills’ 4/26/21 Comments at 1; Atmos’ 4/26/21 Comments at 1-2.

¹⁶⁷ Public Service’s 1/11/21 Comments at 18; CNG’s 9/22/20 Comments at 4. *Id.*

¹⁶⁸ CNG’s 9/22/20 Comments at 4.

¹⁶⁹ *Id.*

78. Public Service’s bill due date is based on the date that the customer initiates service, making the billing cycle and the bill due date inextricably intertwined, and it does “not even know whether system modifications can be made” to effectuate compliance.¹⁷⁰ It manages requests for bill due date changes by manually changing the bill due date for the specific month in which the customer has sought a bill due date change and cannot make those changes on a going-forward basis (as the rule requires) without significant system changes.¹⁷¹

79. Black Hills assigns each customer one of 20 billing cycles, which allows the Company to manage workflow and create efficiencies.¹⁷² The customer’s billing cycle starts with the meter read on its assigned cycle date. The meter data “drives the bill print production,” which, in turn, “drives the bill due date . . .”¹⁷³ When customers request a different bill due date, Black Hills manually disrupts the automated billing operation to delay the bill print date to align with the customer’s requested bill due date.¹⁷⁴ Because doing this disrupts the automated billing operations and related efficiencies, Black Hills does not allow customers to change their bill due date multiple times.¹⁷⁵

80. Atmos’ billing system allows it to give customers the option to modify the timing of their billing period; it makes this option available to customers.¹⁷⁶

81. EOC supports rule changes that allow customers to adjust their “bill date,” as this may help customers better manage their bills.¹⁷⁷ While EOC understands the concerns about

¹⁷⁰ Public Service’s 1/11/21 Comments at 17-18.

¹⁷¹ *Id.* at 17.

¹⁷² Black Hills’s 9/22/20 Comments at 7.

¹⁷³ *Id.*

¹⁷⁴ *Id.*

¹⁷⁵ *Id.*

¹⁷⁶ Atmos’ 9/22/20 Comments at 4.

¹⁷⁷ EOC’s 1/11/21 Comments at 7.

changing billing period versus bill due date, it cautions that the timing of bill due date changes needs to be considered in the context of the billing period to avoid changes creating a significant lag in billing that may make it difficult for customers to respond to seasonal rates or other rate structures.¹⁷⁸ EOC offers no solutions to address its concern.

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82. The Commission proposed this change to acknowledge that at least some customers entering into payment plans may need to coordinate their monthly bills based on when they receive state or federal assistance.¹⁷⁹ As explained above, the utilities have different billing systems, each with their own unique functionality. This makes it challenging to promulgate one-size-fits-all rules governing changes to billing practices. Indeed, the utilities' ability to change bill due dates and billing periods vary significantly. Among the utilities, only Atmos was clear that it could comply with the proposed Rules as drafted without significant system changes.¹⁸⁰

83. Several utilities raise valid concerns about the potentially significant costs and investments they would need to make in order to comply with the Rules as drafted, although they did not estimate such costs.¹⁸¹ The ALJ shares those concerns, especially as to CNG, who would likely face additional costs associated with hiring personnel to read meters in-person and sending personnel to read meters on unique and unpredictable schedules. The record lacks information on the extent to which the proposed Rules would benefit ratepayers. This makes it difficult to

¹⁷⁸ *Id.*

¹⁷⁹ Decision No. C20-0622 at ¶ 42.

¹⁸⁰ Atmos' 9/22/20 Comments at 4; Atmos' 1/11/21 Comments at 8. It is unclear whether Black Hills is able to comply with the proposed Rules as drafted, which would require utilities to allow for billing period changes. But Black Hills is able to comply with rules that allow for changes to bill due dates. Black Hills' 9/22/20 Comments at 7.

¹⁸¹ Public Service's 1/11/21 Comments at 18; CNG's 9/22/20 Comments at 4.

determine whether the benefit to ratepayers outweighs the potential costs to implement the proposed Rules. This is not an insignificant consideration. For these reasons, and the reasons discussed below, the ALJ is persuaded that the Rules should not be adopted as drafted.¹⁸²

84. The ALJ instead adopts rule language consistent with the utilities' suggestions. Changing the language to reference "bill due date" rather than "billing period" addresses some concerns with the utilities' existing system capabilities and the costs to change billing periods, while still helping customers manage their bills, consistent with the Commission's intent. Additionally, changes that limit the Rules' application as available within the utility's billing system allow customers to make bill due date changes when possible, without imposing potentially significant costs that could ultimately outweigh the benefit the Rules provide. For the same reasons, the ALJ deletes language requiring that bill due date changes be on a "going forward" basis. Doing so gives utilities flexibility to make one-time, short-term bill due date changes, or even permanent bill due date changes, as their systems allow. The adopted rule language is also intended to signal that utilities who are unable to make bill due date changes due to system restrictions are not required to offer customers this option or make significant investments to do so.¹⁸³ For the reasons discussed, the ALJ adopts the following language for Rules 3404(f) / 4404(f):

~~(eve)~~ A customer entering into a payment arrangement as described in paragraph ~~(be)~~ may ~~be allowed to~~ modify their billing due date period going forward if the utility's billing system allows for such a change.

¹⁸² The ALJ's recommended rule language is consistent with Public Service's suggested language, but does not include Black Hills' suggestion to restrict the number of permissible bill due date changes. The ALJ finds that utilities should have discretion to decide the number and frequency of bill due date changes, particularly given their vastly varying system capabilities.

¹⁸³ It would be ideal for utilities to have the functionality needed to allow customers to change their bill due date or bill period. A more cost-effective approach to gain this functionality would be for utilities to consider this issue when they are next looking to make changes to their billing systems. This allows utilities to improve their billing systems' functionality at a time when they are already making system changes, thereby offering cost savings as compared to piecemeal system changes based on individual rules.

e. Rules 3404(h) / 4404(h)

85. Proposed Rules 3404(h) / 4404(h) would increase the maximum term of installment payment plans from 6 to 12 months and allow utilities discretion “to accept less than the full amount of arrears for customers selecting fewer installment periods.”

86. EOC suggests that the maximum term of payment plans be increased to 24 months based on the “current economic situation created by COVID-19.”¹⁸⁴ EOC submits that allowing for 24-month payment terms may be more manageable for customers, thereby resulting in less bad debt.¹⁸⁵ EOC also suggests that the Commission add the following language: “Customers entering into payment arrangements shall not be required by the utility to enter into average billing or automated billing in order to enter into a payment plan.”¹⁸⁶ EOC argues that this change would clarify that only the arrears being paid by the payment plan, and not the customers’ bills going forward, would be payable in equal payments. EOC argues that this would protect customers who are not banked from being “forced to agree to payment plans purely because they do not have a banking account allowing for automated billing.”¹⁸⁷

87. The utilities generally support increasing the maximum term of installment payment plans to 12 months.¹⁸⁸ The utilities raise multiple concerns with EOC’s suggestion to set 24 months as the maximum default in the ordinary course of business, but support language allowing them discretion to enter into payment plans exceeding 12 months in extraordinary circumstances.¹⁸⁹

¹⁸⁴ EOC’s 9/22/20 Comments at 8.

¹⁸⁵ *Id.* at 8-9.

¹⁸⁶ *Id.* at 9.

¹⁸⁷ *Id.*

¹⁸⁸ Attachments A and B to Public Service’s 4/26/21 Comments at 7; *See* CNG’s 4/26/21 Comments at 7; Black Hills’ 4/26/21 Comments at 1-2; Black Hills’ 10/8/20 Comments at 3; Atmos’ 4/26/21 Comments at 1-2.

¹⁸⁹ Attachments A and B to Public Service’s 4/26/21 Comments at 7; Public Service’s 4/26/21 Comments at 11; CNG’s 4/26/21 Comments at 7; Black Hills’ 4/26/21 Comments at 1-2; Atmos’ 4/26/21 Comments at 1-2.

88. Among other reasons, Atmos disagrees that the unique circumstances created by COVID-19 should be memorialized in a rule that will have long-term and general application.¹⁹⁰ Atmos has found 12 months to be sufficient time for customers to spread out and pay arrearages.¹⁹¹ Public Service has found that customers who struggle with payment plans that are 12 months or less have special needs such that extending the plan to 24 months provides no benefit.¹⁹² CNG is concerned that allowing 24-month long payment plans forces utilities to carry bad debt for up to two years, during which time customers may again incur high utility bills, making it even more difficult for them to pay their arrears.¹⁹³ Black Hills agrees, asserting that 24-month payment plans encourage the accumulation of potentially very large arrears balances, which will be even more difficult for customers to manage.¹⁹⁴ CNG and Black Hills believe that this makes arrears collection riskier and could result in a higher amount of bad debt that all customers must shoulder.¹⁹⁵

89. The utilities note that they generally allow customers who default on a payment plan to establish a new payment plan, though they have varying approaches to this.¹⁹⁶

90. Public Service agrees with EOC that customers should not be required to participate in average or automated billing to enter into a payment plan, but opposes rule

¹⁹⁰ Atmos' 10/8/20 Comments at 3.

¹⁹¹ *Id.*

¹⁹² Public Service's 10/8/21 Comments at 4.

¹⁹³ CNG's 10/8/20 Comments at 5.

¹⁹⁴ Black Hills' 1/11/21 Comments at 17.

¹⁹⁵ *Id.*; CNG's 10/8/20 Comments at 5.

¹⁹⁶ Black Hills allows a customer who has defaulted on a payment plan to enter into a new payment plan if they have active service, less than two broken arrangements in the calendar year, and have not diverted service. Black Hills' 1/11/21 Comments at 17. CNG allows a customer who has defaulted on a payment plan to either restart their current payment plan or enter a new payment plan. CNG's 1/11/21 Comments at 9. Public Service allows a customer who defaults on payment plans to arrange for a new one. Public Service's 1/11/21 Comments at 20. While Atmos originally said it does not allow customers who default to enroll in a new payment plan, it subsequently stated that it has lifted this restriction and does allow a defaulting customer to enroll in a new payment plan. Atmos' 1/11/21 Comments at 11; Atmos' 2/10/21 Comments at 4.

language that would prohibit these options in conjunction with payment plans.¹⁹⁷ Public Service does not require customers to participate in budget billing or automated billing¹⁹⁸ as a prerequisite to entering into payment plans.¹⁹⁹ Neither does Atmos, though it notes that many customers chose to do so.²⁰⁰

91. The utilities do not support rule language allowing them to accept less than the full amount of arrears.²⁰¹ Public Service reasons that because this language is not limited to income-qualified customers, there may be a significant number of customers who could have outstanding balances reduced.²⁰² Public Service argues that the proposed language does not recognize that charges for service and related fees are cost-based, “such that any waiver or reduction thereof would result in cross-subsidization among customers.”²⁰³ Black Hills, CNG, and Atmos have similar concerns. They suggest that because there is no mechanism for recovering forgiven arrearage amounts, the proposed Rules would result in increased bad debt and cross-subsidization of forgiven arrears, thereby increasing the cost of service for all customers.²⁰⁴

92. EOC believes that allowing utilities to accept less than the full amount of arrears has merit, but requires further exploration.²⁰⁵ EOC questions whether it would benefit customers

¹⁹⁷ Public Service’s 1/11/21 Comments at 22-23.

¹⁹⁸ Automated billing, or auto-pay is not currently available for Public Service’s payment plans, so it is not currently possible for Public Service to make this a prerequisite to entering into a payment plan. Public Service’s 1/11/21 Comments at 23.

¹⁹⁹ *Id.* at 22.

²⁰⁰ Atmos’ 10/8/20 Comments at 3.

²⁰¹ Attachments A and B to Public Service’s 4/26/21 Comments at 7; *see* CNG’s 4/26/21 Comments at 7; Black Hills’ 4/26/21 Comments at 1-2; Atmos’ 4/26/21 Comments at 1-2.

²⁰² Public Service’s 9/22/20 Comments at 8.

²⁰³ *Id.*

²⁰⁴ *See* Black Hills’ 1/11/21 Comments at 18; CNG’s 9/22/20 Comments at 4-5; Atmos’ 1/11/21 Comments at 12.

²⁰⁵ EOC’s 1/11/21 Comments at 7.

to whom the rule would apply.²⁰⁶ EOC explains that without utility data showing the number of customers who default on payment plans, analyzing the usefulness of the rule is difficult.²⁰⁷ EOC states that if the data shows that forgiving some arrears in exchange for shorter payment plans results in greater collection in the aggregate, this could ultimately reduce bad debt, theoretically making rates more affordable.²⁰⁸ On the other hand, if the data shows that higher monthly payment amounts (due to shorter payment plans) would result in more defaults on payment plans, this could increase bad debt, and result in higher rates.²⁰⁹

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93. Allowing 24-month payment plans as a default could strengthen customers' ability to pay off arrears, as the monthly payment would be smaller than if over a shorter period, thereby potentially decreasing bad debt in the long-term. It could also have the opposite effect, fostering the accumulation of potentially large arrears balances which will be even more difficult for customers to manage. This could result in increased bad debt and correspondingly higher rates. There is simply not enough information in the record to determine which outcome is more likely. That said, giving utilities *discretion* to allow 24-month payment terms in unique circumstances strikes an appropriate balance based on available information, and may provide data that can better inform the impact of longer-term payment plans. In addition, rule language that allows for 24-month payment plans in unique or extraordinary circumstances, as the utilities suggest, may result in fewer 24-month payment plans, thereby minimizing concerns that allowing such plans could result in more bad debt, while also providing flexibility that may

²⁰⁶ *Id.* at 8.

²⁰⁷ *Id.*

²⁰⁸ *Id.*

²⁰⁹ *Id.*

ultimately prevent disconnections or reduce bad debt.²¹⁰ For all these reasons, the ALJ agrees with suggestions to modify the language to give utilities discretion to enter into 24-month payment plans in unique or extraordinary circumstances.

94. The ALJ finds merit to EOC's suggestion that the Rules be modified to prohibit utilities from requiring customers to enter into budget billing (also known as budget or level payment plans), or automated billing, as a prerequisite to entering into a payment plan, but agrees with Public Service that utilities and customers should have the option to do so. Below, the ALJ includes changes to the Rules that encompass these concepts.

95. The ALJ is persuaded that language allowing utilities to forgive arrears should not be adopted at this time. The ALJ finds that this aspect of the proposed rule is not fully developed, and that it requires additional exploration to inform how to manage the myriad of potential unintended consequences that may result, and whether the rule would benefit customers. A comparison to other rules allowing for arrearage credits highlights this, such as Rules 3412(e) and (g) / 4412(e) and (g). Those Rules allow for arrearage credits for PIPP participants, but include various guardrails, such as: direction on arrearage credit amounts; conditions utilities may impose for customers to receive arrearage credits; a specific cost recovery mechanism; a maximum monthly impact of cost recovery on residential rates; and direction on determining the monthly impact of cost recovery on other customer classes.²¹¹ These are the types of issues that should be carefully evaluated and decided alongside a rule change allowing arrearage forgiveness.

²¹⁰ See *supra*, ¶ 12.

²¹¹ Rules 3412(e)(VII) and (g); 4412(e)(VII) and (g).

96. Consistent with the above discussion, the ALJ adopts the following language for Rules 3404(h) / 4404(h):

~~(hg)~~ Except as provided in subparagraph ~~(bc)~~(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 12 months. Notwithstanding the foregoing, a utility may enter into an installment payment plan with a customer for a term up to 24 months if it determines that this is warranted by extraordinary circumstances. A utility may accept less than the full amount in arrears for customers selecting fewer installment periods. In the alternative, the customer may choose a modified budget ~~billing~~, or level payment plan, or similar tariff 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 plan available. Utilities may not require a customer to participate in a budget or level payment plan or automated billing as a prerequisite for entering into an installment payment plan.

3. Rules 3407 / 4407. Discontinuance of Service.

a. Rules 3407(e)(III) / Rules 4407(e)(III)

97. Existing Rules 3407(e) / 4407(e) prohibits utilities from discontinuing service when one of the conditions listed in its subparagraphs exist, such as restrictions on disconnection timing, and medical emergencies. The NOPR proposes changes to subparagraphs (e)(III) (disconnection timing); (e)(IV) (medical emergencies); and adds subparagraph (e)(V) (weather provisions), and (e)(VI) (concerning impact of protective orders). Comments primarily focused on those provisions.

98. Existing subparagraph (III) prohibits service disconnection between: noon on Fridays and 8 a.m. the following Monday; noon on the day before state and federal holidays and 8 a.m. the following day; and noon on the day before any day the utility's local office is not open and 8 a.m. the following day. Proposed changes to subparagraph (III) do not change any of these restrictions, and instead seek to add another window where service cannot be disconnected, that

is, “outside the hours of 8:00 a.m. and 4:00 p.m.” Given the Rules’ existing language, this addition would effectively apply to non-holiday weekdays, except that disconnection on Fridays would be limited to 8:00 a.m. to noon.

99. EOC initially appeared to “strongly” support the proposed changes because they minimize customer fears of late-night disconnection when payment arrangements may not be possible.²¹² Later, EOC explained that it believes that disconnection cut-off times should be closely tied to a customer’s ability to get service restored on the same day as disconnection.²¹³ EOC’s position is better understood in the context of proposed changes to Rules 3409(c) / 4409(c). Those proposed changes suggest mandatory timeframes for utilities to reconnect service if a customer takes action entitling them to service restoration by a certain time of day, including action by 10:00 a.m. for restoration within business hours.²¹⁴ Thus, for example, if 10:00 a.m. is the deadline for customer action for restoration within business hours, EOC suggests that disconnection be prohibited after 10:00 a.m. *or earlier* to give customers a chance to attempt reconnection by 10:00 a.m.²¹⁵ In their final written comments, EOC separately suggests a 10:00 a.m. or earlier disconnection cut-off time for different reasons. Specifically, EOC states that “if a utility requires 12 hours for same-day reconnections and will not physically do a reconnection after 10:00 pm, then SB20-030 requires that the utility to stop [*sic*] all disconnections of service before 10:00 am so that a customer has a chance to reconnect that same day.”²¹⁶ EOC argues that SB20-030 is clear and unambiguous: “[b]y requiring that a customer may not be disconnected after such time as they are unable to reconnect, whatever time a utility

²¹² EOC’s 9/22/20 Comments at 3.

²¹³ EOC’s 2/10/21 Comments at 4.

²¹⁴ Proposed Rules 3409(c)(I) / 4409(c)(I).

²¹⁵ EOC’s 2/10/21 Comments at 3; EOC’s 4/26/21 Comments at 2.

²¹⁶ EOC’s 4/26/21 Comments at 2.

require [*sic*] to meet its same day reconnection cut-off becomes the de facto cut-off time for that utility's disconnections."²¹⁷

100. AARP strongly supports the proposal in the NOPR.²¹⁸ It states that disconnections should only happen during business hours, such as 8:00 a.m. to 4:00 p.m., and that disconnection should be avoided on Fridays.²¹⁹

101. The utilities oppose the rule, and ask that it be changed to refer to the utility's tariff-defined business hours for service discontinuance, rather than setting a specific disconnection window for all utilities.²²⁰ The utilities explain that their business hours vary. For example, Black Hills' business hours are from 8:00 to 4:30 p.m.; CNG's are from 8:00 to 5:00 p.m.; Atmos' are from 7:30 a.m. to 4:00 p.m.; and Public Service does not have a single set of uniform business hours.²²¹ Utilities also have different business hours depending on need. For example, Public Service has full service hours on Saturdays at its call center, 24/7 emergency availability, and different hours for smaller local offices.²²² Atmos' customer contact center is open from Monday through Friday from 7:00 a.m. to 6:00 p.m.²²³

102. Utilities' varying hours are driven by numerous factors, including collective bargaining agreements with labor unions; franchise agreements; other contracted agreements;

²¹⁷ *Id.*

²¹⁸ AARP's 1/11/21 Comments at 1.

²¹⁹ *Id.*

²²⁰ Public Service's 4/26/21 Comments at 26; Attachments A and B to Public Service's 4/26/21 Comments at 10, and 9; *see* CNG's 4/26/21 Comments at 7; Black Hills' 4/26/21 Comments at 1-2; Black Hills' 10/8/20 Comments at 2-3; Atmos' 4/26/21 Comments at 1-2. Public Service and Black Hills initially suggested minor changes to align with their business hours. Public Service's 9/22/20 Comments at 10 (requesting a change from 8:00 a.m. to 7:30 a.m.); Black Hills' 9/22/20 Comments at 8 (requesting a change from 4:00 p.m. to 4:30 p.m.).

²²¹ Black Hills' 9/22/20 Comments at 8; CNG's 1/11/21 Comments at 11; Atmos' 1/11/21 Comments at 13; Public Service's 1/11/21 Comments at 26.

²²² Public Service's 1/11/21 Comments at 25-26.

²²³ Atmos' 1/11/21 Comments at 13.

business needs; and geographic concerns.²²⁴ Black Hills explains that there are simply too many factors that influence utilities' working hours to be able to identify one acceptable timeframe.²²⁵

103. Most utilities see little value in establishing state-wide utility business hours for disconnections, and assert that any benefit is outweighed by the burden and cost of doing so.²²⁶ For example, Atmos explains that standardized hours requiring specific service centers to stay open until a specific time may result in increased costs that are not prudent.²²⁷ The utilities agree that they should be able to continue to decide their own business hours for disconnection, rather than have them set by rule.²²⁸

104. Public Service argues that while SB20-030 requires limiting disconnections to "reasonable hours of the day," it does not require utilities to have uniform disconnection hours.²²⁹

105. Although the utilities generally do not believe that differences in their business hours cause customer confusion, they are willing and able to post information on their websites explaining when disconnections may occur.²³⁰

(1) Discussion, Findings, and Conclusions

106. As a starting point, the ALJ notes that many comments focus on the meaning of "business hours," ultimately losing track of the primary issue here, that is, identifying reasonable hours of the day that utilities should be permitted to disconnect customers. And, although

²²⁴ Black Hills' 10/8/20 Comments at 2-3; Public Service's 10/8/20 Comments at 5; Public Service's 2/10/21 Comments at 6.

²²⁵ Black Hills' 10/8/20 Comments at 3.

²²⁶ Black Hills' 1/11/21 Comments at 19; Atmos' 1/11/21 Comments at 13; CNG's 1/11/21 Comments at 11. Public Service does not directly provide its position on the value of state-wide disconnection hours. *See* Public Service's 1/11/21 Comments at 25.

²²⁷ Atmos' 1/11/21 Comments at 13.

²²⁸ Black Hills' 1/11/21 Comments at 19; Atmos' 1/11/21 Comments at 13; CNG's 1/11/21 Comments at 11; *see* Public Service's 1/11/21 Comments at 25.

²²⁹ Public Service's 2/10/21 Comments at 6.

²³⁰ Public Service's 1/11/21 Comments at 25; Atmos' 1/11/21 Comments at 13; Black Hills' 1/11/21 Comments at 19; CNG's 1/11/21 Comments at 11.

considering “reasonable hours” in the context of a customer’s attempt to reconnect on the same day is appropriate, this is not the only relevant consideration. *See* § 40-3-103.6(1)(b), C.R.S. Whether the hours are reasonable also has to be viewed in the context of the utility’s ability to disconnect customers. Limiting disconnection to before 10:00 a.m., as EOC suggests, does not do this, and could result in unintended consequences such as: effectively making it impossible for utilities with rural and spread-out geographical territories to disconnect some customers; or increased rates for all customers or increased charges associated with disconnection or both. As this demonstrates, changes to disconnection hours implicate a utility’s interests; all ratepayers’ interests; and the individual interests of customers whose service is disconnected. The ALJ attempts to balance these interests.

107. It is difficult to assess the utilities’ proposal to limit disconnection to their tariff-defined business hours for service disconnection because the record does not clearly identify those hours for each utility. And, in any event, as discussed above, focusing on the concept of business hours loses track of the primary issue these rule changes seek to resolve.

108. The utilities’ initial responses to the Rules suggest that the proposed 8:00 a.m. to 4:00 p.m. disconnection window either closely aligns with their disconnection hours or may not present challenges to implement. For example, Public Service and Black Hills both initially suggested that the proposed hours be modified by 30 minutes.²³¹ And, in their initial comments, neither Atmos nor CNG responded to the proposed rule change at all.²³²

109. The ALJ disagrees with EOC’s assertion that § 40-3-103.6(1)(b), C.R.S., mandates the Commission to promulgate a rule that guarantees that customers may reconnect on

²³¹ Black Hills’ 9/22/20 Comments at 8 (suggesting 8:00 a.m. to 4:30 p.m.); Public Service’s 9/22/20 Comments at 10 (suggesting a 7:30 a.m. start time).

²³² *See* Atmos’ 9/22/20 Comments at 4-5; CNG’s 9/22/20 Comments at 5-7.

the same day that they are disconnected. The plain statutory language directs the Commission's rulemaking to address "[l]imiting shut-off times to reasonable hours of the day Monday through Friday, excluding holidays, so that customers *can attempt to* reconnect on the same day."²³³ (Emphasis added). Attempting same-day reconnection is not the same as guaranteeing same-day reconnection. And, as the many comments in this proceeding demonstrate, as a practical matter, it is simply not possible to guarantee same-day reconnection.²³⁴ Creating a rule attempting to do so is likely futile.

110. Limiting disconnections to 8:00 a.m. to 4:00 p.m. as proposed, eliminates the potential that utilities can disconnect service early in the morning or in the evening.²³⁵ This also gives customers time to speak with utility representatives about service restoration on the day service is disconnected, or to take other necessary action to facilitate customer attempts for same-day restoration.²³⁶ At the same time, this restriction allows utilities to disconnect customers as appropriate while avoiding placing an undue burden on utilities or ratepayers that may result from drastically reduced disconnection hours.

111. The ALJ finds that the Rules' proposal to limit disconnection outside of 8:00 a.m. to 4:00 p.m. strikes a reasonable balance between the competing interests, while also meeting statutory goals to limit disconnection to reasonable hours of the day so that customers may

²³³ § 40-3-103.6(1)(b), C.R.S.

²³⁴ There are numerous factors that play into service restoration that simply cannot be managed through a rule. Examples include the customer's financial resources; bill assistance availability from entities providing such support; customers' geographical location; the terrain that utility staff must navigate to get to customers' locations; weather conditions; technical difficulties with equipment; and poor cellular reception. *See, e.g., supra*, at ¶¶ 246-249; 250.

²³⁵ *See* EOC's 9/22/20 Comments at 3.

²³⁶ Public Service's 1/11/21 Comments at 26; Atmos' 1/11/21 Comments at 13. Black Hills' 9/22/20 Comments at 8; CNG's 1/11/21 Comments at 11.

attempt same-day restoration consistent with § 40-3-103.6(1)(b), C.R.S.²³⁷ Additionally, the proposed language merely identifies the hours in which disconnection may occur; it does not attempt to establish statewide utility “business hours” or change the hours in which restoration must occur. For all these reasons, the ALJ approves Rules 3407(e)(III) / 4407(e)(III) as proposed, and rejects suggestions to make changes.

b. Rules 3407(e)(IV) / 4407(e)(IV)

112. Proposed changes to subparagraph (e)(IV) clarify that medical certificates may be provided electronically, and that utilities may accept notification of a medical certificate by telephone provided that the written medical certificate is be provided within ten days. Proposed changes also align the Electric and Gas Rules by changing Rule 4407(e)(IV)(A) to allow a single 90-day disconnection postponement rather than two postponements that add up to 90 days.

113. The utilities support proposed changes to (e)(IV)(A) through (D), with a minor suggestion to correct a typographical error in Rule 4407 (e)(IV)(D).²³⁸

114. Several participants provided comments in response to the ALJ’s request for public comment as to whether requiring medical certificates be issued by a licensed physician or health care practitioner acting under a physician’s authority limits customers with less access to physicians from being able to obtain a medical certificate.²³⁹

²³⁷ Utilities whose unique circumstances provide cause for a waiver of the rule may file such a request consistent with standard Commission practices allowing waivers, per Rule 1003, 4 CCR 723-1 of the Rules of Practice and Procedure. The ALJ notes this only to highlight this option, not to suggest that the new rule will essentially result in individual waivers for each utility, or that the ALJ has made any determinations as to the need for such a waiver.

²³⁸ Public Service’s 4/26/21 Comments at 11; Attachments A and B to Public Service’s 4/26/21 Comments at 10 and 9-10; CNG’s 4/26/21 Comments at 7; Black Hills’ 4/26/21 Comments at 1-2; Atmos’ 4/26/21 Comments at 1-2.

²³⁹ See Decision No. R20-0801-I, ¶ 47.

115. AARP supports flexibility to obtain medical certificates, including allowing certificates to be transmitted electronically or by phone, and to allow non-physician certifiers to help manage demands on health care professionals.²⁴⁰

116. Black Hills submits that the rule as written is sufficiently flexible to allow for nurse practitioners to be among the health care professionals who can provide a medical certificate, and it does not believe the rule has limited customers' access, nor should a customer be allowed to self-certify.²⁴¹ While Public Service believes the current language is sufficient, it suggests that if clarification as to the role of health professionals is needed, the phrase "healthcare practitioner acting under a physician's authority" could be replaced with "medical professional licensed to prescribe and treat patients."²⁴²

(1) Discussion, Findings, and Conclusions

117. Section 40-3-103.6(1)(f), C.R.S., requires the Commission's rulemaking to address protection policies for customers for whom electricity is medically necessary. The Commission's existing Rules do just this, and go further by establishing the same protection for gas customers. The proposed rule changes enhance existing protections.

118. The ALJ finds that aligning the Electric and Gas Rules as proposed is in the public interest, and helps simplify the process that residential gas customers must follow to obtain a 90-day extension. Amending the Rules to ensure that utilities accept electronic medical certificates, including electronic signatures, serves the public interest by using efficient and expedient means to obtain the written medical certificates. This also facilitates better implementation of existing language in subparagraph (e)(IV)(A) to postpone disconnection when

²⁴⁰ AARP's 1/11/21 Comments at 2.

²⁴¹ Black Hills' 1/11/21 Comments at 20.

²⁴² Public Service's 1/11/21 Comments at 28.

disconnecting service will create or aggravate a medical emergency, and is consistent with § 40-3-103.6(1)(f), C.R.S.

119. As to rule language concerning who may provide a medical certificate, the ALJ finds that existing language is unnecessarily restrictive to only physicians or health care practitioners acting under a physician's authority. For example, existing language would only allow nurse practitioners who are acting under a physician's authority to issue medical certificates, thereby excluding nurse practitioners not acting under a physician's authority, but who may be acting within the scope of their license to do so.²⁴³ The ALJ finds that it is in the public interest to add rule language expanding who may issue medical certificates to those who are licensed to prescribe and treat patients, consistent with Public Service's suggestion. This addition does not replace existing language, but merely expands upon it.

120. The ALJ also suggests minor changes to facilitate clarity and ensure the Rules are internally consistent. For the reasons described, the ALJ adopts the following language²⁴⁴ for Rules 3407(e)(IV) / 4407(e):

(IV) Medical emergencies.

(A) A utility shall postpone service discontinuance of ~~[electric or gas]~~ ~~service~~ to a residential customer for 90 days from the date of a medical certificate issued by a Colorado-licensed physician, ~~or~~ health care practitioner acting under a physician's authority, or other health care practitioner licensed to prescribe and treat patients which evidences that service 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. A customer may invoke this

²⁴³ See e.g., § 12-255-111(4), (5) and (6), C.R.S. (advanced practice registered nurses may be granted prescriptive authority, and may sign affidavits or certifications as to patient's health status, authorizations for continuing treatment, tests, services, and equipment); § 12-255-104(8) and (10), C.R.S. (advanced practice registered nursing includes prescribing medicine as authorized by other statutory provisions and practice of professional nursing includes delivering independent and collaborative care such as diagnosing and treating patients).

²⁴⁴ These changes reflect the original proposed changes to Rule 4407(e)(IV)(A) to align with the parallel Electric Rule, but does not highlight those changes, as this may create confusion given that such changes are only to the Gas Rule. See Attachment C to NOPR, at 10.

subparagraph ~~[3407(e)(IV)(A) or 4407(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 ~~has~~ already entered into a payment arrangement, but ~~had~~ broken the arrangement prior to seeking a medical certificate, ~~is~~, 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 medical certificate ~~must shall~~ be in writing (which includes electronic certificates and signatures and those provided including electronically), sent to the utility from the office of a licensed physician, or other health care practitioner licensed to prescribe and treat patients and clearly 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, or other health care practitioner licensed to prescribe and treat patients certifying the medical emergency. Such certificate ~~is not shall be~~ is not incontestable by the utility as to the medical judgment, although the utility may use reasonable means to verify the authenticity of such certificate. ~~is~~.

(D) A utility may accept notification by telephone from the office of a licensed physician, or other health care practitioner licensed to prescribe and treat patients, but ~~provided~~ a written medical certificate must be is sent to the utility ~~in writing (including electronically)~~ within ten days.

c. Rules 3407(e)(V) / 4407(e)(V)

121. Proposed Rule 3407(e)(V) would prohibit service discontinuance based on extreme cold (below 32 degrees Fahrenheit) and heat (above 95 degrees Fahrenheit). Proposed Rule 4407(e)(V) only addresses extreme cold, with the same language as Rule 3409(e)(V).

122. Utilities' existing practices provide context for their public comments. Atmos does not disconnect on any day where temperatures are forecasted to be below 32 degrees.²⁴⁵ Atmos also separately states that it does not perform disconnections during the winter heating season except upon customer request.²⁴⁶ Black Hills worked with local stakeholders and

²⁴⁵ Proceeding No. 20M-0267EG, Atmos' 8/6/20 Comments at 3-4.

²⁴⁶ Atmos' 1/11/21 Comments at 21.

community leaders to develop its policy, under which it postpones disconnections if the high temperature is forecasted to exceed 95 degrees on a given day (hot weather policy), or not to exceed 35 degrees for the next 48-hour period (cold weather policy).²⁴⁷ Black Hills sometimes suspends disconnections regardless of temperature thresholds if a significant storm is forecasted.²⁴⁸ Public Service halts disconnections if the forecasted temperature is zero degrees Fahrenheit or colder for 24 hours.²⁴⁹ Like Black Hills, it may temporarily postpone disconnections on a case-by-case basis for other significant weather events.²⁵⁰

123. Public Service initially proposed that extreme heat be determined based upon the National Weather Service heat advisory or warning for the local forecast area based on how hot the weather feels with consideration to both temperature and relative humidity, and that extreme cold be based on the temperature dropping below zero degrees Fahrenheit “at any point during the following 24 hours.”²⁵¹ Public Service explained that its cold weather proposal is more protective than the proposed rule language, which it reads to require temperatures below 32 degrees Fahrenheit for an entire 24-hour period.²⁵²

124. In its blue-lined rule edits, which all utilities support, Public Service offers no edits to the proposed rule language, but suggests adding language giving utilities discretion to postpone service discontinuance when temperatures are warmer or cooler than the criteria in the

²⁴⁷ Proceeding No. 20M-0267EG, Black Hills’ 8/6/21 Comments at 6.

²⁴⁸ *Id.*

²⁴⁹ Proceeding No. 20M-0267EG, Public Service’s 8/6/20 Comments at 2.

²⁵⁰ *Id.*

²⁵¹ Public Service’s 9/22/20 Comments at 10.

²⁵² *Id.* Public Service also has an informal moratorium during the LEAP season, November 1 through April 30, where it will not shut off power during winter months if it becomes aware that a customer aged 65 or older is the sole occupant of the home. Proceeding No. 20M-0267EG, Public Service’s 8/6/20 Comments at 2.

Rules.²⁵³ Public Service explains that it modified its position in part because the National Weather Service announced that it will discontinue its advisory process in 2024.²⁵⁴

125. CNG adds that the cold weather language is consistent with rules in other states in which it operates, and makes sense because 32 degrees is the temperature at which water pipes may freeze or burst.²⁵⁵

126. AARP supports simple, easy-to-understand rules that prohibit disconnections during unusually cold or hot weather.²⁵⁶ It adds that the Rules should “reflect the hardship incurred by being without power in severely cold and hot weather,” noting that this is particularly important during the COVID-19 pandemic.²⁵⁷

127. While EOC does not appear to take a position on the proposed Rules, it notes that the majority of states with extreme heat disconnection restrictions use 90 to 95 degrees Fahrenheit as the benchmark, but that Nevada and Delaware use 105 degrees Fahrenheit.²⁵⁸

(1) Discussion, Findings, and Conclusions

128. Section 40-3-103.6(1)(g), C.R.S., requires the Commission’s rulemaking to address prohibitions on service disconnection during extreme heat and cold periods, as appropriate to the geographic area served. The proposed Rules accomplish this. The record demonstrates that the Rules’ proposed cold and heat benchmarks are consistent both with practices in other states as well as with informal practices that Colorado utilities employ. But

²⁵³ Attachments A and B to Public Service’s 4/26/21 Comments, at 10-11 and 10; Public Service’s 4/26/21 Comments at 11; CNG’s 4/26/21 Comments at 7; Black Hills’ 4/26/21 Comments at 1-2; Atmos’ 4/26/21 Comments at 1-2.

²⁵⁴ Public Service’s 4/26/21 Comments at 11-12.

²⁵⁵ CNG’s 1/11/21 Comments at 13.

²⁵⁶ AARP’s 1/11/21 Comments at 2.

²⁵⁷ *Id.*

²⁵⁸ EOC’s 1/11/21 Comments at 17 (citing State Disconnection Policies: <https://liheapch.acf.hhs.gov/Disconnect/disconnect.htm> (last visited January 8, 2021)).

Public Service's comments helpfully identify an issue worth addressing in the Rules. Specifically, the language "for the following 24 hours" would require the temperature to be forecasted to stay below 32 degrees Fahrenheit for the entire following 24-hour period in order to trigger the Rules' moratorium on extreme cold weather service disconnection.²⁵⁹ This may prove untenable for cold weather events where temperatures may drop well below 32 degrees Fahrenheit for extended portions of a 24-hour period, but not the entire 24-hour period. It is difficult to see any difference in the risk of burst pipes and other negative health effects between this scenario and one where the temperature drops below 32 degrees for the entire 24-hour period. And, the record lacks information to indicate whether a moratorium on disconnections when the temperature drops to 32 degrees or lower at any time during a 24-hour period would result in a seasonal moratorium. In the absence of such information, the ALJ errs on the side of protecting customers. For these reasons, the ALJ finds that Public Service's initial recommendation to modify the language to "at any time during the following 24 hours" offers better protection for customers during cold weather events. For the same reasons, the ALJ rejects Public Service's suggestion to lower the benchmark to zero degrees Fahrenheit. Based on the utilities' descriptions of their current practices, it does not appear that this approach would cause a significant difference in how the majority of them currently manage extreme weather events.²⁶⁰ For all these reasons, the ALJ adopts language for the cold weather benchmark consistent with the above discussion.

129. As to an extreme heat threshold, the most helpful information in the record is the utilities' existing practices, and information on similar disconnection policies in other

²⁵⁹ See Public Service's 9/22/20 Comments at 10.

²⁶⁰ Proceeding No. 20M-0267EG, Atmos' 8/6/20 Comments at 3-4; Proceeding No. 20M-0267EG, Black Hills's 8/6/20 Comments at 6; Proceeding No. 20M-0267EG, Public Service's 8/6/20 Comments at 2.

states. In the NOPR, the Commission notes that “[a]s a starting point, these temperatures were set based on [a] review of typical temperature-based protections.”²⁶¹ The Commission cites to the LIHEAP Clearinghouse’s website, “State Disconnection Policies.”²⁶² That website is essentially a database that includes basic information on policies in other states relating to disconnection practices, including disconnection protections relating to weather. As EOC notes, the majority of the states with extreme heat disconnection restrictions use 90 to 95 degrees Fahrenheit as the benchmark, with several using a higher benchmark.

130. Of the two Colorado regulated electric utilities, only Black Hills clearly states its policy on disconnection postponement based on extreme heat. Black Hills postpones disconnections when the forecasted temperature will exceed 95 degrees Fahrenheit on a particular day, rather than for a full 24-hour period.²⁶³ Black Hills developed this policy through stakeholder discussions and feedback, thereby indicating a level of community support for its approach.²⁶⁴ The record does not reveal one way or the other whether Public Service has a policy to postpone disconnections during extreme heat.

131. In the absence of information that would be helpful to assess the best approach to balancing competing interests—offering customers protection while also avoiding a full seasonal disconnection moratorium—the ALJ errs on the side of rules that offer customers meaningful protection from disconnection during extreme heat events. The ALJ finds that Black Hills’ policy does this, by postponing disconnection on any day in which the temperature is predicted to be 95 degrees Fahrenheit or higher, rather than for an entire 24-period. The ALJ finds that using 95 degrees Fahrenheit or higher as the benchmark is consistent with other states’ approach on

²⁶¹ Decision No. C20-0622, ¶ 50.

²⁶² *Id.* at fn. 4.

²⁶³ Proceeding No. 20M-0267EG, Black Hills’ 8/6/20 Comments at 6.

²⁶⁴ *See id.*

heat disconnection postponements. For all these reasons, the ALJ adopts rule language using that temperature as the benchmark, consistent with Black Hills' heat disconnection postponement policy.

132. As to both the cold and heat disconnection postponement Rules, the ALJ agrees with, and adopts Public Service's suggestion that the Rules explicitly give utilities discretion to cease service disconnection even when the temperatures do not meet the cold and heat benchmarks in the Rules. This will allow utilities flexibility to postpone disconnection based on other weather-related factors relevant to the geographic areas they serve, such as humidity, during heat waves, or storms, which is consistent with § 40-3-103.6(1)(g), C.R.S. These weather provisions are not intended to limit utilities from taking measures that are more protective than what the Rules require. The ALJ finds that by directing utilities to consider the local forecast in determining whether the temperature is forecasted to meet the cold and heat thresholds, the Rules further effectuate statutory intent that weather protection rules be "appropriate to the geographic area served."²⁶⁵

133. For all these reasons, the ALJ recommends the Commission adopt the following language for Rule 3407(e)(V)(A) and (B), and that Rule 4407(e)(V) mirror the below language in subparagraph (e)(V)(A):

(V) Weather provisions.

(A) A utility shall postpone service discontinuance ~~of service~~ to a residential customer on any day when the National Weather Service local forecast between 6:00 a.m. and 9:00 a.m. predicts that the temperature will be drop below 32 degrees Fahrenheit (32°F) or lower at any time during ~~for~~ the following 24 hours, ~~and/or~~ during any additional period in which utility personnel will not be available to restore utility service in accordance with rule [3409 / 4409]. Nothing prohibits a utility from postponing service discontinuance when temperatures are warmer than these criteria.

²⁶⁵ § 40-3-103.6(1)(g), C.R.S.

- (B) A utility shall postpone service discontinuance ~~of service~~ to a residential customer on any day when the National Weather Service local forecast between 6:00 a.m. and 9:00 a.m. predicts that the temperature will be rise~~above~~ 95 degrees Fahrenheit (95°F) or higher for at any time during the following 24 hours, ~~and/or~~ any additional period in which utility personnel will not be available to restore utility service in accordance with rule 3409. Nothing prohibits a utility from postponing service discontinuance when temperatures are cooler than these criteria.

d. Rules 3407(e)(VI) / 4407(e)(VI)

134. These new subparagraphs would prohibit service discontinuance when the customer of record seeks to discontinue service or has a past due account, and an occupant of the premises has a protective order against the customer of record.

135. While the utilities initially took differing positions, ultimately, they all oppose the proposed rule, and recommend deleting it entirely.²⁶⁶ Utility objections center around the unspoken requirement in the rule that would obligate them to gather sensitive and personal information from any customer seeking to disconnect service.²⁶⁷ Public Service notes that customers have no obligation to share such personal information, and that it should not have the right to ask for it.²⁶⁸ Public Service adds that this would also add layers to the disconnection process that would result in more costs.²⁶⁹

136. Atmos and CNG submit that the Rules are unnecessary because their current procedures—which include allowing an occupant at a location that is being disconnected to open

²⁶⁶ Attachments A and B to Public Service's 4/26/21 Comments at 11 and 10; Public Service's 4/26/21 Comments at 11; CNG's 4/26/21 Comments at 7; Black Hills' 4/26/21 Comments at 1-2; Atmos' 4/26/21 Comments at 1-2. Before agreeing to Public Service's blue-lined edits that suggest deleting this rule, CNG suggested that the language be modified to essentially require a utility to offer an occupant of a premises who has informed it that it has a protective order against the customer of record to transfer service into their own name without service interruption. CNG's 1/11/21 Comments at 13.

²⁶⁷ See Public Service's 9/22/20 Comments at 10-11; CNG's 9/22/20 Comments at 5.

²⁶⁸ Public Service's 9/22/20 Comments at 11.

