

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 15R-0699E

IN THE MATTER OF THE PROPOSED AMENDMENTS TO THE RULES REGULATING ELECTRIC UTILITIES 4 CODE OF COLORADO REGULATIONS 723-3, INCLUDING AMENDMENTS TO THE RULES IMPLEMENTING THE RENEWABLE ENERGY STANDARD PURSUANT TO SENATE BILLS 15-046 AND 15-254 AND HOUSE BILLS 15-1284 AND 15-1377.

**DECISION GRANTING EXCEPTIONS TO
RECOMMENDED DECISION NO. R15-0034
AND AMENDING RULES**

Mailed Date: March 4, 2016
Adopted Date: February 24, 2016

I. BY THE COMMISSION

A. Statement

1. In this proceeding, the Colorado Public Utilities Commission (Commission) adopts rules regulating the providers of electricity service in Colorado.

2. This Decision grants exceptions to Recommended Decision No. R16-0034, filed by Energy Outreach Colorado and Jointly by Colorado Energy Office, Western Resource Advocates, and Colorado Rural Electric Association. On our own motion, we also edit several rules.

B. Background

3. On August 20, 2015, the Commission issued a Notice of Proposed Rulemaking (NOPR) to amend the rules regulating electric utilities contained in 4 *Code of Colorado Regulations* (CCR) 723-3, consistent with Senate Bills (SB) 15-046 and 15-254 and House Bills (HB) 15-1284 and 15-1377, which modify the renewable energy statute,

§ 40-2-124, C.R.S., and the statute authorizing community solar gardens, § 40-2-127, C.R.S.¹ The proposed rules also updated the low income rules, references to federal rules, and procedures for testing service meters upon a customer's request. Finally, the proposed rules incorporated recent changes to the Commission's rules of practice and procedure contained in 4 CCR 723-1.²

4. We referred this proceeding to an Administrative Law Judge. Throughout the proceeding written comments were filed by Energy Outreach Colorado (EOC), Western Resource Advocates (WRA), Public Service Company of Colorado (Public Service), Colorado Energy Office (CEO), Colorado Rural Electric Association (CREA), the Office of Consumer Council (OCC), Sunshare LLC (Sunshare), and Atmos Energy Corporation (Atmos). The Administrative Law Judge (ALJ) held a public comment hearing on October 19, 2015.

5. On January 15, 2016, the ALJ issued Recommended Decision No. R16-0034 adopting rules as attached to that decision.

6. On January 28, 2016, EOC filed Exceptions to the recommended decision. On January 29, 2016, Joint Exceptions were filed by CEO, WRA and CREA. No responses to exceptions were filed.

C. Rule 3412 Electric Service Low Income Program

7. The EOC in its exceptions, requests that the Commission modify rule 3412(c)(II) to serve low income customers at or below 185 percent of the current federal poverty level, rather than 165 percent as contained in the recommended decision.

¹ Decision No. C15-0905 in Proceeding No. 15R-0699E.

² See Proceeding Nos. 12R-500ALL and 14R-0419ALL.

8. The EOC states that Commission has correctly relied on § 40-3-106(I)(d)(II)(A), C.R.S. in its original implementation of a low income program. This statute includes the 185 percent threshold. The confusion arose when the Colorado LEAP program changed its eligibility cap to 150 percent and then 165 percent due to lower funding levels. However, the EOC states that utilities that do not use LEAP funds to offset their low income program costs should be permitted to serve customers at or below the statutory limit of 185 percent of federal poverty level.

9. We agree with the EOC and its exception. We adopt rule 3412(c)(II), as follows:

Eligible participants are limited to those with a household income at or below 185 ~~165~~ percent of current federal poverty level, or, if the utility applies individual LEAP benefits to offset the costs of the costs of the unaffordable portion of the participating customer's utility bill, those with a household income at or below the percent of the current federal poverty level set by the Colorado Department of Human Services, Division of Low-income Energy Assistance for eligibility in the LEAP program.