²⁶⁹ *Id.*

a new account in their own name without having to pay the previous customer of record's past-due balance—offer adequate protection for these circumstances.²⁷⁰ Public Service allows occupants facing disconnection to initiate a new service request, and also relies on confidentiality protections afforded to customers participating in the Colorado Address Confidentiality Program (ACP).²⁷¹ Public Service adds that should a customer of record seek to disconnect service, an ACP customer could contact Public Service to initiate a new service request.²⁷² However, Public Service states that “affected customers remain financially responsible for services they benefited from.”²⁷³ Black Hills did not explain or identify any of its practices or procedures, through tariff or otherwise, that may achieve the Rules’ intended purpose.²⁷⁴

137. Black Hills separately raises concerns about construing the benefit of service transfer rule at existing Rules 3401(c) / 4401(c), where the customer of record has arrears but an occupant to whom the account is transferred has a protective order.²⁷⁵

(1) Discussion, Findings, and Conclusions

138. The Commission proposed these Rules to prevent service discontinuance “where an occupant of the household can demonstrate that they have received court-ordered protection against a customer of record.”²⁷⁶ The Commission notes that the Rules would prevent a spouse or domestic partner from seeking service termination in a domestic violation situation, and that the Rules offer protections similar to those found in other states.²⁷⁷

²⁷⁰ Atmos’ 1/11/21 Comments at 15; CNG’s 9/22/20 Comments at 5-6.

²⁷¹ Public Service’s 1/11/21 Comments at 30-31.

²⁷² *Id.* at 31.

²⁷³ Public Service’s 1/11/21 Comments at 31.

²⁷⁴ Black Hills’ 1/11/21 Comments at 22.

²⁷⁵ Black Hills’ 2/10/21 Comments at 4. Black Hills raised this concern in the context of responding to CNG’s initial proposal to modify the rule language requiring service transfer. Black Hills’ 2/10/21 Comments at 4.

²⁷⁶ Decision No. C20-0622, ¶ 51.

²⁷⁷ *Id.*

139. As a practical matter, the ALJ questions whether the Rules would be effective in achieving the desired result. The Rules aim to prevent a customer who may be a perpetrator of domestic abuse from causing additional harm or distress to their victim, but would effectively require the utility to rely on the alleged perpetrator's response to questions about the existence of a protective order. The ALJ questions the wisdom of this, particularly given that there are no consequences to falsely answering such questions. Though the record indicates that the proposed Rules offer protections similar to those in other states, it does not reflect whether such protections have been effective, how similar other states' protections are to the proposed Rules, or even the states that offer such protections.

140. Data on the effectiveness of similar provisions in other states would provide helpful information to determine whether the additional burdens on utilities of asking *every* customer seeking service discontinuance to answer these personal questions, and retaining such information, are balanced by the positive impacts the Rules may have. The record also lacks data on how common or frequent this type of service disconnection occur, which would help assess the extent to which the proposed Rules may positively impact customers.

141. The proposed Rules are also not fully developed to consider or address multiple issues that could be reasonably expected to arise. For example, there is no clear path on what should happen if a customer falsely answers utility questions about the existence of a protection order, and, relying on that false information, the utility disconnects service. Nor do the Rules consider or address how long a disconnection moratorium should last, or how to manage future service charges once a disconnection moratorium is in place. For example, the record does not speak to whether it is reasonable to require the customer of record to pay for charges incurred after the moratorium is in place, whether the utility should be required to attempt to reach the occupant about transferring service into their name, or whether another alternative could better

address this. Likewise, the proposed Rules also raise questions about accountability for past due balances on the customer's account. As comments highlight, Rules 3401(c) / 4401(c) allow utilities to transfer a balance to a person other than the named customer if it determines that the person received the "benefit of service." Under those rules, utilities set their own policies and criteria for determining that the person to be billed received the benefit of service.²⁷⁸ The record does not shed light on the best path forward on these types of issues.²⁷⁹ But, more importantly, all of this highlights the need to examine the issues relating to the proposed Rules with a wider lens.

142. For all these reasons, the ALJ does not adopt the proposed Rules. Nevertheless, as discussed in more detail below, the ALJ adopts changes to Rules 3407(f) / 4407(f) to require utilities to publish information on their websites explaining available options for an occupant of a service address who has a court-ordered protection order against a customer of record. Doing so helps facilitate underlying goals to prevent the type of disconnections discussed above.

e. Rules 3407(f) / 4407(f)

143. Proposed Rules 3407(f) / 4407(f) add requirements for utilities to publish information relating to their practices around delinquency, disconnection, and reconnection on their websites, and provide direction on the manner in which that should be presented (*i.e.*, to promote customer understanding and in other languages, as determined by the latest U.S. Census data). Proposed new subparagraphs (f)(I) through (VII) identify specific items that must be published, including: information on customers' rights relating to service disconnection and restoration; options to prevent service disconnection; referrals to energy assistance organizations;

²⁷⁸ Rules 3401(c) / 4401(c).

²⁷⁹ The ALJ notes that Rules 3401(c) / 4401(c) are not among the rules that are in the NOPR, or in Attachments A through D of the NOPR.

summary and description of fees and charges assessed as provided in other Commission rules; and options if there is a dispute about billing or disconnection.

144. The utilities generally support the proposed Rules.²⁸⁰ But, several utilities initially suggested minor clarifications. For example, to reduce ambiguity as to the fees the utility must describe under the proposed Rules, Black Hills suggested that the language in proposed subparagraph (VI) be subsumed into subparagraph (V).²⁸¹

(1) Discussion, Findings, and Conclusions

145. The Commission proposed these Rules to address requirements in § 40-3-103.6(2), C.R.S., that the Commission publish, or require utilities to publish on their websites, information on the standard practices and fees specified in rules adopted consistent with § 40-3-103.6(1), C.R.S.²⁸² The ALJ finds that as drafted, the proposed Rules comply with those statutory requirements.²⁸³ In addition, the ALJ finds that by requiring that utilities publish the required information in languages other than English based on data from the latest U.S. Census relating to populations' primary languages, the proposed Rules also create a resource that supports customers in multiple languages, consistent with § 40-3-103.6(1)(a), C.R.S. And, the ALJ finds that requiring utilities to publish a list of organizations that provide energy assistance complies with statutory requirements under § 40-3-103.6(1)(d), C.R.S. to refer delinquent customers to such resources.

146. The ALJ notes that the proposed Rules require the published information to be written "in a manner that promotes customer understanding." The ALJ makes clear that

²⁸⁰ Public Service's 4/26/21 Comments at 11; Attachments A and B to Public Service's 4/26/21 Comments at 11 and 10-11; *See* CNG's 4/26/21 Comments at 7; Black Hills' 4/26/21 Comments at 1-2; Black Hills' 10/8/20 Comments at 3; Atmos' 4/26/21 Comments at 1-2.

²⁸¹ Black Hills' 9/22/20 Comments at 8.

²⁸² Decision No. C20-0622, ¶ 52.

²⁸³ § 40-3-103.6(2), C.R.S.

mimicking tariff language is highly unlikely to accomplish this given the complex language typically found in tariffs. Utilities should strive to present the information in a plain, simple, and straight-forward manner and avoid using legal terminology.

147. Although the Rules comply with statutory requirements as drafted, the ALJ finds that several minor changes and additions will improve clarity, and better align with other rules promulgated in this proceeding.²⁸⁴ First, the ALJ finds that adding language in subparagraph (f)(I) to require utilities to publish information on timing restrictions for service disconnection, and the options and hours to contact the utility's customer service support specific to disconnection, clarifies rule language concerning customer rights, promotes customer understanding, and helps customers better manage potential service disconnection, which all serve the public interest. For many of the same reasons, the ALJ finds that it is in the public interest to add similar language in subparagraph (f)(IV) as to service restoration.

148. The ALJ also adds language to subparagraph (f)(III) to include references to charities, nonprofits, and agencies that administer energy assistance funds. These additions better align with § 40-3-103.6(1)(d), C.R.S. Consistent with Black Hills' initial suggestion, the ALJ incorporates subparagraph (f)(VI) into subparagraph (f)(V) to improve clarity.

149. As mentioned above, the ALJ also adopts an additional requirement that utilities publish information explaining available options relating to past due balances and disconnection for a service address where an occupant of that address has a court-ordered protection order against a customer of record. The new rule is intended to require utilities to be expansive in the information they must publish, and to create a central resource with information to help victims take proactive steps to avoid disconnection, or to have service restored or otherwise continued.

²⁸⁴ In addition to the specific changes discussed, the ALJ makes several minor changes to improve clarity, promote word economy, renumber subparagraphs, and changes necessary to align with other rule changes.

This arises, in part, from utility comments indicating that they believe their existing practices offer appropriate protections for occupants facing potential disconnection or a past-due balance on an account managed by an abusive partner.²⁸⁵ In addition, comments also highlight that relevant information for occupants in this situation include how utilities determine whether to transfer a balance on the customer of record's account, per the policies, criteria, and process that utilities develop as allowed by Rules 3401(c) / 4401(c).²⁸⁶ Given the differing utility approaches and utility discretion, the ALJ finds that it is in the public interest to require utilities to explain this information on a central location on its website.

150. For all the reasons discussed, the ALJ adopts the following language for Rules 3407(f) / 4407(f):

- (f) In addition to its tariffs, a utility shall publish information related to its practices around delinquency, disconnection for nonpayment, and reconnection on its website. This information should be written in a manner that promotes customer understanding, and must be produced 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. A utility must ~~should~~ include at least the following information:
- (I) the customer's rights related to service disconnection discontinuance of service, including medical and weather-based protections, timing restrictions on service disconnection, and options and hours to contact the utility for support relating to service disconnection;
 - (II) a summary of a customer's options to prevent service discontinuance of service for nonpayment, including installment payment plan options, utility energy assistance, and affordability programs, ~~and energy efficiency services~~, and eligibility requirements for such programs ~~eligibility~~;
 - (III) referrals to organizations that provide energy payment assistance ~~including bill assistance~~, and energy efficiency services, such as

²⁸⁵ See e.g., CNG's 9/22/20 Comments at 5-6; Atmos' 1/11/21 Comments at 15; Public Service's 1/11/21 Comments at 30-31.

²⁸⁶ See Black Hills' 2/10/21 Comments at 4.

Energy Outreach Colorado, charities, nonprofits, and governmental entities that provide or administer funds for such assistance;

- (IV) the customer's rights related to service restoration ~~of service~~, including restoration timelines, actions customers may take to restore service, and options and hours to for contacting the utility for support relating to service restoration;
- (V) a summary of charges, ~~and fees, and deposits~~ to which a customer may be subject under paragraphs [3403(j) / 4403(j)] and [3404(a) / 4404 (a)] including late payment charges, with a description of how those amounts are calculated, summarized explained in a way that enables a customer to estimate the full costs they may be assessed;
- ~~(VI) a description of how those fees are calculated; and~~
- (VII) a description of the customer's options in the event of a dispute regarding billing or disconnection practices;:
- (VII) a description of the options available to an occupant of a service address who is not a customer of record and who has a court-ordered protection order against a customer of record for the service address, relating to past-due balances, service disconnection, restoration, and continuance at the service address, including initiating new service, transferring service, and the utility's practices, policies, and criteria for determining benefit of service for purposes of transferring the customer of record's balance to an occupant; and
- (VIII) a description of the utility's Demand Side Management programs, including requirements to participate, the benefits of participating, and utility contact information relating to such programs.

f. Scope, Timing, Frequency, and Aggregated Customer Data Under Rules 3407(g)(I) / 4407(g)(I)

151. Rules 3407(g)(I) / 4407(g)(I) outline new utility reporting requirements. The rule requires quarterly reporting by zip code, customer class, and low-income customers; and exempts rule requirements that aggregated customer data meet minimum standards.

152. For a number of reasons, the utilities oppose quarterly reporting.²⁸⁷ For example, Atmos submits that annual reporting for gas utilities is more meaningful because gas utilities' disconnections tend to be more seasonal, and that the timing of the last quarterly report

²⁸⁷ Attachments A and B to Public Service's 4/26/21 Comments at 11; *see* CNG's 4/26/21 Comments at 7; Black Hills' 4/26/21 Comments at 1-2; Atmos' 4/26/21 Comments at 1-2

would require it to disclose material non-public information.²⁸⁸ Public Service believes that quarterly reporting is unduly burdensome, particularly given existing reporting in Proceeding No. 08M-305EG.²⁸⁹ Likewise, Black Hills states the new reporting requirements are onerous, but changing it to annual reporting with information broken down by quarter would greatly assist in mitigating the impact on utilities while preserving the proposed Rules' intent to obtain data broken down by quarter.²⁹⁰ Black Hills also suggests that the Rules be modified to require reporting only on residential data, as stakeholders have the most interest in residential customer data and expanding beyond that adds administrative complexity.²⁹¹

153. The utilities support the following changes to the rule: annual reporting by March 1 covering the prior calendar year; requiring data to be displayed by quarter; and adding language requiring utilities to aggregate customer data to the extent possible immediately after language exempting rules setting minimum standards for aggregated data that utilities disclose.²⁹²

(1) Discussion, Findings, and Conclusions

154. Consumer protection issues relating to service disconnection differ between residential and non-residential customers, particularly as to large commercial customers. And, residential disconnections for nonpayment are far more common than non-residential disconnections across all utilities.²⁹³ The usefulness of reporting on non-residential disconnection

²⁸⁸ Atmos' 9/22/2020 Comments at 5; Atmos' 1/11/2021 Comments at 16.

²⁸⁹ Public Service's 9/22/2020 Comments at 11.

²⁹⁰ Black Hills' 9/22/2020 Comments at 9.

²⁹¹ Black Hills' 1/11/2021 Comments at 23.

²⁹² Attachments A and B to Public Service's 4/26/2021 Comments at 11; *see* CNG's 4/26/21 Comments at 7; Black Hills' 4/26/21 Comments at 1-2; Black Hills' 10/8/20 Comments at 3; Atmos' 4/26/21 Comments at 1-2.

²⁹³ *See, e.g.*, Proceeding No. 20M-0267EG: Atmos Energy's Non-Confidential Seventh Monthly Report (March 15, 2021) at 9; Public Attachment 1 to Black Hills' Monthly Report in Compliance with Decision Nos. R20-0664-I, R20-0916-I, and C21-0081-I (March 15, 2021) at 14; Attachment A to CNG's Responses to Interim Decision of Hearing Commissioner Jeffrey P. Ackermann Establishing Reporting Requirements and Soliciting Comments (March 15, 2021); Attachment 1 to Public Service's Seventh Monthly Report (March 15, 2021).

is unclear but would come with an associated increased burden and cost. For all these reasons, the ALJ accepts Black Hills' suggestion, and limits the rule to reporting on residential customers.

155. The ALJ is sympathetic to utilities' concerns about the burden associated with quarterly reporting, particularly given the extent of data that must be reported, and that utilities already report several similar data points in Proceeding No. 08M-305EG (discussed in more detail below). Modifying the Rules to require annual reporting, with a requirement to present data by quarter as suggested helps decrease the administrative burden, without impacting the usefulness of the data to help analyze trends. The proposed March 1 annual deadline also helps alleviate concerns that reporting timing may cause utilities to disclose material non-public information. For all these reasons, the ALJ changes the rule to require annual reporting by March 1, with data broken down by quarter.²⁹⁴

156. The proposed Rules exempt Rules 3033(b) / 4033(b) from applying to utility reports under subparagraph (g)(I). Those Rules require that utilities disclosing aggregated customer data ensure that its aggregation meets minimum standards intended to protect customer information from being associated with any individual customer. By exempting that rule from applying, the proposed Rules contemplate and address the potential conflict between the new reporting requirements, and a utility's obligation to comply with Rules 3033(b) / 4033(b). This represents a Commission policy intended to ensure that utilities provide the data, even if they cannot comply with Rules 3033(b) / 4033(b). The utilities suggest that the ALJ add language

²⁹⁴ Data broken down by month may provide higher quality information that is more useful in analyzing trends. And, some utilities are able to break down such data based on their existing practices. *See, e.g.*, Proceeding No. 20M-0267EG, Black Hills Colorado Electric, LLC and Black Hills Colorado Gas, Inc., d/b/a Black Hills Energy Monthly Report in Compliance with Decision Nos. R20-0664-I and R20-0916-I, Attachment 1 (January 15, 2021). As such, the ALJ encourages utilities to present monthly data in a format that facilitates comparison to data presented quarterly, if this aligns with their current practices for collecting and maintaining data without significant added administrative burden.

indicating that they must still aggregate data to the extent possible. This suggestion implies that the utilities may misunderstand the proposed rule language. To be clear, exempting Rules 3033(b) / 4033(b) does not exempt all rule requirements to protect customer data through aggregation or other practices that remove personal information.²⁹⁵ Instead, this exemption is specific to the minimum standards that data aggregation must meet under Rules 3033(b) / 4033(b). For these reasons, the ALJ finds that the suggested change is unnecessary, and to the contrary, may create confusion about utilities' continuing obligation to meet data aggregation requirements in other rules. As such, the ALJ rejects the suggested change.

g. Low-Income Customer Data Under Rules 3407(g)(I) / 4407(g)(I).

157. For various reasons, the utilities oppose reporting that specifically identifies low-income customers.²⁹⁶ Consistent with comments throughout this Proceeding, the utilities universally state that they do not track or maintain customers' income information, except to the extent that customers participate in LEAP and Rules 3412 / 4412 programs.²⁹⁷ Many object to being required to collect customers' income information based on customer privacy concerns, because the term "low-income" is undefined, and because the public interest does not support or require this.²⁹⁸ Some utility comments imply that these concerns may be minimized if "low-income" is defined to refer to customers participating in low-income programs per

²⁹⁵ See e.g., Rules 3027(a) / 4027(a).

²⁹⁶ Attachments A and B to Public Service's 4/26/21 Comments at 11; Public Service's 4/26/21 Comments at 11; see CNG's 4/26/21 Comments at 7; Black Hills' 4/26/21 Comments at 1-2; Atmos' 4/26/21 Comments at 1-2.

²⁹⁷ Atmos' 9/22/2020 Comments at 5; Black Hills' 9/22/2020 Comments at 9; Public Service's 9/22/2020 Comments at 6; CNG's 1/11/2021 Comments at 14.

²⁹⁸ Black Hills' 9/22/2020 Comments at 9; Public Service's 9/22/2020 Comments at 6; see CNG's 10/8/2020 Comments at 14.

Rules 3412 / 4412, and LEAP.²⁹⁹ Utilities already maintain and track information on customers who have applied for and are eligible for LEAP assistance.³⁰⁰

158. As to the relationship between reporting here and reporting requirements in Rules 3412 / 4412, Black Hills believes it makes sense to coordinate reporting requirements related to low-income customers with those already required by those Rules.³⁰¹ Atmos says these reports need not be coordinated and CNG suggests coordination would not increase value as there is little cross-over between the existing and proposed requirements.³⁰² Public Service argues that requiring reporting on customers participating in LEAP in this rule would be unduly burdensome, and that it already provides significant data on LEAP participants per Rules 3412 / 4412.³⁰³

(1) Discussion, Findings, and Conclusions

159. As with other aspects of the proposed Rules, the ALJ hears concerns that utilities should not be required to track income-related information, and that they do not currently do so. As a practical matter, if the Rules require reporting on customer income levels, it is difficult to know how accurate, fulsome, or useful such data would be given that customers would not be forced to provide or verify their incomes.³⁰⁴ Since customers must provide income data and have it verified to participate in LEAP or a low-income program under Rules 3412 / 4412, and utilities

²⁹⁹ CNG 1/11/2021 Comments at 14 (suggesting that “low-income” be defined as customers who receive LEAP benefits); Black Hills’ 9/22/20 Comments at 9 (initially suggesting that applying for LEAP assistance could be a proxy for “low-income customers”²⁹⁹).

³⁰⁰ Black Hills’ 9/22/2020 Comments at 9; CNG 1/11/2021 Comments at 14; Public Service’s 9/22/2020 Comments at 6 (stating that information on LEAP participation is provided to it from the LEAP office); *see* Atmos’ 9/22/2020 Comments at 5 (stating that it has income data on customers enrolled in PIPP); *see also* Rules 3412(c) and (l) / 4412 (c) and (l).

³⁰¹ Black Hills’ 1/11/2021 Comments at 23-24.

³⁰² Atmos’ 1/11/2021 Comments at 17; CNG’s 1/11/2021 Comments at 15.

³⁰³ Public Service’s 1/11/2021 Comments at 33-34.

³⁰⁴ The ALJ finds that it would be unreasonable to attempt to force customers to provide this data, such as by requiring it as a prerequisite to service.

already track and maintain such data, using participation in such programs rather than the proposed undefined “low-income” language offers a reliable source of income information readily available to utilities, which also minimizes utility burdens and costs to ratepayers that would otherwise be incurred in order to create new systems and processes to track and maintain this personal data.

160. In evaluating these issues, the ALJ considered existing reporting requirements, consistent with § 40-3-103.6(1)(i), C.R.S., such as those under Rules 3412 / 4412. Those reports largely require much different information than sought here. For that reason, the ALJ finds that reporting under Rules 3412 / 4412 does not duplicate reporting here, and that reporting under the new rule need not be coordinated with reports under Rules 3412 / 4412. For all these reasons, the ALJ recommends that proposed Rules be modified to specify that low-income customer data means customers who are participants in LEAP or Rules 3412 / 4412 programs.

h. Rules 3407(g)(I) / 4407(g)(I)’s Relationship with Other Existing Reporting Requirements.

161. Atmos submits that the Rules’ proposed metrics are related to, but distinct from, those in the NARUC Reports because they are more granular.³⁰⁵ CNG believes that the NARUC Reports are similar enough to the Rules’ proposed reporting that the NARUC Reports should be discontinued once the new reporting requirements are finalized.³⁰⁶ Public Service suggests that the data reported under the proposed Rules and the NARUC Reports are similar, but the new requirements are more granular, and includes non-residential information.³⁰⁷ It further notes that annual reporting with data broken down by quarter would not allow for

³⁰⁵ Atmos’ 1/11/2021 Comments at 16.

³⁰⁶ CNG’s 1/11/2021 Comments at 13-14.

³⁰⁷ Public Service’s 1/11/2021 Comments at 32.

“elimination of the NARUC reporting, which is filed by quarter.”³⁰⁸ While CNG is generally agreeable to the new reporting requirements, because much of the information the proposed Rules require are in its NARUC Reports, it questions whether the additional required information justifies the costs of building new reports to collect the data.³⁰⁹

162. Black Hills reviewed the metrics in each reporting requirement and found that there is new information required by 3407(g)(I) / 4407(g)(I), such as duration of disconnections, information about payment arrangements, and zip code-level data.³¹⁰ It also submits that only year-to-date residential revenue and residential write-offs, which are currently reported in the NARUC Reports, do not have analogues in the new reporting requirement, such that the current NARUC Reports and the new reports would be largely comparable.³¹¹ Black Hills suggests discontinuing the NARUC Reports and holding a workshop with Staff after these Rules are finalized to create a standard format across utilities that rely on consistent data definitions.³¹²

163. Similarly, Staff proposes a collaborative process with stakeholders such as the utilities, EOC, and the Colorado Energy Office (CEO) to work on the format and content of the annual report.³¹³ The annual report could then be provided as a Microsoft Excel document and filed as an executable file in E-Filings to enable easier information comparability.³¹⁴ Staff proposes that an annual report form be made available on the Commission’s website no later than three months after the final date of a decision approving the Rules.³¹⁵

³⁰⁸ *Id.*

³⁰⁹ CNG’s 9/22/2020 Comments at 6.

³¹⁰ Black Hills’ 1/11/2021 Comments at 22.

³¹¹ *Id.* at 22-23.

³¹² *Id.* at 23.

³¹³ Staff’s 4/26/2021 Comments at 1-2.

³¹⁴ *Id.* at 2.

³¹⁵ *Id.*

(1) Discussion, Findings, and Conclusions

164. The ALJ agrees that while subparagraph (g)(I)'s reporting requirements may encompass some of the metrics in NARUC Reports, the proposed Rules' requirements are generally more expansive, covering issues like payment arrangements, and more granular, such as including zip code data. Whether utilities should continue to file NARUC Reports in Proceeding No. 08M-305EG is not within the scope of this rulemaking proceeding, but this is a reasonable question that could be raised by a filing in an appropriate forum (such as Proceeding No. 08M-305EG), after these Rules have been finalized and there has been an opportunity to compare actual data reported per the new Rules with the data in the NARUC Reports.

165. The data that utilities submitted here and in other cited proceedings reveals many variations in how utilities collect and present data, and in some cases, impacts quality, accuracy, and ultimate usefulness. This raises questions as to whether a standard template form should be developed for reports under subparagraphs (g)(I). As noted, Staff suggests a collaborative process with stakeholders be used to develop such a standard report template, and asks that this Decision state that such a template will be made available on the Commission's website no later than three months after this Decision becomes final. The ALJ adopts this suggestion. The ALJ agrees that using a standard template may improve the usefulness of the reported data, including facilitating data comparison, and ensuring quality and accurate data reporting. As Staff suggests, this process could address creating a standard template that includes executable forms or elements to facilitate data comparison, as well as an optional template or section of the standard template that utilities who opt to provide data broken down by month may use. Ideally, the standard templates will optimize comparability both as to reports filed here, and the NARUC Reports, and thus, may address the presentation of data by fuel (electric, gas, combination) for utilities providing service for more than one fuel source.

i. Reporting Metrics Under Rules 3407(g)(I) / 4407(g)(I)

166. The specific reporting metrics are found in subparagraphs (g)(I)(A) through (P). EOC and Sierra Club generally support subparagraphs (g)(I)'s proposed reporting metrics.³¹⁶ Based on comments relating to other aspects of this Proceeding, it appears that EOC would specifically support requirements that provide data to help the Commission and other entities to understand how many customers are reconnected after service disconnection and in what timeframe.³¹⁷ AARP supports “robust rules” related to the reporting disconnection activities, and states that the Commission should always understand the “volume and scope” of disconnections.³¹⁸

167. The utilities suggest modification or clarification of language in subparagraphs (g)(I)(A) through (P) as follows:

- **Subparagraph (g)(I)(A):** Black Hills suggests that “number of customers” should be clarified with the following language, “number of customers who have been disconnected for non-payment,” assuming that the Commission intends the reports to focus on disconnection for nonpayment.³¹⁹ Because some customers may have multiple accounts, CNG recommends that this be clarified as “unique customers” or “unique accounts.”³²⁰ CNG notes that this change would impact metrics in subparagraphs (g)(I)(C) and (E).³²¹
- **Subparagraph (g)(I)(I):** CNG asks for clarification as to whether service restoration should be reported as a total number or specific to the same customer at the same location.³²²
- **Subparagraph (g)(I)(J):** CNG asks whether average duration of disconnection data should be provided in hours or days, and Public Service recommends deleting the requirement because this information is not tracked in the manner requested.³²³

³¹⁶ See EOC's 9/22/2020 Comments at 2; Sierra Club's 9/22/2020 Comments at 3.

³¹⁷ See EOC's 2/10/2021 Comments at 8.

³¹⁸ AARP's 1/11/2021 Comments at 2.

³¹⁹ Black Hills' 9/22/2020 Comments at 10.

³²⁰ CNG's 9/22/2020 Comments at 6.

³²¹ *Id.*

³²² *Id.*

³²³ *Id.*; Public Service's 9/22/2020 Comments at 11.

- **Subparagraph (g)(I)(K):** Public Service suggests modifying this provision to clarify that it requires aggregate data on the dollar value of deposits collected.³²⁴ CNG seeks clarification as to whether this requires reporting on data related to all deposits, or just deposits connected to service restoration after disconnection for nonpayment.³²⁵
- **Subparagraph (g)(I)(L) and (M):** CNG seeks the same clarification as with subparagraph (g)(I)(K).³²⁶
- **Subparagraph (g)(I)(N):** Public Service suggests adding “number of” to “successfully completed deferred payment agreements” to clarify its meaning.³²⁷ CNG seeks the same clarification as with subparagraph (g)(I)(K).³²⁸

168. Atmos agrees with and seeks the same clarifications that CNG raises.³²⁹ Public Service also suggests other minor and non-substantive changes.³³⁰

(1) Discussion, Findings, and Conclusions

169. The comments raise valid questions that prompt the ALJ to make numerous clarifying changes to the rules so that utilities are better able to understand and meet the rules’ obligations. As to subparagraph (g)(I)(A), the ALJ adopts CNG’s proposal as to “unique customers,” and makes similar changes to references to customers throughout subparagraph (g)(I). The ALJ also clarifies that reporting under subparagraphs (g)(I)(K) and (L) should be tied to disconnection for nonpayment, which reflects the direction in SB20-030.

170. As to Public Service’s suggestion that (g)(I)(J) be deleted, the ALJ finds little support in the record to do so. Public Service’s reason for suggesting this – because it does not track the data “in the manner requested” – is vague. Public Service suggests no changes

³²⁴ Attachments A and B to Public Service’s 4/26/21 Comments at 12.

³²⁵ CNG’s 9/22/2020 Comments at 6-7.

³²⁶ *Id.*

³²⁷ Attachments A and B to Public Service’s 4/26/21 Comments at 12.

³²⁸ CNG’s 9/22/2020 Comments at 6-7.

³²⁹ Atmos’ 1/11/2021 Comments at 16.

³³⁰ *See* Attachments A and B to Public Service’s 4/26/21 Comments at 12.

that would accommodate the manner in which it tracks the information required in (g)(I)(J). What is more, given that existing Commission Rules require utilities to meet restoration timelines, the ALJ finds that utilities likely already track data relating to the average duration of disconnections, particularly given that utilities provided such information through comments filed in this proceeding.³³¹ For all these reasons, the ALJ rejects Public Service's suggestion that subparagraph (g)(I)(J) be deleted. But, the ALJ finds it helpful to make changes to subparagraph (g)(I)(J) that clarify that this provision seeks data on the average duration of disconnection for nonpayment, measured from when a customer becomes eligible for restoration to when service is restored, reported by hours.

171. Likewise, the ALJ makes other changes to improve clarity. Among those, the ALJ modifies subparagraphs (g)(I)(C) and (D), from "late payment fee" to "late payment charge," consistent with language in Rules 3404(a) / 4404(a). The ALJ modifies subparagraphs (g)(I)(E) and (F) to promote efficiency by aligning the presentation of arrears by vintage with how utilities present data in reports filed in Proceeding No. 20M-0267EG.³³² Subparagraphs (g)(I)(M) and (N) are modified to refer to "installment payment plans" consistent with language in Rules 3404(c) / 4404(c).

172. Data the utilities provided in this proceeding suggest that the metrics in subparagraphs (g)(I)(O) and (P) (relating to installment payment plan terms and successful completion) are a better fit for Rules 3407(g)(II) / 4407(g)(II) as specific elements of a utility's trends analysis because, among other reasons, data presented by quarter may not be as useful as

³³¹ Atmos' 4/26/2021 Comments at 1; Black Hills' 1/11/2021 Comments at 27; CNG's 1/11/2021 Comments at 17-18; Public Service's 1/11/2021 Comments at 42-43.

³³² See, e.g., Proceeding No. 20M-0267EG, Atmos Energy Corporation's Fifth Monthly Report Non-Confidential (January 15, 2021) at 1-2; Public Attachment 1 to Black Hills Colorado Electric, LLC and Black Hills Colorado Gas, Inc., d/b/a Black Hills Energy Monthly Report in Compliance with Decision Nos. R20-0664-I and R20-0916-I (January 15, 2021) at 1-8; Attachment 1 to Notice of Filing Fifth Monthly Report of Public Service Company of Colorado (January 15, 2021).

when presented as annual data. For these reasons, the ALJ deletes existing language in those subparagraphs, and, as discussed later, adds similar language to subparagraph (g)(II).³³³ Doing so specifically eliminates the need for utilities to present this data by quarter, thereby decreasing the administrative burden on utilities.

173. Proposed rule language attempts to capture at least some of the fees that utilities charge relating to disconnection (*e.g.*, subparagraphs (g)(I)(C) and (D)), but it misses several other important data points, that is, other charges and fees related to disconnection and restoration. Such data will enable a more meaningful analysis of trends and inconsistencies, and may ultimately prove helpful in a future cost-effectiveness analysis relating to utility disconnection practices. As such, the ALJ replaces the deleted language in subparagraphs (g)(I)(O) and (P) with new requirements to report on the charges and fees collected related to disconnection and restoration. For the same reasons, the ALJ adds metrics in new subparagraphs (g)(I)(Q) and (R). Subparagraph (g)(I)(Q) is intended to capture any collection fees that utilities collect from customers who are disconnected for nonpayment, as authorized by Rules 3404(a)(V) / 4404(a)(V). Subparagraph (g)(I)(R) is intended to capture any other charges and fees related to delinquency, disconnection, and restoration that are not otherwise covered in other reporting metrics.

174. For the reasons discussed, the ALJ finds that subparagraph (g)(I), including the modifications, is authorized by, and consistent with § 40-3-103.6(1)(i), C.R.S., and facilitates meaningful analyses required by § 40-3-110(3), C.R.S. In addition, in adopting these reporting provisions, the ALJ has considered existing utility reporting in Proceeding Nos. 20M-0267EG

³³³ See *infra* ¶ 183.

and 08M-305EG, and other existing reporting requirements, consistent with § 40-3-103.6(1)(i), C.R.S. The ALJ adopts the following language for Rules 3407(g)(I) / 4407(g)(I):

- (g) Reporting requirements.
- (I) ~~Quarterly~~ Annual Report. No later than March 1 of each calendar year ~~45 days after the end of a quarter~~, each utility shall file a report covering the prior calendar year ~~quarter~~ in the miscellaneous proceeding for utility disconnection filings, using the form available on the Commission's website. The report shall provide data on residential customers by class and zip code, and must also break down such data by including low-income customers, defined as customers participating in low-income programs authorized by rule [3412 / 4412] and the Low-Income Energy Assistance Program. For data provided in this report, paragraph [3033(b) / 4033(b)] shall not apply. The report shall contain the following information, displayed by quarter:
- (A) total number of unique customers;
 - (B) total dollar amount billed;
 - (C) total number of unique customers charged a late payment fee charge;
 - (D) total dollar amount ~~value~~ of late payment charges fees collected;
 - (E) number of unique customers with an arrearage balance by vintage (1-30 days, 31-60 days, 61-90 days, 91+ days);
 - (F) dollar amount ~~value~~ of arrearages by vintage (1-30 days, 31-60 days, 61-90 days, 91+ days);
 - (G) total number of disconnection notices sent;
 - (H) total number of disconnections for nonpayment;
 - (I) total number of service restorations after disconnections for nonpayment;
 - (J) average duration of disconnection for nonpayment in hours, measured from when the customer completes an action in paragraph [3409(b) / 4409(b)] to when service is restored;
 - (K) total dollar amount ~~value~~ ~~of level~~ of deposits collected for restoring service that was disconnected for nonpayment;
 - (L) total number of deposits collected for restoring service that was disconnected for nonpayment;
 - (M) total number of new ~~deferred~~ installment payment agreements plans entered into;
 - (N) average repayment term of new ~~deferred~~ installment payment agreements plans entered into;

- (O) total dollar amount of fees collected for disconnecting service for nonpayment; ~~successfully completed deferred payment agreements, and~~
- (P) total dollar amount of fees collected for restoring service that was disconnected for nonpayment; ~~average repayment term of payment agreements.~~
- (Q) total dollar amount of collection fees collected from customers whose service was disconnected for nonpayment; and
- (R) total dollar amount of any other tariff-authorized charges or fees collected resulting from past due amounts, service disconnection for nonpayment, and restoring service that was disconnected for nonpayment.

j. Rules 3407(g)(II) / 4407(g)(II)

175. Proposed subparagraphs (g)(II)(A) through (C) are new requirements that build upon the reporting in (g)(I), as follows: (A) requires an annual narrative with the utility's analysis of trends or inconsistencies based upon data it reports in the prior year; (B) requires an assessment as to whether utility efforts to collect past-due amounts authorized by Rules 3403(a) / 4403(a) are cost-effective; and (C) requires a plan to reduce delinquencies and disconnections.

176. Given the volume of additional reporting that the proposed Rules require, Public Service asks, and the other utilities agree, that (g)(II)(B) be deleted because cost-effectiveness can be examined in rate cases.³³⁴ The utilities suggest that the language in (g)(II)(C) be modified to reduce implications that utilities can solve problems with delinquencies.³³⁵

177. Except as noted, the utilities provide little feedback on the specific cost-effectiveness analysis and reporting requirements in subparagraph (g)(II)(B). But, the utilities provide some information on costs to collect past-due amounts or disconnect customers,

³³⁴ Public Service's 9/22/2020 Comments at 12-13; Attachments A and B to Public Service's 4/26/21 Comments at 12; Public Service's 4/26/21 Comments at 11; *see* CNG's 4/26/21 Comments at 7; Black Hills' 4/26/21 Comments at 1-2; Atmos' 4/26/21 Comments at 1-2.

³³⁵ *Id.*

such as communication costs, costs to send a truck to the premises, and commission fees paid to third-parties for collection services.³³⁶

178. All utilities communicate with customers as a part of the disconnection process, and, as a part of those specific communications, provide referrals to resources, such as energy assistance programs.³³⁷ But, generally, they do not currently perform a separate, targeted outreach to customers to whom they send multiple disconnection notices.³³⁸ At least some utilities are able to, and do, in fact, track the number of disconnection notices sent to any one customer.³³⁹ Public Service does not specifically track whether customers receive multiple notices of discontinuance in a calendar year.³⁴⁰

179. The utilities also provide some data on how often the same customer experienced multiple disconnections in recent years. For example, in 2019, Atmos performed 5,331 residential customer disconnections for nonpayment, with 485 customers disconnected multiple times.³⁴¹ Black Hills' data shows that in 2019, 19 percent of its residential electric customers and 5 percent of its residential gas customers who were disconnected experienced multiple disconnections.³⁴² In 2018, CNG performed 220 residential disconnections for nonpayment, and 203 in 2019, and reports that for both years, the average number of residential customers experiencing multiple disconnections per year was 15.³⁴³ Public Service reported

³³⁶ See e.g., Public Service's 9/22/20 Comments at 25; see Proceeding No. 20M-0267EG, Black Hills' 7/10/2020 Comments at 7; Public Service's 7/10/20 Comments at 12; CNG's 7/10/2020 Comments at 3; Atmos' 7/10/2020 Comments at 2.

³³⁷ See e.g., Public Service's 1/11/2021 Comments at 45.

³³⁸ Atmos' 1/11/2021 Comments at 22; Black Hills' 1/11/2021 Comments at 28-29; Public Service's 1/11/2021 Comments at 45. Black Hills is considering additional communications on payment arrangements. Black Hills' 1/11/2021 Comments at 28-29.

³³⁹ See CNG's 1/11/2021 Comments at 19; Black Hills' 1/11/2021 Comments at 28-29.

³⁴⁰ Public Service's 1/11/2021 Comments at 45.

³⁴¹ Atmos' 10/8/20 Comments at 4.

³⁴² Black Hills' 9/22/2020 Comments at 14-15.

³⁴³ CNG's 9/22/2020 Comments at 8.

that 0.0002 percent of residential customers experienced multiple disconnections between September 2019 and September 2020.³⁴⁴

180. The utilities also provide some data on the number of installment payment plans entered into, and the frequency those plans were defaulted upon in recent years. For example, Atmos' data reveals that customers defaulted on approximately 75 percent of the total residential installment payment plans entered into in 2019 and 2018.³⁴⁵ CNG's data reveals that in 2018 and 2019, customers defaulted on approximately 86 and 79 percent (respectively), of the total number of residential installment payment plans entered into in those years.³⁴⁶ Though Public Service did not identify the total number of residential installment plans entered into in 2018 and 2019, it indicates that 95,104 were defaulted in 2018 and 103,346 were defaulted in 2019.³⁴⁷

181. Black Hills' data is less straightforward because it offers three types of payment arrangements for residential customers, that is, "Customer Choice," "IVR/Web/Exception," and "Monthly."³⁴⁸ For its residential electric service, Black Hills reports that in 2018, 43 percent of Customer Choice plans defaulted; 23 percent of the IVR/Web/Exception plans defaulted; and 88 percent of the Monthly plans defaulted.³⁴⁹ For its residential gas service, Black Hills reports that in 2018, 44 percent of Customer Choice plans defaulted; 29 percent of the

³⁴⁴ See Public Service's 9/22/2020 Comments at 22.

³⁴⁵ See Atmos' 1/11/2021 Comments at 10. In 2018, Atmos entered into 4,380 residential installment payment plans; customers defaulted on 3,288 of those plans. In 2019, Atmos entered into 4,743 residential installment payment plans; customers defaulted on 3,548 of those plans. *Id.*

³⁴⁶ In 2018, 179 of 207 CNG's total residential installment payment plans defaulted; and in 2019, 125 of 158 defaulted. CNG's 1/11/2021 Comments at 9.

³⁴⁷ Public Service's 1/21/2021 Comments at 5-6. Public Service states that it entered into approximately 27,600 residential installment payment plans during the last three months of 2019, 8,600 in October; 9,200 in November; and 9,800 in December. Proceeding No. 20M-0267EG, Attachment 1 to Public Service's Seventh Monthly Report (March 15, 2021).

³⁴⁸ Black Hills' 1/11/2021 Comments at 13. With "Customer Choice," the customer can set up custom dates and amounts within the next two months; "IVR/Web/Exception" typically allows a two-week extension; and "Monthly" requires the customer to pay 10 percent of the total balance up front and then pay the rest in installments over 6 or 12 months. *Id.*

³⁴⁹ *Id.* at 15.

IVR/Web/Exception plans defaulted; and 89 percent of the Monthly plans defaulted.³⁵⁰ For its residential electric service, Black Hills reports that in 2019, 43 percent of Customer Choice plans defaulted; 25 percent of the IVR/Web/Exception plans defaulted; and 88 percent of the Monthly plans defaulted.³⁵¹ For its residential gas service, Black Hills reports that in 2019, 49 percent of Customer Choice plans defaulted; 31 percent of the IVR/Web/Exception plans defaulted; and 90 percent of the Monthly plans defaulted.³⁵²

(1) Discussion, Findings, and Conclusions

182. Section 40-3-110(3), C.R.S., requires utilities to file an “annual narrative containing the utility’s analysis of any trends or inconsistencies” revealed by data they are required to report under these new Rules. That statutory language is largely mirrored in subparagraph (g)(II)(A). A meaningful analysis under this subparagraph could create a starting point for utilities to identify refinements to their overall approach to delinquencies and disconnections that could benefit utilities, ratepayers, and customers who experience disconnections. That ties directly into subparagraph (g)(II)(C), which requires utilities to describe a “forward-looking plan” to reduce delinquencies and disconnections. To improve utilities’ ability to meet this requirement by crafting a meaningful analysis, the ALJ finds that subparagraph (g)(II)(A) should be modified to include specific direction on additional items to analyze.

183. Specifically, the ALJ adopts language requiring utilities to analyze data on the number of customers experiencing multiple disconnections in a calendar year and the incidences of defaulted installment payment plans as added elements of their analyses

³⁵⁰ *Id.* at 16.

³⁵¹ *Id.*

³⁵² *Id.* at 17.

under subparagraph (g)(II)(A). Analyzing this data alongside the other data reported in subparagraph (g)(I) may help identify approaches that will benefit disconnected customers, the utilities, and all ratepayers. For example, utilities currently do not report any difference in the customer outreach to those experiencing multiple disconnections in a calendar year. A closer look at this data may advise in favor of targeted outreach to these customers with information on options to reduce their energy bill through energy efficiency resources and bill assistance at a time when such customers are not facing an immediate disconnection. Including an analysis of customers experiencing multiple delinquencies is also consistent with the Commission's stated intent behind other proposed rules.³⁵³ Likewise, the alarmingly high rate of recent defaults on residential installment payment plans deserves a closer look. This may result in identifying trends in specific approaches to payment plans that could be refined and ultimately lead to fewer defaulted plans, which benefits the utilities, the individual customer involved, and ratepayers at large. As such, the ALJ modifies subparagraph (g)(II)(A) consistent with the above discussion. As already noted, this essentially moves some data points initially proposed in subparagraph (g)(I)(O) and (P).

184. There is a dearth of comments specifically addressing the requirements of (g)(II)(B). That proposed rule would require utilities to report on the cost-effectiveness of their efforts to collect the costs or charges authorized under Rules 3404(a) / 4404(a). The record raises questions about how to define cost-effectiveness in this context, which includes numerous factors that have not been explored in this proceeding. For example, the record reveals little about utilities' costs to collect such amounts, including information on all categories of costs that

³⁵³ Specifically, in adopting Rules 3407(g)(III) / 4407(g)(III), the Commission noted that "[m]ore granular information, such as the frequency of disconnections for a single customer, may be necessary to understand whether utilities' programs are overall effective in reducing disconnections through assistance." Decision No. C20-0622 at ¶ 55. As discussed below, the ALJ does not adopt proposed subparagraph (g)(III).

utilities identify as being associated with collecting the charges and fees under Rules 3404(a) / 4404(a), and whether (and to what extent) such costs are directly assigned to a customer experiencing a disconnection. Without a baseline on this type of critical information, it is difficult to imagine a cost-effective analysis producing accurate or useful results. For this reason, the ALJ deletes subparagraph (g)(II)(B), and, as discussed above, adopts additional reporting metrics for subparagraph (g)(I) to include data on charges and fees relating to delinquency, disconnection, and restoration. This additional data will help inform how to define and evaluate cost-effectiveness in appropriate contexts, including in a ratemaking proceeding.

185. The ALJ adopts changes to language in subparagraph (g)(II)(C), consistent with the utilities' suggestions to reduce the impression that they are fully responsible for reducing delinquencies and disconnections. This is particularly appropriate given the varied drivers that can lead to nonpayment. This minor change does not impact the requirement for a robust narrative about utilities' work to reduce delinquencies and disconnections. The ALJ also adds language including two specific elements for utilities to discuss in the context of their work to reduce delinquencies and disconnections. First, the ALJ adds language requiring utilities to identify any specific actions related to customers who experience multiple disconnections in a calendar year (such as targeted outreach). The ALJ finds that this is reasonable for the same reasons discussed above. Second, the ALJ also adds language requiring utilities to include information on how they identify and refer energy efficiency and bill assistance resources. Including this information can provide useful information to help inform utilities' efforts to reduce delinquencies and disconnections, such informing whether the utilities should consider referring different or additional resources, and whether they should adjust the timing of their resource referrals.

186. In addition, the ALJ modifies the timing and frequency of all requirements under (g)(II) to align with similar changes to reporting under subparagraph (g)(I). For all the reasons discussed, the ALJ finds that subparagraph (g)(II), including the modifications discussed, is authorized by, and consistent with § 40-3-110(3), C.R.S. The ALJ adopts the following language for Rules 3407(g)(II) / 4407(g)(II):

- (II) ~~In the first quarter after the end of the prior calendar year, Along with the items in subparagraph (g)(I), each utility shall file along with the items in subparagraph (g)(I) the following additional items.:~~
- (A) A narrative containing the utility's analysis of any trends or inconsistencies revealed by the reported data for in the prior year including, at minimum, an analysis of:
- (i) the total number of residential customers who were disconnected for nonpayment in the prior calendar year and percent of those customers who were disconnected for nonpayment multiple times; and
- (ii) the total number of residential installment payment plans entered into in the prior calendar year, the average length of those installment payment plans, the number of residential installment payment plans completed, and the number of residential installment payment plans that were broken.
- (B) ~~the cost effectiveness of the utility's efforts to collect on the costs authorized under paragraph [3404(a) / 4404(a)], as measured by the costs of efforts to collect as compared to the amount of funds successfully collected; and~~ Information about how the utility is working to reduce delinquencies and disconnections, including any actions the utility is taking specific to residential customers experiencing multiple disconnections in a calendar year, and a description of the efforts to identify and refer energy efficiency and bill assistance resources.
- (C) ~~the utility's forward-looking plan for reducing delinquencies and disconnections.~~

k. Rules 3407(g)(III) / 4407(g)(III)

187. Proposed subparagraph (g)(III) would authorize CEO to request customer-specific data on delinquency and disconnection, subject to protective orders to maintain confidentiality.

The Commission proposed this rule given the potential connection between the new reporting requirements and reporting under Rules 3412 / 4412 related to low-income assistance programs.³⁵⁴

188. Public Service opposes subparagraph (g)(III) because it already provides CEO with “a significant amount of data” to prepare the triennial evaluation under Rules 3412(k) / 4412(k) and allowing CEO to request additional data will increase costs.³⁵⁵ It adds that the proposed subparagraph as written would not limit the type, quantity, or granularity of customer-specific information that CEO could request, set a limit on the timing of the request, or allow the utility to object to the request.³⁵⁶

(1) Discussion, Findings, and Conclusions

189. The ALJ agrees with Public Service’s critiques of these rule provisions, particularly suggestions that the language is not sufficiently limited to be implemented effectively. And, CEO did not submit comments that would inform whether this rule is necessary in light of its existing access to utility data. For these reasons, the ALJ does not adopt Rules 3407(g)(III) / 4407(g)(III).

4. Rules 3408 / 4408: Notice of Discontinuance of Service

190. Changes to Rules 3408 / 4408 add requirements for notices of service disconnection, with a primary focus on paragraph (a).

a. Rules 3408(a) / 4408(a)

191. Proposed subparagraph (a) establishes new mandatory notice requirements before a utility may disconnect service, including addressing the manner, timing, numerosity, and to

³⁵⁴ Decision No. C20-0622 at ¶ 55.

³⁵⁵ Public Service’s 9/22/2020 Comments at 13.

³⁵⁶ *Id.*

whom a utility must provide notice. Proposed subparagraph (a) states, “Except as provided in paragraphs (g) and (h) of this rule, prior to discontinuing service, a utility shall provide a customer, and any third party the customer has designated in writing or electronically, with the following forms of notice” and then lists the requirements in subparagraphs (a)(I) through (IV).

192. EOC and Denver both assert that SB20-030 requires notice to the “customer of record” rather than the “customer” throughout subparagraph (a).³⁵⁷ EOC argues the proponents of SB20-030 believed it was important for utilities to attempt to reach the customer of record, as compared to just an individual residing at the residence.³⁵⁸ EOC essentially argues that the utility should be required to communicate with the customer of record to ensure that the utility communicates with those who are “sufficiently responsible for the bill or . . . a qualifying customer to properly receive notice about the disconnection.”³⁵⁹ EOC compares the notice requirements to Colorado’s service of process rules, which, for example, do not permit service of process on an adult by serving a summons on a minor child living in the adult’s home.³⁶⁰

193. Public Service disagrees, arguing that SB20-030 references “customer of record” only in § 40-3-103.6(1)(h), C.R.S., which is relevant to proposed subparagraph (a)(IV), and not the rest of the proposed rule.³⁶¹ Public Service explains that in addition to the customer of record, it also speaks with customers authorized on the account, which do not include minor children.³⁶² Public Service argues that modifying subparagraph (a) as EOC suggests, would constrain utilities’ ability to work with households that are experiencing financial difficulty or

³⁵⁷ EOC’s 9/22/20 Comments at 4; Denver’s 10/8/20 Comments at 6.

³⁵⁸ EOC’s 9/22/20 Comments at 4.

³⁵⁹ EOC’s 1/11/21 Comments at 13.

³⁶⁰ *Id.*

³⁶¹ Public Service’s 2/10/21 Comments at 9.

³⁶² *Id.*

disconnection.³⁶³ It explains that requiring contact to only be with the customer of record could delay resolving issues, since the customer of record may not be available, may not be living at the premises, or may have provided a shared phone number.³⁶⁴

194. The other utilities agree with Public Service.³⁶⁵ Atmos adds that the Commission should consider that utilities use multiple channels of communication to contact customers, meaning that no one method can constitute a single point of failure.³⁶⁶

(1) Findings, Discussion, and Conclusions

195. The ALJ first notes that it is unclear whether EOC's position on these issues changed, because in its final comments, EOC suggests that subparagraph (a)(IV) be modified to refer to customer of record, but it does not make the same suggestion as to other aspects of subparagraph (a).³⁶⁷ Nonetheless, for the reasons that Public Service outlines, the ALJ finds that § 40-3-103.6, C.R.S., does not require using "customer of record" throughout these rule provisions. Indeed, "customer of record" only appears in § 40-3-103.6(1)(h), C.R.S., whereas numerous other statutory provisions in that part reference "customer."³⁶⁸ Using "customer of record" throughout all of subparagraph (a) would unreasonably restrain utilities from speaking with customers authorized on an account, who may not be the designated "customer of record." The ALJ concludes that neither the statute, nor the public interest requires the Commission to use such restrictive language throughout subparagraph (a) and rejects EOC's arguments.

³⁶³ *Id.*

³⁶⁴ Public Service's 10/8/20 Comments at 6.

³⁶⁵ Attachments A and B to Public Service's 4/26/21 Comments at 13 and 12; *see* CNG's 4/26/21 Comments at 7; Black Hills' 4/26/21 Comments at 1-2; Atmos' 4/26/21 Comments at 1-2.

³⁶⁶ *See* Atmos' 1/11/21 Comments at 5.

³⁶⁷ EOC's 4/26/21 Comments at 4.

³⁶⁸ *See e.g.*, § 40-3-103.6(1)(a), (b), (d) and (f), C.R.S.

b. Rules 3408(a)(I) / 4408(a)(I)

196. Proposed subparagraph (a)(I) would require utilities to provide a late payment notice at least 15 days before issuing a discontinuance notice “by the preferred method of contact designated by the customer.”

197. The utilities’ current notice practices related to delinquency and disconnection for nonpayment provides helpful context to the proposed changes to Rules 3408(a) / 4408(a), and the utilities’ comments on the same.

198. Public Service requires payment within 14 business days of the bill issuance date.³⁶⁹ If the balance is outstanding 20 business days after the bill issuance date (or six business days after the bill due date), the “account is considered late.”³⁷⁰ Twenty-one business days from the bill issuance date (or seven business days after the bill due date), Public Service flags the account to include a reminder notice of the overdue balance within the next printed bill, which will also include any current charges.³⁷¹ If the unpaid account balance remains over a certain minimal amount 23 business days after the bill issuance date (or nine business days after the bill due date), Public Service issues a disconnection notice.³⁷² That notice informs customers that they have an additional 12 business days to resolve the unpaid balance before disconnection is effectuated.³⁷³ Public Service takes two business days to send this disconnection notice.³⁷⁴ Public Service states that the shortest timeline in which a customer may be disconnected after the bill issuance date is 38 to 40 business days, though the timeline it provides indicates that Public Service could disconnect service as early as 35 to 37 business days after the bill issuance date,

³⁶⁹ See Public Service’s 4/26/21 Comments at 4.

³⁷⁰ *Id.*

³⁷¹ *Id.*

³⁷² *Id.*

³⁷³ *Id.*

³⁷⁴ Public Service’s 9/22/20 Comments at 21.

depending on when the notice is issued, which may add two business days.³⁷⁵ Public Service also notes that as a practical matter, the timeline for disconnection is much longer, and typically takes “several additional months.”³⁷⁶ Public Service explains that because it does not have the resources to disconnect each eligible customer, it prioritizes disconnections based on the size and age of the unpaid balance, thereby allowing newly delinquent accounts more time over several months before being prioritized for disconnection.³⁷⁷ Public Service also notes that before disconnecting service, it makes multiple attempts to contact the customer by phone or in person, though it does not provide specifics on this practice.³⁷⁸

199. For Atmos, payment is due 19 days after the bill issuance date.³⁷⁹ Atmos sends a late payment notice 22 days after the bill due date.³⁸⁰ The customer meets the threshold for disconnection for nonpayment if the balance: (1) remains unpaid at least 23 business days (at least 31 calendar days) after the bill due date; and (2) the unpaid balance exceeds \$95.00.³⁸¹ Assuming the customer’s account remains disconnected, Atmos sends a final bill 25 business days after disconnection for nonpayment.³⁸²

³⁷⁵ See Public Service’s 4/26/21 Comments at 4; Public Service’s 9/22/20 Comments at 21. The difference between Public Service’s totals, and the totals gleaned from the timeline that it provides are negligible. And it is unclear whether Public Service’s totals account for other aspects of the timeline not detailed in the referenced filing. See Public Service’s 4/26/21 Comments at 4.

³⁷⁶ Public Service’s 4/26/21 Comments at 4.

³⁷⁷ *Id.* at 4-5.

³⁷⁸ Public Service’s 4/26/21 Comments at 4. For example, Public Service does not explain whether its practices mandate a certain number of phone calls or in-person attempts to reach a customer. Public Service’s 4/26/21 Comments at 4.

³⁷⁹ Atmos’ 9/22/20 Comments at 7.

³⁸⁰ *Id.* Atmos did not specify whether these are calendar or business days, but it separately provided comments stating that its “discontinuance protocol” uses business days. Atmos’ 1/11/21 Comments at 17.

³⁸¹ Proceeding No. 20M-0267EG, Atmos’ 7/10/20 Comments at 1.

³⁸² *Id.*

200. Black Hills sends the first bill to the customer on Day 1 by mail, email, or text message, and requires payment within 20 days.³⁸³ Black Hills sends a text or email reminder five days before the bill due date, and five days after the bill due date (reminding customers that payment is past due).³⁸⁴ On Day 30, Black Hills sends “the second bill” and a separate disconnection notice by mail.³⁸⁵ On Days 38 and 48, Black Hills sends disconnection reminders by telephone, email, and/or text message.³⁸⁶ A disconnection service order, or direction for a remote disconnection for advanced meters, is issued on Day 51 and a final bill is sent on Day 56.³⁸⁷

201. CNG’s bill due date is calculated by adding 15 days to the bill mail date.³⁸⁸ Twenty-eight days after the bill due date, CNG sends a customer an automated message.³⁸⁹ CNG sends a disconnection notice 31 days after the bill due date notifying the customer that the meter will be disconnected in 15 calendar days if no payment arrangement is made or the bill is not paid.³⁹⁰ Thirty-eight days after the bill due date, CNG sends another automated message.³⁹¹ Forty-two days after the bill due date, CNG sends another automated message, and attempts to call the customer regarding disconnection. Forty-six days after the bill due date, CNG sends a technician to the premises. The technician attempts to speak with the customer in-person to

³⁸³ Black Hills’ 9/22/20 Comments at 11. While Black Hills has had separate processes and timelines for electric and gas utilities, it is transitioning to a standard uniform practice going forward. *Id.* at 10. Based on the information that Black Hills submitted, its references to the number of days in this timeline appear to be to calendar days. *See* Black Hills’ 9/22/20 Comments at 11-12.

³⁸⁴ *Id.*

³⁸⁵ *Id.*

³⁸⁶ *Id.* at 12.

³⁸⁷ *Id.*

³⁸⁸ Proceeding No. 20M-0267EG, CNG’s 7/23/20 Comments at 2.

³⁸⁹ CNG states that it sends multiple automated messages, but does not explain by what means the automated messages are sent, or the contents thereof. *See* Proceeding No. 20M-0267EG, CNG’s 7/23/20 Comments at 2.

³⁹⁰ *Id.*

³⁹¹ *Id.*

attempt to collect the past-due amount; failing that, the technician disconnects the meter for nonpayment, and leaves a door hanger.³⁹² CNG summarizes that prior to a disconnection, it initiates three automated messages, a personal call from the Credit Management Team, and attempts in-person contact, leaving the past-due door hanger where there is no phone number on record.³⁹³

202. For various reasons, the utilities object to subparagraph (a)(I).³⁹⁴ They suggest that the 15-day late payment notice requirement be replaced with language requiring them to provide late payment notice “on, or before the issuance of the subsequent bill” and that language concerning customers’ preferred notice method be deleted.³⁹⁵ Public Service submits that these changes would reduce implementation costs.³⁹⁶

203. Atmos argues that requiring notice by the customer’s preferred method of contact may be time-consuming and expensive as certain methods of contact, such as calling cell phones or sending texts, may require explicit consent to comply with the Telephone Consumer Protection Act.³⁹⁷ Black Hills raises concerns that the 15-day notice established by subparagraph (a)(I) could impact other notices and is inconsistent with its billing cycles.³⁹⁸ It believes the intent of the proposal is to provide customers with notice that their bill is past due before a notice of discontinuance is issued.³⁹⁹ Based on this, Black Hills initially proposed this

³⁹² *Id.*

³⁹³ CNG’s 9/22/20 Comments at 10.

³⁹⁴ Attachments A and B to Public Service’s 4/26/21 Comments at 13 and 12; *see* CNG’s 4/26/21 Comments at 7; Black Hills’ 4/26/21 Comments at 1-2; Atmos’ 4/26/21 Comments at 1-2.

³⁹⁵ *Id.*

³⁹⁶ Public Service’s 10/8/20 Comments at 7.

³⁹⁷ Atmos’ 9/22/20 Comments at 5.

³⁹⁸ Black Hills’ 9/22/20 Comments at 12-13.

³⁹⁹ *Id.* at 12.

language, “[u]pon a bill becoming past due, utility shall provide notice of past due within five business days.”⁴⁰⁰

(1) Discussion, Findings, and Conclusions

204. The ALJ finds that it is neither necessary nor appropriate to require, by rule, that utilities provide notice using the customer’s preferred contact method. Including such a requirement may result in unintended consequences, such as causing needless confusion or disputes when there are multiple authorized customers at a service address. Utilities should retain the discretion to manage this type of issue, particularly given that the record reveals no problem to be solved through a mandatory rule. As such, the ALJ deletes the relevant rule language.

205. As to the 15-day late payment notice language in Rules 3408(a)(I) / 4408(a)(I), the ALJ agrees with Black Hills that the intent behind this provision is to ensure that customers receive notice that their bill is past due before receiving a service disconnection notice. Providing a gap between notices could help reduce disconnections overall, which ultimately serves the utility, ratepayers at large, the individual customer involved, and the public interest. This also helps address concerns that EOC expresses throughout this proceeding that customers should have more time to make payment arrangements to avoid disconnection.

206. In explaining their delinquency and disconnection practices, utilities use different language, report data based on different milestones, and count days between milestones differently. This makes comparison complicated, at best. And, while this information is helpful, it is also incomplete and, in places, unclear. This makes it difficult to evaluate the utilities’ suggestion that the rule require late payment notice be sent “on or before” the “subsequent bill,” or to evaluate how the rule will impact utilities. For example, Atmos does not explain how many days pass between issuing a late payment notice and issuing a disconnection notice. Likewise,

⁴⁰⁰ *Id.* at 13.

although Public Service explains that it provides a late payment notice in the customer's next monthly bill, it does not say when it issues that bill, or the number of days that pass between that bill and when it issues a disconnection notice. And, although the other utilities outline the number of days between a late payment notice and a disconnection notice, it is unclear whether the late payment notice is issued at the same time as a "subsequent bill."

207. On the other hand, Black Hills and CNG both provide late payment notice before issuing a disconnection notice, albeit on different schedules (five and three days, respectively). The ALJ appreciates that these rule changes may require utilities to expend resources to adjust their processes, and, as noted throughout this Decision, has looked for ways to minimize the financial impact these rule changes may have on utilities. But, the ALJ finds that ensuring that customers have time between a late payment notice and a disconnection notice is critical to making progress in achieving the many goals intended by this rulemaking and the underlying statute. Ultimately, ensuring that customers have this time may result in fewer disconnections, which could create utility and ratepayer cost savings in the long run. For all these reasons, the ALJ rejects the utilities' proposed changes. Nonetheless, the ALJ will modify the language from 15 days to 5 business days, consistent with Black Hills' initial suggestion. Given the available information, this change should help minimize the overall process impacts on utilities, and therefore, utility cost impacts. The ALJ opts to use business days because this ensures that customers may use this time to access all available resources, including those that either do not operate on weekends or holidays, or do so on a limited basis (such as banks). Using business days also aligns with utility suggestions to use business days in subparagraph (a)(II) (discussed below).

208. For all these reasons, the ALJ adopts the following language for Rules 3408(a)(I) / 4408(a)(I):

- (I) upon a bill becoming past due, and at least ~~15~~ five business days before ~~in advance of~~ issuing a notice of discontinuance, a utility must ~~shall~~ provide notice of late payment ~~by the preferred method of contact designated by the customer;~~

c. Rules 3408(a)(II) / 4408(a)(II)

209. Rules 3408(a)(II) / 4408(a)(II) would require utilities to provide customers at least 15 days’ written notice that service will be discontinued. This rule language largely mirrors existing language in existing Rules 3408(a) / 4408(a), including the reference to “15 days.”

210. Utility comments center around whether “days” should be clarified to mean calendar or business days.⁴⁰¹ Ultimately, the utilities agree that the rule should use business days, and should be adjusted to 12 business days to account for the difference in calendar days.⁴⁰²

211. EOC stresses that it is important to allow customers time to work around their work and home schedules to make payment arrangements, including potentially seeking emergency energy assistance.⁴⁰³ EOC appears to support either a 15-calendar day notice period or a 12-business day notice period.⁴⁰⁴

⁴⁰¹ CNG’s 1/11/21 Comments at 15; Public Service’s 9/22/20 Comments at 14; Atmos’ 1/11/21 Comments at 17.

⁴⁰² Attachments A and B to Public Service’s 4/26/21 Comments at 13 and 12; Public Service’s 4/26/21 Comments at 11; *see* CNG’s 4/26/21 Comments at 7; Black Hills’ 4/26/21 Comments at 1-2; Atmos’ 4/26/21 Comments at 1-2; *see* Public Service’s 9/22/20 Comments at 14.

⁴⁰³ EOC’s 1/11/21 Comments at 12.

⁴⁰⁴ *See id.*

(1) Discussion, Findings, and Conclusions

212. For the same reasons discussed above, the ALJ adopts rule changes using business, not calendar days. The ALJ also adopts Public Service's suggestion that it be modified to 12 business days, as generally aligning with 15 calendar days.

d. Rules 3408(a)(III) / 4408(a)(III)

213. This subparagraph would require utilities to notify customers that service will be disconnected in person or by telephone at least 24 hours before disconnecting service. The proposed rule includes similar language moved from existing Rules 3408(f) / 4408(f).

214. Public Service suggests clarifying that utilities are obligated to make "a reasonable attempt" to provide notice required by this subparagraph.⁴⁰⁵ The other utilities agree.⁴⁰⁶ EOC does not oppose Public Service's suggestion, stating that adding "reasonable attempt" comports with statutory requirements.⁴⁰⁷

(1) Discussion, Findings, and Conclusions

215. The ALJ adopts Public Service's proposed change. This change clarifies that if a utility is not able to reach a customer, but has made a reasonable attempt to do so, the utility has complied with the required notice in this subparagraph. This is also consistent with existing Rules 3408(f) / 4408(f) language that was moved into subparagraph (a)(III).

⁴⁰⁵ Public Service's 9/22/20 Comments at 14.

⁴⁰⁶ Attachments A and B to Public Service's 4/26/21 Comments at 13 and 12; *see* CNG's 4/26/21 Comments at 7; Black Hills' 4/26/21 Comments at 1-2; Atmos' 4/26/21 Comments at 1-2.

⁴⁰⁷ EOC's 1/11/21 Comments at 12.

e. Rules 3408(a)(IV) / 4408(a)(IV)

216. This subparagraph requires that when a utility will remotely disconnect service, in addition to all other notices required in subparagraphs (a)(I) to (III), the utility must attempt to reach the “customer” by telephone at least once, 72 hours before disconnecting service.

217. EOC suggests that the provision be modified to refer to “customer of record,” rather than customer, raising the same arguments discussed above.⁴⁰⁸

218. The utilities agree with EOC.⁴⁰⁹ Public Service explains that this better aligns with statutory language in § 40-3-103.6(1)(h), C.R.S., which is specific to remote disconnections.⁴¹⁰ The utilities also suggest language clarifying that the utility contact the customer of record at the telephone number which the customer provided.⁴¹¹

(1) Discussion, Findings, and Conclusions

219. The ALJ adopts the recommended changes to “customer of record.” The ALJ finds that this better aligns with the plain language of § 40-3-103.6(1)(h), C.R.S., which requires the Commission’s rulemaking to address a prohibition on remote disconnection for nonpayment without making a reasonable attempt to contact the “customer of record.” In addition, the ALJ adds language giving utilities flexibility to comply with this provision by attempting in-person contact, which also better aligns with the same statutory provision.⁴¹² Finally, the ALJ also adopts Public Service’s suggestion to include a reference to the telephone number that the customer of

⁴⁰⁸ EOC’s 1/11/21 Comments at 12-13; *see* EOC’s 4/26/21 Comments at 4.

⁴⁰⁹ Attachments A and B to Public Service’s 4/26/21 Comments at 13; *see* CNG’s 4/26/21 Comments at 7; Black Hills’ 4/26/21 Comments at 1-2; Atmos’ 4/26/21 Comments at 1-2.

⁴¹⁰ Public Service’s 2/10/21 Comments at 9.

⁴¹¹ Attachments A and B to Public Service’s 4/26/21 Comments at 13; *see* CNG’s 4/26/21 Comments at 7; Black Hills’ 4/26/21 Comments at 1-2; Atmos’ 4/26/21 Comments at 1-2.

⁴¹² § 40-3-103.6(1)(h), C.R.S.

record provides, and other minor changes. The ALJ adopts the following language for Rules 3408(a)(IV) / 4408(A)(IV):

- (IV) if the utility will implement service discontinuance ~~of service~~ remotely, in addition to subparagraphs (I) through (III), the utility must undertake at least one additional attempt to notify the customer of record by at their provided telephone number or in person at least 72 hours before discontinuing service. ~~in advance of discontinuance.~~

f. Rules 3408(c) / 4408(c)

220. These Rules identify a list of items that must be included in a written disconnection notice. Proposed changes renumber the existing Rules from paragraphs (b) to (c) and change internal rule references to align with other rule changes. Nonetheless, comments suggest substantive changes to this rule.

221. The utilities suggest the following changes to align the correlating Electric and Gas Rules: delete “at a minimum” from Rule 4408(c); and add “to the External Affairs Section of” to Rule 4408(c)(VIII).⁴¹³ As to both sets of Rules, they also suggest that the Commission delete “and of the particular rule (if any) which has been violated” from (c)(I) and “qualified low-income” from (c)(XII); and that a new subparagraph (c)(XIII) be added to require notice of service discontinuance to include a link to DSM information.⁴¹⁴

222. Subparagraph (c)(XII) requires the notice of discontinuance to inform “qualified low-income customers” that they may be able to obtain financial assistance by contacting the utility. Denver submits that subparagraph (c)(XII)’s language does not comply with § 40-3-103.6(1)(d), C.R.S., which requires the Commission’s rules to address referring

⁴¹³ Attachments A and B to Public Service’s 4/26/21 Comments at 13 and 14; *see* CNG’s 4/26/21 Comments at 7; Black Hills’ 4/26/21 Comments at 1-2; Atmos’ 4/26/21 Comments at 1-2.

⁴¹⁴ *See* Attachments A and B to Public Service’s 4/26/21 Comments at 13, and 14.

“delinquent customers” to energy payment assistance organizations.⁴¹⁵ Denver submits that the existing language, which requires notice of discontinuance to inform “qualified low-income customers” that they may be able to obtain financial assistance by contacting the utility, is too narrow and that this information should be provided “at the point of the first late payment, prior to any notice of disconnection, and at the notice of disconnection.”⁴¹⁶

223. Denver also recommends that utilities have a list of prescribed organizations and resources (such as the HEAT helpline or a local jurisdiction’s LEAP website) to use; that the list of organizations that utilities may refer customers should be flexible to allow for new organizations or offerings; and that the list should include at least one resource for housing or mortgage assistance.⁴¹⁷ Finally, Denver asks the Commission and other stakeholders whether energy assistance organizations and local government agencies should also be contacted about pending disconnections so they can proactively reach out to the customer of record to provide support.⁴¹⁸

224. EOC believes that subparagraph (c)(XII) complies with § 40-3-103.6(1)(d), C.R.S., but suggests that it may be beneficial to allow utilities to refer customers directly to 1-866-HEAT-HELP, which is funded by EOC and LEAP, in addition to their own toll-free number as part of the discontinuance notice.⁴¹⁹ While EOC supports the intent behind Denver’s suggestion to share data, EOC submits that it would be administratively overwhelming to receive

⁴¹⁵ Denver’s 10/8/20 Comments at 5.

⁴¹⁶ *Id.*

⁴¹⁷ *Id.* at 8-9. In support, Denver points to the relationship between utility delinquencies and disconnections and housing insecurity. It describes a 2015 study finding that customers with a serious utility or telecom delinquency in the past year had a mortgage delinquency rate of 22.3 percent, as compared to 4.9 percent for those without a serious utility or telecom delinquency. Denver’s 10/8/20 Comments at 7-9.

⁴¹⁸ *Id.* at 9.

⁴¹⁹ EOC’s 1/11/21 Comments at 15; EOC’s 4/26/21 Comments at 4.

a list of all past-due customers, and cost-prohibitive to reach out to each of them.⁴²⁰ EOC is also concerned about data privacy given that some individuals, particularly those receiving subsidized housing, may not want to disclose a potential utility disconnection to their local government since this could result in an eviction.⁴²¹ It proposes that customer accounts that have received assistance from EOC in the past five years could be a potential list for outreach.⁴²² EOC suggests that it work with Denver, the Commission, interested parties, and the utilities to determine if there are other creative solutions that can be drawn from this proposal.⁴²³

225. All the utilities oppose Denver's suggestion that they share customer disconnection data with local governments, citing data privacy concerns and related Commission rules, among other reasons.⁴²⁴ Except for Public Service, all the utilities believe that subparagraph (c)(XII) complies with § 40-3-103.6(1)(d), C.R.S., but they also support a change to delete the phrase "qualified low-income" from that subparagraph.⁴²⁵ Black Hills submits that the statutory requirements are also met through proposed Rules 3407(f) / 4407(f), which require resource referrals to be posted on the utility's website.⁴²⁶

226. Public Service provides energy bill assistance resource information, including EOC and the state LEAP network, and its toll-free number for more resources on the back of its delinquency notice.⁴²⁷ It also includes information on energy assistance resources on its website

⁴²⁰ EOC's 1/11/21 Comments at 13.

⁴²¹ *Id.* at 14.

⁴²² *Id.*

⁴²³ *Id.* at 14.

⁴²⁴ Public Service's 1/11/21 Comments at 35; Atmos' 1/11/21 Comments at 18; Black Hills' 1/11/21 Comments at 25; CNG's 1/11/21 Comments at 16.

⁴²⁵ Public Service's 1/11/21 Comments at 37-38; Atmos' 1/11/21 Comments at 18; Black Hills' 1/11/21 Comments at 25; CNG's 1/11/21 Comments at 16; Attachments A and B to Public Service's 4/26/21 Comments at 14; Public Service's 4/26/21 Comments at 11; *see* CNG's 4/26/21 Comments at 7; Black Hills' 4/26/21 Comments at 1-2; Atmos' 4/26/21 Comments at 1-2.

⁴²⁶ Black Hills' 1/11/21 Comments at 25.

⁴²⁷ Public Service's 1/11/21 Comments at 36-38.

on a page titled “Energy Assistance.”⁴²⁸ Public Service opposes EOC’s suggestion to require utilities to refer customers to the 1-866-HEAT-HELP line as overly prescriptive, and notes that it already refers customers to this resource.⁴²⁹ Public Service also opposes Denver’s request to require customer referrals to include rent or mortgage assistance organizations, as beyond the scope of this Proceeding.⁴³⁰

227. Atmos refers customers to various support resources through bill inserts, outbound calls, emails, letters, on-hold messaging, social media, and on its website.⁴³¹ It works with LEAP and EOC to identify energy assistance agencies and sometimes does outreach to find local community partners.⁴³² Atmos suggests that if a local government provides assistance to utility customers, rather than disclosing private customer data, utilities should refer such agencies to customers alongside other resource referrals.⁴³³

228. In addition to its website and in disconnection notices, Black Hills also refers customers to energy assistance resources through mailings, bill inserts, social media, proactive emails or texts, and by telephone, through its call center.⁴³⁴ Black Hills refers customers to EOC, 1-866-HEAT-HELP, 211 for connections to agencies like Goodwill, Salvation Army, Catholic Charities, and other entities that provide utility, food, and housing assistance.⁴³⁵ It also directly connects customers to such resources who have had trouble doing so themselves.⁴³⁶

⁴²⁸ *Id.* at 38.

⁴²⁹ Public Service’s 2/10/21 Comments at 10.

⁴³⁰ *Id.* at 35.

⁴³¹ Proceeding No. 20M-0267EG, Atmos’ 7/10/20 Comments at 3-4.

⁴³² Atmos’ 1/11/21 Comments at 18.

⁴³³ *Id.*

⁴³⁴ Black Hills’ 1/11/21 Comments at 24.

⁴³⁵ *Id.* at 24-25.

⁴³⁶ *Id.*

229. CNG provides energy assistance referrals through customer bills, disconnection notices, automated phone system messaging, bill inserts, and its website, which includes a specific page dedicated to weatherization and payment assistance programs including multiple resources for customers.⁴³⁷ CNG works with organizations like EOC and United Way 2-1-1 to help identify and provide resource referral information.⁴³⁸

(2) Findings, Discussion, and Conclusions

230. The ALJ finds that the utilities' proposed changes to align the Gas and Electric Rules are helpful and appropriate, and adopts those suggestions. The ALJ also adopts their suggestion to delete "and of the particular rule (if any) which has been violated" from subparagraph (c)(I) as unnecessary. As to arguments concerning subparagraph (c)(XII), the ALJ agrees with concerns that the existing language may be too narrowly tailored to "qualified low-income customers" despite language in customers § 40-3-103.6(1)(d), C.R.S., that the Commission's Rules address "referral of delinquent customers," who may not all be qualified low-income customers. For these reasons, the ALJ adopts the suggestion to delete the reference to "qualified low-income customers" from subparagraph (c)(XII).

231. All the utilities were clear that they already provide customers information and referrals to energy payment assistance resources, irrespective of delinquency or disconnection status, through numerous sources including: bill inserts, on the back of bills or notices, websites, social media, proactive emails or texts, and by telephone.⁴³⁹ It is difficult to see how adding rule requirements specific to delinquent customers would be beneficial given that utilities are already meeting or exceeding statutory goals to refer customers to appropriate resources. As already

⁴³⁷ CNG's 1/11/21 Comments at 16.

⁴³⁸ *Id.*

⁴³⁹ Black Hills' 1/11/21 Comments at 24; CNG's 1/11/21 Comments at 16; Public Service's 1/11/21 Comments at 37-38.

discussed, the ALJ agrees with Black Hills that requirements in proposed Rules 3407(f) / 4407(f) that utilities publish a list of organizations that provide energy assistance on their websites complies with § 40-3-103.6(1)(d), C.R.S. For these reasons, and given the changes to subparagraph (c)(XII), the ALJ finds that is not necessary to adopt additional and more specific rules on utilities' obligations to refer delinquent customers to resources. For the same reasons already discussed, the ALJ does not adopt suggestions to add DSM information in disconnection notices.

232. The ALJ agrees with comments that requiring utilities to proactively share confidential customer delinquency or disconnection information with local government agencies without customer consent raises serious privacy concerns, and is likely contrary to Commission rules.⁴⁴⁰ That said, the utilities have discretion to, and are encouraged to, contact local government agencies in their service territories to partner in a way that does not violate customer privacy, including by referring customers to such agencies as appropriate.

233. It is unclear whether Denver suggests that the Commission adopt a rule requiring utilities to rely on a "flexible" list of assistance agencies when referring customers or something less formal. Given that utilities already refer customers to such resources, they most assuredly already have a list of resources that they use. To the extent that Denver advocates for a rule, the ALJ finds that such a rule would either be meaningless as vague or overly flexible, or would have the opposite of the desired effect by being overly prescriptive, thereby preventing utilities from referring new resources as they arise. As such, the ALJ declines to adopt such a provision. For many of the same reasons, the ALJ declines to require utilities to refer specific resources,

⁴⁴⁰ Rules 3027 / 4027.

including rent or mortgage assistance resources.⁴⁴¹ Utilities retain discretion to identify available resources for energy payment assistance in their service territories.

g. Rules 3408(d) / 4408(d)

234. The NOPR only makes a non-substantive change to this rule. Nonetheless, comments suggest substantive changes. Existing Rules 3408(d) / 4408(d) require a discontinuance notice to 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.”

235. Denver suggests that the rule be modified to trigger disconnection notices in different languages based on U.S. Census blocks, and that the threshold be lowered to 5 percent.⁴⁴² Denver submits that its community is diverse and that 15 Denver neighborhoods include populations with approximately 5 to 9 percent of residents who speak an Asian or Pacific Island language, which would fall below the 10 percent threshold in the Rules.⁴⁴³

236. EOC’s position on Denver’s suggestions is unclear, but it states that customers have resources, such as the 1-866-HEAT-HELP line, that offer support in multiple languages, most commonly Spanish.⁴⁴⁴ EOC adds that translation services are “not commonly needed.”⁴⁴⁵

⁴⁴¹ As explained elsewhere, the ALJ instead adopts language in Rules 3407(g)(II) / 4407(g)(II) that should shed light on how utilities identify resources.

⁴⁴² Denver’s 10/8/20 Comments at 5-6.

⁴⁴³ *Id.* at 5-6.

⁴⁴⁴ EOC’s 1/11/21 Comments at 15.

⁴⁴⁵ *Id.*

237. The utilities do not support Denver's suggested changes.⁴⁴⁶ Atmos and Black Hills provide notices of discontinuance in English and Spanish.⁴⁴⁷ Atmos also uses Language Line to offer translation for customers that speak languages other than English and Spanish.⁴⁴⁸ And, Black Hills employs individuals, including call agents, who speak Spanish, and partners with third-party language line services for overflow Spanish calls and other non-English calls.⁴⁴⁹

238. CNG includes prominent language in Spanish on the notice of discontinuance directing customers to call their customer service line if they need assistance understanding information on the notice.⁴⁵⁰ CNG also has customer service representatives who speak Spanish.⁴⁵¹ On its disconnection notice, Public Service includes a statement in Spanish, Hmong, and Somali, but the notice is primarily in English.⁴⁵² Public Service has bilingual call center employees and external vendor Language Line services that provide translation services as needed, and states that the top three translation requests are Spanish, Hmong, and Somali.⁴⁵³

(1) Discussion, Findings, and Conclusions

239. The record reveals very little information as to the potential impact that Denver's proposed change would have on the communities that the utilities service, or the potential costs of such a change, which all ratepayers would bear. Given this, and the resources that utilities already provide, the ALJ finds that the record does not support a need for the change that Denver

⁴⁴⁶ Attachments A and B to Public Service's 4/26/21 Comments at 14; CNG's 4/26/21 Comments at 7; Black Hills' 4/26/21 Comments at 1-2; Atmos' 4/26/21 Comments at 1-2.

⁴⁴⁷ Atmos' 1/11/21 Comments at 19; Black Hills' 1/11/21 Comments at 26.

⁴⁴⁸ Atmos' 1/11/21 Comments at 19.

⁴⁴⁹ Black Hills' 1/11/21 Comments at 26.

⁴⁵⁰ CNG's 1/11/21 Comments at 17.

⁴⁵¹ CNG's 1/11/21 Comments at 17.

⁴⁵² Public Service's 1/11/21 Comments at 38; Public Service's 1/21/21 Comments at 7.

⁴⁵³ Public Service's 1/11/21 Comments at 39.

suggests.⁴⁵⁴ For all these reasons, the ALJ rejects Denver's request. The ALJ finds that the rule is consistent with § 40-3-103.6(1)(a), C.R.S., and adopts the language proposed in the NOPR.

h. Rules 3409 / 4409. Restoration of Service.

240. Changes to Rules 3409 / 4409 focus on actions customers may take to trigger service restoration, mandatory timelines for service restoration, repercussions for failing to do so, and direction on resolving doubts as to whether a customer is eligible for service restoration.

i. Rules 3409(c) / 4409(c)

241. Proposed paragraph (c) addresses the timelines under which service must be restored after a customer takes one of the actions listed in proposed paragraph (b) (which outlines the actions customers must take to trigger mandatory service restoration). Most notably, the proposed Rules would modify current requirements under existing Rules 3409(b) / 4409(b) that service be restored within 24 hours, excluding weekends and holidays, or within 12 hours if the customer pays any necessary after hours charges established in tariffs.

242. Proposed paragraph (c) provides:

- (c) Unless prevented by safety concerns or exigent circumstances, a utility shall restore service to a customer who has completed an action in paragraph (b) under the following timelines:
- (I) within business hours, if a request is made by 10:00 a.m.;
 - (III) within 12 hours, if the request is made after 10:00 a.m. and the customer pays any necessary after-hours charges established in tariffs; or
 - (II) within 24 hours (excluding weekends and holidays), if the request is made after 10:00 a.m. and the customer does not pay after-hours charges established in tariffs.

243. Utilities' current average restoration timelines provide helpful background on the proposed Rules. Public Service reports that in 2018, its average restoration time for residential

⁴⁵⁴ The ALJ also notes that other rules include the same language that Denver suggests be modified. *See e.g.*, proposed Rules 3407(f) / 4407(f). Changes to this language may raise questions about whether other rules should be changed.

customers was 7 hours, and that it was 6.6 hours in 2019, with at least some restoration requests made before a weekend and completed after the weekend.⁴⁵⁵ Public Service reports that in 2018 and 2019 respectively, 61.46 and 62.04 percent of residential reconnections sought 12-hour restoration.⁴⁵⁶ CNG reports that in 2018, the average time for restoration from when a service order was created to the time reconnection occurred was 34.67 hours, and the average time from when a technician was dispatched to when restoration occurred was 5.85 hours.⁴⁵⁷ In 2019, CNG reports that the average time from creating the service order to reconnection was 36.86 hours and from dispatching the technician was 5.4 hours.⁴⁵⁸ Atmos states that the average restoration time from when the order was created to service restoration was 29 hours in 2018 and 31.75 hours in 2019, which includes weekends and holidays.⁴⁵⁹

244. Where utilities can use advanced metering infrastructure (AMI) to restore service remotely, they have done so. For example, Black Hills reports that the average time to reconnect an electric customer with AMI is 0.5 hours from the point at which the customer qualifies for reconnection, and 2.80 hours without AMI. Black Hills reports that the average time to reconnect a gas customer is 9.40 hours.⁴⁶⁰

245. EOC suggests several changes to the proposed rule. First, EOC suggests that “business hours” in subparagraph (I) be defined as either from 8:00 a.m. to 4:00 p.m., consistent with proposed Rules 3407 / 4407, or from 9:00 a.m. to 5:00 p.m., which would require the same change to Rules 3407 / 4407.⁴⁶¹ EOC suggests that the cut-off time to request same-day

⁴⁵⁵ Public Service’s 1/11/2021 Comments at 42.

⁴⁵⁶ *Id.* at 43.

⁴⁵⁷ CNG’s 1/11/2021 Comments at 17-18.

⁴⁵⁸ *Id.*

⁴⁵⁹ Atmos’ 4/26/2021 Comments at 1.

⁴⁶⁰ Black Hills’ 1/11/21 Comments at 27.

⁴⁶¹ EOC’s 9/22/20 Comments at 5.

reconnection be 12:00 p.m., rather than 10:00 a.m., citing concerns that customers will face numerous challenges in meeting that morning cut-off time.⁴⁶² EOC argues that the proposed 10:00 a.m. cut-off time does not provide a fair opportunity for same-day reconnection, and is inconsistent with the General Assembly's intent.⁴⁶³ In addition, EOC suggests that subparagraphs (I) to (III) apply only to non-AMI customers, and that a new subparagraph (IV) be added for AMI customers, requiring restoration within business hours if the request is made within an hour of the close of business hours.⁴⁶⁴

246. For various reasons, the utilities all oppose the proposed rule.⁴⁶⁵ Public Service explains that it needs the 12- and 24-hour timelines to restore service and suggests that the current rule language remain unchanged.⁴⁶⁶ Public Service explains that mandating restoration on the same business day if the request is made by a certain time would require it to extensively investigate and change its systems and business practices, because they are not designed to restore service as proposed. This would require significant investment.⁴⁶⁷ Public Service identifies a number of changes to its system that are necessary to accommodate the rule language, including: renegotiating its latest labor union agreement; increasing its vehicle rates; increased engineering and labor overhead to add personnel in rural service areas; additional costs for overtime; and increased costs relating to agreements with its third-party administrator for restoration in the Denver metro area (which would need to be renegotiated).⁴⁶⁸

⁴⁶² *Id.* at 6-7.

⁴⁶³ *Id.* at 7.

⁴⁶⁴ *Id.* at 8; EOC's 4/26/21 Comments at 5.

⁴⁶⁵ Attachments A and B to Public Service's 4/26/21 Comments at 16 and 15-16; Public Service's 4/26/21 Comments at 11; *see* CNG's 4/26/21 Comments at 7; Black Hills' 4/26/21 Comments at 1-2; Atmos' 4/26/21 Comments at 1-2.

⁴⁶⁶ Public Service's 9/22/20 Comments at 15.

⁴⁶⁷ Public Service's 10/8/20 Comments at 8.

⁴⁶⁸ Public Service's 1/11/21 Comments at 44.

247. Black Hills opposes establishing business hours in rules, arguing that utilities need flexibility to define their own business hours because those business hours are designed based upon numerous factors, some which may be unique to the individual utility.⁴⁶⁹ For example, Black Hills' business hours are defined through multiple agreements, including franchise agreements with governmental entities, and collective bargaining agreements with union employees.⁴⁷⁰ Black Hills suggests that utilities' tariffs should continue to control their business hours.⁴⁷¹

248. Atmos and CNG oppose the proposed rule because they are unable to manage same-day reconnection based on several factors. Given that gas service must be restored in person, they explain that same-day restoration is not possible with current resources given the geographical natures of their service territories, which include largely rural and spread-out territories.⁴⁷² Both utilities note that they would need to hire significant additional resources to accomplish same-day reconnection.⁴⁷³ They state that this would come at a substantial cost that all customers should not be required to bear in order to give a benefit to customers who have had many opportunities to avoid disconnection.⁴⁷⁴ And, even those who may realize benefits from same-day reconnection would have to pay these higher rates, potentially further impacting vulnerable customers' ability to pay their bills.⁴⁷⁵

249. Atmos also points out that disconnected natural gas service does not have the same impact as disconnected electric service. For example, disconnected natural gas service does

⁴⁶⁹ Black Hills' 10/8/20 Comments at 2-3.

⁴⁷⁰ *Id.* at 2.

⁴⁷¹ *Id.* at 2-3.

⁴⁷² Atmos' 9/22/20 Comments at 6; CNG's 9/22/20 Comments at 7.

⁴⁷³ *Id.*; CNG's 10/8/20 Comments at 4.

⁴⁷⁴ Atmos' 9/22/20 Comments at 6; *see* CNG's 10/8/20 Comments at 4-5.