D. Rule 3655 Renewable Distributed Generation

10. CEO, WRA, and CREA (Joint Commenters) argue in jointly-filed exceptions that the recommended decision and adopted rules failed to address an issue raised in written comments related to the use of Community Solar Gardens (CSG) in rule 3655(l). HB15-1377 allowed cooperative electric associations to comply with the retail renewable distributed energy requirement using any source of shared renewable energy, not just solar. However, the Recommended Decision adopts a rule that limits retail renewable distributed generation to CSGs. The Joint Commenters argue that retaining "CSG" in rule 3655(l) as set forth in the Recommended Decision is contrary to HB15-1377.

11. The Joint Commenters offer two options for the Commission's consideration. Option 1, as offered by WRA in its original comments would remove the term "CSG" throughout

the rule, leaving “subscriber” and “subscription,” which are terms that could apply to facilities powered by any renewable technology. Option 2, as offered by CEO in its original comments would create a newly defined term to replace “CSG”. CEO had originally suggested the term “Community Renewable Facility”. Option 2 would also include the adoption of the new definition for community renewable facility and the replacement of “CSG” with “CRF” in rule 3655.

12. We agree with the Joint Commenters and approve Option 1 as offered. The deletion of “CSG” throughout rule 3655(l) more specifically and correctly aligns our rule with the statutory changes of HB15-1377. We adopt the following changes to rule 3655(l):

For the purposes of a cooperative electric association QRU’s compliance with paragraphs 3655(h), 3655(i), and 3655(j), an electric generation facility constitutes retail renewable distributed generation if it: is a renewable energy resource; has a nameplate rating of two MW or less; is located within the service territory of the cooperative electric association; generates electricity for the beneficial use of ~~CSG~~-subscribers who are members of the cooperative electric association; and has at least four ~~CSG~~-subscribers if the facility has a nameplate rating of 50 KW or less and at least ten ~~CSG~~-subscribers if the facility has a nameplate rating of more than 50 KW. A ~~CSG~~-subscriber’s share of the production from the facility may not exceed 120 percent of the ~~CSG~~-subscriber’s average annual electricity consumption at the premise to which the subscription is attributed. Each cooperative electric association may establish, in the manner it deems appropriate, the requirements and terms associated with the electric generation facilities: ~~CSG~~-subscriber; ~~CSG~~-subscription; pricing, including consideration of low-income members; metering; accounting; REC ownership; and other requirements and terms.

E. Changes to Additional Rules on the Commission’s Own Motion

13. On our own motion we also make the following non-substantial changes to the rules adopted by Decision No. R16-0034.

14. In rules 3300-3309 regarding Meters, the rules originally proposed in this rulemaking changed “service meters” to “revenue meters” in many places. Through the course of the proceeding, the ALJ determined that this change was not appropriate. However, rather than

retaining “service meters” the adopted rules deleted both “service” and “revenue” leaving a more generic and general “meter”. We replace instances of “service” as appropriate.

15. In rule 3411(c)(I) the following sentence should be deleted: “The utility shall provide a copy of such application to the Organization.” The requirement for the application was deleted, therefore, the providing of a copy should be deleted as well. In addition, in rule 3411(c)(IV), the following sentence should not be stricken: “Such application shall meet the requirements of (d)(I).”

16. Finally, we retain the phrase “investor owned” in reference to the QRUs in rule 3665 – Community Solar Gardens. Unlike our previous discussion of rule 3655, rule 3665 is applicable only to investor owned utilities, and leaving in that phrase clarifies the applicability of the rule.

II. ORDER

A. The Commission Orders That:

1. The Exceptions of Energy Outreach Colorado, filed on January 28, 2016, are granted consistent with the discussion above.

2. The Joint Exceptions of Colorado Energy Office, Western Resource Advocates, and Colorado Rural Electric Association, filed on January 29, 2016, are granted consistent with the discussion above.

3. The rules in redline and strikeout format attached to this Decision as Attachment A, and in final format attached as Attachment B, are adopted and are available through the Commission’s Electronic Filings (E Filings) system at:

https://www.dora.state.co.us/pls/efi/EFI.Show_Docket?p_session_id=&p_docket_id=15R-0699E or by searching the E-Filings system from <https://www.dora.state.co.us/pls/efi/EFI.homepage..>

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
February 24, 2016.**

(S E A L)



ATTEST: A TRUE COPY

Doug Dean

Doug Dean, Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JOSHUA B. EPEL

GLENN A. VAAD

FRANCES A. KONCILJA

Commissioners

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 15R-0699E

IN THE MATTER OF THE PROPOSED AMENDMENTS TO THE RULES REGULATING ELECTRIC UTILITIES 4 CODE OF COLORADO REGULATIONS 723-3, INCLUDING AMENDMENTS TO THE RULES IMPLEMENTING THE RENEWABLE ENERGY STANDARD PURSUANT TO SENATE BILLS 15-046 AND 15-254 AND HOUSE BILLS 15-1284 AND 15-1377.