⁴⁷⁵ CNG's 10/8/20 Comments at 4-5.

not “lead to spoiled food and medicine, and unsafe indoor air quality,” which are factors the Commission highlighted in proposing this rule.⁴⁷⁶ Atmos explains that customers have weeks to take steps to avoid disconnection, including numerous notices. It argues that the timing of those notices should be considered in determining an appropriate restoration timeframe, rather than narrowly focusing on the timing of disconnection.⁴⁷⁷ Atmos suggests that because customers have extensive opportunities to avoid disconnection, utilities should also be given a reasonable amount of time to reconnect such customers.⁴⁷⁸ Atmos also argues that given rule limits on disconnections during extreme cold-weather events, the minor benefits of requiring same-day restoration that only a small number of customers will experience is almost certainly outweighed by significant additional costs that all customers would have to bear if the rule is adopted as proposed.⁴⁷⁹

250. The utilities generally oppose suggestions to create different timelines based on AMI metering.⁴⁸⁰ Black Hills explains that even where it has AMI meters, it can face technical difficulties preventing it from being able to remotely restore electric service (such as poor signals or signal outages).⁴⁸¹ Black Hills also explains that the administrative process to schedule reconnection through AMI meters takes time, which can negatively impact its ability to meet same-day restoration.⁴⁸² For these reasons, Black Hills states that even with AMI, same-day restoration may not be possible, even if sought by 10 a.m. Black Hills clarifies that natural gas

⁴⁷⁶ Atmos’ 9/22/20 Comments at 6 (referring to Decision No. C20-0662, ¶ 71).

⁴⁷⁷ Atmos’ 10/8/20 Comments at 2.

⁴⁷⁸ *Id.*

⁴⁷⁹ *Id.*

⁴⁸⁰ See Attachments A and B to Public Service’s 4/26/21 Comments at 16 and 15-16; see CNG’s 4/26/21 Comments at 7; Black Hills’ 4/26/21 Comments at 1-2; Atmos’ 4/26/21 Comments at 1-2.

⁴⁸¹ Black Hills’ 10/8/20 Comments at 3.

⁴⁸² Black Hills’ 10/8/20 Comments at 3; Black Hills’ 1/11/21 Comments at 26.

service restoration must be done in-person.⁴⁸³ Public Service suggests that it is premature to attempt to create rules distinguishing restoration timelines based on AMI capabilities, and that this should be addressed in a separate rulemaking proceeding.⁴⁸⁴ Public Service recommends that these Rules be crafted so that all utilities can comply with them, regardless of whether they have AMI technology.⁴⁸⁵ Atmos states that any rule changes relating to AMI reconnection should focus on the ability to remotely disconnect and reconnect, rather than on whether a customer has an AMI meter.⁴⁸⁶ Atmos explains that not all AMI meters allow for remote disconnection and reconnection, including Atmos' meters.⁴⁸⁷ CNG does not have AMI capabilities, and thus does not provide specific comment on this question.⁴⁸⁸

(1) Discussion, Findings, and Conclusions

251. The ALJ finds compelling utility comments that setting strict timelines⁴⁸⁹ as proposed will result in increased rates due to the need to add personnel and significantly change current business practices, including changes to relevant contracts (*e.g.*, collective bargaining agreements). The ALJ anticipates that utilities could seek to recover the increased cost of service through advice letter filings. Customers who already struggle with paying their bills may face additional obstacles to service restoration by added tariff fees or charges for service restoration. Alternatively, all customers could be forced to bear increased costs that only a few incurred.

⁴⁸³ Black Hills' 1/11/21 Comments at 27.

⁴⁸⁴ *Id.* at 40.

⁴⁸⁵ *Id.*

⁴⁸⁶ Atmos' 2/10/21 Comments at 6.

⁴⁸⁷ Atmos' 10/8/20 Comments at 2, fn. 1; Atmos' 1/11/21 Comments at 19.

⁴⁸⁸ CNG's 10/8/20 Comments at 5.

⁴⁸⁹ Utility comments also suggest that even in the best-case scenario, where a utility can remotely restore, or where a utility can roll a truck to restore service on the same day, unforeseen or unavoidable obstacles may prevent a utility from doing so. Thus, strict timelines may not be possible even when conditions, at least initially, are ideal to meet them.

Neither of these outcomes are desirable, particularly the former, which may ultimately undermine statutory goals to facilitate same-day restoration.⁴⁹⁰

252. The utilities' restoration data raises questions as to whether there is a need to amend the Rules. Indeed, while the data includes some ambiguities—for example, average hours for restoration may include those that occurred during weekends and holidays—it often suggests that utilities are meeting or exceeding the current requirements, and usually restore service within the same day in which customers request reconnection. This is particularly apparent in Public Service's and Black Hills' reported timelines. When utilities are able to use AMI capabilities to restore service remotely, they appear to far eclipse the existing Rules' restoration timelines, achieving expedient same-day restoration. Given all of this, it is unclear how including a threshold time, such as 10:00 a.m., by which customers must act to receive 12- or 24-hour restoration would be more protective than current practices. As noted at the beginning of this Decision, the percent of customers who are disconnected for nonpayment is much smaller than those who are delinquent or receive notices of disconnection.⁴⁹¹ Even so, this Decision makes other rule changes aimed at reducing the risks of disconnection generally by enhancing customers' ability to understand and respond to a potential disconnection well before it occurs.⁴⁹² And, other rule changes may help reduce the negative impacts that disconnections may have on customers, such as, by waiving certain deposit requirements for income-qualified customers, preventing deposits from pancaking, prohibiting disconnections during extreme heat and cold, and enhancing disconnection postponement due to medical need.⁴⁹³ Notably, rule changes limiting disconnections during non-holiday weekdays to the hours of 8:00 a.m. to

⁴⁹⁰ § 40-3-103.6(1)(b), C.R.S.

⁴⁹¹ See Tables 2 and 3. *Supra* at ¶¶ 10-11.

⁴⁹² See *e.g.*, adopted Rules 3407(f) / 4407 (f) and 3408(a) / 4408(a).

⁴⁹³ See *e.g.*, adopted Rules 3403 / 4403 (e); proposed Rules 3407(e)(IV) and (V) / 4407(e)(IV) and (V).

4:00 p.m. (and from 8:00 a.m. to 12:00 p.m. on Fridays), help facilitate same-day restoration and also protect customers from the negative consequences of evening and early morning disconnection.⁴⁹⁴

253. For the reasons discussed above, the ALJ finds that the 12- and 24-hour timelines as in existing Rule (b) should be maintained in some form. The ALJ seriously considered creating different requirements where the utility has AMI capabilities that allow for remote restoration. But, for many reasons, the ALJ declines to do so. The record includes numerous comments about the practical realities of remote restoration. The ALJ simply does not have enough information to craft a meaningful rule which accounts for those issues. Colorado's biggest utility, Public Service, still has not completed its AMI deployment (arising out of the settlement in Proceeding No. 16A-0588E). Rather than creating a new rule here, the ALJ finds that it is more appropriate for Public Service, EOC, and other interested parties to evaluate AMI remote restoration capabilities once Public Service has deployed AMI more fully. That data will provide helpful information to aid a more robust discussion about potential rule changes targeted at AMI restoration. The ALJ notes that maintaining the 12- and 24-hour timelines in some form would in no way preclude utilities from using AMI to restore service sooner than the 12- and 24-hour timeframes. As discussed above, the record shows that utilities have, in fact, done just that, even without a rule mandate.

254. Even so, the ALJ finds that adding language requiring utilities to use their best efforts to accomplish same-day restoration provides appropriate direction to the utilities to use whatever capabilities they have to accomplish same-day restoration, including available remote

⁴⁹⁴ See adopted Rules 3407(e)(III) / Rules 4407(e)(III).

restoration capabilities.⁴⁹⁵ The ALJ also adopts language clarifying that the restoration timeframes are measured from the point at which the customer performs an action entitling them to service restoration (paragraph (b) actions). This added clarity informs utilities that they do not have discretion to determine that the restoration timeframes trigger at a different time (*e.g.*, from when the utility sends a technician). This gives customers an additional layer of protection, and enhances transparency so that customers have clear expectations on when they can expect service restoration to occur. The ALJ concludes that these changes balance statutory goals to allow customers the opportunity to achieve same-day restoration with the potentially significantly increased costs associated with in-person, same-day restoration that ratepayers would bear (including those seeking restoration). The changes also account for the practical realities associated with restoring service both remotely and in-person, and reflect the positive impact that other rule changes are expected to have on disconnections generally.⁴⁹⁶

255. The ALJ finds that the Rules, as modified, create reasonable opportunities for customers to attempt same-day restoration, consistent with § 40-3-103.6(1)(b), C.R.S., particularly when viewed in light of other rule changes. For the reasons discussed, the ALJ adopts the following language for Rules 3409(c) / 4409(c):

- (c) Unless prevented by safety concerns or exigent circumstances, a utility shall restore service to a customer who has completed an action in paragraph (b) within 24 hours (excluding weekends and holidays) of the time that the customer completes an action in paragraph (b), or within 12 hours of the time that the customer completes an action in paragraph (b) if the customer pays applicable after-hours charges and fees established in tariffs. The utility must exercise its best efforts to restore service for customers meeting requirements of paragraph (b) on the same day of a service discontinuance, under the following timelines:
- (I) — ~~within business hours, if a request is made by 10:00 a.m.;~~

⁴⁹⁵ Of course, this references circumstances where a customer meets the requirements in Rules 3409(b) / 4409(b) on the same day that service is disconnected.

⁴⁹⁶ See § 40-3-103.6(1)(b), C.R.S.

~~(H) — within 12 hours, if the request is made after 10:00 a.m. and the customer pays any necessary after hours charges established in tariffs; or~~
~~(H) — within 24 hours (excluding weekends and holidays), if the request is made after 10:00 a.m. and the customer does not pay after hours charges established in tariffs.~~

j. Rules 3409(d) / 4409(d)

256. This new rule language requires utilities to resolve any doubts as to whether a customer's service must be restored based on actions listed in proposed paragraph (b) in favor of restoration.

257. The utilities oppose this rule.⁴⁹⁷ Public Service states that the provision is unnecessary because whether a customer has met service restoration requirements do not involve exercising discretion, except where restoration cannot be performed based on safety issues or exigent circumstances.⁴⁹⁸ It argues that utilities should continue to retain this discretion and states that it already resolves doubts in favor of customers seeking restoration outside of business hours based on medical conditions without proof of a medical certificate.⁴⁹⁹ If the Commission retains this rule, Public Service recommends that it be constrained to situations related to medical need.⁵⁰⁰

(1) Discussion, Findings, and Conclusions

258. The ALJ agrees that utilities must maintain discretion to make decisions based on safety issues and exigent circumstances. But, the proposed rule language does not impact utilities' discretion in those areas. Indeed, the proposed language specifically applies to a determination that a customer has met the requirements for service restoration under

⁴⁹⁷ Attachments A and B to Public Service's 4/26/21 Comments at 16; *see* CNG's 4/26/21 Comments at 7; Black Hills' 4/26/21 Comments at 1-2; Atmos' 4/26/21 Comments at 1-2.

⁴⁹⁸ Public Service's 9/22/20 Comments at 16.

⁴⁹⁹ *Id.*

⁵⁰⁰ *Id.*

Rules 3409(b) / 4409(b). Public Service provides a helpful example as to why such doubts should be resolved in favor of restoration. As Public Service highlights, it is more than reasonable to default to service restoration for customers with medical conditions where there is doubt as to eligibility under (b)(III). And, subparagraph (b)(IV) allows utilities to exercise discretion in deciding whether a customer has demonstrated that the cause for disconnection is “cured” where the cause is unrelated to nonpayment. Given the potentially broad discretion this subparagraph provides, and the potentially serious health risks that subparagraph (b)(III) seeks to avoid, the ALJ concludes that it is reasonable to require utilities to exercise this discretion in favor of restoration. But Public Service’s comments suggest that the rule language could be clearer. As such, the ALJ makes minor changes to improve clarity. For the reasons discussed, the ALJ adopts language for Rules 3409(d) / 4409(d) as follows:

(d) The utility must resolve ~~Doubts~~ as to whether a customer has met the requirements for service restoration ~~in service is required to be restored~~ under paragraph (b) ~~shall be resolved~~ in favor of restoration.

k. Rules 3409(e) / 4409(e)

259. This new provision imposes financial repercussions on utilities for failing to restore service within 24 hours without good cause. Specifically, proposed paragraph (e) states:

Where a utility is required under these rules to reconnect service within 24 hours and fails or neglects to do so without good cause as determined by the Commission, it shall credit to the customer’s account the sum of \$50 per day for each day or portion thereof that service is not supplied after the date that service should have been supplied. The burden of showing good cause for any failure to reestablish service within 24 hours shall be upon the utility.

260. The utilities oppose this rule.⁵⁰¹ Atmos asserts that shifting the burden of proof to the utility to show good cause for failure to reconnect service allows the Commission to impose a

⁵⁰¹ Attachments A and B to Public Service’s 4/26/21 Comments at 16; see CNG’s 4/26/21 Comments at 7; Black Hills’ 4/26/21 Comments at 1-2; Atmos’ 4/26/21 Comments at 1-2.

civil penalty on a utility without adjudicating liability or finding wrongdoing.⁵⁰² Black Hills questions how the provision would operate, including by what procedural process good cause would be demonstrated and the basis for the \$50 bill credit.⁵⁰³

261. Public Service states that it is unclear how a utility could satisfy the burden of showing good cause or how the Commission would determine good cause.⁵⁰⁴ It further asserts that there is no basis for the \$50 penalty, which is exorbitant, and that it is already in Public Service's best interest to restore customers promptly.⁵⁰⁵ Public Service adds that complying with this provision would increase costs because it would need to hire additional employees to address possible penalties.⁵⁰⁶

(1) Discussion, Findings, and Conclusions

262. While the purpose behind the provision represents an important Commission policy—to recognize that failing to restore service within 24 hours can impact customers' personal and professional lives—the ALJ shares many of the same process concerns that the utilities identify.⁵⁰⁷ Under proposed paragraph (e), before a utility is required to credit the customer, the Commission must first determine: that the customer met rule requirements for service restoration; when the customer met those requirements; that the utility failed to restore service within 24 hours from the time the customer met those requirements; and that the utility's failure to do so is without good cause. The rule provides no process for the Commission to provide notice to the utility; to make these findings by hearing or otherwise; or for the utility to dispute these findings. This stands in stark contrast to other rule provisions that may have

⁵⁰² Atmos' 9/22/20 Comments at 6.

⁵⁰³ Black Hills 9/22/20 Comments at 13.

⁵⁰⁴ Public Service' 9/22/20 Comments at 16.

⁵⁰⁵ *Id.*

⁵⁰⁶ *Id.*

⁵⁰⁷ *See* Decision No. C20-0622, ¶ 73.

financial repercussions on a utility based on the utility's violation of rules or tariffs.⁵⁰⁸ As these other rule provisions demonstrate, the type of revisions necessary to address these process issues would be substantial.⁵⁰⁹ The ALJ is unwilling to make substantial changes to the proposed rule without the benefit of public comment on those changes. What is more, the ALJ finds no support in the record for the bill credit amount (\$50). For all these reasons, the ALJ does not adopt Rules 3409(e) / 4409(e).

5. Rule 3413: Medical Exemption from Tiered Rate Plans.

263. Arising out of § 40-3-103.5, C.R.S., existing Rule 3413 includes criteria under which electric utilities must offer an alternate rate plan from a tiered rate plan to those who have a qualifying medical condition or use essential life support, and whose household income meets identified thresholds. The Commission proposes two options to modify Rule 3413(a)(I). Under the first option, the proposed rule modifies the current income threshold for medical exemptions from 250 to 400 percent of the federal poverty guidelines, consistent with statutory changes to § 40-3-103.5(3), C.R.S. Under the second option, the existing income threshold is entirely eliminated. In addition, the Commission proposes to clarify Rule 3413(c)(I) to allow written medical certifications to be electronic, and to add a new requirement under Rule 3413(i)(I)(E) requiring utilities to include in their annual report a description of efforts to facilitate qualified customers' enrollment in an alternative rate plan, per § 40-3-103.5(5), C.R.S.

264. Background information on electric utilities' existing practices to implement statutory and rule requirements for medical exemptions is helpful context for their comments. Public Service had 801 electric customers enrolled in its medical exemption program as of

⁵⁰⁸ See e.g., Rule 1302 of the Rules of Practice and Procedure, 4 CCR 723-1 (governing formal complaints and show cause proceedings); Rules 3009 and 3010 (governing civil penalties against electric utilities), 4 CCR 723-3; and Rules 4009 and 4010 (governing civil penalties against gas utilities), 4 CCR 723-4.

⁵⁰⁹ See *id.*

June 1, 2020. It primarily relies on customers to self-certify their household incomes; no customers have been determined ineligible based on income.⁵¹⁰ Black Hills began implementing its medical exemption program in July 2018.⁵¹¹ Black Hills has not denied program participation for any customer based on household income, but has denied participation based on energy use indicating that such customers would not realize any savings by switching to the alternate rate.⁵¹²

265. Public Service prefers the first proposed rule option because it maintains a means test for program eligibility.⁵¹³ The change to 400 percent of the federal poverty level, or a total household income of \$104,800, represents a significant increase from the prior threshold of 250 percent of the federal poverty level, or a total household income of \$65,500.⁵¹⁴ Public Service explains that even at the proposed higher income threshold, the means test is useful to provide some limit on the number of customers that can take advantage of the medical exemption rate at times when the cost of electricity is at its highest.⁵¹⁵ Without a means test, the program would be available to everyone regardless of financial need.⁵¹⁶ Public Service is concerned that eliminating means testing would expand program eligibility to customers who are not income-qualified, and could significantly increase the cost of program administration.⁵¹⁷ And, because it recovers the difference between rates paid under the medical exemption program and standard rates from all customers through the Electric Commodity Adjustment, increased program participation will increase rates for all of its other customers.⁵¹⁸

⁵¹⁰ Proceeding No. 20M-0267EG, Public Service's 7/13/20 Comments at 3.

⁵¹¹ Proceeding No. 20M-0267EG, Black Hills' 7/10/20 Comments at 1.

⁵¹² *Id.* at 2.

⁵¹³ Public Service's 9/22/20 Comments at 17.

⁵¹⁴ Proceeding No. 20M-0267EG, Public Service's 7/13/20 Comments at 5.

⁵¹⁵ Public Service's 9/22/20 Comments at 17.

⁵¹⁶ Proceeding No. 20M-0267EG, Public Service's 7/13/20 Comments at 5.

⁵¹⁷ *Id.* at 5-6.

⁵¹⁸ *Id.* at 6.

266. Public Service also suggests adding language in subparagraph (a)(I) clarifying that customers may self-certify household income, consistent with its current practice, and suggests the Commission replace the terms “life support device” with “medical equipment” throughout Rule 3413, as more accurate.⁵¹⁹

267. Black Hills also supports means testing to help ensure that only customers facing financial hardship due to a chronic medical condition can take advantage of its alternative rate, which is designed to be revenue neutral.⁵²⁰ At the same time, Black Hills does not oppose eliminating the means test if the Commission determines it is unnecessary.⁵²¹

(1) Discussion, Findings, and Conclusions

268. Under the plain language of § 40-3-103.5(1) and (3), C.R.S., the Commission has discretion to determine whether rules governing medical exemptions from tiered electricity rates should include a means test. Under SB20-030’s amendments, if the Commission does require a means test, it must be set at 400 percent of the federal poverty level, an increase from the prior 250 percent.⁵²² SB20-030 also requires the Commission to mandate that utilities periodically report “pursuant to Section 40-3-110” the number of customers who receive a medical exemption from tiered electricity rates, and their efforts to facilitate customer enrollment in medical exemption programs. § 40-3-103.5(5), C.R.S. The proposed Rules comply with these statutory changes. But the question remains whether the Commission should exercise its discretion to eliminate means testing entirely.

⁵¹⁹ Public Service’s 9/22/20 Comments at 17-18; Attachment A to Public Service’s 4/26/21 Comments, at 17-18.

⁵²⁰ Black Hills’ 9/22/20 Comments at 13-14.

⁵²¹ *Id.* at 14.

⁵²² § 40-3-103.5(3), C.R.S.

269. The ALJ finds Public Service’s and Black Hills’ reasoning on this persuasive. The ALJ agrees that the proposed means testing sets a reasonable bar for program participation. By setting the total household income threshold at a higher amount, the proposed rule makes it easier for customers to qualify. Even at the higher income threshold, the proposed means test continues to benefit the public by placing just and reasonable guardrails on program participation. Indeed, given that in most circumstances, all residential ratepayers will be responsible for the cost differential between rates, it serves the public interest to maintain these guardrails. The ALJ concludes that keeping means testing as proposed strikes a reasonable balance between offering support for qualified customers and ensuring that program participation does not unreasonably increase rates that all ratepayers must bear. For these reasons, and those that Public Service and Black Hills provide, the ALJ approves option 1 to maintain means testing, with the modified income threshold.

270. The ALJ accepts Public Service’s suggestions that the rule be clarified to allow customers to self-certify their income amounts, and to replace “life support device” terminology with “medical equipment” throughout Rule 3413. For the same reasons discussed in connection with Rules 3407(e)(IV) / 4407(e)(IV), the ALJ makes changes concerning who may issue the medical certificate required in this rule, and makes changes to align with language in Rules 3407(e)(IV) / 4407(e)(IV). The ALJ finds that the rule, including the modifications discussed, is authorized by, and consistent with § 40-3-103.5, C.R.S.

6. Rules 3976 / 4976. Regulated Electric Utility Rule Violations, Civil Enforcement, and Civil Penalties.

271. Changes to Rules 3976 / 4976 correct a rule citation; increase the maximum civil penalty that the Commission may assess against utilities from \$100 to \$1,000 for intentional violation of Rules 3404(a) to (i) / 4404(a) to (i); aligns penalties set by recent rulemakings; and

increases the maximum civil penalty from \$100 to \$2,000 (the statutory maximum) for intentional violation of rules⁵²³ relating to service discontinuance and restoration.⁵²⁴

272. The utilities oppose the rule changes, and instead suggest a more modest increase to \$500 than the proposed \$1,000 and \$2,000 amounts.⁵²⁵ Public Service submits that a modest increase is more appropriate because this rulemaking will change utility obligations, which may come with an adjustment period (such as needing to hire personnel and making operational changes).⁵²⁶ Public Service also submits that while the Commission's reasoning for the change includes the significance of the relevant rules, it does not suggest that utilities have been assessed civil penalties for violating the relevant rules in the past.⁵²⁷

(1) Discussion, Findings, and Conclusions

273. The Commission plainly has authority to increase the relevant civil penalties to the maximum statutory amount of \$2,000, per § 40-7-113.5(1)(a), C.R.S. And, the Commission's Rules already allow for the maximum \$2,000 penalty for violating a Commission order, and numerous other rules, ranging from rules relating to record retention and annual compliance reports, to keeping a current tariff on file with the Commission.⁵²⁸ As evidenced by this NOPR, Rules relating to service discontinuance and restoration represent important Commission policies that are supported by the General Assembly.⁵²⁹

274. Utility concerns about increasing the penalties for rule violations while also modifying those rules fail to consider the high statutory bar to assess civil penalties under

⁵²³ Those rules are: Rules 3407 / 4407; 3408(a) to (g) and (i) / 4408(a) to (g) and (i); and 3409 / 4409.

⁵²⁴ See Decision No. C20-0622, ¶ 80.

⁵²⁵ See CNG's 4/26/21 Comments at 7; Black Hills' 4/26/21 Comments at 1-2; Atmos' 4/26/21 Comments at 1; and Attachments A and B to Public Service's 4/26/21 Comments, at 22 and 19, respectively.

⁵²⁶ Public Service's 9/22/20 Comments at 18.

⁵²⁷ *Id.*

⁵²⁸ See Rules 3976 / 4976.

⁵²⁹ See *e.g.*, § 40-4-103.6 (1)(b), C.R.S.; Decision No. C20-0622, ¶¶ 73, 80.

§ 40-7-113.5(1)(a), C.R.S. Indeed, the Commission may only assess civil penalties if, after an adjudication, the Commission finds that the rule violation was intentional, or if the utility admits liability.⁵³⁰ And, under current Rules, “[a] person acts ‘intentionally’ or ‘with intent’ when his conscious objective is to cause the specific result proscribed by the statute, rule, or order defining the violation.”⁵³¹ This requirement—that rule violations be intentional—significantly minimizes the risks of a utility being assessed a civil penalty for rule violations that occur due to the transition to new rules governing service discontinuance and restoration. What is more, before the Commission may find that a utility intentionally violated a rule, it first provides the utility with ample due process that offers the utility a full and fair opportunity to dispute allegations. For example, the Commission must provide the utility with written notice of the alleged intentional violation; the opportunity to dispute such allegations; an evidentiary hearing (if requested), where Commission Staff must prove the violations by a preponderance of the evidence; the right to appeal the Commission’s decision; and other procedural safeguards that facilitate a full and fair opportunity to defend against allegations of intentional rule violations.⁵³² In contrast to proposed Rules 3409(e) / 4409(e), which left significant procedural questions unanswered, these procedural safeguards offer utilities ample due process to dispute efforts to impose a civil penalty.

275. The ALJ finds that increasing the penalties as proposed sends a message that in the rare circumstance that the Commission adjudicates a utility as having intentionally violated the relevant rules, the higher penalty amounts are warranted. In addition, the rule change authorizes, but does not require the Commission to assess the higher penalty amount. This

⁵³⁰ § 40-7-113.5(1)(a), C.R.S.; Rule 3009(a), (b), (c) / 4009(a), (b), (c).

⁵³¹ Rules 3009(d) / 4009(d).

⁵³² §§ 40-6-109, 40-7-113.5, 40-7-116.5, C.R.S.; Rules 1302, 1405, 1406, 3010, and 4010.

preserves the Commission's discretion to assess a lower amount, if appropriate in the circumstances. For all these reasons, the ALJ approves the proposed Rules as drafted.

7. Minor Changes to Proposed Rules.

276. The ALJ finds that some minor clean-up changes are necessary to ensure the proposed Rules are unambiguous and consistent with the Rules' intent. Among those, the ALJ makes are: punctuation and grammatical changes; non-substantive changes to improve clarity and readability; renumbers rule paragraphs and subparagraphs; corrects typos; makes minor changes to align the Electric and Gas Rules consistent with commenters' suggestions; and makes other non-substantive consistent with commenters' suggestions.

277. The ALJ recommends that the Commission approve the Rules with the modifications discussed above, as outlined in Attachments A through D to this Decision.

278. A version of the proposed Electric Rules with the modifications discussed herein in legislative format (*i.e.*, redlined) is included as Attachment A; and a clean version of the same is included as Attachment B. Likewise, a version of the proposed Gas Rules with the modifications discussed herein in legislative format is included as Attachment C; and a clean version of the same is included as Attachment D.

279. Being fully advised in this matter and consistent with the above discussion, in accordance with § 40-6-109, C.R.S., the ALJ now transmits to the Commission the record in this proceeding along with this written recommended decision and attachments.

III. **ORDER**

A. **The Commission Orders That:**

1. The Rules Regulating Electric Utilities, 4 *Code of Colorado Regulations* (CCR) 723-3 (Electric Rules) and Rules Regulating Gas Utilities, 4 CCR 723-4 (Gas Rules) contained in final format attached to this Recommended Decision as Attachments B and D are adopted.

2. The rules in final and legislative format (Attachments A through D), are also available through the Commission's E-Filings system at:

https://www.dora.state.co.us/pls/efi/EFL.Show_Docket?p_session_id=&p_docket_id=20R-0349EG

3. This Recommended Decision will be effective on the day it becomes the Decision of the Commission, if that is the case, and is entered as of the date above.

4. As provided by § 40-6-109, C.R.S., copies of this Recommended Decision will be served upon the parties, who may file exceptions to it.

5. If no exceptions are filed within 20 days after service or within any extended period of time authorized, or unless the decision is stayed by the Commission upon its own motion, the recommended decision will become the decision of the Commission and subject to the provisions of § 40-6-114, C.R.S.

6. If a party seeks to amend, modify, annul, or reverse basic findings of fact in its exceptions, that party must request and pay for a transcript to be filed, or the parties may stipulate to portions of the transcript according to the procedure stated in § 40-6-113, C.R.S. If no transcript or stipulation is filed, the Commission is bound by the facts set out by the administrative law judge and the parties cannot challenge these facts. This will limit what the Commission can review if exceptions are filed.

7. If exceptions to this Decision are filed, they may not exceed 30 pages in length, unless the Commission for good cause shown permits this limit to be exceeded. Responses to exceptions **are due within seven days** of service of exceptions.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

MELODY MIRBABA

Administrative Law Judge

ATTEST: A TRUE COPY

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

Doug Dean,
Director

COLORADO DEPARTMENT OF REGULATORY AGENCIES

Public Utilities Commission

4 CODE OF COLORADO REGULATIONS (CCR) 723-3

PART 3

RULES REGULATING ELECTRIC UTILITIES

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

- (a) A utility shall process an application for utility service ~~which that~~ 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. Nondiscriminatory criteria means that no deposit or guarantee, or additional deposit or guarantee, shall be required by a utility because of race, sex, creed, national origin, marital status, age, number of dependents, source of income, disability, or geographical area of residence.
- ~~(b) All utilities requiring deposits shall offer customers at least one payment alternative that does not require the use of the customer's social security number.~~
- ~~(bc) If billing records are available for a customer who has received past 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.~~~~
- ~~(ed) A utility shall not require a ~~cash~~ deposit from an applicant for service who provides written documentation of a 12 consecutive month good credit-payment 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.~~
- ~~(e) A utility shall not require a deposit from an applicant for service or restoration of service who is or was within the last 12 months, a participant in the Low-Income Energy Assistance Program (LEAP) or in a low-income program consistent with rule 3412, or who received energy bill assistance from Energy Outreach Colorado within the last 12 months.~~
- ~~(ef) 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 that~~ describes, for each scoring model that it uses, the credit scoring evaluation criteria and the credit score limit ~~which that~~ 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.~~

- (fg) 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-that trigger the need for a ~~cash~~ deposit.
- (gh) 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 why the application for service has been denied or a ~~cash~~-deposit is required.
- (hi) No utility shall require any surety 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 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.
- (ij) The total A-cash deposit a utility may require or hold at any one time 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. A cash-deposit may be paid in installments.
- (jk) 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; and
 - (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.
- (kl) 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. A utility shall return any deposit paid by a customer who has made no more than two late payments in 12 consecutive months.

- (~~m~~) 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.
- (~~nn~~) 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.
- (~~oo~~) A utility shall pay simple interest on a ~~cash~~ deposit at the percentage rate per annum as calculated by Commission 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, Commission 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 Commission 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.
- (~~pp~~) 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:
- (A) ~~the guarantee~~ is terminated in writing by the guarantor;
- (B) if the guarantor was a customer at the time of undertaking the guarantee, the guarantor ~~is no longer ceases to be~~ a customer of the utility; or
- (C) the customer has established a satisfactory payment record, as defined in the utility's tariffs, for 12 consecutive months ~~;~~ ~~and~~
- (VI) ~~s~~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.
- (pg) 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: undistributed refunds for overcharges subject to other statutory provisions and rules; and, 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 (oA) 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~~ deposit is deemed to be unclaimed or abandoned pursuant to subparagraph (qe)(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 (oA) of this rule plus six percent.
- (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 (oA) 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 (qe)(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 ~~(o)~~ of this rule plus six percent.

- ~~(e)~~ A utility shall resolve all inquiries regarding a customer's unclaimed monies and shall not refer such inquiries to the energy assistance organization.
- ~~(f)~~ 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), ~~and (r)~~, and (s) of this rule, "utility" means and includes: a cooperative electric association which elects to be so governed; and, a utility as defined in ~~paragraph-rule~~ 3001~~(n)~~.

3404. Installment Payments, Charges, Fees, and Payment Plans.

- ~~(a)~~ In its tariffs, a utility shall provide a description of all charges or fees that the utility assesses customers resulting from regulated charges that are past due, discontinuance of service, and restoration of service. A utility may assess the following charges or fees at no higher than cost, as stated in its tariff:
 - ~~(I)~~ a late payment charge for regulated charges that are past due and exceed \$50;
 - ~~(II)~~ a fee for discontinuance of service;
 - ~~(III)~~ a fee for restoration of service;
 - ~~(IV)~~ collection fees; and
 - ~~(V)~~ any other regulated charges or fees provided in the utility's tariff.
- ~~(ab)~~ In its tariffs, a utility shall have ~~a budget or level payment plan~~ the following payment plans available for its customers:
 - ~~(I)~~ an installment payment plan; and
 - ~~(II)~~ a budget or level payment plan.
- ~~(bc)~~ 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 certificate~~ion~~. A customer who has entered into and failed to abide by an installment payment plan prior to receiving a medical certificate~~ion~~ shall pay all amounts that were due for regulated charges up to the date on which the customer presented a medical certificate~~ion~~ which meets the requirements of subparagraph 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.
- (ed) 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 other regulated charges and fees as described in paragraph (a) of this rule, except fees relating to service diversion, whether or not such fees have appeared on a regular monthly bill; ~~collection fees as provided for in the utility's tariff, whether or not such fees have appeared on a regular monthly bill; and~~
 - (VII) any applicable deposit, consistent with rule 3403, 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; and

~~(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.~~

~~(e) A customer entering into a payment arrangement as described in paragraph (b) may modify their bill due date if the utility's billing system allows for such a change.~~

(df) 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; and

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

(eg) Except as provided in subparagraph ~~(cb)~~(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~~ 12 months. Notwithstanding the foregoing, a utility may enter into an installment payment plan with a customer for a term up to 24 months if it determines that this is warranted by extraordinary circumstances. In the alternative, the customer may choose a modified budget ~~billing, or~~ level payment plan, or similar tariff 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 plan available. Utilities may not require a customer to participate in a budget or level payment plan or automated billing as a prerequisite for entering into an installment payment plan.

(fh) 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 ~~(cb)~~(I) of this rule.

(gi) 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.

* * * *

[indicates omission of unaffected rules]

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; or
 - (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 apply nondiscriminatory criteria when determining whether to discontinue service for nonpayment. A utility shall not discontinue service for nonpayment of any of the following:
- (I) ~~A~~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 past due amount that is less than fifty dollars (\$50);
 - (III) Aany 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.
 - ~~(IV)~~ Aany 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 paragraph 3401(c) applies.
 - ~~(IV)~~ Aany 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)~~ Aany delinquent amount, unless the utility can supply billing records from the time the delinquency occurred.

- (VI) ~~A~~any debt except that incurred for service rendered by the utility in Colorado;
- (VII) ~~A~~any unregulated charge; or
- (IX) any amount which is the subject of a pending dispute or informal complaint under rule 3004.
- (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 outside the hours of 8:00 a.m. and 4:00 p.m.; between 12:00 Noon on Friday and 8:00 a.m. the following Monday; between 12:00 Noon on the day prior to and 8:00 a.m. on the day following any state or federal holiday; or between 12:00 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) Medical emergencies.

(A) A utility shall postpone discontinuance of electric service to a residential customer for 90 days from the date of a medical certificate issued by a Colorado-licensed physician, ~~or~~ health care practitioner acting under a physician's authority, or health care practitioner licensed to prescribe and treat patients which evidences that service 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. A customer may invoke this subparagraph ~~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 ~~has~~ already entered into a payment arrangement, but ~~had broken~~ the arrangement prior to seeking a medical certificate, ~~ion~~, 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 medical certificate of medical emergency shall must be in writing (which includes electronic certificates and signatures and those provided electronically), sent to the utility from the office of a licensed physician or health care practitioner licensed to prescribe and treat patients, and clearly 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, or health care practitioner licensed to prescribe and treat patients certifying the medical emergency. Such certificate ~~ion is not shall be in~~contestable by the utility as to the medical judgment, although the utility may use reasonable means to verify the authenticity of such certificate ~~ion~~.

~~(D) A utility may accept notification by telephone from the office of a licensed physician, or health care practitioner licensed to prescribe and treat patients, but a written medical certificate must be sent to the utility within ten days.~~

(V) Weather provisions.

~~(A) A utility shall postpone service discontinuance to a residential customer on any day when the National Weather Service local forecast between 6:00 a.m. and 9:00 a.m. predicts that the temperature will be 32 degrees Fahrenheit (32°F) or lower at any time in the following 24 hours, or during any additional period in which utility personnel will not be available to restore utility service in accordance with rule 3409. Nothing prohibits a utility from postponing service discontinuance when temperatures are warmer than these criteria.~~

(B) A utility shall postpone service discontinuance to a residential customer on any day when the National Weather Service local forecast between 6:00 a.m. and 9:00 a.m. predicts that the temperature will be 95 degrees Fahrenheit (95°F) or higher at any time in the following 24 hours, or during any additional period in which utility personnel will not be available to restore utility service in accordance with rule 3409. Nothing prohibits a utility from postponing service discontinuance when temperatures are cooler than these criteria.

(f) In addition to its tariffs, a utility shall publish information related to its practices around delinquency, disconnection for nonpayment, and reconnection on its website. This information should be written in a manner that promotes customer understanding and must be produced 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. A utility must include at least the following information:

(I) the customer's rights related to service disconnection, including medical and weather-based protections, timing restrictions on service disconnection, and options and hours to contact the utility for support relating to service disconnection;

(II) a summary of a customer's options to prevent service disconnection for nonpayment, including installment payment plan options, utility energy assistance and affordability programs, and eligibility requirements for such programs;

(III) referrals to organizations that provide energy payment assistance, including energy efficiency services, such as Energy Outreach Colorado, charities, nonprofits, and governmental entities that provide or administer funds for such assistance;

(IV) the customer's rights related to service restoration, including restoration timelines, actions customers may take to restore service; and options and hours to contact the utility for support relating to service restoration;

(V) a summary of charges, fees, and deposits to which a customer may be subject under paragraphs 3404(a) and 3403(j), with a description of how those amounts are calculated, explained in a way that enables a customer to estimate the full costs they may be assessed;

(VI) a description of the customer's options in the event of a dispute regarding billing or disconnection practices;

(VII) a description of the options available to an occupant of a service address who is not a customer of record and who has a court-ordered protection order against a customer of record for the service address, relating to past-due balances, service disconnection, restoration, and continuance at the service address, including initiating new service, transferring service, and the utility's practices, policies, and criteria for determining benefit of service for purposes of transferring a customer's balance to an occupant; and

(VIII) a description of the utility's Demand Side Management programs, including requirements to participate, the benefits of participating, and utility contact information relating to such programs.

(g) Reporting requirements.

(I) Annual Report. No later than March 1 of each calendar year, each utility shall file a report covering the prior calendar year in the miscellaneous proceeding for utility disconnection filings, using the form available on the Commission's website. The report shall provide data on residential customers by class and zip code and must also break down such data by low-income customers, defined as customers participating in low-income programs authorized by rule 3412 and the Low-Income Energy Assistance Program. For data provided in this report, paragraph 3033(b) shall not apply. The report shall contain the following information, displayed by quarter:

(A) total number of unique customers;

(B) total dollar amount billed;

(C) total number of customers charged a late payment charge;

(D) total dollar amount of late payment charges collected;

(E) number of customers with an arrearage balance by vintage (1-30 days, 31-60 days, 61-90 days, 91+ days);

(F) dollar amount of arrearages by vintage (1-30 days, 31-60 days, 61-90 days, 91+ days);

(G) total number of disconnection notices sent;

(H) total number of disconnections for nonpayment;

(I) total number of service restorations after disconnections for nonpayment;

(J) average duration of disconnection for nonpayment by hours, measured from when the customer completes an action in paragraph 3409(b) to when service is restored;

(K) total dollar amount of deposits collected for restoring service that was disconnected for nonpayment;

(L) total number of deposits collected for restoring service that was disconnected for nonpayment;

(M) total number of new installment payment plans entered into;

(N) average repayment term of new installment payment plans entered into;

- (O) total dollar amount of fees collected for disconnecting service for nonpayment;
 - (P) total dollar amount of fees collected for restoring service that was disconnected for nonpayment;
 - (Q) total dollar amount of collection fees collected from customers whose service was disconnected for nonpayment; and
 - (R) total dollar amount of any other tariff-authorized charges or fees collected resulting from past due amounts, service disconnection for nonpayment, and restoring service that was disconnected for nonpayment.
- (II) Along with the items in subparagraph (g)(I), each utility shall file the following additional items.
- (A) A narrative containing the utility’s analysis of any trends or inconsistencies revealed by the data in the prior year including, at minimum, an analysis of:
 - (i) the total number of residential customers who were disconnected for nonpayment in the prior calendar year and percent of those customers who were disconnected for nonpayment multiple times; and
 - (ii) the total number of residential installment payment plans entered into in the prior calendar year, the average length of those installment payment plans, the number of residential installment payment plans completed, and the number of residential installment payment plans that were broken.
 - (B) Information about how the utility is working to reduce delinquencies and disconnections, including any actions the utility is taking specific to residential customers experiencing multiple disconnections in a calendar year, and a description of the efforts made to identify entities to which the utility refers customers for energy bill assistance.

3408. Notice of Discontinuance of Service.

- (a) Except as provided in paragraphs (g) and (h) of this rule, prior to discontinuing service, a utility shall provide a customer, and any third party the customer has designated in writing or electronically, with the following forms of notice:
 - (I) upon a bill becoming past due, and at least five business days before issuing a notice of discontinuance, a utility must provide notice of late payment;
 - (II) at least 12 business days before any proposed service discontinuance, written notice of discontinuance as further described in paragraphs (b) and (c), by first class mail or hand delivery;
 - (III) at least 24 hours in advance of any proposed discontinuance of service, the utility must make a reasonable attempt to provide notice in person or by telephone; and

(IV) if the utility will implement service discontinuance remotely, in addition to subparagraphs (I) through (III), the utility must undertake at least one additional attempt to notify the customer of record at their provided telephone number or in person at least 72 hours before discontinuing service.

(ab) 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 written notice of discontinuance under subparagraph (a)(II) shall be conspicuous and in easily understood language, and the heading shall contain, in bold font and 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.

(bc) The body of the notice of discontinuance under subparagraph (a)(II) 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; and
 - (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 notice of 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 or by telephone but fails to do so, it shall leave written or recorded 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; and
 - (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 paragraph 3407(c) or 3407(d) applies; or
 - (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; and
 - (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~~

(b) A utility shall restore service, 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 subparagraph 3407(e)(IV); or
 - (IV) demonstrates to the utility that the cause for discontinuance, if other than non-payment, has been cured.
- (c) Unless prevented by safety concerns or exigent circumstances, a utility shall restore service to a customer who has completed an action in paragraph (b) within 24 hours (excluding weekends and holidays) of the time that the customer completes an action in paragraph (b), or within 12 hours of the time that the customer completes an action in paragraph (b) if the customer pays applicable after-hours charges and fees established in tariffs. The utility must exercise its best efforts to restore service for customers meeting requirements of paragraph (b) on the same day of a service discontinuance.
- (d) The utility must resolve doubts as to whether a customer has met the requirements for service restoration under paragraph (b) in favor of restoration.

* * * *

[indicates omission of unaffected rules]

3413. Medical Exemption from Tiered Rate Plans.

- (a) Scope and Applicability.
 - (I) Any electric utility that has a Commission approved tiered rate plan, also known as inverted block rates, shall file an advice letter and tariff, consistent with 4 CCR 723-1-1210, for a rate plan for residential customers who elect an alternate rate plan due to a qualifying medical condition and/or use of ~~an~~-essential medical equipment life support device and whose household income is less than or equal to ~~two~~400 hundred ~~and fifty~~ percent of federal poverty guidelines, which may be self-certified by the customer. The effect of such an exemption shall be neutral with respect to the utility's revenue requirement. If a customer qualifies for the alternate rate plan, that customer shall not be precluded from participating in any low-income program offered by the utility.
- (b) Definitions.
 - (I) "Essential medical equipment life support device" means any medical device used in the home to sustain life or which is relied upon for mobility, as determined by a physician currently licensed and in good standing in the state of Colorado.

- (II) “Federal poverty guidelines” means the poverty measures published annually by the U.S. Department of Health and Human Services.
 - (III) “Non-participant” means a utility customer who is billed according to the utility’s tiered rate plan.
 - (IV) “Participant” means a residential utility customer who is billed according to the utility’s alternative rate plan.
 - (V) ~~”~~“Qualifying medical condition” includes heat-sensitive medical conditions including, but not limited to, multiple sclerosis, epilepsy, quadriplegia, and paraplegia, or the need for the use of ~~an~~ essential medical equipment life support device, as determined by a physician licensed in the state of Colorado, or other health care practitioner licensed to prescribe and treat patients.
- (c) ~~A Certificate~~ of a qualifying medical condition and/or use of essential ~~medical life support~~ equipment shall be valid for one year. Once certified by a physician, or other health care practitioner licensed to prescribe and treat patients, customers with qualifying medical conditions lasting longer than one year may submit an annual attestation as to the continued condition and the current address of residency. ~~A Certificate~~ of a qualifying medical condition and/or use of essential ~~medical life support~~ equipment shall:
- (I) be in writing (which includes electronic certificates and signatures and those provided electronically);
 - (II) be sent from the office of a currently licensed physician in good standing in the state of Colorado, or other health care practitioner licensed to prescribe and treat patients to either the utility or a Commission approved third party with whom the utility contracts pursuant to rule 3209;
 - (III) clearly state the name of the customer or individual whose medical condition and/or use of ~~essential medical life support~~ equipment is at issue; and
 - (IV) clearly state the Colorado medical identification number, phone number, name, and signature of the physician or health care practitioner acting under a physician’s authority, or other health care practitioner licensed to prescribe and treat patients certifying the existence of a qualifying medical condition and/or use of essential ~~medical life support~~ equipment.
- (d) Such certification ~~is not shall be in~~contestable by the utility as to the medical judgment, although the utility may use reasonable means to verify the authenticity of such certificate~~ion~~.
- (e) Verification of the authenticity of the certificate~~ion~~ of a qualifying medical condition or use of essential ~~medical life support~~ equipment shall be done by the utility or a Commission approved third party with which the utility contracts the medical verification activities.
- (f) If the utility or Commission approved third party deems it reasonably necessary, verification of household income may be done by the utility or Commission approved third party with which the utility contracts the income verification activities.