**RECOMMENDED DECISION
OF ADMINISTRATIVE LAW JUDGE
G. HARRIS ADAMS
AMENDING RULES**

Mailed Date: January 15, 2016

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I. STATEMENT

1. On August 20, 2015, the Colorado Public Utilities Commission (Commission) issues the Notice of Proposed Rulemaking (NOPR) to amend the rules regulating electric utilities contained in *4 Code of Colorado Regulations (CCR) 723-3*. See Decision No. C15-0905. By that decision the Commission ordered that notice of a proposed rulemaking be filed with the

Secretary of State for publication in the September 10, 2015 edition of *The Colorado Register*. The matter was referred to administrative law judge (ALJ) to hold a public hearing on October 19, 2015.

2. The purpose of the proposed amendments to the rules is to maintain consistency with Senate Bills (SB) 15-046 and 15-254 and House Bills (HB) 15-1284 and 15-1377, which modify the renewable energy statute, § 40-2-124, C.R.S., and the statute authorizing community solar gardens, § 40-2-127, C.R.S. The proposed rules also update the low income rules, references to federal rules, and procedures for testing revenue meters upon a customer's request. Finally, the proposed rules incorporate recent changes to the Commission's rules of practice and procedure contained in 4 CCR 723-1.¹

3. The hearing on October 19, 2015, was held as scheduled to consider oral and written data, views and arguments. At the conclusion of the hearing, the matter was taken under advisement.

4. Throughout the proceeding written comments were filed with the Commission by Energy Outreach Colorado (EOC), Western Resource Advocates (WRA), Public Service Company of Colorado (Public Service), Colorado Energy Office (CEO), Colorado Rural Electric Association (CREA), Office of Consumer Council (OCC), Sunshare LLC (Sunshare), and Atmos Energy Corporation (Atmos).

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

¹ See Proceeding Nos. 12R-500ALL and 14R-0419ALL.

II. FINDINGS, DISCUSSION, AND CONCLUSIONS

6. The statutory authority for the rules adopted here is found at §§ 24-4-101, et seq., 40-1-101, et seq., 40-2-108, 40-2-124, 40-2-127, 40-3-102, 40-3-110, 40-4-101, and 40-4-108, C.R.S.

7. The undersigned ALJ has reviewed and considered the record in this proceeding to date, including written and oral comments. All modifications to the rules are not specifically addressed herein. This Recommended Decision generally focuses on contested issues addressed during the course of the proceeding. Changes incorporated into the rules attached hereto are recommended for adoption. Many comments and proposed changes clarify the rules, eliminate duplication, or address corrections for accuracy and internal consistency. Those changes are reasonable and will be adopted without specifically being addressed herein. Any specific recommendations made by interested parties that are not adopted below or otherwise incorporated into the redlined rules attached are not adopted.

1. Revenue Meter and Revenue Meter Testing

8. The proposed rules incorporate the concept of a revenue meter. Comment contends that “revenue meter” does not accurately depict the purpose of a meter in rule or tariff. Revenues are determined by numerous factors, not just the meter – kWh usage or kW demand. The comments are well taken and the proposed modifications are not necessary. The concept will not be adopted.

9. Rule 3305 requires utilities to test a customer meter upon the customer’s request. If the customer continues to dispute the accuracy of a meter after the utility tests it, the customer can submit a request and have the meter tested by an independent testing facility. Comment requests recognition and acceptance of using standardized testing equipment capable of

being used in the field, as opposed to requiring shop testing. The proposal is reasonable and will be adopted. Comment suggests substituting the phrase “out of compliance” for the word “faulty.” The proposal is reasonable and will be adopted.