- (g) The Commission may, with cause, conduct an audit of the income verification process employed by the utility or an entity with which the utility contracts for that purpose.
- (h) Cost recovery.
 - (I) Each utility shall address in its filing how costs of the alternative rate plan 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 alternative rate plan costs:
 - (A) lost revenues based on the difference between the expected monthly revenues and revenues under the alternate rate plan for the months during which a tiered rate plan is in place; and
 - (B) alternative rate plan administrative costs.
- (i) Annual Report.
 - (I) No later than December 15 each year, each utility shall file an annual report, based on the previous summer cooling period during which tiered rates were in effect, containing the following information:
 - (A) monthly information including number of participants, individual household electricity usage, and individual household incomes;
 - (B) the total number of applicants for the alternative rate plan;
 - (C) the number of applicants who qualified for the rate plan; ~~and~~
 - (D) total cost of the program and the average rate impact of non-participants by rate class; and
 - (E) a description of the efforts made to facilitate the enrollment of qualified persons in the alternative rate plan.
 - (II) To the extent that the annual report may disclose individual customer information, the utility is authorized to file that portion of the annual report as confidential pursuant to 4 CCR 723-1-1102, Procedures Relating to Confidential Information Submitted to the Commission Outside of a Formal Proceeding.

3414. - 3499. [Reserved].

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[indicates omission of unaffected rules]

3976. Regulated Electric Utility Rule Violations, Civil Enforcement, and Civil Penalties.

An admission to or Commission adjudication for liability for an intentional violation of the following may result in the assessment of a civil penalty of up to \$2,000.00 per offense. Fines shall accumulate up to, but shall not exceed, the applicable statutory limits set in § 40-7-113.5, C.R.S.

Citation	Description	Maximum Penalty Per Violation
	Articles 1-7 of Title 40, C.R.S.	\$2000
	Commission Order	\$2000
Rule 3005(a)-(c);(f)	Records and Record Retention	\$2000
Rule 3027(a)	Collection and Use of Customer Data	\$1000
Rule 3027(b)	Disclosure of Customer Data	\$2000
Rule 3027(c)	Tariff	\$1000
Rule 3027(d)	Disclosure of Customer Data	\$1000
Rule 3028(a)	Customer Notice	\$1000
Rule 3029(a),(b)	Consent Form	\$1000
Rule 3030(a)	Disclosure of Customer Data	\$2000
Rule 3030(b)	Records	\$1000
Rule 3031(a)	Disclosure of Customer Data	\$2000
Rule 3031(b)	Records	\$1000
Rule 3032(a)	Disclosure of Customer Data	\$2000
Rule 3032(c) and (d)	Consent and Records	\$1000
Rule 3033(a)	Disclosure of Aggregated Data	\$2000
Rule 3033(d)	Tariff	\$1000
Rule 3100(a)	Obtaining a Certificate of Public Convenience and Necessity for a Franchise	\$2000

Rule 3101(a)	Obtaining a Certificate of Public Convenience and Necessity or Letter of Registration to Operate in a Service Territory	\$2000
Rule 3102(a)	Obtaining a Certificate of Public Convenience and Necessity for Facilities	\$2000
Rule 3103(a),(c),(d)	Amending a Certificate of Public Necessity for Changes in Service Territory or Facilities	\$2000
Rule 3108(a),(c)	Keeping a Current Tariff on File with the Commission	\$2000
Rule 3109	Filing a New or Changed Tariff with the Commission	\$2000
Rule 3110(b),(c)	Filing an Advice Letter to Implement a Tariff Change	\$2000
Rule 3200(a),(b)	Construction, Installation, Maintenance and Operation of Facilities in Compliance with Accepted Engineering and Industry Standards	\$2000
Rule 3204	Reporting Incidents Resulting in Death, Serious Injury, or Significant Property Damage	\$2000
Rule 3210	Line Extensions	\$2000
Rule 3251	Reporting Major Events	\$2000
Rule 3252	Filing a Report on a Major Event with the Commission	\$2000
Rule 3303(a)-(j)	Meter Testing	\$2000
Rule 3306	Record Retention of Tests and Meters	\$2000
Rule 3309	Provision of Written Documentation of Readings and Identification of When Meters Will be Read	\$2000
Rule 3401	Billing Information, Procedures, and Requirements	\$2000
Rule 3603	Resource Plan Filing Requirements	\$2000
Rule 3654(a),(d)	Renewable Energy Standards	\$2000

Rule 3657(a)	QRU Compliance Plans	\$2000
Rule 3662	Annual Compliance Reports	\$2000
Rule 3803(c)	Master Meter Exemption Requirements	\$2000
Rule 3004(b)-(f)	Disputes and Informal Complaints	\$1000
Rule 3202(a),(b),(f),(g)	Maintaining a Standard Voltage and Frequency	\$1000
Rule 3203(a),(b)	Trouble Report Response, Interruptions and Curtailments of Service	\$1000
Rule 3405	Provision of Service, Rate, and Usage Information to Customers	\$1000
Rule 3406	Provision of Source Information to Customers	\$1000
Rule 3253	Filing a Supplemental Report on a Major Event with the Commission	\$1000
Rule 3208(a)-(c)	Poles	\$500
Rule 3403(a)-(q);(s)	Applications for Service, Customer Deposits, and Third Party Guarantees	\$500
Rule 3658	Standard Rebate Offer	\$500
Rule 3006(a),(b),(e)-(m)	Annual Reporting Requirements	\$100
Rule 3304	Scheduled Meter Testing	\$100
Rule 3305	Meter Testing Upon Request	\$100
Rule 3402(a),(c),(d)	Meter and Billing Error Adjustments	\$100
Rule 3404(a)- (h) (f)	Availability of Installation Payments to Customers	\$100 1000
Rule 3407	Discontinuance of Service	\$100 2000
Rule 3408(a)-(g);(i)	Notice of Discontinuation of Service	\$100 2000
Rule 3409	Restoration of Service	\$100 2000
Rule 3411(c)(IV),(d)(I), (d)(II),(e)	Low-Income Energy Assistance Act	\$100

Rule 3618	Filing of Electric Resource Planning Reports	\$100
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3977 – 3999. [Reserved].

COLORADO DEPARTMENT OF REGULATORY AGENCIES

Public Utilities Commission

4 CODE OF COLORADO REGULATIONS (CCR) 723-3

PART 3

RULES REGULATING ELECTRIC UTILITIES

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

- (a) A utility shall process an application for utility service that is made either orally or in writing and shall apply nondiscriminatory criteria with respect to the requirement of a deposit prior to commencement of service. Nondiscriminatory criteria means that no deposit or guarantee, or additional deposit or guarantee, shall be required by a utility because of race, sex, creed, national origin, marital status, age, number of dependents, source of income, disability, or geographical area of residence.
- (b) All utilities requiring deposits shall offer customers at least one payment alternative that does not require the use of the customer's social security number.
- (c) If billing records are available for a customer who has received past service from the utility, the utility shall not require that person to make new or additional deposits to guarantee payment of current bills unless the records indicate recent or substantial delinquencies.
- (d) A utility shall not require a deposit from an applicant for service who provides written documentation of a 12 consecutive month good -payment 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.
- (e) A utility shall not require a deposit from an applicant for service or restoration of service who is or was within the last 12 months, a participant in the Low-Income Energy Assistance Program (LEAP) or in a low-income program consistent with rule 3412, or who received energy bill assistance from Energy Outreach Colorado within the last 12 months.
- (f) If a utility uses credit scoring to determine whether to require a deposit from an applicant for service or a customer, the utility shall have a tariff that describes, for each scoring model that it uses, the credit scoring evaluation criteria and the credit score limit that triggers a deposit requirement.
- (g) 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 deposit, the utility shall include in its tariff the specific evaluation criteria that trigger the need for a deposit.
- (h) If a utility denies an application for service or requires a 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 why the application for service has been denied or a deposit is required.

- (i) No utility shall require any surety other than either a deposit to secure payment for utility services or a third-party guarantee of payment in lieu of a 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 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 deposit or a new third party guarantor.
- (j) The total deposit a utility may require or hold at any one time shall not exceed an amount equal to an estimated 90 days' bill of the customer, except in the case of a customer whose bills are payable in advance of service, in which case the deposit shall not exceed an estimated 60 days' bill of the customer. The deposit may be in addition to any advance, contribution, or guarantee in connection with construction of lines or facilities, as provided in the extension policy in the utility's tariffs. A deposit may be paid in installments.
- (k) A utility receiving deposits shall maintain records showing:
 - (I) the name of each customer making a deposit;
 - (II) the amount and date of the deposit;
 - (III) each transaction, such as the payment of interest or interest credited, concerning the deposit;
 - (IV) each premise where the customer receives service from the utility while the deposit is retained by the utility;
 - (V) if the deposit was returned to the customer, the date on which the deposit was returned to the customer; and
 - (VI) if the unclaimed deposit was paid to the energy assistance organization, the date on which the deposit was paid to the energy assistance organization.
- (l) 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 deposit will be required and the circumstances under which it will be returned. A utility shall return any deposit paid by a customer who has made no more than two late payments in 12 consecutive months.
- (m) Each utility shall issue a receipt to every customer from whom a deposit is received. No utility shall refuse to return a deposit or any balance to which a customer may be entitled solely on the basis that the customer is unable to produce a receipt.
- (n) The payment of a 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 deposit to any indebtedness of the customer to the utility, except for utility services due or past due after service is terminated.

- (o) A utility shall pay simple interest on a deposit at the percentage rate per annum as calculated by Commission 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 deposit or annually. The simple interest on a deposit shall be earned from the date the 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 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, Commission 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 deposits during the next calendar year. Annually following receipt of Commission 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' deposits, except when there is no change in the rate of interest to be paid on such deposits.
- (p) 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 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 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 deposit;
 - (V) the guarantee shall remain in effect until the earlier of the following occurs:
 - (A) the guarantee is terminated in writing by the guarantor;

- (B) if the guarantor was a customer at the time of undertaking the guarantee, the guarantor ceases to be a customer of the utility; or
 - (C) 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 deposit or a new third party guarantor.
- (q) 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: undistributed refunds for overcharges subject to other statutory provisions and rules; and, 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 deposit or the construction advance was made or when left with the utility for more than two years after the 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 deposit shall accrue at the rate established pursuant to paragraph (o) of this rule commencing on the date on which the utility receives the deposit and ending on the date on which the deposit is paid to the energy assistance organization. If the utility does not pay the unclaimed deposit to the energy assistance organization within four months of the date on which the unclaimed deposition is deemed to be unclaimed or abandoned pursuant to subparagraph (q)(I) of this rule, then at the conclusion of the four-month period, interest shall accrue on the unclaimed deposit at the rate established pursuant to paragraph (o) of this rule plus six percent.
 - (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 (o) 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 (q)(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 (o) of this rule plus six percent.
- (r) A utility shall resolve all inquiries regarding a customer's unclaimed monies and shall not refer such inquiries to the energy assistance organization.
- (s) 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.

- (t) For purposes of paragraphs (q), (r), and (s) of this rule, "utility" means and includes: a cooperative electric association which elects to be so governed; and, a utility as defined in rule 3001(nn).

3404. Charges, Fees, and Payment Plans.

- (a) In its tariffs, a utility shall provide a description of all charges or fees that the utility assesses customers resulting from regulated charges that are past due, discontinuance of service, and restoration of service. A utility may assess the following charges or fees at no higher than cost, as stated in its tariff:
- (I) a late payment charge for regulated charges that are past due and exceed \$50;
 - (II) a fee for discontinuance of service;
 - (III) a fee for restoration of service;
 - (IV) collection fees; and
 - (V) any other regulated charges or fees provided in the utility's tariff.
- (b) In its tariffs, a utility shall have the following payment plans available for its customers:
- (I) an installment payment plan; and
 - (II) a budget or level payment plan.
- (c) 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 certificate. A customer who has entered into and failed to abide by an installment payment plan prior to receiving a medical certificate shall pay all amounts that were due for regulated charges up to the date on which the customer presented a medical certificate which meets the requirements of subparagraph 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.
- (d) 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 other regulated charges and fees as described in paragraph (a) of this rule, except fees relating to service diversion, whether or not such fees have appeared on a regular monthly bill; and
 - (VII) any applicable deposit, consistent with rule 3403.
- (e) A customer entering into a payment arrangement as described in paragraph (b) may modify their bill due date if the utility's billing system allows for such a change.
- (f) Within seven calendar days of entering into a payment arrangement with a customer, a utility shall provide the customer with 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; and
 - (II) a description of the steps which the utility will take if the customer does not abide by payment plan.

- (g) Except as provided in subparagraph (c)(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 12 months. Notwithstanding the foregoing, a utility may enter into an installment payment plan with a customer for a term up to 24 months if it determines that this is warranted by extraordinary circumstances. In the alternative, the customer may choose a modified budget or level payment plan, or similar tariff 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 plan available. Utilities may not require a customer to participate in a budget or level payment plan or automated billing as a prerequisite for entering into an installment payment plan.
- (h) 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 (c)(I) of this rule.
- (i) 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.

* * * *

[indicates omission of unaffected rules]

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; or

- (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 apply nondiscriminatory criteria when determining whether to discontinue service for nonpayment. 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 past due amount that is less than fifty dollars (\$50);
 - (III) 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;
 - (IV) 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 paragraph 3401(c) applies;
 - (V) 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;
 - (VI) any delinquent amount, unless the utility can supply billing records from the time the delinquency occurred;
 - (VII) any debt except that incurred for service rendered by the utility in Colorado;
 - (VIII) any unregulated charge; or
 - (IX) any amount which is the subject of a pending dispute or informal complaint under rule 3004.
- (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 outside the hours of 8:00 a.m. and 4:00 p.m.; between 12:00 Noon on Friday and 8:00 a.m. the following Monday; between 12:00 Noon on the day prior to and 8:00 a.m. on the day following any state or federal holiday; or between 12:00 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) Medical emergencies.
 - (A) A utility shall postpone discontinuance of electric service to a residential customer for 90 days from the date of a medical certificate issued by a Colorado-licensed physician, health care practitioner acting under a physician's authority, or health care practitioner licensed to prescribe and treat patients which evidences that service discontinuance will aggravate an existing medical emergency or create a medical emergency for the customer or a permanent resident of the customer's household. A customer may invoke this subparagraph 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 has already entered into a payment arrangement, but broke the arrangement prior to seeking a medical certificate, 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 medical certificate must be in writing (which includes electronic certificates and signatures and those provided electronically), sent to the utility from the office of a licensed physician or health care practitioner licensed to prescribe and treat patients, and clearly show 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, health care practitioner acting under a physician's authority, or health care practitioner licensed to prescribe and treat patients certifying the medical emergency. Such certificate is not contestable by the utility as to the medical judgment, although the utility may use reasonable means to verify the authenticity of such certificate.
- (D) A utility may accept notification by telephone from the office of a licensed physician, or health care practitioner licensed to prescribe and treat patients, but a written medical certificate must be sent to the utility within ten days.
- (V) Weather provisions.
 - (A) A utility shall postpone service discontinuance to a residential customer on any day when the National Weather Service local forecast between 6:00 a.m. and 9:00 a.m. predicts that the temperature will be 32 degrees Fahrenheit (32°F) or lower at any time in the following 24 hours, or during any additional period in which utility personnel will not be available to restore utility service in accordance with rule 3409. Nothing prohibits a utility from postponing service discontinuance when temperatures are warmer than these criteria.
 - (B) A utility shall postpone service discontinuance to a residential customer on any day when the National Weather Service local forecast between 6:00 a.m. and 9:00 a.m. predicts that the temperature will be 95 degrees Fahrenheit (95°F) or higher at any time in the following 24 hours, or during any additional period in which utility personnel will not be available to restore utility service in accordance with rule 3409. Nothing prohibits a utility from postponing service discontinuance when temperatures are cooler than these criteria.
- (f) In addition to its tariffs, a utility shall publish information related to its practices around delinquency, disconnection for nonpayment, and reconnection on its website. This information should be written in a manner that promotes customer understanding and must be produced 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. A utility must include at least the following information:

- (I) the customer's rights related to service disconnection, including medical and weather-based protections, timing restrictions on service disconnection, and options and hours to contact the utility for support relating to service disconnection;
 - (II) a summary of a customer's options to prevent service disconnection for nonpayment, including installment payment plan options, utility energy assistance and affordability programs, and eligibility requirements for such programs;
 - (III) referrals to organizations that provide energy payment assistance, including energy efficiency services, such as Energy Outreach Colorado, charities, nonprofits, and governmental entities that provide or administer funds for such assistance;
 - (IV) the customer's rights related to service restoration, including restoration timelines, actions customers may take to restore service; and options and hours to contact the utility for support relating to service restoration;
 - (V) a summary of charges, fees, and deposits to which a customer may be subject under paragraphs 3404(a) and 3403(j), with a description of how those amounts are calculated, explained in a way that enables a customer to estimate the full costs they may be assessed;
 - (VI) a description of the customer's options in the event of a dispute regarding billing or disconnection practices;
 - (VII) a description of the options available to an occupant of a service address who is not a customer of record and who has a court-ordered protection order against a customer of record for the service address, relating to past-due balances, service disconnection, restoration, and continuance at the service address, including initiating new service, transferring service, and the utility's practices, policies, and criteria for determining benefit of service for purposes of transferring a customer's balance to an occupant; and
 - (VIII) a description of the utility's Demand Side Management programs, including requirements to participate, the benefits of participating, and utility contact information relating to such programs.
- (g) Reporting requirements.
- (I) Annual Report. No later than March 1 of each calendar year, each utility shall file a report covering the prior calendar year in the miscellaneous proceeding for utility disconnection filings, using the form available on the Commission's website. The report shall provide data on residential customers by class and zip code and must also break down such data by low-income customers, defined as customers participating in low-income programs authorized by rule 3412 and the Low-Income Energy Assistance Program. For data provided in this report, paragraph 3033(b) shall not apply. The report shall contain the following information, displayed by quarter:
 - (A) total number of unique customers;
 - (B) total dollar amount billed;

- (C) total number of customers charged a late payment charge;
 - (D) total dollar amount of late payment charges collected;
 - (E) number of customers with an arrearage balance by vintage (1-30 days, 31-60 days, 61-90 days, 91+ days);
 - (F) dollar amount of arrearages by vintage (1-30 days, 31-60 days, 61-90 days, 91+ days);
 - (G) total number of disconnection notices sent;
 - (H) total number of disconnections for nonpayment;
 - (I) total number of service restorations after disconnections for nonpayment;
 - (J) average duration of disconnection for nonpayment by hours, measured from when the customer completes an action in paragraph 3409(b) to when service is restored;
 - (K) total dollar amount of deposits collected for restoring service that was disconnected for nonpayment;
 - (L) total number of deposits collected for restoring service that was disconnected for nonpayment;
 - (M) total number of new installment payment plans entered into;
 - (N) average repayment term of new installment payment plans entered into;
 - (O) total dollar amount of fees collected for disconnecting service for nonpayment;
 - (P) total dollar amount of fees collected for restoring service that was disconnected for nonpayment;
 - (Q) total dollar amount of collection fees collected from customers whose service was disconnected for nonpayment; and
 - (R) total dollar amount of any other tariff-authorized charges or fees collected resulting from past due amounts, service disconnection for nonpayment, and restoring service that was disconnected for nonpayment.
- (II) Along with the items in subparagraph (g)(I), each utility shall file the following additional items.
- (A) A narrative containing the utility's analysis of any trends or inconsistencies revealed by the data in the prior year including, at minimum, an analysis of:

- (i) the total number of residential customers who were disconnected for nonpayment in the prior calendar year and percent of those customers who were disconnected for nonpayment multiple times; and
 - (ii) the total number of residential installment payment plans entered into in the prior calendar year, the average length of those installment payment plans, the number of residential installment payment plans completed, and the number of residential installment payment plans that were broken.
- (B) Information about how the utility is working to reduce delinquencies and disconnections, including any actions the utility is taking specific to residential customers experiencing multiple disconnections in a calendar year, and a description of the efforts made to identify entities to which the utility refers customers for energy bill assistance.

3408. Notice of Discontinuance of Service.

- (a) Except as provided in paragraphs (g) and (h) of this rule, prior to discontinuing service, a utility shall provide a customer, and any third party the customer has designated in writing or electronically, with the following forms of notice:
- (I) upon a bill becoming past due, and at least five business days before issuing a notice of discontinuance, a utility must provide notice of late payment;
 - (II) at least 12 business days before any proposed service discontinuance, written notice of discontinuance as further described in paragraphs (b) and (c), by first class mail or hand delivery;
 - (III) at least 24 hours in advance of any proposed discontinuance of service, the utility must make a reasonable attempt to provide notice in person or by telephone; and
 - (IV) if the utility will implement service discontinuance remotely, in addition to subparagraphs (I) through (III), the utility must undertake at least one additional attempt to notify the customer of record at their provided telephone number or in person at least 72 hours before discontinuing service.
- (b) The written notice of discontinuance under subparagraph (a)(II) shall be conspicuous and in easily understood language, and the heading shall contain, in bold font and 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.**
- (c) The body of the notice of discontinuance under subparagraph (a)(II) of this rule shall advise the customer of the following:
- (I) the reason for the discontinuance of service;

- (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 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; and
 - (XII) that 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.
- (d) A notice of discontinuance 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) If the utility attempts to notify the customer in person or by telephone but fails to do so, it shall leave written or recorded 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; and
 - (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 paragraph 3407(c) or 3407(d) applies; or
 - (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; and

- (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) A utility shall restore service 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 certificate, as provided in subparagraph 3407(e)(IV); or
 - (IV) demonstrates to the utility that the cause for discontinuance, if other than non-payment, has been cured.
- (c) Unless prevented by safety concerns or exigent circumstances, a utility shall restore service to a customer who has completed an action in paragraph (b) within 24 hours (excluding weekends and holidays) of the time that the customer completes an action in paragraph (b), or within 12 hours of the time that the customer completes an action in paragraph (b) if the customer pays applicable after-hours charges and fees established in tariffs. The utility must exercise its best efforts to restore service for customers meeting requirements of paragraph (b) on the same day of a service discontinuance.
- (d) The utility must resolve doubts as to whether a customer has met the requirements for service restoration under paragraph (b) in favor of restoration.

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[indicates omission of unaffected rules]

3413. Medical Exemption from Tiered Rate Plans.

- (a) Scope and Applicability.
 - (I) Any electric utility that has a Commission approved tiered rate plan, also known as inverted block rates, shall file an advice letter and tariff, consistent with 4 CCR 723-1-1210, for a rate plan for residential customers who elect an alternate rate plan due to a qualifying medical condition and/or use of essential medical equipment and whose household income is less than or equal to 400 hundred percent of federal poverty guidelines, which may be self-certified by the customer. The effect of such an exemption

shall be neutral with respect to the utility's revenue requirement. If a customer qualifies for the alternate rate plan, that customer shall not be precluded from participating in any low-income program offered by the utility.

(b) Definitions.

- (I) "Essential medical equipment" means any medical device used in the home to sustain life or which is relied upon for mobility, as determined by a physician currently licensed and in good standing in the state of Colorado.
- (II) "Federal poverty guidelines" means the poverty measures published annually by the U.S. Department of Health and Human Services.
- (III) "Non-participant" means a utility customer who is billed according to the utility's tiered rate plan.
- (IV) "Participant" means a residential utility customer who is billed according to the utility's alternative rate plan.
- (V) "Qualifying medical condition" includes heat-sensitive medical conditions including, but not limited to, multiple sclerosis, epilepsy, quadriplegia, and paraplegia, or the need for the use of essential medical equipment, as determined by a physician licensed in the state of Colorado, or other health care practitioner licensed to prescribe and treat patients.

(c) A certificate of a qualifying medical condition and/or use of essential medical equipment shall be valid for one year. Once certified by a physician, or other health care practitioner licensed to prescribe and treat patients, customers with qualifying medical conditions lasting longer than one year may submit an annual attestation as to the continued condition and the current address of residency. A certificate of a qualifying medical condition and/or use of essential medical equipment shall:

- (I) be in writing (which includes electronic certificates and signatures and those provided electronically);
- (II) be sent from the office of a currently licensed physician in good standing in the state of Colorado, or other health care practitioner licensed to prescribe and treat patients to either the utility or a Commission approved third party with whom the utility contracts pursuant to rule 3209;
- (III) clearly state the name of the customer or individual whose medical condition and/or use of essential medical equipment is at issue; and
- (IV) clearly state the Colorado medical identification number, phone number, name, and signature of the physician or health care practitioner acting under a physician's authority, or other health care practitioner licensed to prescribe and treat patients certifying the existence of a qualifying medical condition and/or use of essential medical equipment.

- (d) Such certification is not contestable by the utility as to the medical judgment, although the utility may use reasonable means to verify the authenticity of such certificate.
- (e) Verification of the authenticity of the certificate of a qualifying medical condition or use of essential medical equipment shall be done by the utility or a Commission approved third party with which the utility contracts the medical verification activities.
- (f) If the utility or Commission approved third party deems it reasonably necessary, verification of household income may be done by the utility or Commission approved third party with which the utility contracts the income verification activities.
- (g) The Commission may, with cause, conduct an audit of the income verification process employed by the utility or an entity with which the utility contracts for that purpose.
- (h) Cost recovery.
 - (I) Each utility shall address in its filing how costs of the alternative rate plan 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 alternative rate plan costs:
 - (A) lost revenues based on the difference between the expected monthly revenues and revenues under the alternate rate plan for the months during which a tiered rate plan is in place; and
 - (B) alternative rate plan administrative costs.
- (i) Annual Report.
 - (I) No later than December 15 each year, each utility shall file an annual report, based on the previous summer cooling period during which tiered rates were in effect, containing the following information:
 - (A) monthly information including number of participants, individual household electricity usage, and individual household incomes;
 - (B) the total number of applicants for the alternative rate plan;
 - (C) the number of applicants who qualified for the rate plan;
 - (D) total cost of the program and the average rate impact of non-participants by rate class; and
 - (E) a description of the efforts made to facilitate the enrollment of qualified persons in the alternative rate plan.

- (II) To the extent that the annual report may disclose individual customer information, the utility is authorized to file that portion of the annual report as confidential pursuant to 4 CCR 723-1-1102, Procedures Relating to Confidential Information Submitted to the Commission Outside of a Formal Proceeding.

3414. - 3499. [Reserved].

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[indicates omission of unaffected rules]

3976. Regulated Electric Utility Rule Violations, Civil Enforcement, and Civil Penalties.

An admission to or Commission adjudication for liability for an intentional violation of the following may result in the assessment of a civil penalty of up to \$2,000.00 per offense. Fines shall accumulate up to, but shall not exceed, the applicable statutory limits set in § 40-7-113.5, C.R.S.

Citation	Description	Maximum Penalty Per Violation
	Articles 1-7 of Title 40, C.R.S.	\$2000
	Commission Order	\$2000
Rule 3005(a)-(c);(f)	Records and Record Retention	\$2000
Rule 3027(a)	Collection and Use of Customer Data	\$1000
Rule 3027(b)	Disclosure of Customer Data	\$2000
Rule 3027(c)	Tariff	\$1000
Rule 3027(d)	Disclosure of Customer Data	\$1000
Rule 3028(a)	Customer Notice	\$1000
Rule 3029(a),(b)	Consent Form	\$1000
Rule 3030(a)	Disclosure of Customer Data	\$2000
Rule 3030(b)	Records	\$1000
Rule 3031(a)	Disclosure of Customer Data	\$2000
Rule 3031(b)	Records	\$1000

Rule 3032(a)	Disclosure of Customer Data	\$2000
Rule 3032(c) and (d)	Consent and Records	\$1000
Rule 3033(a)	Disclosure of Aggregated Data	\$2000
Rule 3033(d)	Tariff	\$1000
Rule 3100(a)	Obtaining a Certificate of Public Convenience and Necessity for a Franchise	\$2000
Rule 3101(a)	Obtaining a Certificate of Public Convenience and Necessity or Letter of Registration to Operate in a Service Territory	\$2000
Rule 3102(a)	Obtaining a Certificate of Public Convenience and Necessity for Facilities	\$2000
Rule 3103(a),(c),(d)	Amending a Certificate of Public Necessity for Changes in Service Territory or Facilities	\$2000
Rule 3108(a),(c)	Keeping a Current Tariff on File with the Commission	\$2000
Rule 3109	Filing a New or Changed Tariff with the Commission	\$2000
Rule 3110(b),(c)	Filing an Advice Letter to Implement a Tariff Change	\$2000
Rule 3200(a),(b)	Construction, Installation, Maintenance and Operation of Facilities in Compliance with Accepted Engineering and Industry Standards	\$2000
Rule 3204	Reporting Incidents Resulting in Death, Serious Injury, or Significant Property Damage	\$2000
Rule 3210	Line Extensions	\$2000
Rule 3251	Reporting Major Events	\$2000
Rule 3252	Filing a Report on a Major Event with the Commission	\$2000
Rule 3303(a)-(j)	Meter Testing	\$2000
Rule 3306	Record Retention of Tests and Meters	\$2000

Rule 3309	Provision of Written Documentation of Readings and Identification of When Meters Will be Read	\$2000
Rule 3401	Billing Information, Procedures, and Requirements	\$2000
Rule 3603	Resource Plan Filing Requirements	\$2000
Rule 3654(a),(d)	Renewable Energy Standards	\$2000
Rule 3657(a)	QRU Compliance Plans	\$2000
Rule 3662	Annual Compliance Reports	\$2000
Rule 3803(c)	Master Meter Exemption Requirements	\$2000
Rule 3004(b)-(f)	Disputes and Informal Complaints	\$1000
Rule 3202(a),(b),(f),(g)	Maintaining a Standard Voltage and Frequency	\$1000
Rule 3203(a),(b)	Trouble Report Response, Interruptions and Curtailments of Service	\$1000
Rule 3405	Provision of Service, Rate, and Usage Information to Customers	\$1000
Rule 3406	Provision of Source Information to Customers	\$1000
Rule 3253	Filing a Supplemental Report on a Major Event with the Commission	\$1000
Rule 3208(a)-(c)	Poles	\$500
Rule 3403(a)-(q);(s)	Applications for Service, Customer Deposits, and Third Party Guarantees	\$500
Rule 3658	Standard Rebate Offer	\$500
Rule 3006(a),(b),(e)-(m)	Annual Reporting Requirements	\$100
Rule 3304	Scheduled Meter Testing	\$100
Rule 3305	Meter Testing Upon Request	\$100
Rule 3402(a),(c),(d)	Meter and Billing Error Adjustments	\$100
Rule 3404(a)-(h)	Availability of Installation Payments to Customers	\$1000

Rule 3407	Discontinuance of Service	\$2000
Rule 3408(a)-(g);(i)	Notice of Discontinuance of Service	\$2000
Rule 3409	Restoration of Service	\$2000
Rule 3411(c)(IV),(d)(I), (d)(II),(e)	Low-Income Energy Assistance Act	\$100
Rule 3618	Filing of Electric Resource Planning Reports	\$100

3977 – 3999. [Reserved].

COLORADO DEPARTMENT OF REGULATORY AGENCIES

Public Utilities Commission

4 CODE OF COLORADO REGULATIONS (CCR) 723-4

PART 4

RULES REGULATING GAS UTILITIES

4403. Applications for Service, Customer Deposits, and Third-Party Guarantee Arrangements.

- (a) A utility shall process an application for utility service ~~which-that~~ is made either orally or in writing and shall apply nondiscriminatory criteria with respect to the requirement of a deposit prior to commencement of service. Nondiscriminatory criteria means that no deposit or guarantee, or additional deposit or guarantee, shall be required by a utility because of race, sex, creed, national origin, marital status, age, number of dependents, source of income, disability, or geographical area of residence.
- ~~(b) All utilities requiring deposits shall offer customers at least one payment alternative that does not require the use of the customer's social security number.~~
- ~~(bc) If billing records are available for a customer who has received past service from the utility, the utility shall not require that person to make new or additional 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 deposit requirements, and such requirements shall be specifically stated in to the utility's tariff.~~~~
- ~~(ed) A utility shall not require a deposit from an applicant for service who provides written documentation of a 12 consecutive month good credit payment 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.~~
- ~~(e) A utility shall not require a deposit from an applicant for service or restoration of service who is or was within the last 12 months, a participant in the Low-Income Energy Assistance Program or in a low-income program consistent with rule 4412, or who received energy bill assistance from Energy Outreach Colorado within the last 12 months.~~
- ~~(ef) If a utility uses credit scoring to determine whether to require a deposit from an applicant for service or a customer, the utility shall have a tariff ~~which-that~~ describes, for each scoring model that it uses, the credit scoring evaluation criteria and the credit score limit ~~which-that~~ triggers a 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.~~

- (fg) 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 deposit, the utility shall include in its tariff the specific evaluation criteria ~~which-that~~ trigger the need for a deposit.
- (gh) If a utility denies an application for service or requires a 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 specific reasons why the application for service has been denied or a deposit is required.
- (hi) No utility shall require any surety other than either a deposit to secure payment for utility services or a third-party guarantee of payment in lieu of a 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 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 deposit or a new third party guarantor.
- (ij) The total A-deposit a utility may require or hold at any one time shall not exceed an amount equal to an estimated 90 days' bill of the customer, except in the case of a customer whose bills are payable in advance of service, in which case the deposit shall not exceed an estimated 60 days' bill of the customer. The deposit may be in addition to any advance, contribution in aid of construction or guarantee required by the utility tariff in connection with construction of lines or facilities, as provided in the extension policy in the utility's tariffs. A deposit may be paid in installments.
- (jk) A utility receiving deposits shall maintain records showing:
- (I) the name of each customer making a deposit;
 - (II) the amount and date of the deposit;
 - (III) each transaction, such as the payment of interest or interest credited, concerning the deposit;
 - (IV) each premise where the customer receives service from the utility while the deposit is retained by the utility;
 - (V) if the deposit was returned to the customer, the date on which the deposit was returned to the customer; and
 - (VI) if the unclaimed deposit was paid to the energy assistance organization, the date on which the deposit was paid to the energy assistance organization.
- (kl) ~~In its tariff, a utility~~ Each utility shall ~~clearly~~ state in its tariff its customer deposit policy for establishing or maintaining service. The tariff shall state the circumstances under which a deposit will be required and the circumstances under which it will be returned. A utility shall return any deposit paid by a customer who has made no more than two late payments in 12 consecutive months.

- (m) ~~A~~Each utility shall issue a receipt to every customer from whom a deposit is received. No utility shall refuse to return a deposit or any balance to which a customer may be entitled solely on the basis that the customer is unable to produce a receipt.
- (nn) The payment of a 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 deposit to any indebtedness of the customer to the utility, except for utility services due or past due after service is terminated.
- (oo) A utility shall pay simple interest on a deposit at the percentage rate per annum as calculated by the Commission 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 deposit or annually. The simple interest on a deposit shall be earned from the date the 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 credited to the customer's account.
 - (II) The simple interest to be paid on a deposit during any calendar year shall be at a rate equal to the average for the period October 1 through September 30 (of the immediately preceding year) of the 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 Commission 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 deposits during the next calendar year. Annually following receipt of -Commission staff's letter, if necessary, a 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' deposits, except when there is no change in the rate of interest to be paid on such deposits.
- (pp) 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 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 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 presentation of the guarantee to the utility;

- (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 deposit;
 - (V) the guarantee shall remain in effect until the earlier of the following occurs:
 - (A) the guarantee is terminated in writing by the guarantor;
 - (B) if the guarantor was a customer at the time of undertaking the guarantee, the guarantor ceases to be a customer of the utility; or
 - (C) 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 deposit or a new third party guarantor.
- (pg) 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: undistributed refunds for overcharges subject to other statutory provisions and rules and 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 deposit or the construction advance was made or when left with the utility for more than two years after the 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 deposit shall accrue at the rate established pursuant to paragraph (OA) of this rule commencing on the date on which the utility receives the deposit and ending on the date on which the deposit is paid to the energy assistance organization. If the utility does not pay the unclaimed deposit to the energy assistance organization within four months of the date on which the unclaimed deposit is deemed to be unclaimed or abandoned pursuant to subparagraph (pg)(I) of this rule, then at the conclusion of the four-month period, interest shall accrue on the unclaimed deposit at the rate established pursuant to paragraph (OA) of this rule plus six percent.
 - (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 (OA) 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 (pg)(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 (OA) of this rule plus six percent.

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

4404. Installment Payments Charges, Fees, and Payment Plans.

- (a) In its tariffs, a utility shall provide a description of all charges or fees that the utility assesses resulting from regulated charges that are past due and service discontinuance and restoration. A utility may assess the following charges or fees at no higher than cost, as stated in its tariff:
 - (I) a late payment charge for regulated charges that are past due and exceed \$50;
 - (II) a fee for discontinuance of service;
 - (III) a fee for restoration of service;
 - (IV) collection fees; and
 - (V) any other regulated charges or fees provided in the utility's tariff.
- (ab) In its tariffs, a utility shall have the following payment plans make a budget or level payment plan available for its customers:
 - (I) an installment payment plan; and
 - (II) a budget or level payment plan and have such plan clearly defined in its tariff.
- (bc) A utility shall have in its tariff 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 certificate. A customer who has entered into and failed to abide by an installment payment plan prior to receiving a medical certificate shall pay all amounts that were due for regulated charges up to the date on which the customer presented a medical certificate which meets the requirements of subparagraph 4407(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.
- (ed) 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 other regulated charges and fees as described in paragraph (a) of this rule, except fees relating to service diversion, whether or not such fees have appeared on a regular monthly bill; any collection fees as provided for in the utility's tariff, whether or not such fees have appeared on a regular monthly bill; and~~
 - (VII) ~~any applicable deposit, consistent with rule 4403, 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 deposit required as a condition of initiating service; and~~
 - (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.~~
- (e) A customer entering into a payment arrangement as described in paragraph (b) may modify their bill due date if the utility's billing system allows for such a change.
- (ef) Within seven calendar days of entering into a payment arrangement with a customer, a utility shall provide the customer with 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; and
 - (II) a description of the steps which the utility will take if the customer does not abide by payment plan.
- (eg) Except as provided in subparagraph (bc)(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~~ 12 months. Notwithstanding the foregoing, a utility may enter into an installment payment plan with a customer for a term up to 24 months if it determines that this is warranted by extraordinary circumstances. In the alternative, the customer may choose a modified budget ~~billing, or~~ level payment plan, or similar tariff 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 plan available. Utilities may not require a customer to participate in a budget or level payment plan or automated billing as a prerequisite for entering into an installment payment plan.
- (fh) 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 (cb)(I) of this rule.
- (gj) 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.

* * * *

[indicates omission of unaffected rules]

4407. 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;

- (VI) discontinuance ordered by any appropriate governmental authority; or
- (VII) 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 apply nondiscriminatory criteria when determining whether to discontinue service for nonpayment. 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 past due amount that is less than fifty dollars (\$50);

- (III) 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;

- ~~(IV)~~ 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 paragraph 4401(c) applies;

- ~~(V)~~ any amount due on an 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;

- (VI) any delinquent amount, unless the utility can supply billing records from the time the delinquency occurred;

- (VII) any debt except that incurred for service rendered by the utility in Colorado; ~~or~~

- (VIII) any unregulated charge; or

(IX) any amount which is the subject of a pending dispute or informal complaint under rule 4004.

(c) If the utility discovers any connection or device installed on the customer's premises, including any energy-consuming device in the proximity 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. 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 4404.
 - (III) If it is outside the hours of 8:00 a.m. and 4:00 p.m.; between 12:00 Noon on Friday and 8:00 a.m. the following Monday; between 12:00 Noon on the day prior to and 8:00 a.m. on the day following any state or federal holiday; or between 12:00 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) Medical emergencies.
 - (A) A utility shall postpone service discontinuance ~~of gas service~~ to a residential customer for ~~60~~90 days from the date of a medical certificate issued by a Colorado-licensed physician, ~~or~~ health care practitioner acting under a physician's authority, or health care practitioner licensed to prescribe and treat patients which evidences that service 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 subparagraph ~~4407(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 has~~ed~~ already entered into a payment arrangement, but ~~had-broken~~ the arrangement prior to seeking a medical certifi~~cat~~~~ion~~~~e~~~~ion~~, 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 medical certificate ~~of medical emergency shall must~~ be in writing (which includes electronic certificates and signatures and those provided electronically), sent to the utility from the office of a licensed physician, or health care practitioner licensed to prescribe and treat patients, and clearly 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, or health care practitioner licensed to prescribe and treat patients certifying the medical emergency. Such certifi~~cat~~~~ion~~~~e~~~~ion~~ ~~is not shall be in~~contestable by the utility as to the medical judgment, although the utility may use reasonable means to verify the authenticity of such certifi~~cat~~~~ion~~~~e~~~~ion~~.
- (D) A utility may accept notification by telephone from the office of a licensed physician, or health care practitioner licensed to prescribe and treat patients, but a written medical certificate must be sent to the utility within ten days.
- (V) A utility shall postpone service discontinuance to a residential customer on any day when the National Weather Service local forecast between 6:00 a.m. and 9:00 a.m. predicts that the temperature will be 32 degrees Fahrenheit (32°F) or lower at any time during the following 24 hours, or during any additional period in which utility personnel will not be available to restore utility service in accordance with rule 4409. Nothing prohibits a utility from postponing service discontinuance when temperatures are warmer than these criteria.
- (f) In addition to its tariffs, a utility shall publish information related to its practices around delinquency, disconnection for nonpayment, and reconnection on its website. This information should be written in a manner that promotes customer understanding and must be produced 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. A utility must include at least the following information:
- (I) the customer's rights related to service disconnection, including medical and weather-based protections, timing restrictions on service disconnection, and options and hours to contact the utility for support relating to service disconnection;
- (II) a summary of a customer's options to prevent service disconnection for nonpayment, including installment payment plan options, utility energy assistance and affordability programs, and eligibility requirements for such programs;

- (III) referrals to organizations that provide energy payment assistance, including energy efficiency services, such as Energy Outreach Colorado, charities, nonprofits, and governmental entities that provide or administer funds for such assistance;
 - (IV) the customer's rights related to service restoration, including restoration timelines, actions customers may take to restore service, and options and hours to contact the utility for support relating to service restoration;
 - (V) a summary of charges, fees, and deposits to which a customer may be subject under paragraphs 4403(j) and 4404(a), with a description of how those amounts are calculated, explained in a way that enables a customer to estimate the full costs they may be assessed;
 - (VI) a description of the customer's options in the event of a dispute regarding billing or disconnection practices;
 - (VII) a description of the options available to an occupant of a service address who is not a customer of record and who has a court-ordered protection order against a customer of record for the service address, relating to past-due balances, service disconnection, restoration, and continuance at the service address, including initiating new service, transferring service, and the utility's practices, policies, and criteria for determining benefit of service for purposes of transferring a customer of record's balance to an occupant; and
 - (VIII) a description of the utility's Demand Side Management programs, including requirements to participate, the benefits of participating, and utility contact information relating to such programs.
- (g) Reporting requirements.
- (I) Annual Report. No later than March 1 of each calendar year, each utility shall file a report covering the prior calendar year in the miscellaneous proceeding for utility disconnection filings, using the form available on the Commission's website. The report shall provide data on residential customers by class and zip code and must also break down such data by low-income customers, defined as customers participating in low-income programs authorized by rule 4412 and the Low-Income Energy Assistance Program. For data provided in this report, paragraph 4033(b) shall not apply. The report shall contain the following information, displayed by quarter:
 - (A) total number of unique customers;
 - (B) total dollar amount billed;
 - (C) total number of unique customers charged a late payment charge;
 - (D) total dollar amount of late payment charges collected;
 - (E) number of unique customers with an arrearage balance by vintage (1-30 days, 31-60 days, 61-90 days, 91+ days);

- (F) dollar amount of arrearages by vintage (1-30 days, 31-60 days, 61-90 days, 91+ days);
 - (G) total number of disconnection notices sent;
 - (H) total number of disconnections for nonpayment;
 - (I) total number of service restorations after disconnections for nonpayment;
 - (J) average duration of disconnection for nonpayment in hours, measured from when the customer completes an action in paragraph 4409(b) to when service is restored;
 - (K) total dollar amount of deposits collected for restoring service that was disconnected for nonpayment;
 - (L) total number of deposits collected for restoring service that was disconnected for nonpayment;
 - (M) total number of new installment payment plans entered into;
 - (N) average repayment term of new installment payment plans entered into;
 - (O) total dollar amount of fees collected for disconnecting service for nonpayment;
 - (P) total dollar amount of fees collected for restoring service that was disconnected for nonpayment;
 - (Q) total dollar amount of collection fees collected from customers whose service was disconnected for nonpayment; and
 - (R) total dollar amount of any other tariff-authorized charges or fees collected resulting from past due amounts, service disconnection for nonpayment, and restoring service that was disconnected for nonpayment.
- (II) Along with the items in subparagraph (g)(I), each utility shall file the following additional items.
- (A) A narrative containing the utility's analysis of any trends or inconsistencies revealed by the reported data for the prior year including, at minimum, an analysis of:
 - (i) the total number of residential customers who were disconnected for nonpayment in the prior calendar year and percent of those customers who were disconnected for nonpayment multiple times; and
 - (ii) the total number of residential installment payment plans entered into in the prior calendar year, the average length of those installment payment plans, the number of residential installment payment plans completed,

and the number of residential installment payment plans that were broken.