2. Low-Income Energy Assistance Act

10. The NOPR included several proposed modifications regarding low income assistance. Some modifications are incorporated and recommended for adoption to implement existing practice and improve the rules. Illustratively, consistent with current waivers granted by the Commission and coordinated programs, eligibility for energy assistance will be provided at 165 percent of the federal poverty level, rather than 18 percent. However, as commenters suggest, most substantive provisions will not be modified at this time.

3. Medical Exemption from Tiered Rate Plans

11. Rule 3413 makes alternative rate plans available to exempt specific persons from tiered rate plans. Specifically, household income must be less than or equal to 250 percent of federal poverty guidelines and a member of the household must either have a qualifying medical condition or rely upon life support equipment.

12. A broad set of comment proposed modifications to requirements to ease continuation of eligibility following the initial one-year qualification period. Generally, once accepted into the program, continued eligibility could be documented without requiring additional doctor visits for this purpose. The burden will be mitigated particularly as to those having chronic conditions. It is notable that the program benefits a very narrow group of customers and is actively and effectively monitored against abuse. The proposal is reasonable in narrow circumstances applicable under Rule 3413.

4. Rules Implementing the Renewable Energy Standard

13. S.B. 15-046 amended §40-2-124 to allow cooperative electric associations to purchase retail distributed generation for RES compliance from CSGs. H.B. 15-1377 amends §40-9.5-119 C.R.S. to broaden the scope of retail distributed generation available for obtaining renewable energy credits to comply with the RES. The proposed rules amend Rule 3655(k) and (m), respectively, to implement SB 15-046 and 3655(l) to implement HB 15-1377.

14. Comment addresses included legislative history. Previously, a portion of the legislative history was removed. The NOPR proposes eliminating the remainder here. Notably, removing the legislative history has no substantive impact upon the rules. Insufficient need has not been shown for a preference to retain the existing language. Rather than leaving a portion of the history, Staff's recommendation will be adopted.

15. All aspects of a community solar garden were previously defined in terms of an investor-owned qualifying retail utility. Comment contends that the rules are unduly restrictive in light of statutory amendments. Illustratively, current language would effectively bar cooperative electric associations from using CSGs to meet retail distributed generation requirements of the RES. Additionally, comment contends that the current definition precludes other allowable renewable energy sources from being used to meet the retail distribution requirement. Notably, §40-2-127(7) remains, which provides that §40-2-127 shall not apply to cooperative electric associations or to municipally owned utilities.

16. H.B. 15-1377 amends §40-2-124 C.R.S., but does not change what is a community solar garden. Rather, it expands the scope of qualifying renewable distributed generation beyond CSGs. Thus, comments proposing changes based upon a contention that CSGs have more broadly changed will not be adopted.

17. The proposed rules are reasonable and will be adopted to incorporate the new statutory amendments without further expansion or application at this time.

18. Proposed modifications to Rule 3665(D)(I) clarify that planned acquisition of renewable energy and RECs from CSGs are to be part of RES compliance plans. Comments suggesting that the provision rests upon recent legislative amendments are rejected. The basis of the proposal currently exists in Rule 3657 and is incorporated here to clarify existing requirements.

III. CONCLUSION

19. Attachment A to this Recommended Decision represents the rule amendments adopted by this Decision with modifications to the prior rules being indicated in redline and strikeout format (including modifications in accordance with this Recommended Decision).

20. Attachment B to this Recommended Decision represents the rule amendments adopted by this Decision in final form.

21. It is found and concluded that the proposed rules as modified by this Recommended Decision are reasonable and should be adopted.

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

IV. ORDER**A. The Commission Orders That:**

1. The Rules Regulating Electric Utilities, 4 Code of Colorado Regulations 723-3, contained in redline and strikeout format attached to this Recommended Decision as Attachment A, and in final format attached as Attachment B, are adopted.

2. Attachments A and B are available through the Commission's Electronic Filings (E Filings) system at:

https://www.dora.state.co.us/pls/efi/EFL.Show_Docket?p_session_id=&p_docket_id=15R-0699E.

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

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

- a) If no exceptions are filed within 20 days after service or within any extended period of time authorized, or unless the decision is stayed by the Commission upon its own motion, the recommended decision shall become the decision of the Commission and subject to the provisions of § 40-6-114, C.R.S.
- b) If a party seeks to amend, modify, annul, or reverse basic findings of fact in its exceptions, that party must request and pay for a transcript to be filed, or the parties may stipulate to portions of the transcript according to the procedure stated in § 40-6-113, C.R.S. If no transcript or stipulation is filed, the Commission is bound by the facts set out by the administrative law judge and the parties cannot challenge these facts. This will limit what the Commission can review if exceptions are filed.
- c) If exceptions to this Decision are filed, they shall not exceed 30 pages in length, unless the Commission for good cause shown permits this limit to be exceeded.

5. If exceptions to this Decision are filed, they shall not exceed 30 pages in length, unless the Commission for good cause shown permits this limit to be exceeded.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

G. HARRIS ADAMS

Administrative Law Judge

ATTEST: A TRUE COPY

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Doug Dean,
Director

Decision No. R16-0034-E

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 15R-0699E

IN THE MATTER OF THE PROPOSED AMENDMENTS TO THE RULES REGULATING ELECTRIC UTILITIES 4 CODE OF COLORADO REGULATIONS 723-3, INCLUDING AMENDMENTS TO THE RULES IMPLEMENTING THE RENEWABLE ENERGY STANDARD PURSUANT TO SENATE BILLS 15-046 AND 15-254 AND HOUSE BILLS 15-1284 AND 15-1377.

ERRATA NOTICE

**RECOMMENDED DECISION
OF ADMINISTRATIVE LAW JUDGE
G. HARRIS ADAMS
AMENDING RULES**

Errata Notice mailed January 27, 2016
Original Decision R16-0034 mailed January 15, 2016

1. Paragraph II.2.10. of Decision No. R16-0034 shows “eligibility for energy assistance will be provided at 165 percent of the federal poverty level, rather than 18 percent”, as follows:

10. The NOPR included several proposed modifications regarding low income assistance. Some modifications are incorporated and recommended for adoption to implement existing practice and improve the rules. Illustratively, consistent with current waivers granted by the Commission and coordinated programs, eligibility for energy assistance will be provided at 165 percent of the federal poverty level, rather than **18 percent**. However, as commenters suggest, most substantive provisions will not be modified at this time.

(Emphasis added.)

This Decision, rather, proposed modification of the current eligibility which is at “185 percent” of the federal poverty level, not “18 percent” that is shown in paragraph II.2.10. Correct paragraph II.2.10. by replacing “18 percent” with “185 percent” so that that paragraph reads:

10. The NOPR included several proposed modifications regarding low income assistance. Some modifications are incorporated and recommended for adoption to implement existing practice and improve the rules. Illustratively, consistent with current waivers granted by the Commission and coordinated programs, eligibility for energy assistance will be provided at 165 percent of the federal poverty level, rather than **185 percent**. However, as commenters suggest, most substantive provisions will not be modified at this time.

(Emphasis added.)

2. Correct the proposed, amended rules in the legislative format, Attachment A, and reflect these corrections in the final format, Attachment B, of Decision No. R16-0034 as follows:

Provide a better reading of subparagraph 3002(a)(V) which reads:

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

by replacing “transfer a certificate” with “transfer of a certificate”, so that subparagraph reads:

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

(Emphasis added.)

Provide a better reading of subparagraph 3002(a)(XIX) which reads:

(XIX) ~~For~~ any other matter not specifically described in this rule, unless such matter is required to be submitted as a petition under rule 1304, as a motion, or as some other specific type of submittal.

by striking “**any other**”, so that subparagraph reads:

(XIX) ~~For any other~~ matter not specifically described in this rule, unless such matter is required to be submitted as a petition under rule 1304, as a motion, or as some other specific type of submittal.

Correct the grammar of subparagraph 3006(b) which reads:

(b) If a certified public accountant prepares an annual report for a utility, the utility either shall file two copies of the report with the Commission or shall file it through the Commission's E-Filings System within 30 days after publication.

by replacing “filed” with “file it” so that subparagraph reads:

(b) If a certified public accountant prepares an annual report for a utility, the utility either shall file two copies of the report with the Commission or shall file it through the Commission's E-Filings System within 30 days after publication.