(B) Information about how the utility is working to reduce delinquencies and disconnections, including any actions the utility is taking specific to residential customers experiencing multiple disconnections in a calendar year, and a description of the efforts to identify and refer energy efficiency and bill assistance resources.

4408. Notice of Discontinuance.

(a) Except as provided in paragraphs (g) and (h) of this rule, prior to discontinuing service, a utility shall provide a customer, and any third party the customer has designated in writing or electronically, with the following forms of notice:

(I) upon a bill becoming past due, and at least five business days before issuing a notice of discontinuance, a utility must provide notice of late payment;

(II) at least 12 business days before any proposed service discontinuance, written notice of discontinuance as further described in paragraphs (b) and (c), by first class mail or hand delivery;

(III) at least 24 hours in advance of any proposed service discontinuance, the utility must make a reasonable attempt to provide notice in person or by telephone; and

(IV) if the utility will implement service discontinuance remotely, in addition to subparagraphs (I) through (III), the utility must undertake at least one additional attempt to notify the customer of record at their provided telephone number or in person at least 72 hours before discontinuing service.

(a_b) ~~Except as provided in paragraphs (g) and (h) of this rule, a utility shall provide, by first class mail or by hand delivery, The written notice of discontinuance of service under subparagraph (a)(II) at least 15 days in advance of any proposed discontinuance of service. The heading shall be conspicuous and in easily understood language, and the heading shall~~ contain, in bold font and 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_c) The body of the notice of discontinuance under subparagraph (a)(II) of this rule shall at a minimum advise the customer of the following:

(I) the reason for the discontinuance of service ~~and of the particular terms of service and 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 4404 as described in 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 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 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; and
 - (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 notice of 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 or by telephone but fails to do so, it shall leave written or recorded 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; and
 - (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;
 - (II) discontinuance is ordered by any appropriate governmental authority;
 - (III) either paragraph 4407(c) or 4407(d) applies; or
 - (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; and
- (IV) the utility shall post the notice in at least one of the common areas of the affected location.

4409. Restoration of Service.

- (a) Unless prevented from doing so by safety concerns, a utility shall restore, without additional fee or charge, any discontinued service which was not properly discontinued or restored as provided in rules 4407, 4408, and 4409.
- ~~(b) Unless prevented by safety concerns, 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,~~
- (b) A utility shall restore service 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 subparagraph 4407(e)(IV);
 - (IV) demonstrates to the utility that the cause for discontinuance, if other than non-payment, has been cured.
- ~~(c) Unless prevented by safety concerns or exigent circumstances, a utility shall restore service to a customer who has completed an action in paragraph (b) within 24 hours (excluding weekends and holidays) of the time that the customer completes an action in paragraph (b), or within 12 hours of the time that the customer completes an action in paragraph (b) if the customer pays applicable after-hours charges and fees established in tariffs. The utility must exercise its best efforts to restore service for customers meeting requirements of paragraph (b) on the same day of a service discontinuance.~~
- ~~(d) The utility must resolve doubts as to whether a customer has met the requirements for service restoration under paragraph (b) in favor of restoration.~~

[indicates omission of unaffected rules]

4976. Regulated Gas Utility Rule Violations, Civil Enforcement, and Civil Penalties.

An admission to or Commission adjudication for liability for an intentional violation of the following may result in the assessment of a civil penalty of up to \$2,000.00 per offense. Fines shall accumulate up to, but shall not exceed, the applicable statutory limits set in § 40-7-113.5, C.R.S.

Citation	Description	Maximum Penalty Per Violation
	Articles 1-7 of Title 40, C.R.S.	\$2000
	Commission Order	\$2000
Rule 4005	Records and Record Retention	\$2000
Rule 4027(a)	Collection and Use of Customer Data	\$1000
Rule 4027(b),	Disclosure of Customer Data	\$2000
Rule 4027(c)	Tariff	\$1000
Rule 4027(d)	Disclosure of Customer Data	\$1000
Rule 4028(a)	Customer Notice	\$1000
Rule 4029(a),(b)	Consent Form	\$1000
Rule 4030(a)	Disclosure of Customer Data	\$2000
Rule 4030(b)	Records	\$1000
Rule 4031(a)	Disclosure of Customer Data	\$2000
Rule 4031(b)	Records	\$1000
Rule 4032(a)	Disclosure of Customer Data	\$2000
Rules 4032(c) and (d)	Consent and Records	\$1000
Rule 4033(a)	Disclosure of Aggregated Data	\$2000
Rule 4033(d)	Tariff	\$1000

Rule 4100(a)	Obtaining a Certificate of Public Convenience and Necessity for a Franchise	\$2000
Rule 4101(a)	Obtaining a Certificate of Public Convenience and Necessity or Letter of Registration to operate in a service territory	\$2000
Rule 4102(a)	Obtaining a Certificate of Public Convenience and Necessity for facilities	\$2000
Rule 4103(a), (c), (d)	Amending a Certificate of Public Necessity for changes in service territory or facilities	\$2000
Rule 4108(a), (c)	Keeping a Current Tariff on File with the Commission	\$2000
Rule 4109	Filing a New or Changed Tariff with the Commission	\$2000
Rule 4110(b),(c)	Filing an Advice Letter to Implement a Tariff Change	\$2000
Rule 4200	Construction, Installation, Maintenance and Operation of Facilities in Compliance with Accepted Engineering and Industry Standards	\$2000
Rule 4208	Anticompetitive Conduct and Unacceptable Practices	\$2000
Rule 4210	Line Extensions	\$2000
Rule 4303	Meter Testing	\$2000
Rule 4306	Record Retention of Tests and Meters	\$2000
Rule 4309	Provision of Written Documentation of Readings and Identification of When Meters Will be Read	\$2000
Rule 4401	Billing Information, Procedures, and Requirements	\$2000
Rule 4754(a)-(e)	Annual DSM Report and Application for Bonus and Bonus Calculation	\$2000
Rule 4803(c)	Master Meter Exemption Requirements	\$2000

Rule 4004(b)-(f)	Disputes and Informal Complaints	\$1000
Rule 4202	Maintaining Heating Value, Purity and Pressure Standards	\$1000
Rule 4203(a)-(f)	Trouble Report Response, Interruptions and Curtailments of Service	\$1000
Rule 4405	Provision of Service, Rate, and Usage Information to Customers	\$1000
Rule 4406	Provision of Gas Cost Component Information to Customers	\$1000
Rule 4603(a),(d)	Gas Cost Adjustments	\$1000
Rule 4605(a),(b),(e),(f)	Gas Purchase Plans	\$1000
Rule 4607(a)	Gas Purchase Reports and Prudence Reviews	\$1000
Rule 4403(a)-(q)	Applications for Service, Customer Deposits, and Third Party Guarantees	\$500
Rule 4006	Annual Reporting Requirements	\$100
Rule 4304	Scheduled Meter Testing	\$100
Rule 4305	Meter Testing Upon Request	\$100
Rule 4402(a),(c),(d)	Meter and Billing Error Adjustments	\$100
Rule 4404(a)- (h) (f)	Availability of Installation Payments to Customers	\$100 <u>1000</u>
Rule 4407	Discontinuance of Service	\$100 <u>2000</u>
Rule 4408(a)-(g); (i)	Notice of Discontinuation of Service	\$100 <u>2000</u>
Rule 4409	Restoration of Service	\$100 <u>2000</u>
Rule 4411(c)(IV),(d)(I), d(II),(e)	Low-Income Energy Assistance Act	\$100

4977. – 4999. [Reserved].

COLORADO DEPARTMENT OF REGULATORY AGENCIES

Public Utilities Commission

4 CODE OF COLORADO REGULATIONS (CCR) 723-4

PART 4

RULES REGULATING GAS UTILITIES

4403. Applications for Service, Customer Deposits, and Third-Party Guarantee Arrangements.

- (a) A utility shall process an application for utility service that is made either orally or in writing and shall apply nondiscriminatory criteria with respect to the requirement of a deposit prior to commencement of service. Nondiscriminatory criteria means that no deposit or guarantee, or additional deposit or guarantee, shall be required by a utility because of race, sex, creed, national origin, marital status, age, number of dependents, source of income, disability, or geographical area of residence.
- (b) All utilities requiring deposits shall offer customers at least one payment alternative that does not require the use of the customer's social security number.
- (c) If billing records are available for a customer who has received past service from the utility, the utility shall not require that person to make new or additional deposits to guarantee payment of current bills unless the records indicate recent or substantial delinquencies.
- (d) A utility shall not require a deposit from an applicant for service who provides written documentation of a 12 consecutive month good payment 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.
- (e) A utility shall not require a deposit from an applicant for service or restoration of service who is or was within the last 12 months, a participant in the Low-Income Energy Assistance Program or in a low-income program consistent with rule 4412, or who received energy bill assistance from Energy Outreach Colorado within the last 12 months.
- (f) If a utility uses credit scoring to determine whether to require a deposit from an applicant for service or a customer, the utility shall have a tariff that describes, for each scoring model that it uses, the credit scoring evaluation criteria and the credit score limit that triggers a deposit requirement.
- (g) 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 deposit, the utility shall include in its tariff the specific evaluation criteria that trigger the need for a deposit.

- (h) If a utility denies an application for service or requires a 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 specific reasons why the application for service has been denied or a deposit is required.
- (i) No utility shall require any surety other than either a deposit to secure payment for utility services or a third-party guarantee of payment in lieu of a 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 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 deposit or a new third party guarantor.
- (j) The total deposit a utility may require or hold at any one time shall not exceed an amount equal to an estimated 90 days' bill of the customer, except in the case of a customer whose bills are payable in advance of service, in which case the deposit shall not exceed an estimated 60 days' bill of the customer. The deposit may be in addition to any advance, contribution in aid of construction or guarantee required by the utility tariff in connection with construction of lines or facilities, as provided in the extension policy in the utility's tariffs. A deposit may be paid in installments.
- (k) A utility receiving deposits shall maintain records showing:
 - (I) the name of each customer making a deposit;
 - (II) the amount and date of the deposit;
 - (III) each transaction, such as the payment of interest or interest credited, concerning the deposit;
 - (IV) each premise where the customer receives service from the utility while the deposit is retained by the utility;
 - (V) if the deposit was returned to the customer, the date on which the deposit was returned to the customer; and
 - (VI) if the unclaimed deposit was paid to the energy assistance organization, the date on which the deposit was paid to the energy assistance organization.
- (l) 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 deposit will be required and the circumstances under which it will be returned. A utility shall return any deposit paid by a customer who has made no more than two late payments in 12 consecutive months.
- (m) Each utility shall issue a receipt to every customer from whom a deposit is received. No utility shall refuse to return a deposit or any balance to which a customer may be entitled solely on the basis that the customer is unable to produce a receipt.

- (n) The payment of a 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 deposit to any indebtedness of the customer to the utility, except for utility services due or past due after service is terminated.
- (o) A utility shall pay simple interest on a deposit at the percentage rate per annum as calculated by the Commission 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 deposit or annually. The simple interest on a deposit shall be earned from the date the 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 credited to the customer's account.
 - (II) The simple interest to be paid on a deposit during any calendar year shall be at a rate equal to the average for the period October 1 through September 30 (of the immediately preceding year) of the 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 Commission 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 deposits during the next calendar year. Annually following receipt of Commission staff's letter, if necessary, a 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' deposits, except when there is no change in the rate of interest to be paid on such deposits.
- (p) 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 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 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 presentation of the guarantee to the utility;
 - (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 deposit;
 - (V) the guarantee shall remain in effect until the earlier of the following occurs:

- (A) the guarantee is terminated in writing by the guarantor;
 - (B) if the guarantor was a customer at the time of undertaking the guarantee, the guarantor ceases to be a customer of the utility; or
 - (C) 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 deposit or a new third party guarantor.
- (q) 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: undistributed refunds for overcharges subject to other statutory provisions and rules and 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 deposit or the construction advance was made or when left with the utility for more than two years after the 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 deposit shall accrue at the rate established pursuant to paragraph (o) of this rule commencing on the date on which the utility receives the deposit and ending on the date on which the deposit is paid to the energy assistance organization. If the utility does not pay the unclaimed deposit to the energy assistance organization within four months of the date on which the unclaimed deposition is deemed to be unclaimed or abandoned pursuant to subparagraph (q)(I) of this rule, then at the conclusion of the four-month period, interest shall accrue on the unclaimed deposit at the rate established pursuant to paragraph (o) of this rule plus six percent.
 - (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 (o) 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 (q)(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 (o) of this rule plus six percent.
- (r) A utility shall resolve all inquiries regarding a customer's unclaimed monies and shall not refer such inquiries to the energy assistance organization.

- (s) 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.

4404. Charges, Fees, and Payment Plans.

- (a) In its tariffs, a utility shall provide a description of all charges or fees that the utility assesses resulting from regulated charges that are past due and service discontinuance and restoration. A utility may assess the following charges or fees at no higher than cost, as stated in its tariff:
 - (I) a late payment charge for regulated charges that are past due and exceed \$50;
 - (II) a fee for discontinuance of service;
 - (III) a fee for restoration of service;
 - (IV) collection fees; and
 - (V) any other regulated charges or fees provided in the utility's tariff.
- (b) In its tariffs, a utility shall have the following payment plans available for its customers:
 - (I) an installment payment plan; and
 - (II) a budget or level payment plan.
- (c) A utility shall have in its tariff 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 certificate. A customer who has entered into and failed to abide by an installment payment plan prior to receiving a medical certificate shall pay all amounts that were due for regulated charges up to the date on which the customer presented a

medical certificate which meets the requirements of subparagraph 4407(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.
- (d) 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 other regulated charges and fees as described in paragraph (a) of this rule, except fees relating to service diversion, whether or not such fees have appeared on a regular monthly bill; and
 - (VII) any applicable deposit, consistent with rule 4403.
- (e) A customer entering into a payment arrangement as described in paragraph (b) may modify their bill due date if the utility's billing system allows for such a change.
- (f) Within seven calendar days of entering into a payment arrangement with a customer, a utility shall provide the customer with 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; and
 - (II) a description of the steps which the utility will take if the customer does not abide by payment plan.
- (g) Except as provided in subparagraph (c)(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 12 months. Notwithstanding the foregoing, a utility may enter into an installment payment plan with a customer for a term up to 24 months if it determines that this is warranted by extraordinary circumstances. In the alternative, the customer may choose a modified budget or

level payment plan, or similar tariff 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 plan available. Utilities may not require a customer to participate in a budget or level payment plan or automated billing as a prerequisite for entering into an installment payment plan.

- (h) 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 (c)(I) of this rule.
- (i) 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.

* * * *

[indicates omission of unaffected rules]

4407. 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; or
 - (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 apply nondiscriminatory criteria when determining whether to discontinue service for nonpayment. 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 past due amount that is less than fifty dollars (\$50);
 - (III) 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;
 - (IV) 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 paragraph 4401(c) applies;
 - (V) any amount due on an 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;
 - (VI) any delinquent amount, unless the utility can supply billing records from the time the delinquency occurred;
 - (VII) any debt except that incurred for service rendered by the utility in Colorado;
 - (VIII) any unregulated charge; or
 - (IX) any amount which is the subject of a pending dispute or informal complaint under rule 4004.
- (c) If the utility discovers any connection or device installed on the customer's premises, including any energy-consuming device in the proximity 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. 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 4404.
 - (III) If it is outside the hours of 8:00 a.m. and 4:00 p.m.; between 12:00 Noon on Friday and 8:00 a.m. the following Monday; between 12:00 Noon on the day prior to and 8:00 a.m. on the day following any state or federal holiday; or between 12:00 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) Medical emergencies.
 - (A) A utility shall postpone service discontinuance to a residential customer for 90 days from the date of a medical certificate issued by a Colorado-licensed physician, health care practitioner acting under a physician's authority, or health care practitioner licensed to prescribe and treat patients which evidences that service discontinuance will aggravate an existing medical emergency or create a medical emergency for the customer or a permanent resident of the customer's household. A customer may invoke this subparagraph 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 has already entered into a payment arrangement, but broke the arrangement prior to seeking a medical certificate, 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 medical certificate must be in writing (which includes electronic certificates and signatures and those provided electronically), sent to the utility from the office of a licensed physician, or health care practitioner licensed to prescribe and treat patients, and clearly show 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, health care practitioner acting under a physician's authority, or health care practitioner licensed to prescribe and treat patients certifying the medical emergency. Such certificate is not contestable by the utility as to the medical judgment, although the utility may use reasonable means to verify the authenticity of such certificate.

- (D) A utility may accept notification by telephone from the office of a licensed physician, or health care practitioner licensed to prescribe and treat patients, but a written medical certificate must be sent to the utility within ten days.
- (V) A utility shall postpone service discontinuance to a residential customer on any day when the National Weather Service local forecast between 6:00 a.m. and 9:00 a.m. predicts that the temperature will be 32 degrees Fahrenheit (32°F) or lower at any time during the following 24 hours, or during any additional period in which utility personnel will not be available to restore utility service in accordance with rule 4409. Nothing prohibits a utility from postponing service discontinuance when temperatures are warmer than these criteria.
- (f) In addition to its tariffs, a utility shall publish information related to its practices around delinquency, disconnection for nonpayment, and reconnection on its website. This information should be written in a manner that promotes customer understanding and must be produced 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. A utility must include at least the following information:
 - (I) the customer's rights related to service disconnection, including medical and weather-based protections, timing restrictions on service disconnection, and options and hours to contact the utility for support relating to service disconnection;
 - (II) a summary of a customer's options to prevent service disconnection for nonpayment, including installment payment plan options, utility energy assistance and affordability programs, and eligibility requirements for such programs;
 - (III) referrals to organizations that provide energy payment assistance, including energy efficiency services, such as Energy Outreach Colorado, charities, nonprofits, and governmental entities that provide or administer funds for such assistance;
 - (IV) the customer's rights related to service restoration, including restoration timelines, actions customers may take to restore service, and options and hours to contact the utility for support relating to service restoration;
 - (V) a summary of charges, fees, and deposits to which a customer may be subject under paragraphs 4403(j) and 4404(a), with a description of how those amounts are calculated, explained in a way that enables a customer to estimate the full costs they may be assessed;

- (VI) a description of the customer's options in the event of a dispute regarding billing or disconnection practices;
 - (VII) a description of the options available to an occupant of a service address who is not a customer of record and who has a court-ordered protection order against a customer of record for the service address, relating to past-due balances, service disconnection, restoration, and continuance at the service address, including initiating new service, transferring service, and the utility's practices, policies, and criteria for determining benefit of service for purposes of transferring a customer of record's balance to an occupant; and
 - (VIII) a description of the utility's Demand Side Management programs, including requirements to participate, the benefits of participating, and utility contact information relating to such programs.
- (g) Reporting requirements.
- (I) Annual Report. No later than March 1 of each calendar year, each utility shall file a report covering the prior calendar year in the miscellaneous proceeding for utility disconnection filings, using the form available on the Commission's website. The report shall provide data on residential customers by class and zip code and must also break down such data by low-income customers, defined as customers participating in low-income programs authorized by rule 4412 and the Low-Income Energy Assistance Program. For data provided in this report, paragraph 4033(b) shall not apply. The report shall contain the following information, displayed by quarter:
 - (A) total number of unique customers;
 - (B) total dollar amount billed;
 - (C) total number of unique customers charged a late payment charge;
 - (D) total dollar amount of late payment charges collected;
 - (E) number of unique customers with an arrearage balance by vintage (1-30 days, 31-60 days, 61-90 days, 91+ days);
 - (F) dollar amount of arrearages by vintage (1-30 days, 31-60 days, 61-90 days, 91+ days);
 - (G) total number of disconnection notices sent;
 - (H) total number of disconnections for nonpayment;
 - (I) total number of service restorations after disconnections for nonpayment;
 - (J) average duration of disconnection for nonpayment in hours, measured from when the customer completes an action in paragraph 4409(b) to when service is restored;

- (K) total dollar amount of deposits collected for restoring service that was disconnected for nonpayment;
 - (L) total number of deposits collected for restoring service that was disconnected for nonpayment;
 - (M) total number of new installment payment plans entered into;
 - (N) average repayment term of new installment payment plans entered into;
 - (O) total dollar amount of fees collected for disconnecting service for nonpayment;
 - (P) total dollar amount of fees collected for restoring service that was disconnected for nonpayment;
 - (Q) total dollar amount of collection fees collected from customers whose service was disconnected for nonpayment; and
 - (R) total dollar amount of any other tariff-authorized charges or fees collected resulting from past due amounts, service disconnection for nonpayment, and restoring service that was disconnected for nonpayment.
- (II) Along with the items in subparagraph (g)(I), each utility shall file the following additional items.
- (A) A narrative containing the utility's analysis of any trends or inconsistencies revealed by the reported data for the prior year including, at minimum, an analysis of:
 - (i) the total number of residential customers who were disconnected for nonpayment in the prior calendar year and percent of those customers who were disconnected for nonpayment multiple times; and
 - (ii) the total number of residential installment payment plans entered into in the prior calendar year, the average length of those installment payment plans, the number of residential installment payment plans completed, and the number of residential installment payment plans that were broken.
 - (B) Information about how the utility is working to reduce delinquencies and disconnections, including any actions the utility is taking specific to residential customers experiencing multiple disconnections in a calendar year, and a description of the efforts to identify and refer energy efficiency and bill assistance resources.

4408. Notice of Discontinuance.

- (a) Except as provided in paragraphs (g) and (h) of this rule, prior to discontinuing service, a utility shall provide a customer, and any third party the customer has designated in writing or electronically, with the following forms of notice:
- (I) upon a bill becoming past due, and at least five business days before issuing a notice of discontinuance, a utility must provide notice of late payment;
 - (II) at least 12 business days before any proposed service discontinuance, written notice of discontinuance as further described in paragraphs (b) and (c), by first class mail or hand delivery;
 - (III) at least 24 hours in advance of any proposed service discontinuance, the utility must make a reasonable attempt to provide notice in person or by telephone; and
 - (IV) if the utility will implement service discontinuance remotely, in addition to subparagraphs (I) through (III), the utility must undertake at least one additional attempt to notify the customer of record at their provided telephone number or in person at least 72 hours before discontinuing service.
- (b) The written notice of discontinuance under subparagraph (a)(II) shall be conspicuous and in easily understood language, and the heading shall contain, in bold font and 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.**

- (c) The body of the notice of discontinuance under subparagraph (a)(II) of this rule shall at a minimum advise the customer of the following:
- (I) the reason for the discontinuance of service;
 - (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 4404 as described in 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 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 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; and
 - (XII) that 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.
- (d) A notice of discontinuance 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) If the utility attempts to notify the customer in person or by telephone but fails to do so, it shall leave written or recorded 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; and
 - (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;
 - (II) discontinuance is ordered by any appropriate governmental authority;
 - (III) either paragraph 4407(c) or 4407(d) applies; or
 - (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; and
 - (IV) the utility shall post the notice in at least one of the common areas of the affected location.

4409. Restoration of Service.

- (a) Unless prevented from doing so by safety concerns, a utility shall restore, without additional fee or charge, any discontinued service which was not properly discontinued or restored as provided in rules 4407, 4408, and 4409.
- (b) A utility shall restore service 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 certificate, as provided in subparagraph 4407(e)(IV);
 - (IV) demonstrates to the utility that the cause for discontinuance, if other than non-payment, has been cured.
- (c) Unless prevented by safety concerns or exigent circumstances, a utility shall restore service to a customer who has completed an action in paragraph (b) within 24 hours (excluding weekends and holidays) of the time that the customer completes an action in paragraph (b), or within 12 hours of the time that the customer completes an action in paragraph (b) if the customer pays applicable after-hours charges and fees established in tariffs. The utility must exercise its best efforts to restore service for customers meeting requirements of paragraph (b) on the same day of a service discontinuance.
- (d) The utility must resolve doubts as to whether a customer has met the requirements for service restoration under paragraph (b) in favor of restoration.

* * * *

[indicates omission of unaffected rules]

4976. Regulated Gas Utility Rule Violations, Civil Enforcement, and Civil Penalties.

An admission to or Commission adjudication for liability for an intentional violation of the following may result in the assessment of a civil penalty of up to \$2,000.00 per offense. Fines shall accumulate up to, but shall not exceed, the applicable statutory limits set in § 40-7-113.5, C.R.S.

Citation	Description	Maximum Penalty Per Violation
	Articles 1-7 of Title 40, C.R.S.	\$2000
	Commission Order	\$2000
Rule 4005	Records and Record Retention	\$2000
Rule 4027(a)	Collection and Use of Customer Data	\$1000
Rule 4027(b),	Disclosure of Customer Data	\$2000

Rule 4027(c)	Tariff	\$1000
Rule 4027(d)	Disclosure of Customer Data	\$1000
Rule 4028(a)	Customer Notice	\$1000
Rule 4029(a),(b)	Consent Form	\$1000
Rule 4030(a)	Disclosure of Customer Data	\$2000
Rule 4030(b)	Records	\$1000
Rule 4031(a)	Disclosure of Customer Data	\$2000
Rule 4031(b)	Records	\$1000
Rule 4032(a)	Disclosure of Customer Data	\$2000
Rules 4032(c) and (d)	Consent and Records	\$1000
Rule 4033(a)	Disclosure of Aggregated Data	\$2000
Rule 4033(d)	Tariff	\$1000
Rule 4100(a)	Obtaining a Certificate of Public Convenience and Necessity for a Franchise	\$2000
Rule 4101(a)	Obtaining a Certificate of Public Convenience and Necessity or Letter of Registration to operate in a service territory	\$2000
Rule 4102(a)	Obtaining a Certificate of Public Convenience and Necessity for facilities	\$2000
Rule 4103(a), (c), (d)	Amending a Certificate of Public Necessity for changes in service territory or facilities	\$2000
Rule 4108(a), (c)	Keeping a Current Tariff on File with the Commission	\$2000
Rule 4109	Filing a New or Changed Tariff with the Commission	\$2000
Rule 4110(b),(c)	Filing an Advice Letter to Implement a Tariff Change	\$2000

Rule 4200	Construction, Installation, Maintenance and Operation of Facilities in Compliance with Accepted Engineering and Industry Standards	\$2000
Rule 4208	Anticompetitive Conduct and Unacceptable Practices	\$2000
Rule 4210	Line Extensions	\$2000
Rule 4303	Meter Testing	\$2000
Rule 4306	Record Retention of Tests and Meters	\$2000
Rule 4309	Provision of Written Documentation of Readings and Identification of When Meters Will be Read	\$2000
Rule 4401	Billing Information, Procedures, and Requirements	\$2000
Rule 4754(a)-(e)	Annual DSM Report and Application for Bonus and Bonus Calculation	\$2000
Rule 4803(c)	Master Meter Exemption Requirements	\$2000
Rule 4004(b)-(f)	Disputes and Informal Complaints	\$1000
Rule 4202	Maintaining Heating Value, Purity and Pressure Standards	\$1000
Rule 4203(a)-(f)	Trouble Report Response, Interruptions and Curtailments of Service	\$1000
Rule 4405	Provision of Service, Rate, and Usage Information to Customers	\$1000
Rule 4406	Provision of Gas Cost Component Information to Customers	\$1000
Rule 4603(a),(d)	Gas Cost Adjustments	\$1000
Rule 4605(a),(b),(e),(f)	Gas Purchase Plans	\$1000
Rule 4607(a)	Gas Purchase Reports and Prudence Reviews	\$1000

Rule 4403(a)-(q)	Applications for Service, Customer Deposits, and Third Party Guarantees	\$500
Rule 4006	Annual Reporting Requirements	\$100
Rule 4304	Scheduled Meter Testing	\$100
Rule 4305	Meter Testing Upon Request	\$100
Rule 4402(a),(c),(d)	Meter and Billing Error Adjustments	\$100
Rule 4404(a)-(h)	Availability of Installation Payments to Customers	\$1000
Rule 4407	Discontinuance of Service	\$2000
Rule 4408(a)-(g); (i)	Notice of Discontinuation of Service	\$2000
Rule 4409	Restoration of Service	\$2000
Rule 4411(c)(IV),(d)(I), d(II),(e)	Low-Income Energy Assistance Act	\$100

4977. – 4999. [Reserved].

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 20R-0349EG

IN THE MATTER OF THE PROPOSED RULES REGARDING IMPLEMENTATION OF SENATE BILL 20-030 AND THE REVISION OF DISCONNECTION STANDARDS FOR ELECTRIC AND GAS UTILITIES PURSUANT TO 4 CODE OF COLORADO REGULATIONS 723-3 AND 723-4.

**DECISION ADDRESSING EXCEPTIONS TO
DECISION NO. R21-0537 AND ADOPTING RULES**

Mailed Date: October 29, 2021
Adopted Date: October 27, 2021

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I. BY THE COMMISSION**A. Statement**

1. Through this Decision, the Colorado Public Utilities Commission (Commission) grants in part, and denies in part, the exceptions filed on September 30, 2021, to Decision No. R21-0537, issued September 10, 2021, by Administrative Law Judge (ALJ) Melody Mirbaba (Recommended Decision). The Commission adopts amendments to the Rules Regulating Electric Utilities, 4 *Code of Colorado Regulations* (CCR) 723-3 (Electric Rules) and Rules Regulating Gas Utilities, 4 CCR 723-4 (Gas Rules). The amendments revise the Billing and Service sections of the Electric and Gas Rules, which describe the conditions associated with the disconnection and reconnection process and the ability of customers to enter installment payment plans, pay deposits, or take other steps to prevent a disconnection or become reconnected. The Decision also adopts amendments to Electric Rule 3413, on medical exemption programs. The adopted Electric Rules are attached to this Decision in legislative (*i.e.*, ~~strikeout~~ and underline) format (Attachment A) and final format (Attachment B). The adopted Gas Rules are attached in legislative format (Attachment C) and final format (Attachment D).

B. Background

2. This Decision satisfies the requirements of Senate Bill (SB) 20-030, which was signed into law on June 29, 2020. SB 20-030 codified changes at §§ 40-3-103.6; 40-3-103.5; 40-3-106; and 40-3-110, C.R.S. (2020). SB 20-030 directed the Commission to commence a rulemaking to adopt standard practices for gas and electric utilities to use when disconnecting service due to nonpayment. Among the subjects that were to be addressed in the rulemaking were resources in appropriate languages; limiting shut-off times to reasonable days and times of day to allow for customers to attempt to reconnect on the same day; referrals to energy assistance; protection policies for customers for whom electricity is medically necessary; certain limits on

remote disconnections and disconnections during periods of extreme heat and cold; terms and conditions for payment plans; and standardized methodologies to determine reconnection fees and deposit requirements for reconnection. SB 20-030 also established reporting requirements related to disconnections and delinquencies. Finally, it set forth changes to medical exemption programs under § 40-3-103.5, C.R.S., including the level of appropriate means test for participation, and establishing further reporting requirements.

3. Prior to opening this Proceeding, the Commission initiated Proceeding No. 20M-0267EG, in which it sought to collect comments and other information regarding the statutory changes associated with SB 20-030.¹ By Decision No. C20-0452, issued June 19, 2020, the Commission sought initial comments on issues such as the process and fees by customer class where a customer experiences a disconnection and attempts to reconnect service.² By Decision No. C20-0533-I, issued July 22, 2020 in Proceeding No. 20M-0267EG, the Commission also scheduled a Commissioners' Information Meeting (CIM) to be held on July 29, 2020, and set an agenda for that CIM.³

4. On August 27, 2020, the Commission issued a Notice of Proposed Rulemaking (NOPR) to amend the Electric and Gas Rules.⁴ The Commission noticed the proposed rules provided with Decision No. C20-0622 and made them available to the public through the Commission's Electronic Filings system.

¹ Proceeding No. 20M-0267EG, Decision No. C20-0452, issued June 19, 2020.

² *Id.* at ¶ 17.

³ Proceeding No. 20M-0267EG remains open to accept monthly reports from regulated utilities regarding delinquencies and disconnections during the time of the COVID-19 pandemic. Proceeding No. 20M-0267EG, Decision No. C21-0358-I, issued June 18, 2021.

⁴ Decision No. C20-0622, issued August 27, 2020.

5. The NOPR adopted a schedule for filing comments and invited interested participants to file initial comments. Regulated utilities were to submit responses to questions posed by the Commission by no later than September 22, 2020. Interested participants were asked to file initial comments no later than September 22, 2020, and to file reply comments no later than October 8, 2020. A public rulemaking hearing was scheduled for October 20, 2020. The Commission referred this matter to ALJ Melody Mirbaba to preside over rulemaking hearings and for the issuance of a recommended decision.⁵

6. The ALJ held public comment hearings on October 20, 2020; March 4, 2021; and May 10, 2021.

7. Throughout the Proceeding, written comments were filed by AARP; Atmos Energy Corporation; Black Hills Colorado Electric, LLC and Black Hills Colorado Gas, Inc.; the City and County of Denver; Colorado Natural Gas; Energy Outreach Colorado; Public Service Company of Colorado (Public Service); the Sierra Club; and Commission Staff.

8. By Decision No. R21-0160-I, issued March 16, 2021, the ALJ took administrative notice of filings as of the decision's mailed date in Proceeding No. 20M-0267EG.⁶ The ALJ also took notice of filings submitted as of March 16, 2021, in Proceeding Nos. 08M-305EG, 17M-0848E, and 19M-0240E.⁷

9. On September 10, 2021, ALJ Melody Mirbaba issued Recommended Decision No. R21-0537, which is the subject of this Decision. The Recommended Decision considered data provided by regulated utilities to assess the magnitude of disconnections and delinquencies

⁵ *Id.*

⁶ Decision No. R21-0160-I, issued March 16, 2021, at ¶ 7.

⁷ Decision No. C20-0622, issued August 27, 2020, at ¶¶ 16-18; Decision No. R21-0160-I, issued March 16, 2021, at ¶ 8.

for residential customers, who are the customer class with the largest number of disconnections. The Recommended Decision set forth principles that informed its proposed rule amendments and priorities:

First, in recent years, generally, most utilities disconnect a small percent of residential gas and electric customers for nonpayment. [...] Second, utilities do not disconnect every customer who becomes past-due; in recent years, utilities disconnected far fewer residential electric and gas customers than the total who were past-due as of December 31st. [...] These principles advise in favor of rules that retain and enhance utility flexibility and opportunities to work with and support customers potentially facing disconnection, such as through arrearage management and payment plans, referrals to energy assistance organizations, and publishing easily understood information on their websites to facilitate all of this.⁸

10. On September 30, 2021, Public Service filed exceptions to the Recommended Decision. No responses were filed to Public Service's exceptions.

11. This Decision adopts the Electric and Gas Rules set forth in the Recommended Decision, with modifications resulting from filed exceptions, discussed below. The amended Electric and Gas Rules create waivers from deposit requirements for customers who are enrolled in or have participated in certain income-qualified energy assistance programs. The rules authorize utilities to work with customers to set different bill due dates and to expand installment payment plan timelines in cases of need. They align medical certificate programs across electric and gas companies, and recognize that customers in rural areas may have more limited access to medical practitioners. The rules add a step for notifying customers of a past-due bill prior to sending a notice of disconnection, and they require utilities to postpone disconnections when local weather is extremely hot or cold. They require utilities to use best efforts to reconnect customers on the same day they are disconnected, if the customer has remedied the issue that resulted in the disconnection. Finally, the rules enhance reporting requirements and require

⁸ Decision No. R21-0537, issued September 10, 2021, at ¶ 12.

utilities to post relevant information about disconnection and reconnection practices for customers on their websites.

C. Exceptions to Recommended Decision

12. Below, we address the exceptions filed to the Recommended Decision and the Commission's findings and conclusions granting or denying the exceptions.

1. Rules 3407 / 4407. Discontinuance of Service.

13. These rules establish the conditions under which an electric or gas utility may disconnect a customer. Pursuant to SB 20-030, the Recommended Decision adopted new subparagraph (f), which requires regulated utilities to publish information on their webpages. Specifically, utilities must publish information on delinquency, disconnection for nonpayment, and reconnection on their websites. Rules 3407(f) / 4407(f) specify that this information should be "written in a manner that promotes customer understanding and must be produced 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."

a. Exceptions

14. Public Service proposes to modify language to clarify that the "utility's service territory" refers to its combined and entire service territory. Public Service recommends that the language be modified to specify that "the utility's entire service territory combined" contains the relevant population for purposes of language translation. It suggests that this revision would create clarity to ensure that the costs of language translation for the website are commensurate with the value to customers. Public Service also asks the Commission for clarity regarding where

to find U.S. Census Bureau data on primary spoken language and the breakdown of languages by state and/or county, referencing a website it indicated did not include the needed data.⁹

b. Findings and Conclusions

15. We grant Public Service’s exception in part, by modifying the language to specify that “the utility’s entire service territory” should be the basis for determining whether materials should be translated into particular languages. We also deny the exception in part, as in this context, the word “combined” is not also necessary. This change is consistent with the Recommended Decision’s appropriate rejection of proposals to base language translation requirements on individual U.S. Census blocks as opposed to entire service territories, given it is unclear both what impact that would have on costs and whether it would produce clear customer benefits.¹⁰

16. We note that Rules 3408(d) / 4408(d) set the same threshold for language translation with regard to translating printed notices of discontinuance. To ensure internal consistency and clarity, we adopt the same revision made here for Rules 3408(d) / 4408(d).

17. Public Service also requests additional guidance regarding the use of U.S. Census Bureau data. The language adopted for Rule 3407(f) / 4407(f) was the same as that used in Rules 3408(d) / 4408(d), which have been in effect since before this Proceeding was opened. This concern has not been raised in the record of the case to date. However, we do want to ensure that utilities are able to provide information to customers in accordance with these rules. While Public Service raised one online resource for U.S. Census Bureau data, the American Community Survey produced by the U.S. Census Bureau includes other potentially useful,

⁹ Public Service Company of Colorado’s Exceptions to Recommended Decision No. R21-0537, filed September 30, 2021, at 4, fn. 1 (referencing <https://www.census.gov/quickfacts/fact/map/CO/PST045219>).

¹⁰ Decision No. R21-0537, issued September 10, 2021, at ¶ 239.

publicly available tables.¹¹ The Colorado State Demography Office may also be able to provide assistance to utilities if needed. We further note that the Recommended Decision described the ways that utilities are translating materials for use by customers with preferred languages besides English and we encourage utilities to continue to do so beyond the floor set by the rules as appropriate.¹²

18. Currently, Rules 3407(f) / 4407(f) do not include a requirement to make available the required informational webpage to the Commission. For the Commission to be able to assess compliance with the newly adopted rules, and for stakeholders to become aware of this useful customer resource, we direct affected utilities to make a compliance filing within 20 days of the rules going into effect. This compliance filing should include the direct link to the webpage and/or information that would allow Commission Staff or a member of the public to navigate to the relevant webpage(s) that comply with Rules 3407(f) / 4407(f). This compliance filing should be made in Proceeding No. 08M-305EG, which currently collects quarterly reports on residential delinquencies and disconnections, and which going forward will collect required annual reporting pursuant to Rules 3407(g) / 4407(g).¹³

2. Rule 3413. Medical Exemption from Tiered Rate Plans.

19. Rule 3413 implements § 40-3-103.5, C.R.S., which requires the Commission to adopt rules that create an exemption from tiered electric rate plans for customers with certain medical conditions. SB 20-030 required the Commission to increase the means test associated with medical exemptions if a means test is necessary and required additional reporting on efforts

¹¹ See, e.g., Table DP02, Selected Social Characteristics in the United States, available at <https://data.census.gov/cedsci/table?q=DP02&tid=ACSDP1Y2019.DP02> (including language spoken at home, available by state and county).

¹² Decision No. R21-0537, issued September 10, 2021, at ¶¶ 237-38.

¹³ *Id.* at ¶ 174.

utilities have made to enroll qualified customers. The Recommended Decision adopted several changes related to program eligibility, enrollment, and reporting.¹⁴

a. Exceptions

20. Public Service suggests changing references from “tiered rate” to “Medical Exemption Program” throughout Rule 3413. Public Service states that recent Commission decisions have approved the elimination of tiered rates and its Medical Exemption Program will now apply to summer season energy charges and time-of-use rates, not specifically tiered rates.¹⁵ This change occurred only recently and Public Service recommends adjusting the rule language to include more than tiered rates, as follows:

Rule 3413. Medical Exemption ~~Program~~from Tiered Rate Plans.

- (a) Scope and Applicability.
 - (I) Any electric utility that has a Commission approved Medical Exemption Program~~tiered rate plan, also known as inverted block rates~~, shall file an advice letter and tariff
- (b) Definitions.
 - (III) “Non-participant” means a utility customer who is not participating in the Medical Exemption Program~~billed according to the utility’s tiered rate plan~~.
- (h) Cost recovery.
 - (III) The following costs are eligible for recovery by a utility as alternative rate plan costs:
 - (A) lost revenues based on the difference between the expected monthly revenues and revenues under the alternate rate plan for the months during which the Medical Exemption Program~~a tiered rate plan~~ is in place;

¹⁴ *Id.* at ¶¶ 268-270.

¹⁵ Proceeding No. 20AL-0432E, Decision No. R21-0400, issued July 12, 2021, and Decision No. C21-0536, issued September 2, 2021.

- (i) Annual Report.
 - (I) No later than December 15 each year, each utility shall file an annual report, based on the previous summer cooling period ~~during the Medical Exemption Program which tiered rates were~~ was in effect, containing the following information:

b. Findings and Conclusions

21. We find good cause to grant Public Service's exception. The proposed changes clarify the applicability of Rule 3413 to medical exemption programs approved by the Commission, which may include medical exemption programs for electric rates other than those that are specifically tiered but which impact customers using essential medical equipment.

22. Additionally, on our own motion we adopt a clarifying redline to Rule 3413(a)(I) by deleting the word "hundred," thus ensuring that the means test is set at 400 percent.

II. ORDER

A. The Commission Orders That:

1. The exceptions to Recommended Decision No. R21-0537, filed by Public Service Company of Colorado (Public Service) on September 30, 2021, are granted in part, and denied in part, consistent with the discussion above.

2. The Rules Regulating Electric Utilities, 4 *Code of Colorado Regulations* (CCR) 723-3 (Electric Rules) and Rules Regulating Gas Utilities, 4 CCR 723-4 (Gas Rules), contained in legislative (*i.e.*, strikeout/underline) format (Attachments A and C), and final formats (Attachment B and D) are adopted, and are available through the Commission's Electronic Filings system at:

https://www.dora.state.co.us/pls/efi/EFI.Show_Docket?p_session_id=&p_docket_id=20R-0349EG

3. Atmos Energy Corporation; Black Hills Colorado Electric, LLC and Black Hills Colorado Gas, Inc.; Colorado Natural Gas; and Public Service shall make a one-time compliance filing in Proceeding No. 08M-305EG within 20 days of the effective date of these rules that provides a direct link to the webpage that complies with Electric Rule 3407(f) / Gas Rule 4407(f), consistent with the discussion above.

4. Subject to a filing of an application for rehearing, reargument, or reconsideration, the opinion of the Attorney General of the State of Colorado shall be obtained regarding constitutionality and legality of the rules as finally adopted. A copy of the final, adopted rules shall be filed with the Office of the Secretary of State. The rules shall be effective 20 days after publication in *The Colorado Register* by the Office of the Secretary of State.