(Emphasis added.)

Clarify terminology “of service” in subparagraph 3006(c) which reads:

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

by inserting “of process” at the end of that subparagraph so that subparagraph reads:

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

(Emphasis added.)

3. Corrected pages 15, 16 and 20 of Attachment A and pages 14, 15 and 20 of Attachment B of Decision No. R16-0034 are attached for reference.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

G. HARRIS ADAMS

Administrative Law Judge

ATTEST: A TRUE COPY

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

Doug Dean,
Director

3002. Applications.

- (a) Any person may seek Commission action regarding any of the following matters through the filing of an appropriate application to request a(n): ~~By filing an appropriate application, any utility may ask that the Commission take action regarding any of the following matters:~~
- (I) ~~For the~~ issuance or extension of a certificate of public convenience and necessity for a franchise, as provided in rule 3100-~~i~~
 - (II) ~~For the~~ issuance or extension of a certificate of public convenience and necessity for service territory, as provided in rule 3101-~~i~~
 - (III) ~~For the~~ issuance of a certificate of public convenience and necessity for construction of facilities, as provided in rule 3102-~~i~~
 - (IV) ~~For the~~ amendment of a certificate of public convenience and necessity in order to change, extend, curtail, abandon, or discontinue any service or facility, as provided in rule 3103-~~i~~
 - (V) ~~To~~ transfer of a certificate of public convenience and necessity, to obtain a controlling interest in any utility, to transfer assets within the jurisdiction of the Commission or stock, or to merge a utility with another entity, as provided in rule 3104-~~i~~
 - (VI) ~~For approval of the~~ issuance, or assumption of any financial security or to create a lien pursuant to § 40-1-104, as provided in rule 3105-~~i~~
 - (VII) ~~For~~ flexible regulatory treatment to provide service without reference to tariffs, as provided in rule 3106-~~i~~
 - (VIII) ~~For~~ approval of an air quality improvement program, as provided for in rule 3107-~~i~~
 - (IX) ~~To~~ amendment of a tariff on less than statutory notice, as provided in rule 3109-~~i~~
 - (X) ~~For~~ variance of voltage standards, as provided in rule 3202-~~i~~
 - (XI) ~~For~~ approval of meter and equipment testing practices, as provided in rule 3303-~~i~~
 - (XII) ~~For~~ approval of a meter sampling program, as provided in rule 3304-~~i~~
 - (XIII) ~~For~~ approval of a refund plan, as provided in rule 3410-~~i~~
 - (XIV) ~~For~~ approval of a Low-Income Energy Assistance Plan, as provided in rule 3411-~~i~~
 - (XV) ~~For~~ approval of a cost assignment and allocation manual, as provided in rule 3503-~~i~~
 - (XVI) ~~For~~ approval of or for amendment to a least-cost resource plan, as provided in rules 3603, 3618, and 3619-~~i~~
 - (XVII) ~~For~~ approval of a compliance plan, as provided in rule 3657-~~i~~

(XVIII) ~~For~~ appeal of local government land use decision, as provided in rule 3703-; ~~or~~

(XIX) ~~For any other~~ matter not specifically described in this rule, unless such matter is required to be submitted as a petition under rule 1304, as a motion, or as some other specific type of submittal.

(b) In addition to the requirements of specific rules, all applications shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attached ~~mentsed exhibits~~:

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

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

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

(IV) ~~A~~ statement that the applying utility agrees to answer all questions propounded by the Commission ~~or its S~~ staff concerning the application-;

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

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

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

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

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

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

(XI) ~~A~~ acknowledgment that, by signing the application, the applying utility understands that:

(A) ~~The~~ filing of the application does not by itself constitute approval of the application-;

- (XI) ~~R~~ecords concerning the utility's inspection of Qualifying Facilities, which records are created pursuant to ~~rules-paragraphs~~ 3927(c) and (e).
- (b) A utility shall maintain at each of its local offices and at its principal place of business all tariffs filed with the Commission and applying to Colorado rate areas. If the utility maintains a website, it shall also maintain its current and complete tariffs on its website.
- (c) Each utility shall maintain its books of account and records in accordance with the provisions of 18 C.F.R. Part 101, the Uniform System of Accounts, amended as of April 1, 2005~~14~~. A utility shall maintain its books of accounts and records separately from those of its affiliates.
- (d) Each cooperative electric association which is a RUS borrower shall maintain its books of account and records in accordance with the provisions of 7 C.F.R. Part 1767, effective as of ~~January 1, 2005~~May 27, 2008.
- (e) Each non-RUS borrower cooperative electric association shall maintain its books of account and records either consistent with the provisions of 18 C.F.R. Part 125, effective as of April 1, 2004, or consistent with the provisions of 7 C.F.R. Part 1767, effective as of ~~January 1, 2005~~May 27, 2008.
- (f) Each utility shall preserve its records in accordance with the provisions of 18 C.F.R. Part 125, the Preservation of Records of Public Utilities and Licensees, amended as of ~~April 1, 2005~~August 7, 2000.
- (g) Each cooperative electric association that is a RUS borrower shall preserve its records in accordance with the provisions of Rural Utilities Service Bulletin 180-2, effective June 26, 2003.
- (h) Each non-RUS borrower cooperative electric association shall preserve records consistent with the provisions of 18 C.F.R. Part 101, effective as of April 1, 200~~4~~14.
- 3006. Annual Reports and Cooperative Electric Association Reports.**
- (a) On or before April 30th of each year, each utility shall file with the Commission an annual report for the preceding calendar year. The utility shall submit the annual report on forms prescribed by the Commission; shall properly complete the forms; and shall ensure the forms are verified and signed by a person authorized to act on behalf of the utility; and shall file the ~~forms required number of copies pursuant to in accordance with rules~~subparagraph 1204(a)(~~III~~IV) of the Commission's Rules of Practice and Procedure. If the Commission grants the utility an extension of time to file the annual report, the utility nevertheless shall file with the Commission, on or before April 30, the utility's total gross operating revenue from intrastate utility business transacted in Colorado for the preceding calendar year.
- (b) If a certified public accountant prepares an annual report for a utility, the utility ~~either~~ shall file two copies of the report with the Commission ~~or shall file it through the Commission's E-Filings System~~ within 30 days after publication.
- (c) A cooperative electric association shall file with the Commission a report listing its designation of service ~~of process~~.

- (gg) "Third-party" means a person who is not the customer, an agent of the customer who has been designated by the customer with the utility and is acting of the customer's behalf, a regulated utility serving the customer, or a contracted agent, of the utility.
- (hh) "Transmission facilities" are those lines and related substations designed and operating at voltage levels above the utility's voltages for distribution facilities , including but not limited to related substation facilities such as transformers, capacitor banks, or breakers that are integral to the circuitry of the utility's transmission system.
- (ii) "Unique identifier" means a customer's name, mailing address, telephone number, or email address that is displayed on a bill.
- (jj) "Unregulated charges" means charges that are billed by a utility to a customer and that are not regulated or approved by the Commission, are not contained in a tariff filed with the Commission, and are for service or merchandise not required as a condition of receiving regulated utility service.
- (kk) "Utility" means any public utility as defined in § 40-1-103, C.R.S., providing electric, steam, or associated services in the state of Colorado.
- (ll) "Utility service" or "service" means a service offering of a utility, which service offering is regulated by the Commission.
- (mm) "Whole building data" means the sum of the monthly electric use for either all meters at a building on a parcel or real property or all buildings on a parcel of real property.

3002. Applications.

- (a) Any person may seek Commission action regarding any of the following matters through the filing of an appropriate application to request a(n):
 - (I) issuance or extension of a certificate of public convenience and necessity for a franchise, as provided in rule 3100;
 - (II) issuance or extension of a certificate of public convenience and necessity for service territory, as provided in rule 3101;
 - (III) issuance of a certificate of public convenience and necessity for construction of facilities, as provided in rule 3102;
 - (IV) amendment of a certificate of public convenience and necessity in order to change, extend, curtail, abandon, or discontinue any service or facility, as provided in rule 3103;
 - (V) transfer of a certificate of public convenience and necessity, to obtain a controlling interest in any utility, to transfer assets within the jurisdiction of the Commission or stock, or to merge a utility with another entity, as provided in rule 3104;
 - (VI) issuance, or assumption of any financial security or to create a lien pursuant to § 40-1-104, as provided in rule 3105;