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

6. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
October 27, 2021.**

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ERIC BLANK

JOHN GAVAN

MEGAN M. GILMAN

Commissioners

COLORADO DEPARTMENT OF REGULATORY AGENCIES

Public Utilities Commission

4 CODE OF COLORADO REGULATIONS (CCR) 723-3

PART 3 RULES REGULATING ELECTRIC UTILITIES

* * * *

[indicates omission of unaffected rules]

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

- (a) A utility shall process an application for utility service ~~which that~~ 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. Nondiscriminatory criteria means that no deposit or guarantee, or additional deposit or guarantee, shall be required by a utility because of race, sex, creed, national origin, marital status, age, number of dependents, source of income, disability, or geographical area of residence.
- ~~(b) All utilities requiring deposits shall offer customers at least one payment alternative that does not require the use of the customer's social security number.~~
- ~~(bc) If billing records are available for a customer who has received past 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.~~~~
- ~~(ed) A utility shall not require a ~~cash~~ deposit from an applicant for service who provides written documentation of a 12 consecutive month good credit-payment 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.~~
- ~~(e) A utility shall not require a deposit from an applicant for service or restoration of service who is or was within the last 12 months, a participant in the Low-Income Energy Assistance Program (LEAP) or in a low-income program consistent with rule 3412, or who received energy bill assistance from Energy Outreach Colorado within the last 12 months.~~
- ~~(ef) 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 that~~ describes, for each scoring model that it uses, the credit scoring evaluation criteria and the credit score limit ~~which that~~ 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.~~
- (fg) 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~~that trigger the need for a ~~cash~~ deposit.
- (gh) 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 why the application for service has been denied or a ~~cash~~ deposit is required.
- (hi) No utility shall require any surety 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 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.
- (ij) The total A-cash deposit a utility may require or hold at any one time 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. A deposit may be paid in installments.
- (jk) 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; and
 - (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) 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. A utility shall return any deposit paid by a customer who has made no more than two late payments in 12 consecutive months.
- (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 Commission 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, Commission 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 Commission 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:
 - (A) ~~the guarantee~~ is terminated in writing by the guarantor;
 - (B) if the guarantor was a customer at the time of undertaking the guarantee, the guarantor ~~is no longer~~ ceases to be a customer of the utility; or
 - (C) the customer has established a satisfactory payment record, as defined in the utility's tariffs, for 12 consecutive months; ~~and~~
 - (VI) ~~S~~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.
- (pg) 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: undistributed refunds for overcharges subject to other statutory provisions and rules; and, 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 (OA) 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 (ge)(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 (OA) of this rule plus six percent.
 - (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 (OA) 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 (q)(l) 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 (o) of this rule plus six percent.

- (e) A utility shall resolve all inquiries regarding a customer's unclaimed monies and shall not refer such inquiries to the energy assistance organization.
- (f) 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.
- (g) For purposes of paragraphs (p), (q), and (r), and (s) of this rule, "utility" means and includes: a cooperative electric association which elects to be so governed; and, a utility as defined in paragraph-rule 3001(n).

3404. Installment Payments, Charges, Fees, and Payment Plans.

- (a) In its tariffs, a utility shall provide a description of all charges or fees that the utility assesses customers resulting from regulated charges that are past due, discontinuance of service, and restoration of service. A utility may assess the following charges or fees at no higher than cost, as stated in its tariff:
 - (I) a late payment charge for regulated charges that are past due and exceed \$50;
 - (II) a fee for discontinuance of service;
 - (III) a fee for restoration of service;
 - (IV) collection fees; and
 - (V) any other regulated charges or fees provided in the utility's tariff.
- (ab) In its tariffs, a utility shall have ~~a budget or level payment plan~~ the following payment plans available for its customers:
 - (I) an installment payment plan; and
 - (II) a budget or level payment plan.
- (bc) 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 certificate. A customer who has entered into and failed to abide by an installment payment plan prior to receiving a medical certificate shall pay all amounts that were due for regulated charges up to the date on which the customer presented a medical certificate which meets the requirements of subparagraph 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.
- (ed) 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 other regulated charges and fees as described in paragraph (a) of this rule, except fees relating to service diversion, whether or not such fees have appeared on a regular monthly bill; collection fees as provided for in the utility's tariff, whether or not such fees have appeared on a regular monthly bill; and

- (VII) ~~any applicable deposit, consistent with rule 3403, 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; and~~
- ~~(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.~~
- (e) A customer entering into a payment arrangement as described in paragraph (b) may modify their bill due date if the utility's billing system allows for such a change.
- (ef) 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; and
- (II) a description of the steps which the utility will take if the customer does not abide by payment plan.
- (eg) Except as provided in subparagraph ~~(cb)~~(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~~ 12 months. Notwithstanding the foregoing, a utility may enter into an installment payment plan with a customer for a term up to 24 months if it determines that this is warranted by extraordinary circumstances. In the alternative, the customer may choose a modified budget ~~billing, or~~ level payment plan, or similar tariff 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 plan available. Utilities may not require a customer to participate in a budget or level payment plan or automated billing as a prerequisite for entering into an installment payment plan.
- (fh) 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 ~~(cb)~~(I) of this rule.
- (gj) 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.

[indicates omission of unaffected rules]

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; or
 - (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 apply nondiscriminatory criteria when determining whether to discontinue service for nonpayment. 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 past due amount that is less than \$50;
 - (III) 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.
 - (IV) 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 paragraph 3401(c) applies.
 - (V) 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.

- (VI) ~~A~~any delinquent amount, unless the utility can supply billing records from the time the delinquency occurred~~;~~;
 - (VII) ~~A~~any debt except that incurred for service rendered by the utility in Colorado~~;~~;
 - (VIII) ~~A~~any unregulated charge~~;~~ or
 - (IX) any amount which is the subject of a pending dispute or informal complaint under rule 3004.
- (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~~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 outside the hours of 8:00 a.m. and 4:00 p.m.; between 12:00 Noon on Friday and 8:00 a.m. the following Monday; between 12:00 Noon on the day prior to and 8:00 a.m. on the day following any state or federal holiday; or between 12:00 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) Medical emergencies.
- (A) A utility shall postpone discontinuance of electric service to a residential customer for 90 days from the date of a medical certificate issued by a Colorado-licensed physician, ~~or~~ health care practitioner acting under a physician's authority, or health care practitioner licensed to prescribe and treat patients which evidences that service 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. A customer may invoke this subparagraph ~~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 ~~has~~ already entered into a payment arrangement, but ~~had broken~~ the arrangement prior to seeking a medical certificate, ~~ion~~, 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 medical certificate ~~of medical emergency shall must~~ be in writing (which includes electronic certificates and signatures and those provided electronically), sent to the utility from the office of a licensed physician or health care practitioner licensed to prescribe and treat patients, and clearly 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, or health care practitioner licensed to prescribe and treat patients certifying the medical emergency. Such certificate ~~ion is not shall be in~~contestable by the utility as to the medical judgment, although the utility may use reasonable means to verify the authenticity of such certificate ~~ion~~.
- (D) A utility may accept notification by telephone from the office of a licensed physician, or health care practitioner licensed to prescribe and treat patients, but a written medical certificate must be sent to the utility within ten days.
- (V) Weather provisions.
- (A) A utility shall postpone service discontinuance to a residential customer on any day when the National Weather Service local forecast between 6:00 a.m. and 9:00 a.m. predicts that the temperature will be 32 degrees Fahrenheit (32°F) or lower at any time in the following 24 hours, or during any additional period in which utility personnel will not be available to restore utility service in accordance

with rule 3409. Nothing prohibits a utility from postponing service discontinuance when temperatures are warmer than these criteria.

(B) A utility shall postpone service discontinuance to a residential customer on any day when the National Weather Service local forecast between 6:00 a.m. and 9:00 a.m. predicts that the temperature will be 95 degrees Fahrenheit (95°F) or higher at any time in the following 24 hours, or during any additional period in which utility personnel will not be available to restore utility service in accordance with rule 3409. Nothing prohibits a utility from postponing service discontinuance when temperatures are cooler than these criteria.

- (f) In addition to its tariffs, a utility shall publish information related to its practices around delinquency, disconnection for nonpayment, and reconnection on its website. This information should be written in a manner that promotes customer understanding and must be produced in English and a specific language or languages other than English where the utility's entire 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. A utility must include at least the following information:
- (I) the customer's rights related to service disconnection, including medical and weather-based protections, timing restrictions on service disconnection, and options and hours to contact the utility for support relating to service disconnection;
 - (II) a summary of a customer's options to prevent service disconnection for nonpayment, including installment payment plan options, utility energy assistance and affordability programs, and eligibility requirements for such programs;
 - (III) referrals to organizations that provide energy payment assistance, including energy efficiency services, such as Energy Outreach Colorado, charities, nonprofits, and governmental entities that provide or administer funds for such assistance;
 - (IV) the customer's rights related to service restoration, including restoration timelines, actions customers may take to restore service; and options and hours to contact the utility for support relating to service restoration;
 - (V) a summary of charges, fees, and deposits to which a customer may be subject under paragraphs 3404(a) and 3403(j), with a description of how those amounts are calculated, explained in a way that enables a customer to estimate the full costs they may be assessed;
 - (VI) a description of the customer's options in the event of a dispute regarding billing or disconnection practices;
 - (VII) a description of the options available to an occupant of a service address who is not a customer of record and who has a court-ordered protection order against a customer of record for the service address, relating to past-due balances, service disconnection, restoration, and continuance at the service address, including initiating new service, transferring service, and the utility's practices, policies, and criteria for determining benefit of service for purposes of transferring a customer's balance to an occupant; and

(VIII) a description of the utility's Demand Side Management programs, including requirements to participate, the benefits of participating, and utility contact information relating to such programs.

(g) Reporting requirements.

(I) Annual Report. No later than March 1 of each calendar year, each utility shall file a report covering the prior calendar year in the miscellaneous proceeding for utility disconnection filings, using the form available on the Commission's website. The report shall provide data on residential customers by class and zip code and must also break down such data by low-income customers, defined as customers participating in low-income programs authorized by rule 3412 and the Low-Income Energy Assistance Program. For data provided in this report, paragraph 3033(b) shall not apply. The report shall -contain the following information, displayed by quarter:

(A) total number of unique customers;

(B) total dollar amount billed;

(C) total number of customers charged a late payment charge;

(D) total dollar amount of late payment charges collected;

(E) number of customers with an arrearage balance by vintage (1-30 days, 31-60 days, 61-90 days, 91+ days);

(F) dollar amount of arrearages by vintage (1-30 days, 31-60 days, 61-90 days, 91+ days);

(G) total number of disconnection notices sent;

(H) total number of disconnections for nonpayment;

(I) total number of service restorations after disconnections for nonpayment;

(J) average duration of disconnection for nonpayment by hours, measured from when the customer completes an action in paragraph 3409(b) to when service is restored;

(K) total dollar amount of deposits collected for restoring service that was disconnected for nonpayment;

(L) total number of deposits collected for restoring service that was disconnected for nonpayment;

(M) total number of new installment payment plans entered into;

(N) average repayment term of new installment payment plans entered into;

- (O) total dollar amount of fees collected for disconnecting service for nonpayment;
 - (P) total dollar amount of fees collected for restoring service that was disconnected for nonpayment;
 - (Q) total dollar amount of collection fees collected from customers whose service was disconnected for nonpayment; and
 - (R) total dollar amount of any other tariff-authorized charges or fees collected resulting from past due amounts, service disconnection for nonpayment, and restoring service that was disconnected for nonpayment.
- (II) Along with the items in subparagraph (g)(I), each utility shall file the following additional items.
- (A) A narrative containing the utility’s analysis of any trends or inconsistencies revealed by the data in the prior year including, at minimum, an analysis of:
 - (i) the total number of residential customers who were disconnected for nonpayment in the prior calendar year and percent of those customers who were disconnected for nonpayment multiple times; and
 - (ii) the total number of residential installment payment plans entered into in the prior calendar year, the average length of those installment payment plans, the number of residential installment payment plans completed, and the number of residential installment payment plans that were broken.
 - (B) Information about how the utility is working to reduce delinquencies and disconnections, including any actions the utility is taking specific to residential customers experiencing multiple disconnections in a calendar year, and a description of the efforts made to identify entities to which the utility refers customers for energy bill assistance.

3408. Notice of Discontinuance of Service.

- (a) Except as provided in paragraphs (g) and (h) of this rule, prior to discontinuing service, a utility shall provide a customer, and any third party the customer has designated in writing or electronically, with the following forms of notice:
 - (I) upon a bill becoming past due, and at least five business days before issuing a notice of discontinuance, a utility must provide notice of late payment;
 - (II) at least 12 business days before any proposed service discontinuance, written notice of discontinuance as further described in paragraphs (b) and (c), by first class mail or hand delivery;
 - (III) at least 24 hours in advance of any proposed discontinuance of service, the utility must make a reasonable attempt to provide notice in person or by telephone; and

(IV) if the utility will implement service discontinuance remotely, in addition to subparagraphs (I) through (III), the utility must undertake at least one additional attempt to notify the customer of record at their provided telephone number or in person at least 72 hours before discontinuing service.

- (ab) ~~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 written notice of discontinuance under subparagraph (a)(II) shall be conspicuous and in easily understood language, and the heading shall contain, in bold font and 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.

- (bc) The body of the notice of discontinuance under subparagraph (a)(II) of this rule shall advise the customer of the following:-

- (I) ~~The~~ the reason for the discontinuance of service ~~and of the particular rule (if any) which has been violated.~~
- (II) ~~The~~ the amount past due for utility service, deposits, or other regulated charges, if any:-
- (III) ~~The~~ 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~~ How and where the customer can pay or enter into an installment payment plan prior to the discontinuance of service:-
- (V) ~~That~~ 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~~ 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~~ 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~~ 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~~ 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) ~~T~~hat 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) ~~T~~hat 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; and
 - (XII) ~~T~~hat ~~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 notice of discontinuance ~~notice~~ shall be printed in English and a specific language or languages other than English where the utility's entire 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 or by telephone but fails to do so, it shall leave written or recorded 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; and
 - (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 paragraph 3407(c) or 3407(d) applies; or
 - (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; and
 - (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~~
- (b) A utility shall restore service, 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 subparagraph 3407(e)(IV); or
- (IV) demonstrates to the utility that the cause for discontinuance, if other than non-payment, has been cured.

(c) Unless prevented by safety concerns or exigent circumstances, a utility shall restore service to a customer who has completed an action in paragraph (b) within 24 hours (excluding weekends and holidays) of the time that the customer completes an action in paragraph (b), or within 12 hours of the time that the customer completes an action in paragraph (b) if the customer pays applicable after-hours charges and fees established in tariffs. The utility must exercise its best efforts to restore service for customers meeting requirements of paragraph (b) on the same day of a service discontinuance.

(d) The utility must resolve doubts as to whether a customer has met the requirements for service restoration under paragraph (b) in favor of restoration.

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[indicates omission of unaffected rules]

3413. Medical Exemption ~~Program~~ ~~from Tiered Rate Plans~~.

(a) Scope and Applicability.

- (I) Any electric utility that has a Commission approved ~~Medical Exemption Program~~ ~~tiered rate plan, also known as inverted block rates~~, shall file an advice letter and tariff, consistent with 4 CCR 723-1-1210, for a rate plan for residential customers who elect an alternate rate plan due to a qualifying medical condition and/or use of ~~an~~ essential ~~medical equipment life support device~~ and whose household income is less than or equal to ~~400 twohundred and fifty~~ percent of federal poverty guidelines, ~~which may be self-certified by the customer~~. The effect of such an exemption shall be neutral with respect to the utility's revenue requirement. If a customer qualifies for the alternate rate plan, that customer shall not be precluded from participating in any low-income program offered by the utility.

(b) Definitions.

- (I) "Essential ~~medical equipment~~ ~~life support device~~" means any medical device used in the home to sustain life or which is relied upon for mobility, as determined by a physician currently licensed and in good standing in the state of Colorado.

- (II) “Federal poverty guidelines” means the poverty measures published annually by the U.S. Department of Health and Human Services.
 - (III) “Non-participant” means a utility customer who is not participating in the Medical Exemption Program billed according to the utility’s tiered rate plan.
 - (IV) “Participant” means a residential utility customer who is billed according to the utility’s alternative rate plan.
 - (V) “Qualifying medical condition” includes heat-sensitive medical conditions including, but not limited to, multiple sclerosis, epilepsy, quadriplegia, and paraplegia, or the need for the use of ~~an essential~~ medical equipment-life support device, as determined by a physician licensed in the state of Colorado, or other health care practitioner licensed to prescribe and treat patients.
- (c) ~~A Certificate~~ of a qualifying medical condition and/or use of essential ~~medical-life support~~ equipment shall be valid for one year. Once certified by a physician, or other health care practitioner licensed to prescribe and treat patients, customers with qualifying medical conditions lasting longer than one year may submit an annual attestation as to the continued condition and the current address of residency. ~~A Certificate~~ of a qualifying medical condition and/or use of essential ~~medical-life support~~ equipment shall:
- (I) be in writing (which includes electronic certificates and signatures and those provided electronically);
 - (II) be sent from the office of a currently licensed physician in good standing in the state of Colorado, or other health care practitioner licensed to prescribe and treat patients to either the utility or a Commission approved third party with whom the utility contracts pursuant to rule 3209;
 - (III) clearly state the name of the customer or individual whose medical condition and/or use of ~~essential medical-life support~~ equipment is at issue; and
 - (IV) clearly state the Colorado medical identification number, phone number, name, and signature of the physician or health care practitioner acting under a physician’s authority, or other health care practitioner licensed to prescribe and treat patients certifying the existence of a qualifying medical condition and/or use of essential ~~medical-life support~~ equipment.
- (d) Such certification ~~is not shall be in~~contestable by the utility as to the medical judgment, although the utility may use reasonable means to verify the authenticity of such ~~certificate~~.
- (e) Verification of the authenticity of the ~~certificate~~ of a qualifying medical condition or use of essential ~~medical-life support~~ equipment shall be done by the utility or a Commission approved third party with which the utility contracts the medical verification activities.

- (f) If the utility or Commission approved third party deems it reasonably necessary, verification of household income may be done by the utility or Commission approved third party with which the utility contracts the income verification activities.
- (g) The Commission may, with cause, conduct an audit of the income verification process employed by the utility or an entity with which the utility contracts for that purpose.
- (h) Cost recovery.
 - (I) Each utility shall address in its filing how costs of the alternative rate plan 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 alternative rate plan costs:
 - (A) lost revenues based on the difference between the expected monthly revenues and revenues under the alternate rate plan for the months during which the Medical Exemption Program-a tiered rate plan is in place; and
 - (B) alternative rate plan administrative costs.
- (i) Annual Report.
 - (I) No later than December 15 each year, each utility shall file an annual report, based on the previous summer cooling period the Medical Exemption Program during which tiered rates werewas in effect, containing the following information:
 - (A) monthly information including number of participants, individual household electricity usage, and individual household incomes;
 - (B) the total number of applicants for the alterative rate plan;
 - (C) the number of applicants who qualified for the rate plan; ~~and~~
 - (D) total cost of the program and the average rate impact of non-participants by rate class; and
 - (E) a description of the efforts made to facilitate the enrollment of qualified persons in the alternative rate plan.
 - (II) To the extent that the annual report may disclose individual customer information, the utility is authorized to file that portion of the annual report as confidential pursuant to 4 CCR 723-1-1102, Procedures Relating to Confidential Information Submitted to the Commission Outside of a Formal Proceeding.

3414. - 3499. [Reserved].

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[indicates omission of unaffected rules]

3976. Regulated Electric Utility Rule Violations, Civil Enforcement, and Civil Penalties.

An admission to or Commission adjudication for liability for an intentional violation of the following may result in the assessment of a civil penalty of up to \$2,000.00 per offense. Fines shall accumulate up to, but shall not exceed, the applicable statutory limits set in § 40-7-113.5, C.R.S.

Citation	Description	Maximum Penalty Per Violation
	Articles 1-7 of Title 40, C.R.S.	\$2000
	Commission Order	\$2000
Rule 3005(a)-(c);(f)	Records and Record Retention	\$2000
Rule 3027(a)	Collection and Use of Customer Data	\$1000
Rule 3027(b)	Disclosure of Customer Data	\$2000
Rule 3027(c)	Tariff	\$1000
Rule 3027(d)	Disclosure of Customer Data	\$1000
Rule 3028(a)	Customer Notice	\$1000
Rule 3029(a),(b)	Consent Form	\$1000
Rule 3030(a)	Disclosure of Customer Data	\$2000
Rule 3030(b)	Records	\$1000
Rule 3031(a)	Disclosure of Customer Data	\$2000
Rule 3031(b)	Records	\$1000
Rule 3032(a)	Disclosure of Customer Data	\$2000
Rule 3032(c) and (d)	Consent and Records	\$1000
Rule 3033(a)	Disclosure of Aggregated Data	\$2000

Rule 3033(d)	Tariff	\$1000
Rule 3100(a)	Obtaining a Certificate of Public Convenience and Necessity for a Franchise	\$2000
Rule 3101(a)	Obtaining a Certificate of Public Convenience and Necessity or Letter of Registration to Operate in a Service Territory	\$2000
Rule 3102(a)	Obtaining a Certificate of Public Convenience and Necessity for Facilities	\$2000
Rule 3103(a),(c),(d)	Amending a Certificate of Public Necessity for Changes in Service Territory or Facilities	\$2000
Rule 3108(a),(c)	Keeping a Current Tariff on File with the Commission	\$2000
Rule 3109	Filing a New or Changed Tariff with the Commission	\$2000
Rule 3110(b),(c)	Filing an Advice Letter to Implement a Tariff Change	\$2000
Rule 3200(a),(b)	Construction, Installation, Maintenance and Operation of Facilities in Compliance with Accepted Engineering and Industry Standards	\$2000
Rule 3204	Reporting Incidents Resulting in Death, Serious Injury, or Significant Property Damage	\$2000
Rule 3210	Line Extensions	\$2000
Rule 3251	Reporting Major Events	\$2000
Rule 3252	Filing a Report on a Major Event with the Commission	\$2000
Rule 3303(a)-(j)	Meter Testing	\$2000
Rule 3306	Record Retention of Tests and Meters	\$2000
Rule 3309	Provision of Written Documentation of Readings and Identification of When Meters Will be Read	\$2000
Rule 3401	Billing Information, Procedures, and Requirements	\$2000

Rule 3603	Resource Plan Filing Requirements	\$2000
Rule 3654(a),(d)	Renewable Energy Standards	\$2000
Rule 3657(a)	QRU Compliance Plans	\$2000
Rule 3662	Annual Compliance Reports	\$2000
Rule 3803(c)	Master Meter Exemption Requirements	\$2000
Rule 3004(b)-(f)	Disputes and Informal Complaints	\$1000
Rule 3202(a),(b),(f),(g)	Maintaining a Standard Voltage and Frequency	\$1000
Rule 3203(a),(b)	Trouble Report Response, Interruptions and Curtailments of Service	\$1000
Rule 3405	Provision of Service, Rate, and Usage Information to Customers	\$1000
Rule 3406	Provision of Source Information to Customers	\$1000
Rule 3253	Filing a Supplemental Report on a Major Event with the Commission	\$1000
Rule 3208(a)-(c)	Poles	\$500
Rule 3403(a)-(q):(s)	Applications for Service, Customer Deposits, and Third Party Guarantees	\$500
Rule 3658	Standard Rebate Offer	\$500
Rule 3006(a),(b),(e)-(m)	Annual Reporting Requirements	\$100
Rule 3304	Scheduled Meter Testing	\$100
Rule 3305	Meter Testing Upon Request	\$100
Rule 3402(a),(c),(d)	Meter and Billing Error Adjustments	\$100
Rule 3404(a)- (h)(f)	Availability of Installation Payments to Customers	\$100 1000
Rule 3407	Discontinuance of Service	\$100 2000
Rule 3408(a)-(g):(i)	Notice of Discontinuation of Service	\$100 2000

Rule 3409	Restoration of Service	\$100 <u>\$2000</u>
Rule 3411(c)(IV),(d)(I), (d)(II),(e)	Low-Income Energy Assistance Act	\$100
Rule 3618	Filing of Electric Resource Planning Reports	\$100

3977 – 3999. [Reserved].

COLORADO DEPARTMENT OF REGULATORY AGENCIES

Public Utilities Commission

4 CODE OF COLORADO REGULATIONS (CCR) 723-3

PART 3 RULES REGULATING ELECTRIC UTILITIES

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[indicates omission of unaffected rules]

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

- (a) A utility shall process an application for utility service that is made either orally or in writing and shall apply nondiscriminatory criteria with respect to the requirement of a deposit prior to commencement of service. Nondiscriminatory criteria means that no deposit or guarantee, or additional deposit or guarantee, shall be required by a utility because of race, sex, creed, national origin, marital status, age, number of dependents, source of income, disability, or geographical area of residence.
- (b) All utilities requiring deposits shall offer customers at least one payment alternative that does not require the use of the customer's social security number.
- (c) If billing records are available for a customer who has received past service from the utility, the utility shall not require that person to make new or additional deposits to guarantee payment of current bills unless the records indicate recent or substantial delinquencies.
- (d) A utility shall not require a deposit from an applicant for service who provides written documentation of a 12 consecutive month good -payment 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.
- (e) A utility shall not require a deposit from an applicant for service or restoration of service who is or was within the last 12 months, a participant in the Low-Income Energy Assistance Program (LEAP) or in a low-income program consistent with rule 3412, or who received energy bill assistance from Energy Outreach Colorado within the last 12 months.
- (f) If a utility uses credit scoring to determine whether to require a deposit from an applicant for service or a customer, the utility shall have a tariff that describes, for each scoring model that it uses, the credit scoring evaluation criteria and the credit score limit that triggers a deposit requirement.

- (g) 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 deposit, the utility shall include in its tariff the specific evaluation criteria that trigger the need for a deposit.
- (h) If a utility denies an application for service or requires a 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 why the application for service has been denied or a deposit is required.
- (i) No utility shall require any surety other than either a deposit to secure payment for utility services or a third-party guarantee of payment in lieu of a 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 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 deposit or a new third party guarantor.
- (j) The total deposit a utility may require or hold at any one time shall not exceed an amount equal to an estimated 90 days' bill of the customer, except in the case of a customer whose bills are payable in advance of service, in which case the deposit shall not exceed an estimated 60 days' bill of the customer. The deposit may be in addition to any advance, contribution, or guarantee in connection with construction of lines or facilities, as provided in the extension policy in the utility's tariffs. A deposit may be paid in installments.
- (k) A utility receiving deposits shall maintain records showing:
 - (I) the name of each customer making a deposit;
 - (II) the amount and date of the deposit;
 - (III) each transaction, such as the payment of interest or interest credited, concerning the deposit;
 - (IV) each premise where the customer receives service from the utility while the deposit is retained by the utility;
 - (V) if the deposit was returned to the customer, the date on which the deposit was returned to the customer; and
 - (VI) if the unclaimed deposit was paid to the energy assistance organization, the date on which the deposit was paid to the energy assistance organization.
- (l) 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 deposit will be required and the circumstances under which it will be returned. A utility shall return any deposit paid by a customer who has made no more than two late payments in 12 consecutive months.

- (m) Each utility shall issue a receipt to every customer from whom a deposit is received. No utility shall refuse to return a deposit or any balance to which a customer may be entitled solely on the basis that the customer is unable to produce a receipt.
- (n) The payment of a 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 deposit to any indebtedness of the customer to the utility, except for utility services due or past due after service is terminated.
- (o) A utility shall pay simple interest on a deposit at the percentage rate per annum as calculated by Commission 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 deposit or annually. The simple interest on a deposit shall be earned from the date the 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 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, Commission 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 deposits during the next calendar year. Annually following receipt of Commission 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' deposits, except when there is no change in the rate of interest to be paid on such deposits.
- (p) 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 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 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 deposit;
 - (V) the guarantee shall remain in effect until the earlier of the following occurs:
 - (A) the guarantee is terminated in writing by the guarantor;
 - (B) if the guarantor was a customer at the time of undertaking the guarantee, the guarantor ceases to be a customer of the utility; or
 - (C) 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 deposit or a new third party guarantor.
- (q) 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: undistributed refunds for overcharges subject to other statutory provisions and rules; and, 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 deposit or the construction advance was made or when left with the utility for more than two years after the 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 deposit shall accrue at the rate established pursuant to paragraph (o) of this rule commencing on the date on which the utility receives the deposit and ending on the date on which the deposit is paid to the energy assistance organization. If the utility does not pay the unclaimed deposit to the energy assistance organization within four months of the date on which the unclaimed deposition is deemed to be unclaimed or abandoned pursuant to subparagraph (q)(I) of this rule, then at the conclusion of the four-month period, interest shall accrue on the unclaimed deposit at the rate established pursuant to paragraph (o) of this rule plus six percent.
 - (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 (o) 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 (q)(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 (o) of this rule plus six percent.

- (r) A utility shall resolve all inquiries regarding a customer's unclaimed monies and shall not refer such inquiries to the energy assistance organization.
- (s) 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.
- (t) For purposes of paragraphs (q), (r), and (s) of this rule, "utility" means and includes: a cooperative electric association which elects to be so governed; and, a utility as defined in rule 3001(nn).

3404. Charges, Fees, and Payment Plans.

- (a) In its tariffs, a utility shall provide a description of all charges or fees that the utility assesses customers resulting from regulated charges that are past due, discontinuance of service, and restoration of service. A utility may assess the following charges or fees at no higher than cost, as stated in its tariff:
 - (I) a late payment charge for regulated charges that are past due and exceed \$50;
 - (II) a fee for discontinuance of service;
 - (III) a fee for restoration of service;
 - (IV) collection fees; and
 - (V) any other regulated charges or fees provided in the utility's tariff.
- (b) In its tariffs, a utility shall have the following payment plans available for its customers:
 - (I) an installment payment plan; and
 - (II) a budget or level payment plan.
- (c) 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 certificate. A customer who has entered into and failed to abide by an installment payment plan prior to receiving a medical certificate shall pay all amounts that were due for regulated charges up to the date on which the customer presented a medical certificate which meets the requirements of subparagraph 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.
- (d) 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 other regulated charges and fees as described in paragraph (a) of this rule, except fees relating to service diversion, whether or not such fees have appeared on a regular monthly bill; and
 - (VII) any applicable deposit, consistent with rule 3403.
- (e) A customer entering into a payment arrangement as described in paragraph (b) may modify their bill due date if the utility's billing system allows for such a change.
- (f) Within seven calendar days of entering into a payment arrangement with a customer, a utility shall provide the customer with 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; and
 - (II) a description of the steps which the utility will take if the customer does not abide by payment plan.
- (g) Except as provided in subparagraph (c)(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 12 months. Notwithstanding the foregoing, a utility may enter into an installment payment plan with a customer for a term up to 24 months if it determines that this is warranted by extraordinary circumstances. In the alternative, the customer may choose a modified budget or level payment plan, or similar tariff 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 plan available. Utilities may not require a customer to participate in a budget or level payment plan or automated billing as a prerequisite for entering into an installment payment plan.
- (h) 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 (c)(I) of this rule.
- (i) 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.

* * * *

[indicates omission of unaffected rules]

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; or
 - (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 apply nondiscriminatory criteria when determining whether to discontinue service for nonpayment. 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 past due amount that is less than \$50;
 - (III) 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;
 - (IV) 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 paragraph 3401(c) applies;
 - (V) 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;
 - (VI) any delinquent amount, unless the utility can supply billing records from the time the delinquency occurred;
 - (VII) any debt except that incurred for service rendered by the utility in Colorado;
 - (VIII) any unregulated charge; or
 - (IX) any amount which is the subject of a pending dispute or informal complaint under rule 3004.
- (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) 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. 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 outside the hours of 8:00 a.m. and 4:00 p.m.; between 12:00 Noon on Friday and 8:00 a.m. the following Monday; between 12:00 Noon on the day prior to and 8:00 a.m. on the day following any state or federal holiday; or between 12:00 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) Medical emergencies.
 - (A) A utility shall postpone discontinuance of electric service to a residential customer for 90 days from the date of a medical certificate issued by a Colorado-licensed physician, health care practitioner acting under a physician's authority, or health care practitioner licensed to prescribe and treat patients which evidences that service discontinuance will aggravate an existing medical emergency or create a medical emergency for the customer or a permanent resident of the customer's household. A customer may invoke this subparagraph 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 has already entered into a payment arrangement, but broke the arrangement prior to seeking a medical certificate, 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 medical certificate must be in writing (which includes electronic certificates and signatures and those provided electronically), sent to the utility from the office of a licensed physician or health care practitioner licensed to prescribe and treat patients, and clearly show 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, health care practitioner acting under a physician's authority, or health care practitioner licensed to prescribe and treat patients certifying the medical emergency. Such certificate is not contestable by the utility as to the medical judgment, although the utility may use reasonable means to verify the authenticity of such certificate.
 - (D) A utility may accept notification by telephone from the office of a licensed physician, or health care practitioner licensed to prescribe and treat patients, but a written medical certificate must be sent to the utility within ten days.
- (V) Weather provisions.
- (A) A utility shall postpone service discontinuance to a residential customer on any day when the National Weather Service local forecast between 6:00 a.m. and 9:00 a.m. predicts that the temperature will be 32 degrees Fahrenheit (32°F) or lower at any time in the following 24 hours, or during any additional period in which utility personnel will not be available to restore utility service in accordance with rule 3409. Nothing prohibits a utility from postponing service discontinuance when temperatures are warmer than these criteria.
 - (B) A utility shall postpone service discontinuance to a residential customer on any day when the National Weather Service local forecast between 6:00 a.m. and 9:00 a.m. predicts that the temperature will be 95 degrees Fahrenheit (95°F) or higher at any time in the following 24 hours, or during any additional period in which utility personnel will not be available to restore utility service in accordance with rule 3409. Nothing prohibits a utility from postponing service discontinuance when temperatures are cooler than these criteria.
- (f) In addition to its tariffs, a utility shall publish information related to its practices around delinquency, disconnection for nonpayment, and reconnection on its website. This information should be written in a manner that promotes customer understanding and must be produced in English and a specific language or languages other than English where the utility's entire 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. A utility must include at least the following information:

- (I) the customer's rights related to service disconnection, including medical and weather-based protections, timing restrictions on service disconnection, and options and hours to contact the utility for support relating to service disconnection;
 - (II) a summary of a customer's options to prevent service disconnection for nonpayment, including installment payment plan options, utility energy assistance and affordability programs, and eligibility requirements for such programs;
 - (III) referrals to organizations that provide energy payment assistance, including energy efficiency services, such as Energy Outreach Colorado, charities, nonprofits, and governmental entities that provide or administer funds for such assistance;
 - (IV) the customer's rights related to service restoration, including restoration timelines, actions customers may take to restore service; and options and hours to contact the utility for support relating to service restoration;
 - (V) a summary of charges, fees, and deposits to which a customer may be subject under paragraphs 3404(a) and 3403(j), with a description of how those amounts are calculated, explained in a way that enables a customer to estimate the full costs they may be assessed;
 - (VI) a description of the customer's options in the event of a dispute regarding billing or disconnection practices;
 - (VII) a description of the options available to an occupant of a service address who is not a customer of record and who has a court-ordered protection order against a customer of record for the service address, relating to past-due balances, service disconnection, restoration, and continuance at the service address, including initiating new service, transferring service, and the utility's practices, policies, and criteria for determining benefit of service for purposes of transferring a customer's balance to an occupant; and
 - (VIII) a description of the utility's Demand Side Management programs, including requirements to participate, the benefits of participating, and utility contact information relating to such programs.
- (g) Reporting requirements.
- (I) Annual Report. No later than March 1 of each calendar year, each utility shall file a report covering the prior calendar year in the miscellaneous proceeding for utility disconnection filings, using the form available on the Commission's website. The report shall provide data on residential customers by class and zip code and must also break down such data by low-income customers, defined as customers participating in low-income programs authorized by rule 3412 and the Low-Income Energy Assistance Program. For data provided in this report, paragraph 3033(b) shall not apply. The report shall contain the following information, displayed by quarter:
 - (A) total number of unique customers;
 - (B) total dollar amount billed;

- (C) total number of customers charged a late payment charge;
 - (D) total dollar amount of late payment charges collected;
 - (E) number of customers with an arrearage balance by vintage (1-30 days, 31-60 days, 61-90 days, 91+ days);
 - (F) dollar amount of arrearages by vintage (1-30 days, 31-60 days, 61-90 days, 91+ days);
 - (G) total number of disconnection notices sent;
 - (H) total number of disconnections for nonpayment;
 - (I) total number of service restorations after disconnections for nonpayment;
 - (J) average duration of disconnection for nonpayment by hours, measured from when the customer completes an action in paragraph 3409(b) to when service is restored;
 - (K) total dollar amount of deposits collected for restoring service that was disconnected for nonpayment;
 - (L) total number of deposits collected for restoring service that was disconnected for nonpayment;
 - (M) total number of new installment payment plans entered into;
 - (N) average repayment term of new installment payment plans entered into;
 - (O) total dollar amount of fees collected for disconnecting service for nonpayment;
 - (P) total dollar amount of fees collected for restoring service that was disconnected for nonpayment;
 - (Q) total dollar amount of collection fees collected from customers whose service was disconnected for nonpayment; and
 - (R) total dollar amount of any other tariff-authorized charges or fees collected resulting from past due amounts, service disconnection for nonpayment, and restoring service that was disconnected for nonpayment.
- (II) Along with the items in subparagraph (g)(I), each utility shall file the following additional items.
- (A) A narrative containing the utility's analysis of any trends or inconsistencies revealed by the data in the prior year including, at minimum, an analysis of:

- (i) the total number of residential customers who were disconnected for nonpayment in the prior calendar year and percent of those customers who were disconnected for nonpayment multiple times; and
 - (ii) the total number of residential installment payment plans entered into in the prior calendar year, the average length of those installment payment plans, the number of residential installment payment plans completed, and the number of residential installment payment plans that were broken.
- (B) Information about how the utility is working to reduce delinquencies and disconnections, including any actions the utility is taking specific to residential customers experiencing multiple disconnections in a calendar year, and a description of the efforts made to identify entities to which the utility refers customers for energy bill assistance.

3408. Notice of Discontinuance of Service.

- (a) Except as provided in paragraphs (g) and (h) of this rule, prior to discontinuing service, a utility shall provide a customer, and any third party the customer has designated in writing or electronically, with the following forms of notice:
- (I) upon a bill becoming past due, and at least five business days before issuing a notice of discontinuance, a utility must provide notice of late payment;
 - (II) at least 12 business days before any proposed service discontinuance, written notice of discontinuance as further described in paragraphs (b) and (c), by first class mail or hand delivery;
 - (III) at least 24 hours in advance of any proposed discontinuance of service, the utility must make a reasonable attempt to provide notice in person or by telephone; and
 - (IV) if the utility will implement service discontinuance remotely, in addition to subparagraphs (I) through (III), the utility must undertake at least one additional attempt to notify the customer of record at their provided telephone number or in person at least 72 hours before discontinuing service.
- (b) The written notice of discontinuance under subparagraph (a)(II) shall be conspicuous and in easily understood language, and the heading shall contain, in bold font and 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.**
- (c) The body of the notice of discontinuance under subparagraph (a)(II) of this rule shall advise the customer of the following:
- (I) the reason for the discontinuance of service;

- (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 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; and
 - (XII) that 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.
- (d) A notice of discontinuance shall be printed in English and a specific language or languages other than English where the utility's entire 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) If the utility attempts to notify the customer in person or by telephone but fails to do so, it shall leave written or recorded 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; and
 - (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 paragraph 3407(c) or 3407(d) applies; or
 - (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; and

- (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) A utility shall restore service 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 certificate, as provided in subparagraph 3407(e)(IV); or
 - (IV) demonstrates to the utility that the cause for discontinuance, if other than non-payment, has been cured.
- (c) Unless prevented by safety concerns or exigent circumstances, a utility shall restore service to a customer who has completed an action in paragraph (b) within 24 hours (excluding weekends and holidays) of the time that the customer completes an action in paragraph (b), or within 12 hours of the time that the customer completes an action in paragraph (b) if the customer pays applicable after-hours charges and fees established in tariffs. The utility must exercise its best efforts to restore service for customers meeting requirements of paragraph (b) on the same day of a service discontinuance.
- (d) The utility must resolve doubts as to whether a customer has met the requirements for service restoration under paragraph (b) in favor of restoration.

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[indicates omission of unaffected rules]

3413. Medical Exemption Program.

- (a) Scope and Applicability.
 - (I) Any electric utility that has a Commission approved Medical Exemption Program shall file an advice letter and tariff, consistent with 4 CCR 723-1-1210, for a rate plan for residential customers who elect an alternate rate plan due to a qualifying medical condition and/or use of essential medical equipment and whose household income is less than or equal to 400 percent of federal poverty guidelines, which may be self-certified by

the customer. The effect of such an exemption shall be neutral with respect to the utility's revenue requirement. If a customer qualifies for the alternate rate plan, that customer shall not be precluded from participating in any low-income program offered by the utility.

(b) Definitions.

- (I) "Essential medical equipment" means any medical device used in the home to sustain life or which is relied upon for mobility, as determined by a physician currently licensed and in good standing in the state of Colorado.
- (II) "Federal poverty guidelines" means the poverty measures published annually by the U.S. Department of Health and Human Services.
- (III) "Non-participant" means a utility customer who is not participating in the Medical Exemption Program.
- (IV) "Participant" means a residential utility customer who is billed according to the utility's alternative rate plan.
- (V) "Qualifying medical condition" includes heat-sensitive medical conditions including, but not limited to, multiple sclerosis, epilepsy, quadriplegia, and paraplegia, or the need for the use of essential medical equipment, as determined by a physician licensed in the state of Colorado, or other health care practitioner licensed to prescribe and treat patients.

(c) A certificate of a qualifying medical condition and/or use of essential medical equipment shall be valid for one year. Once certified by a physician, or other health care practitioner licensed to prescribe and treat patients, customers with qualifying medical conditions lasting longer than one year may submit an annual attestation as to the continued condition and the current address of residency. A certificate of a qualifying medical condition and/or use of essential medical equipment shall:

- (I) be in writing (which includes electronic certificates and signatures and those provided electronically);
- (II) be sent from the office of a currently licensed physician in good standing in the state of Colorado, or other health care practitioner licensed to prescribe and treat patients to either the utility or a Commission approved third party with whom the utility contracts pursuant to rule 3209;
- (III) clearly state the name of the customer or individual whose medical condition and/or use of essential medical equipment is at issue; and
- (IV) clearly state the Colorado medical identification number, phone number, name, and signature of the physician or health care practitioner acting under a physician's authority, or other health care practitioner licensed to prescribe and treat patients certifying the existence of a qualifying medical condition and/or use of essential medical equipment.

- (d) Such certification is not contestable by the utility as to the medical judgment, although the utility may use reasonable means to verify the authenticity of such certificate.
- (e) Verification of the authenticity of the certificate of a qualifying medical condition or use of essential medical equipment shall be done by the utility or a Commission approved third party with which the utility contracts the medical verification activities.
- (f) If the utility or Commission approved third party deems it reasonably necessary, verification of household income may be done by the utility or Commission approved third party with which the utility contracts the income verification activities.
- (g) The Commission may, with cause, conduct an audit of the income verification process employed by the utility or an entity with which the utility contracts for that purpose.
- (h) Cost recovery.
 - (I) Each utility shall address in its filing how costs of the alternative rate plan 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 alternative rate plan costs:
 - (A) lost revenues based on the difference between the expected monthly revenues and revenues under the alternate rate plan for the months during which the Medical Exemption Program is in place; and
 - (B) alternative rate plan administrative costs.
- (i) Annual Report.
 - (I) No later than December 15 each year, each utility shall file an annual report, based on the previous summer cooling period the Medical Exemption Program was in effect, containing the following information:
 - (A) monthly information including number of participants, individual household electricity usage, and individual household incomes;
 - (B) the total number of applicants for the alternative rate plan;
 - (C) the number of applicants who qualified for the rate plan;
 - (D) total cost of the program and the average rate impact of non-participants by rate class; and
 - (E) a description of the efforts made to facilitate the enrollment of qualified persons in the alternative rate plan.

- (II) To the extent that the annual report may disclose individual customer information, the utility is authorized to file that portion of the annual report as confidential pursuant to 4 CCR 723-1-1102, Procedures Relating to Confidential Information Submitted to the Commission Outside of a Formal Proceeding.

3414. - 3499. [Reserved].

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[indicates omission of unaffected rules]

3976. Regulated Electric Utility Rule Violations, Civil Enforcement, and Civil Penalties.

An admission to or Commission adjudication for liability for an intentional violation of the following may result in the assessment of a civil penalty of up to \$2,000.00 per offense. Fines shall accumulate up to, but shall not exceed, the applicable statutory limits set in § 40-7-113.5, C.R.S.