- (VII) flexible regulatory treatment to provide service without reference to tariffs, as provided in rule 3106;
 - (VIII) approval of an air quality improvement program, as provided for in rule 3107;
 - (IX) amendment of a tariff on less than statutory notice, as provided in rule 3109;
 - (X) variance of voltage standards, as provided in rule 3202;
 - (XI) approval of meter and equipment testing practices, as provided in rule 3303;
 - (XII) approval of a meter sampling program, as provided in rule 3304;
 - (XIII) approval of a refund plan, as provided in rule 3410;
 - (XIV) approval of a Low-Income Energy Assistance Plan, as provided in rule 3411;
 - (XV) approval of a cost assignment and allocation manual, as provided in rule 3503;
 - (XVI) approval of or for amendment to a least-cost resource plan, as provided in rules 3603, 3618, and 3619;
 - (XVII) approval of a compliance plan, as provided in rule 3657;
 - (XVIII) appeal of local government land use decision, as provided in rule 3703; or
 - (XIX) matter not specifically described in this rule, unless such matter is required to be submitted as a petition under rule 1304, as a motion, or as some other specific type of submittal.
- (b) In addition to the requirements of specific rules, all applications shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attachments:
- (I) the name and address of the applying utility;
 - (II) the name(s) under which the applying utility is, or will be, providing service in Colorado;
 - (III) the name, address, telephone number, and e-mail address of the applying utility's representative to whom all inquiries concerning the application should be made;
 - (IV) a statement that the applying utility agrees to answer all questions propounded by the Commission staff concerning the application;
 - (V) a statement that the applying utility shall permit the Commission or Commission staff to inspect the applying utility's books and records as part of the investigation into the application;

- (h) Each non-RUS borrower cooperative electric association shall preserve records consistent with the provisions of 18 C.F.R. Part 101, effective as of April 1, 2014.

3006. Annual Reports and Cooperative Electric Association Reports.

- (a) On or before April 30th of each year, each utility shall file with the Commission an annual report for the preceding calendar year. The utility shall submit the annual report on forms prescribed by the Commission; shall properly complete the forms; and shall ensure the forms are verified and signed by a person authorized to act on behalf of the utility; and shall file the forms in accordance with subparagraph 1204(a)(III) of the Commission's Rules of Practice and Procedure. If the Commission grants the utility an extension of time to file the annual report, the utility nevertheless shall file with the Commission, on or before April 30, the utility's total gross operating revenue from intrastate utility business transacted in Colorado for the preceding calendar year.
- (b) If a certified public accountant prepares an annual report for a utility, the utility either shall file two copies of the report with the Commission or shall file it through the Commission's E-Filings System within 30 days after publication.
- (c) A cooperative electric association shall file with the Commission a report listing its designation of service of process.
- (d) A cooperative electric association shall file with the Commission a report of election to be governed by § 40-8.5-102, C.R.S., pertaining to unclaimed monies. This report shall be filed within 60 days of the election.

3007. [Reserved].

3008. Incorporation by Reference.

- (a) The Commission incorporates by reference 18 C.F.R. Part 101 (as published on April 1, 2014) regarding the Uniform System of Accounts Prescribed for Public Utilities and Licensees Subject to the Provisions of the Federal Power Act. No later amendments to or editions of 18 C.F.R. Part 101 are incorporated into these rules.
- (b) The Commission incorporates by reference 7 C.F.R. Part 1767 (as published on May 27, 2008) regarding the Uniform System of Accounts Prescribed for RUS Electric Borrowers. No later amendments to or editions of 7 C.F.R. Part 1767 are incorporated into these rules.
- (c) The Commission incorporates by reference 18 C.F.R. Part 125 (as published on August 7, 2000) regarding the Preservation of Records of Public Utilities and Licensees. No later amendments to or editions of 18 C.F.R. Part 125 are incorporated into these rules.
- (d) The Commission incorporates by reference RUS Bulletin 180-2 (as published on June 26, 2003) regarding Record Retention Recommendations for RUS Electric Borrowers. No later amendments to or editions of RUS Bulletin 180-2 are incorporated into these rules.