Citation	Description	Maximum Penalty Per Violation
	Articles 1-7 of Title 40, C.R.S.	\$2000
	Commission Order	\$2000
Rule 3005(a)-(c);(f)	Records and Record Retention	\$2000
Rule 3027(a)	Collection and Use of Customer Data	\$1000
Rule 3027(b)	Disclosure of Customer Data	\$2000
Rule 3027(c)	Tariff	\$1000
Rule 3027(d)	Disclosure of Customer Data	\$1000
Rule 3028(a)	Customer Notice	\$1000
Rule 3029(a),(b)	Consent Form	\$1000
Rule 3030(a)	Disclosure of Customer Data	\$2000
Rule 3030(b)	Records	\$1000
Rule 3031(a)	Disclosure of Customer Data	\$2000
Rule 3031(b)	Records	\$1000

Rule 3032(a)	Disclosure of Customer Data	\$2000
Rule 3032(c) and (d)	Consent and Records	\$1000
Rule 3033(a)	Disclosure of Aggregated Data	\$2000
Rule 3033(d)	Tariff	\$1000
Rule 3100(a)	Obtaining a Certificate of Public Convenience and Necessity for a Franchise	\$2000
Rule 3101(a)	Obtaining a Certificate of Public Convenience and Necessity or Letter of Registration to Operate in a Service Territory	\$2000
Rule 3102(a)	Obtaining a Certificate of Public Convenience and Necessity for Facilities	\$2000
Rule 3103(a),(c),(d)	Amending a Certificate of Public Necessity for Changes in Service Territory or Facilities	\$2000
Rule 3108(a),(c)	Keeping a Current Tariff on File with the Commission	\$2000
Rule 3109	Filing a New or Changed Tariff with the Commission	\$2000
Rule 3110(b),(c)	Filing an Advice Letter to Implement a Tariff Change	\$2000
Rule 3200(a),(b)	Construction, Installation, Maintenance and Operation of Facilities in Compliance with Accepted Engineering and Industry Standards	\$2000
Rule 3204	Reporting Incidents Resulting in Death, Serious Injury, or Significant Property Damage	\$2000
Rule 3210	Line Extensions	\$2000
Rule 3251	Reporting Major Events	\$2000
Rule 3252	Filing a Report on a Major Event with the Commission	\$2000
Rule 3303(a)-(j)	Meter Testing	\$2000

Rule 3306	Record Retention of Tests and Meters	\$2000
Rule 3309	Provision of Written Documentation of Readings and Identification of When Meters Will be Read	\$2000
Rule 3401	Billing Information, Procedures, and Requirements	\$2000
Rule 3603	Resource Plan Filing Requirements	\$2000
Rule 3654(a),(d)	Renewable Energy Standards	\$2000
Rule 3657(a)	QRU Compliance Plans	\$2000
Rule 3662	Annual Compliance Reports	\$2000
Rule 3803(c)	Master Meter Exemption Requirements	\$2000
Rule 3004(b)-(f)	Disputes and Informal Complaints	\$1000
Rule 3202(a),(b),(f),(g)	Maintaining a Standard Voltage and Frequency	\$1000
Rule 3203(a),(b)	Trouble Report Response, Interruptions and Curtailments of Service	\$1000
Rule 3405	Provision of Service, Rate, and Usage Information to Customers	\$1000
Rule 3406	Provision of Source Information to Customers	\$1000
Rule 3253	Filing a Supplemental Report on a Major Event with the Commission	\$1000
Rule 3208(a)-(c)	Poles	\$500
Rule 3403(a)-(q);(s)	Applications for Service, Customer Deposits, and Third Party Guarantees	\$500
Rule 3658	Standard Rebate Offer	\$500
Rule 3006(a),(b),(e)-(m)	Annual Reporting Requirements	\$100
Rule 3304	Scheduled Meter Testing	\$100
Rule 3305	Meter Testing Upon Request	\$100
Rule 3402(a),(c),(d)	Meter and Billing Error Adjustments	\$100

Rule 3404(a)-(h)	Availability of Installation Payments to Customers	\$1000
Rule 3407	Discontinuance of Service	\$2000
Rule 3408(a)-(g);(i)	Notice of Discontinuation of Service	\$2000
Rule 3409	Restoration of Service	\$2000
Rule 3411(c)(IV),(d)(I), (d)(II),(e)	Low-Income Energy Assistance Act	\$100
Rule 3618	Filing of Electric Resource Planning Reports	\$100

3977 – 3999. [Reserved].

COLORADO DEPARTMENT OF REGULATORY AGENCIES

Public Utilities Commission

4 CODE OF COLORADO REGULATIONS (CCR) 723-4

PART 4 RULES REGULATING GAS UTILITIES

* * * *

[indicates omission of unaffected rules]

4403. Applications for Service, Customer Deposits, and Third-Party Guarantee Arrangements.

- (a) A utility shall process an application for utility service ~~which that~~ is made either orally or in writing and shall apply nondiscriminatory criteria with respect to the requirement of a deposit prior to commencement of service. Nondiscriminatory criteria means that no deposit or guarantee, or additional deposit or guarantee, shall be required by a utility because of race, sex, creed, national origin, marital status, age, number of dependents, source of income, disability, or geographical area of residence.
- ~~(b) All utilities requiring deposits shall offer customers at least one payment alternative that does not require the use of the customer's social security number.~~
- ~~(bc) If billing records are available for a customer who has received past service from the utility, the utility shall not require that person to make new or additional 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 deposit requirements, and such requirements shall be specifically stated in to the utility's tariff.~~~~
- ~~(ed) A utility shall not require a deposit from an applicant for service who provides written documentation of a 12 consecutive month good credit payment 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.~~
- ~~(e) A utility shall not require a deposit from an applicant for service or restoration of service who is or was within the last 12 months, a participant in the Low-Income Energy Assistance Program or in a low-income program consistent with rule 4412, or who received energy bill assistance from Energy Outreach Colorado within the last 12 months.~~
- ~~(ef) If a utility uses credit scoring to determine whether to require a deposit from an applicant for service or a customer, the utility shall have a tariff ~~which that~~ describes, for each scoring model that it uses, the credit scoring evaluation criteria and the credit score limit ~~which that~~ triggers a 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.~~
- (fg) 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 deposit, the utility shall include in its tariff the specific evaluation criteria ~~which~~ that trigger the need for a deposit.
- (gh) If a utility denies an application for service or requires a 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 specific reasons why the application for service has been denied or a deposit is required.
- (hi) No utility shall require any surety other than either a deposit to secure payment for utility services or a third-party guarantee of payment in lieu of a 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 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 deposit or a new third party guarantor.
- (ij) ~~The total A~~ deposit a utility may require or hold at any one time shall not exceed an amount equal to an estimated 90 days' bill of the customer, except in the case of a customer whose bills are payable in advance of service, in which case the deposit shall not exceed an estimated 60 days' bill of the customer. The deposit may be in addition to any advance, contribution in aid of construction or guarantee required by the utility tariff in connection with construction of lines or facilities, as provided in the extension policy in the utility's tariffs. A deposit may be paid in installments.
- (jk) A utility receiving deposits shall maintain records showing:
- (I) the name of each customer making a deposit;
 - (II) the amount and date of the deposit;
 - (III) each transaction, such as the payment of interest or interest credited, concerning the deposit;
 - (IV) each premise where the customer receives service from the utility while the deposit is retained by the utility;
 - (V) if the deposit was returned to the customer, the date on which the deposit was returned to the customer; and
 - (VI) if the unclaimed deposit was paid to the energy assistance organization, the date on which the deposit was paid to the energy assistance organization.
- ~~(kl) In its tariff, a utility~~ Each utility shall ~~clearly~~ state in its tariff its customer deposit policy for establishing or maintaining service. The tariff shall state the circumstances under which a

deposit will be required and the circumstances under which it will be returned. A utility shall return any deposit paid by a customer who has made no more than two late payments in 12 consecutive months.

- (~~lm~~) AEach utility shall issue a receipt to every customer from whom a deposit is received. No utility shall refuse to return a deposit or any balance to which a customer may be entitled solely on the basis that the customer is unable to produce a receipt.
- (~~mn~~) The payment of a 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 deposit to any indebtedness of the customer to the utility, except for utility services due or past due after service is terminated.
- (~~no~~) A utility shall pay simple interest on a deposit at the percentage rate per annum as calculated by the Commission 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 deposit or annually. The simple interest on a deposit shall be earned from the date the 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 credited to the customer's account.
 - (II) The simple interest to be paid on a deposit during any calendar year shall be at a rate equal to the average for the period October 1 through September 30 (of the immediately preceding year) of the 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 Commission 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 deposits during the next calendar year. Annually following receipt of -Commission staff's letter, if necessary, a 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' deposits, except when there is no change in the rate of interest to be paid on such deposits.
- (~~op~~) 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 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 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 presentation of the guarantee to the utility;
 - (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 deposit;
 - (V) the guarantee shall remain in effect until the earlier of the following occurs:
 - (A) the guarantee is terminated in writing by the guarantor;
 - (B) if the guarantor was a customer at the time of undertaking the guarantee, the guarantor ceases to be a customer of the utility; or
 - (C) 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 deposit or a new third party guarantor.
- (pg) 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: undistributed refunds for overcharges subject to other statutory provisions and rules and 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 deposit or the construction advance was made or when left with the utility for more than two years after the 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 deposit shall accrue at the rate established pursuant to paragraph (oa) of this rule commencing on the date on which the utility receives the deposit and ending on the date on which the deposit is paid to the energy assistance organization. If the utility does not pay the unclaimed deposit to the energy assistance organization within four months of the date on which the unclaimed deposit is deemed to be unclaimed or abandoned pursuant to subparagraph (qp)(l) of this rule, then at the conclusion of the four-month period, interest shall accrue on the unclaimed deposit at the rate established pursuant to paragraph (oa) of this rule plus six percent.
 - (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 (oa) 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 ~~(pg)~~(l) 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 ~~(on)~~ of this rule plus six percent.

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

4404. ~~Installment Payments~~Charges, Fees, and Payment Plans.

- ~~(a)~~ In its tariffs, a utility shall provide a description of all charges or fees that the utility assesses resulting from regulated charges that are past due and service discontinuance and restoration. A utility may assess the following charges or fees at no higher than cost, as stated in its tariff:
 - (I) a late payment charge for regulated charges that are past due and exceed \$50;
 - (II) a fee for discontinuance of service;
 - (III) a fee for restoration of service;
 - (IV) collection fees; and
 - (V) any other regulated charges or fees provided in the utility's tariff.
- ~~(ab)~~ In its tariffs, a utility shall have the following payment plans make a budget or level payment plan available for its customers:
 - (I) an installment payment plan; and
 - (II) a budget or level payment plan and have such plan clearly defined in its tariff.
- ~~(bc)~~ A utility shall have in its tariff 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 certificate. A customer who has entered into and failed to abide by an installment payment plan prior to receiving a medical certificate shall pay all amounts that were due for regulated charges up to the date on which the customer presented a medical certificate which meets the requirements of subparagraph 4407(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.
- (ed) 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 other regulated charges and fees as described in paragraph (a) of this rule, except fees relating to service diversion, whether or not such fees have appeared on a regular monthly bill; any collection fees as provided for in the utility's tariff, whether or not such fees have appeared on a regular monthly bill; and
 - (VII) any applicable deposit, consistent with rule 4403, 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 deposit required as a condition of initiating service; and
 - ~~(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.~~

- (e) A customer entering into a payment arrangement as described in paragraph (b) may modify their bill due date if the utility's billing system allows for such a change.
- (df) Within seven calendar days of entering into a payment arrangement with a customer, a utility shall provide the customer with 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; and
 - (II) a description of the steps which the utility will take if the customer does not abide by payment plan.
- (eg) Except as provided in subparagraph ~~(bc)~~(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~~ 12 months. Notwithstanding the foregoing, a utility may enter into an installment payment plan with a customer for a term up to 24 months if it determines that this is warranted by extraordinary circumstances. In the alternative, the customer may choose a modified budget ~~billing, or~~ level payment plan, or similar tariff 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 plan available. Utilities may not require a customer to participate in a budget or level payment plan or automated billing as a prerequisite for entering into an installment payment plan.
- (fh) 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 ~~(cb)~~(I) of this rule.
- (gi) 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.

* * * *

[indicates omission of unaffected rules]

4407. 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; or

(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 apply nondiscriminatory criteria when determining whether to discontinue service for nonpayment. 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 past due amount that is less than \$50;

(III) 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;

(IV) 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 paragraph 4401(c) applies;

(V) any amount due on an 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;

(VI) any delinquent amount, unless the utility can supply billing records from the time the delinquency occurred;

(VII) any debt except that incurred for service rendered by the utility in Colorado;~~or~~

(VIII) any unregulated charge;or

(IX) any amount which is the subject of a pending dispute or informal complaint under rule 4004.

- (c) If the utility discovers any connection or device installed on the customer's premises, including any energy-consuming device in the proximity 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. 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 4404.
 - (III) If it is outside the hours of 8:00 a.m. and 4:00 p.m.; between 12:00 Noon on Friday and 8:00 a.m. the following Monday; between 12:00 Noon on the day prior to and 8:00 a.m. on the day following any state or federal holiday; or between 12:00 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) Medical emergencies.

- (A) A utility shall postpone service discontinuance ~~of gas 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, or health care practitioner licensed to prescribe and treat patients which evidences that service 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 subparagraph ~~4407(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 ~~has~~ already entered into a payment arrangement, but ~~had broken~~ the arrangement prior to seeking a medical certificate, 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 medical certificate ~~of medical emergency shall must~~ be in writing (which includes electronic certificates and signatures and those provided electronically), sent to the utility from the office of a licensed physician, or health care practitioner licensed to prescribe and treat patients, and clearly 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, or health care practitioner licensed to prescribe and treat patients certifying the medical emergency. Such certificate ~~is not shall be in~~contestable by the utility as to the medical judgment, although the utility may use reasonable means to verify the authenticity of such certificate.
- ~~(D) A utility may accept notification by telephone from the office of a licensed physician, or health care practitioner licensed to prescribe and treat patients, but a written medical certificate must be sent to the utility within ten days.~~
- ~~(V) A utility shall postpone service discontinuance to a residential customer on any day when the National Weather Service local forecast between 6:00 a.m. and 9:00 a.m. predicts that the temperature will be 32 degrees Fahrenheit (32°F) or lower at any time during the following 24 hours, or during any additional period in which utility personnel will not be available to restore utility service in accordance with rule 4409. Nothing prohibits a utility from postponing service discontinuance when temperatures are warmer than these criteria.~~
- ~~(f) In addition to its tariffs, a utility shall publish information related to its practices around delinquency, disconnection for nonpayment, and reconnection on its website. This information should be written in a manner that promotes customer understanding and must be produced in English and a specific language or languages other than English where the utility's entire 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. A utility must include at least the following information:

- (I) the customer's rights related to service disconnection, including medical and weather-based protections, timing restrictions on service disconnection, and options and hours to contact the utility for support relating to service disconnection;
 - (II) a summary of a customer's options to prevent service disconnection for nonpayment, including installment payment plan options, utility energy assistance and affordability programs, and eligibility requirements for such programs;
 - (III) referrals to organizations that provide energy payment assistance, including energy efficiency services, such as Energy Outreach Colorado, charities, nonprofits, and governmental entities that provide or administer funds for such assistance;
 - (IV) the customer's rights related to service restoration, including restoration timelines, actions customers may take to restore service, and options and hours to contact the utility for support relating to service restoration;
 - (V) a summary of charges, fees, and deposits to which a customer may be subject under paragraphs 4403(j) and 4404(a), with a description of how those amounts are calculated, explained in a way that enables a customer to estimate the full costs they may be assessed;
 - (VI) a description of the customer's options in the event of a dispute regarding billing or disconnection practices;
 - (VII) a description of the options available to an occupant of a service address who is not a customer of record and who has a court-ordered protection order against a customer of record for the service address, relating to past-due balances, service disconnection, restoration, and continuance at the service address, including initiating new service, transferring service, and the utility's practices, policies, and criteria for determining benefit of service for purposes of transferring a customer of record's balance to an occupant; and
 - (VIII) a description of the utility's Demand Side Management programs, including requirements to participate, the benefits of participating, and utility contact information relating to such programs.
- (g) Reporting requirements.
- (I) Annual Report. No later than March 1 of each calendar year, each utility shall file a report covering the prior calendar year in the miscellaneous proceeding for utility disconnection filings, using the form available on the Commission's website. The report shall provide data on residential customers by class and zip code and must also break down such data by low-income customers, defined as customers participating in low-income programs authorized by rule 4412 and the Low-Income Energy Assistance Program. For data provided in this report, paragraph 4033(b) shall not apply. The report shall contain the following information, displayed by quarter:

- (A) total number of unique customers;
 - (B) total dollar amount billed;
 - (C) total number of unique customers charged a late payment charge;
 - (D) total dollar amount of late payment charges collected;
 - (E) number of unique customers with an arrearage balance by vintage (1-30 days, 31-60 days, 61-90 days, 91+ days);
 - (F) dollar amount of arrearages by vintage (1-30 days, 31-60 days, 61-90 days, 91+ days);
 - (G) total number of disconnection notices sent;
 - (H) total number of disconnections for nonpayment;
 - (I) total number of service restorations after disconnections for nonpayment;
 - (J) average duration of disconnection for nonpayment in hours, measured from when the customer completes an action in paragraph 4409(b) to when service is restored;
 - (K) total dollar amount of deposits collected for restoring service that was disconnected for nonpayment;
 - (L) total number of deposits collected for restoring service that was disconnected for nonpayment;
 - (M) total number of new installment payment plans entered into;
 - (N) average repayment term of new installment payment plans entered into;
 - (O) total dollar amount of fees collected for disconnecting service for nonpayment;
 - (P) total dollar amount of fees collected for restoring service that was disconnected for nonpayment;
 - (Q) total dollar amount of collection fees collected from customers whose service was disconnected for nonpayment; and
 - (R) total dollar amount of any other tariff-authorized charges or fees collected resulting from past due amounts, service disconnection for nonpayment, and restoring service that was disconnected for nonpayment.
- (II) Along with the items in subparagraph (g)(I), each utility shall file the following additional items.

- (A) A narrative containing the utility's analysis of any trends or inconsistencies revealed by the reported data for the prior year including, at minimum, an analysis of:
- (i) the total number of residential customers who were disconnected for nonpayment in the prior calendar year and percent of those customers who were disconnected for nonpayment multiple times; and
 - (ii) the total number of residential installment payment plans entered into in the prior calendar year, the average length of those installment payment plans, the number of residential installment payment plans completed, and the number of residential installment payment plans that were broken.
- (B) Information about how the utility is working to reduce delinquencies and disconnections, including any actions the utility is taking specific to residential customers experiencing multiple disconnections in a calendar year, and a description of the efforts to identify and refer energy efficiency and bill assistance resources.

4408. Notice of Discontinuance.

- (a) Except as provided in paragraphs (g) and (h) of this rule, prior to discontinuing service, a utility shall provide a customer, and any third party the customer has designated in writing or electronically, with the following forms of notice:
- (I) upon a bill becoming past due, and at least five business days before issuing a notice of discontinuance, a utility must provide notice of late payment;
 - (II) at least 12 business days before any proposed service discontinuance, written notice of discontinuance as further described in paragraphs (b) and (c), by first class mail or hand delivery;
 - (III) at least 24 hours in advance of any proposed service discontinuance, the utility must make a reasonable attempt to provide notice in person or by telephone; and
 - (IV) if the utility will implement service discontinuance remotely, in addition to subparagraphs (I) through (III), the utility must undertake at least one additional attempt to notify the customer of record at their provided telephone number or in person at least 72 hours before discontinuing service.
- (a_b) Except as provided in paragraphs (g) and (h) of this rule, a utility shall provide, by first class mail or by hand delivery, The written notice of discontinuance of service under subparagraph (a)(II) at least 15 days in advance of any proposed discontinuance of service. The heading shall be conspicuous and in easily understood language, and the heading shall contain, in bold font and 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.

- (bc) The body of the notice of discontinuance under subparagraph (a)(II) of this rule shall at a minimum advise the customer of the following:
- (I) the reason for the discontinuance of service ~~and of the particular terms of service and 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 4404 as described in 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 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 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; and
 - (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 notice of discontinuance ~~notice~~ shall be printed in English and a specific language or languages other than English where the utility's entire 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 or by telephone but fails to do so, it shall leave written or recorded 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; and
 - (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;
 - (II) discontinuance is ordered by any appropriate governmental authority;

- (III) either paragraph 4407(c) or ~~4407(d)~~ applies; or
 - (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; and
 - (IV) the utility shall post the notice in at least one of the common areas of the affected location.

4409. Restoration of Service.

- (a) Unless prevented from doing so by safety concerns, a utility shall restore, without additional fee or charge, any discontinued service which was not properly discontinued or restored as provided in rules 4407, 4408, and 4409.
- ~~(b) Unless prevented by safety concerns, 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,~~
- ~~(b) A utility shall restore service~~ 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 subparagraph 4407(e)(IV);
 - (IV) demonstrates to the utility that the cause for discontinuance, if other than non-payment, has been cured.

- (c) Unless prevented by safety concerns or exigent circumstances, a utility shall restore service to a customer who has completed an action in paragraph (b) within 24 hours (excluding weekends and holidays) of the time that the customer completes an action in paragraph (b), or within 12 hours of the time that the customer completes an action in paragraph (b) if the customer pays applicable after-hours charges and fees established in tariffs. The utility must exercise its best efforts to restore service for customers meeting requirements of paragraph (b) on the same day of a service discontinuance.
- (d) The utility must resolve doubts as to whether a customer has met the requirements for service restoration under paragraph (b) in favor of restoration.

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[indicates omission of unaffected rules]

4976. Regulated Gas Utility Rule Violations, Civil Enforcement, and Civil Penalties.

An admission to or Commission adjudication for liability for an intentional violation of the following may result in the assessment of a civil penalty of up to \$2,000.00 per offense. Fines shall accumulate up to, but shall not exceed, the applicable statutory limits set in § 40-7-113.5, C.R.S.

Citation	Description	Maximum Penalty Per Violation
	Articles 1-7 of Title 40, C.R.S.	\$2000
	Commission Order	\$2000
Rule 4005	Records and Record Retention	\$2000
Rule 4027(a)	Collection and Use of Customer Data	\$1000
Rule 4027(b),	Disclosure of Customer Data	\$2000
Rule 4027(c)	Tariff	\$1000
Rule 4027(d)	Disclosure of Customer Data	\$1000
Rule 4028(a)	Customer Notice	\$1000
Rule 4029(a),(b)	Consent Form	\$1000
Rule 4030(a)	Disclosure of Customer Data	\$2000
Rule 4030(b)	Records	\$1000

Rule 4031(a)	Disclosure of Customer Data	\$2000
Rule 4031(b)	Records	\$1000
Rule 4032(a)	Disclosure of Customer Data	\$2000
Rules 4032(c) and (d)	Consent and Records	\$1000
Rule 4033(a)	Disclosure of Aggregated Data	\$2000
Rule 4033(d)	Tariff	\$1000
Rule 4100(a)	Obtaining a Certificate of Public Convenience and Necessity for a Franchise	\$2000
Rule 4101(a)	Obtaining a Certificate of Public Convenience and Necessity or Letter of Registration to operate in a service territory	\$2000
Rule 4102(a)	Obtaining a Certificate of Public Convenience and Necessity for facilities	\$2000
Rule 4103(a), (c), (d)	Amending a Certificate of Public Necessity for changes in service territory or facilities	\$2000
Rule 4108(a), (c)	Keeping a Current Tariff on File with the Commission	\$2000
Rule 4109	Filing a New or Changed Tariff with the Commission	\$2000
Rule 4110(b),(c)	Filing an Advice Letter to Implement a Tariff Change	\$2000
Rule 4200	Construction, Installation, Maintenance and Operation of Facilities in Compliance with Accepted Engineering and Industry Standards	\$2000
Rule 4208	Anticompetitive Conduct and Unacceptable Practices	\$2000
Rule 4210	Line Extensions	\$2000
Rule 4303	Meter Testing	\$2000
Rule 4306	Record Retention of Tests and Meters	\$2000

Rule 4309	Provision of Written Documentation of Readings and Identification of When Meters Will be Read	\$2000
Rule 4401	Billing Information, Procedures, and Requirements	\$2000
Rule 4754(a)-(e)	Annual DSM Report and Application for Bonus and Bonus Calculation	\$2000
Rule 4803(c)	Master Meter Exemption Requirements	\$2000
Rule 4004(b)-(f)	Disputes and Informal Complaints	\$1000
Rule 4202	Maintaining Heating Value, Purity and Pressure Standards	\$1000
Rule 4203(a)-(f)	Trouble Report Response, Interruptions and Curtailments of Service	\$1000
Rule 4405	Provision of Service, Rate, and Usage Information to Customers	\$1000
Rule 4406	Provision of Gas Cost Component Information to Customers	\$1000
Rule 4603(a),(d)	Gas Cost Adjustments	\$1000
Rule 4605(a),(b),(e),(f)	Gas Purchase Plans	\$1000
Rule 4607(a)	Gas Purchase Reports and Prudence Reviews	\$1000
Rule 4403(a)-(q)	Applications for Service, Customer Deposits, and Third Party Guarantees	\$500
Rule 4006	Annual Reporting Requirements	\$100
Rule 4304	Scheduled Meter Testing	\$100
Rule 4305	Meter Testing Upon Request	\$100
Rule 4402(a),(c),(d)	Meter and Billing Error Adjustments	\$100
Rule 4404(a)- (h) (f)	Availability of Installation Payments to Customers	\$100 <u>1000</u>

Rule 4407	Discontinuance of Service	\$100 2000
Rule 4408(a)-(g); (i)	Notice of Discontinuance of Service	\$100 2000
Rule 4409	Restoration of Service	\$100 2000
Rule 4411(c)(IV),(d)(I), d(II),(e)	Low-Income Energy Assistance Act	\$100

4977. – 4999. [Reserved].

COLORADO DEPARTMENT OF REGULATORY AGENCIES

Public Utilities Commission

4 CODE OF COLORADO REGULATIONS (CCR) 723-4

PART 4 RULES REGULATING GAS UTILITIES

* * * *

[indicates omission of unaffected rules]

4403. Applications for Service, Customer Deposits, and Third-Party Guarantee Arrangements.

- (a) A utility shall process an application for utility service that is made either orally or in writing and shall apply nondiscriminatory criteria with respect to the requirement of a deposit prior to commencement of service. Nondiscriminatory criteria means that no deposit or guarantee, or additional deposit or guarantee, shall be required by a utility because of race, sex, creed, national origin, marital status, age, number of dependents, source of income, disability, or geographical area of residence.
- (b) All utilities requiring deposits shall offer customers at least one payment alternative that does not require the use of the customer's social security number.
- (c) If billing records are available for a customer who has received past service from the utility, the utility shall not require that person to make new or additional deposits to guarantee payment of current bills unless the records indicate recent or substantial delinquencies.
- (d) A utility shall not require a deposit from an applicant for service who provides written documentation of a 12 consecutive month good payment 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.
- (e) A utility shall not require a deposit from an applicant for service or restoration of service who is or was within the last 12 months, a participant in the Low-Income Energy Assistance Program or in a low-income program consistent with rule 4412, or who received energy bill assistance from Energy Outreach Colorado within the last 12 months.
- (f) If a utility uses credit scoring to determine whether to require a deposit from an applicant for service or a customer, the utility shall have a tariff that describes, for each scoring model that it uses, the credit scoring evaluation criteria and the credit score limit that triggers a deposit requirement.

- (g) 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 deposit, the utility shall include in its tariff the specific evaluation criteria that trigger the need for a deposit.
- (h) If a utility denies an application for service or requires a 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 specific reasons why the application for service has been denied or a deposit is required.
- (i) No utility shall require any surety other than either a deposit to secure payment for utility services or a third-party guarantee of payment in lieu of a 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 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 deposit or a new third party guarantor.
- (j) The total deposit a utility may require or hold at any one time shall not exceed an amount equal to an estimated 90 days' bill of the customer, except in the case of a customer whose bills are payable in advance of service, in which case the deposit shall not exceed an estimated 60 days' bill of the customer. The deposit may be in addition to any advance, contribution in aid of construction or guarantee required by the utility tariff in connection with construction of lines or facilities, as provided in the extension policy in the utility's tariffs. A deposit may be paid in installments.
- (k) A utility receiving deposits shall maintain records showing:
 - (I) the name of each customer making a deposit;
 - (II) the amount and date of the deposit;
 - (III) each transaction, such as the payment of interest or interest credited, concerning the deposit;
 - (IV) each premise where the customer receives service from the utility while the deposit is retained by the utility;
 - (V) if the deposit was returned to the customer, the date on which the deposit was returned to the customer; and
 - (VI) if the unclaimed deposit was paid to the energy assistance organization, the date on which the deposit was paid to the energy assistance organization.
- (l) 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 deposit will be required and the circumstances under which it will be returned. A utility shall return any deposit paid by a customer who has made no more than two late payments in 12 consecutive months.

- (m) Each utility shall issue a receipt to every customer from whom a deposit is received. No utility shall refuse to return a deposit or any balance to which a customer may be entitled solely on the basis that the customer is unable to produce a receipt.
- (n) The payment of a 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 deposit to any indebtedness of the customer to the utility, except for utility services due or past due after service is terminated.
- (o) A utility shall pay simple interest on a deposit at the percentage rate per annum as calculated by the Commission 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 deposit or annually. The simple interest on a deposit shall be earned from the date the 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 credited to the customer's account.
 - (II) The simple interest to be paid on a deposit during any calendar year shall be at a rate equal to the average for the period October 1 through September 30 (of the immediately preceding year) of the 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 Commission 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 deposits during the next calendar year. Annually following receipt of Commission staff's letter, if necessary, a 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' deposits, except when there is no change in the rate of interest to be paid on such deposits.
- (p) 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 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 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 presentation of the guarantee to the utility;

- (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 deposit;
 - (V) the guarantee shall remain in effect until the earlier of the following occurs:
 - (A) the guarantee is terminated in writing by the guarantor;
 - (B) if the guarantor was a customer at the time of undertaking the guarantee, the guarantor ceases to be a customer of the utility; or
 - (C) 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 deposit or a new third party guarantor.
- (q) 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: undistributed refunds for overcharges subject to other statutory provisions and rules and 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 deposit or the construction advance was made or when left with the utility for more than two years after the 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 deposit shall accrue at the rate established pursuant to paragraph (o) of this rule commencing on the date on which the utility receives the deposit and ending on the date on which the deposit is paid to the energy assistance organization. If the utility does not pay the unclaimed deposit to the energy assistance organization within four months of the date on which the unclaimed deposition is deemed to be unclaimed or abandoned pursuant to subparagraph (q)(I) of this rule, then at the conclusion of the four-month period, interest shall accrue on the unclaimed deposit at the rate established pursuant to paragraph (o) of this rule plus six percent.
 - (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 (o) 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 (q)(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 (o) of this rule plus six percent.

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

4404. Charges, Fees, and Payment Plans.

- (a) In its tariffs, a utility shall provide a description of all charges or fees that the utility assesses resulting from regulated charges that are past due and service discontinuance and restoration. A utility may assess the following charges or fees at no higher than cost, as stated in its tariff:
 - (I) a late payment charge for regulated charges that are past due and exceed \$50;
 - (II) a fee for discontinuance of service;
 - (III) a fee for restoration of service;
 - (IV) collection fees; and
 - (V) any other regulated charges or fees provided in the utility's tariff.
- (b) In its tariffs, a utility shall have the following payment plans available for its customers:
 - (I) an installment payment plan; and
 - (II) a budget or level payment plan.
- (c) A utility shall have in its tariff 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 certificate. A customer who has entered into and failed to abide by

an installment payment plan prior to receiving a medical certificate shall pay all amounts that were due for regulated charges up to the date on which the customer presented a medical certificate which meets the requirements of subparagraph 4407(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.
- (d) 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 other regulated charges and fees as described in paragraph (a) of this rule, except fees relating to service diversion, whether or not such fees have appeared on a regular monthly bill; and
 - (VII) any applicable deposit, consistent with rule 4403.
- (e) A customer entering into a payment arrangement as described in paragraph (b) may modify their bill due date if the utility's billing system allows for such a change.
- (f) Within seven calendar days of entering into a payment arrangement with a customer, a utility shall provide the customer with 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; and
 - (II) a description of the steps which the utility will take if the customer does not abide by payment plan.
- (g) Except as provided in subparagraph (c)(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 12 months. Notwithstanding the foregoing, a utility may enter into an installment payment

plan with a customer for a term up to 24 months if it determines that this is warranted by extraordinary circumstances. In the alternative, the customer may choose a modified budget or level payment plan, or similar tariff 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 plan available. Utilities may not require a customer to participate in a budget or level payment plan or automated billing as a prerequisite for entering into an installment payment plan.

- (h) 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 (c)(I) of this rule.
- (i) 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.

* * * *

[indicates omission of unaffected rules]

4407. 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; or
 - (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 apply nondiscriminatory criteria when determining whether to discontinue service for nonpayment. 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 past due amount that is less than \$50;
 - (III) 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;
 - (IV) 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 paragraph 4401(c) applies;
 - (V) any amount due on an 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;
 - (VI) any delinquent amount, unless the utility can supply billing records from the time the delinquency occurred;
 - (VII) any debt except that incurred for service rendered by the utility in Colorado;
 - (VIII) any unregulated charge; or
 - (IX) any amount which is the subject of a pending dispute or informal complaint under rule 4004.
- (c) If the utility discovers any connection or device installed on the customer's premises, including any energy-consuming device in the proximity 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) 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. 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 4404.
 - (III) If it is outside the hours of 8:00 a.m. and 4:00 p.m.; between 12:00 Noon on Friday and 8:00 a.m. the following Monday; between 12:00 Noon on the day prior to and 8:00 a.m. on the day following any state or federal holiday; or between 12:00 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) Medical emergencies.
 - (A) A utility shall postpone service discontinuance to a residential customer for 90 days from the date of a medical certificate issued by a Colorado-licensed physician, health care practitioner acting under a physician's authority, or health care practitioner licensed to prescribe and treat patients which evidences that service discontinuance will aggravate an existing medical emergency or create a medical emergency for the customer or a permanent resident of the customer's household. A customer may invoke this subparagraph 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 has already entered into a payment arrangement, but broke the arrangement prior to seeking a medical certificate, 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 medical certificate must be in writing (which includes electronic certificates and signatures and those provided electronically), sent to the utility from the office of a licensed physician, or health care practitioner licensed to prescribe and treat patients, and clearly show 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, health care practitioner acting under a physician's authority, or health care practitioner licensed to prescribe and treat patients certifying the medical emergency. Such certificate is not contestable by the utility as to the medical judgment, although the utility may use reasonable means to verify the authenticity of such certificate.
- (D) A utility may accept notification by telephone from the office of a licensed physician, or health care practitioner licensed to prescribe and treat patients, but a written medical certificate must be sent to the utility within ten days.
- (V) A utility shall postpone service discontinuance to a residential customer on any day when the National Weather Service local forecast between 6:00 a.m. and 9:00 a.m. predicts that the temperature will be 32 degrees Fahrenheit (32°F) or lower at any time during the following 24 hours, or during any additional period in which utility personnel will not be available to restore utility service in accordance with rule 4409. Nothing prohibits a utility from postponing service discontinuance when temperatures are warmer than these criteria.
- (f) In addition to its tariffs, a utility shall publish information related to its practices around delinquency, disconnection for nonpayment, and reconnection on its website. This information should be written in a manner that promotes customer understanding and must be produced in English and a specific language or languages other than English where the utility's entire 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. A utility must include at least the following information:
 - (I) the customer's rights related to service disconnection, including medical and weather-based protections, timing restrictions on service disconnection, and options and hours to contact the utility for support relating to service disconnection;
 - (II) a summary of a customer's options to prevent service disconnection for nonpayment, including installment payment plan options, utility energy assistance and affordability programs, and eligibility requirements for such programs;

- (III) referrals to organizations that provide energy payment assistance, including energy efficiency services, such as Energy Outreach Colorado, charities, nonprofits, and governmental entities that provide or administer funds for such assistance;
 - (IV) the customer's rights related to service restoration, including restoration timelines, actions customers may take to restore service, and options and hours to contact the utility for support relating to service restoration;
 - (V) a summary of charges, fees, and deposits to which a customer may be subject under paragraphs 4403(j) and 4404(a), with a description of how those amounts are calculated, explained in a way that enables a customer to estimate the full costs they may be assessed;
 - (VI) a description of the customer's options in the event of a dispute regarding billing or disconnection practices;
 - (VII) a description of the options available to an occupant of a service address who is not a customer of record and who has a court-ordered protection order against a customer of record for the service address, relating to past-due balances, service disconnection, restoration, and continuance at the service address, including initiating new service, transferring service, and the utility's practices, policies, and criteria for determining benefit of service for purposes of transferring a customer of record's balance to an occupant; and
 - (VIII) a description of the utility's Demand Side Management programs, including requirements to participate, the benefits of participating, and utility contact information relating to such programs.
- (g) Reporting requirements.
- (I) Annual Report. No later than March 1 of each calendar year, each utility shall file a report covering the prior calendar year in the miscellaneous proceeding for utility disconnection filings, using the form available on the Commission's website. The report shall provide data on residential customers by class and zip code and must also break down such data by low-income customers, defined as customers participating in low-income programs authorized by rule 4412 and the Low-Income Energy Assistance Program. For data provided in this report, paragraph 4033(b) shall not apply. The report shall contain the following information, displayed by quarter:
 - (A) total number of unique customers;
 - (B) total dollar amount billed;
 - (C) total number of unique customers charged a late payment charge;
 - (D) total dollar amount of late payment charges collected;
 - (E) number of unique customers with an arrearage balance by vintage (1-30 days, 31-60 days, 61-90 days, 91+ days);

- (F) dollar amount of arrearages by vintage (1-30 days, 31-60 days, 61-90 days, 91+ days);
 - (G) total number of disconnection notices sent;
 - (H) total number of disconnections for nonpayment;
 - (I) total number of service restorations after disconnections for nonpayment;
 - (J) average duration of disconnection for nonpayment in hours, measured from when the customer completes an action in paragraph 4409(b) to when service is restored;
 - (K) total dollar amount of deposits collected for restoring service that was disconnected for nonpayment;
 - (L) total number of deposits collected for restoring service that was disconnected for nonpayment;
 - (M) total number of new installment payment plans entered into;
 - (N) average repayment term of new installment payment plans entered into;
 - (O) total dollar amount of fees collected for disconnecting service for nonpayment;
 - (P) total dollar amount of fees collected for restoring service that was disconnected for nonpayment;
 - (Q) total dollar amount of collection fees collected from customers whose service was disconnected for nonpayment; and
 - (R) total dollar amount of any other tariff-authorized charges or fees collected resulting from past due amounts, service disconnection for nonpayment, and restoring service that was disconnected for nonpayment.
- (II) Along with the items in subparagraph (g)(I), each utility shall file the following additional items.
- (A) A narrative containing the utility's analysis of any trends or inconsistencies revealed by the reported data for the prior year including, at minimum, an analysis of:
 - (i) the total number of residential customers who were disconnected for nonpayment in the prior calendar year and percent of those customers who were disconnected for nonpayment multiple times; and
 - (ii) the total number of residential installment payment plans entered into in the prior calendar year, the average length of those installment payment plans, the number of residential installment payment plans completed,

and the number of residential installment payment plans that were broken.

- (B) Information about how the utility is working to reduce delinquencies and disconnections, including any actions the utility is taking specific to residential customers experiencing multiple disconnections in a calendar year, and a description of the efforts to identify and refer energy efficiency and bill assistance resources.

4408. Notice of Discontinuance.

- (a) Except as provided in paragraphs (g) and (h) of this rule, prior to discontinuing service, a utility shall provide a customer, and any third party the customer has designated in writing or electronically, with the following forms of notice:
 - (I) upon a bill becoming past due, and at least five business days before issuing a notice of discontinuance, a utility must provide notice of late payment;
 - (II) at least 12 business days before any proposed service discontinuance, written notice of discontinuance as further described in paragraphs (b) and (c), by first class mail or hand delivery;
 - (III) at least 24 hours in advance of any proposed service discontinuance, the utility must make a reasonable attempt to provide notice in person or by telephone; and
 - (IV) if the utility will implement service discontinuance remotely, in addition to subparagraphs (I) through (III), the utility must undertake at least one additional attempt to notify the customer of record at their provided telephone number or in person at least 72 hours before discontinuing service.
- (b) The written notice of discontinuance under subparagraph (a)(II) shall be conspicuous and in easily understood language, and the heading shall contain, in bold font and 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.
- (c) The body of the notice of discontinuance under subparagraph (a)(II) of this rule shall at a minimum advise the customer of the following:
 - (I) the reason for the discontinuance of service;
 - (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 4404 as described in 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 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 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; and
 - (XII) that 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.
- (d) A notice of discontinuance shall be printed in English and a specific language or languages other than English where the utility's entire 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) If the utility attempts to notify the customer in person or by telephone but fails to do so, it shall leave written or recorded 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; and
 - (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;
 - (II) discontinuance is ordered by any appropriate governmental authority;
 - (III) either paragraph 4407(c) or 4407(d) applies; or
 - (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; and
 - (IV) the utility shall post the notice in at least one of the common areas of the affected location.

4409. Restoration of Service.

- (a) Unless prevented from doing so by safety concerns, a utility shall restore, without additional fee or charge, any discontinued service which was not properly discontinued or restored as provided in rules 4407, 4408, and 4409.
- (b) A utility shall restore service 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 certificate, as provided in subparagraph 4407(e)(IV);
 - (IV) demonstrates to the utility that the cause for discontinuance, if other than non-payment, has been cured.
- (c) Unless prevented by safety concerns or exigent circumstances, a utility shall restore service to a customer who has completed an action in paragraph (b) within 24 hours (excluding weekends and holidays) of the time that the customer completes an action in paragraph (b), or within 12 hours of the time that the customer completes an action in paragraph (b) if the customer pays applicable after-hours charges and fees established in tariffs. The utility must exercise its best efforts to restore service for customers meeting requirements of paragraph (b) on the same day of a service discontinuance.
- (d) The utility must resolve doubts as to whether a customer has met the requirements for service restoration under paragraph (b) in favor of restoration.

* * * *

[indicates omission of unaffected rules]

4976. Regulated Gas Utility Rule Violations, Civil Enforcement, and Civil Penalties.

An admission to or Commission adjudication for liability for an intentional violation of the following may result in the assessment of a civil penalty of up to \$2,000.00 per offense. Fines shall accumulate up to, but shall not exceed, the applicable statutory limits set in § 40-7-113.5, C.R.S.

Citation	Description	Maximum Penalty Per Violation
	Articles 1-7 of Title 40, C.R.S.	\$2000

	Commission Order	\$2000
Rule 4005	Records and Record Retention	\$2000
Rule 4027(a)	Collection and Use of Customer Data	\$1000
Rule 4027(b),	Disclosure of Customer Data	\$2000
Rule 4027(c)	Tariff	\$1000
Rule 4027(d)	Disclosure of Customer Data	\$1000
Rule 4028(a)	Customer Notice	\$1000
Rule 4029(a),(b)	Consent Form	\$1000
Rule 4030(a)	Disclosure of Customer Data	\$2000
Rule 4030(b)	Records	\$1000
Rule 4031(a)	Disclosure of Customer Data	\$2000
Rule 4031(b)	Records	\$1000
Rule 4032(a)	Disclosure of Customer Data	\$2000
Rules 4032(c) and (d)	Consent and Records	\$1000
Rule 4033(a)	Disclosure of Aggregated Data	\$2000
Rule 4033(d)	Tariff	\$1000
Rule 4100(a)	Obtaining a Certificate of Public Convenience and Necessity for a Franchise	\$2000
Rule 4101(a)	Obtaining a Certificate of Public Convenience and Necessity or Letter of Registration to operate in a service territory	\$2000
Rule 4102(a)	Obtaining a Certificate of Public Convenience and Necessity for facilities	\$2000
Rule 4103(a), (c), (d)	Amending a Certificate of Public Necessity for changes in service territory or facilities	\$2000
Rule 4108(a), (c)	Keeping a Current Tariff on File with the Commission	\$2000

Rule 4109	Filing a New or Changed Tariff with the Commission	\$2000
Rule 4110(b),(c)	Filing an Advice Letter to Implement a Tariff Change	\$2000
Rule 4200	Construction, Installation, Maintenance and Operation of Facilities in Compliance with Accepted Engineering and Industry Standards	\$2000
Rule 4208	Anticompetitive Conduct and Unacceptable Practices	\$2000
Rule 4210	Line Extensions	\$2000
Rule 4303	Meter Testing	\$2000
Rule 4306	Record Retention of Tests and Meters	\$2000
Rule 4309	Provision of Written Documentation of Readings and Identification of When Meters Will be Read	\$2000
Rule 4401	Billing Information, Procedures, and Requirements	\$2000
Rule 4754(a)-(e)	Annual DSM Report and Application for Bonus and Bonus Calculation	\$2000
Rule 4803(c)	Master Meter Exemption Requirements	\$2000
Rule 4004(b)-(f)	Disputes and Informal Complaints	\$1000
Rule 4202	Maintaining Heating Value, Purity and Pressure Standards	\$1000
Rule 4203(a)-(f)	Trouble Report Response, Interruptions and Curtailments of Service	\$1000
Rule 4405	Provision of Service, Rate, and Usage Information to Customers	\$1000
Rule 4406	Provision of Gas Cost Component Information to Customers	\$1000
Rule 4603(a),(d)	Gas Cost Adjustments	\$1000

Rule 4605(a),(b),(e),(f)	Gas Purchase Plans	\$1000
Rule 4607(a)	Gas Purchase Reports and Prudence Reviews	\$1000
Rule 4403(a)-(q)	Applications for Service, Customer Deposits, and Third Party Guarantees	\$500
Rule 4006	Annual Reporting Requirements	\$100
Rule 4304	Scheduled Meter Testing	\$100
Rule 4305	Meter Testing Upon Request	\$100
Rule 4402(a),(c),(d)	Meter and Billing Error Adjustments	\$100
Rule 4404(a)-(h)	Availability of Installation Payments to Customers	\$1000
Rule 4407	Discontinuance of Service	\$2000
Rule 4408(a)-(g); (i)	Notice of Discontinuation of Service	\$2000
Rule 4409	Restoration of Service	\$2000
Rule 4411(c)(IV),(d)(I), d(II),(e)	Low-Income Energy Assistance Act	\$100

4977. – 4999. [Reserved].