

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 24R-0107EG

IN THE MATTER OF TEMPORARY RULES AMENDING THE COMMISSION’S RULES REGULATING ELECTRIC UTILITIES, 4 CODE OF COLORADO REGULATIONS 723-3, AND ITS RULES REGULATING GAS UTILITIES, 4 CODE OF COLORADO REGULATIONS 723-4, TO IMPLEMENT CERTAIN PROVISIONS IN SENATE BILL 23-291 ADDRESSING RATE TREND REPORTS AND FILING REQUIREMENTS FOR BASE RATE TARIFF FILINGS.

**COMMISSION DECISION
ADOPTING TEMPORARY RULES**

Mailed Date: March 6, 2024

Adopted Date: March 6, 2024

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I. BY THE COMMISSION**A. Statement**

1. This matter comes before the Commission for immediate adoption of temporary rules in order to continue certain amendments to the Commission's Rules Regulating Electric Utilities (Electric Rules), 4 *Code of Colorado Regulations* (CCR) 723-3, and Rules Regulating Gas Utilities (Gas Rules), 4 CCR 723-4, that the Commission originally adopted by Decision No. C23-0538, issued August 14, 2023, in Proceeding No. 23R-0408EG.

2. The statutory provisions requiring these temporary rules were enacted in Senate Bill (SB) 23-291, which became effective on August 7, 2023. The temporary rules implement the new provisions in § 40-3-102.5(1)(b), C.R.S., that require the filing of certain information with a utility's base rate tariff filing made to the Commission. The temporary rules also implement § 40-3-102.5(2)(a), C.R.S., requiring the filing of rate trend reports when an electric or gas utility seeks to increase a rate or charge. The temporary rules further implement the annual reporting requirement related to costs prohibited from utility rates in § 40-3-114, C.R.S.

3. Due to the press of business and the complexity of the issues presented,¹ the Commission will not have permanent rules in effect prior to the expiry on March 11, 2024, of the temporary rules it previously adopted; therefore, we find it is imperatively necessary to re-issue temporary rules in order to comply with state law and to provide for the health, safety, and welfare of the public. As a result, the Commission adopts, for immediate effect, the temporary rules shown in the Attachments to this Decision in accordance with the provisions of § 24-4-103(6), C.R.S.

¹ The forthcoming rulemaking to adopt rules that replace these temporary rules will include many issues that were not addressed for the short-term temporary rules including those issues raised by electric and gas utilities in response to the temporary rules. See Proceeding No. 23R-0408EG, Joint Application for Rehearing, Reargument, or Reconsideration of Decision No. C23-0538 of Public Service Company of Colorado, Black Hills Colorado Electric, LLC, and Black Hills Colorado Gas, Inc.

These re-issued temporary rules are substantially the same as those previously adopted by the Commission through Decision No. C23-0538.

4. As discussed below, the temporary rules are adopted without compliance with the rulemaking procedures prescribed in § 24-4-103, C.R.S., in order to provide necessary continuity in the process by which electric and gas utilities change their rates for providing service to their Colorado customers. The annual reporting provisions in these temporary rules are likewise necessary because the statute requires the utilities to file reports on certain costs prohibited from their rates pursuant to a directive from the Commission.

5. These temporary rules are effective for 210 days from the effective date of this Decision, March 6, 2024, or until the Commission's permanent rules implementing SB 23-291 are effective, whichever period is less. *See* § 40-2-108(2), C.R.S.

6. Attachments A and C to this Decision are the temporary rules in legislative (strikeout and underline) format modifying the Electric Rules and the Gas Rules, respectively. Attachments B and D to this Decision are the temporary rules in final version format modifying the Electric Rules and the Gas Rules, respectively. The temporary rules in legislative format and in final version format are available through the Commission's website at:

https://www.dora.state.co.us/pls/efi/EFI.Show_Docket?p_session_id=&p_docket_id=24R-0107EG

B. Discussion, Findings, and Conclusions

7. Consistent with the requirements enacted in SB 23-291, the temporary rules adopted through this Decision require Colorado electric and gas utilities to file certain information with a base rate tariff filing and require the submission of rate trend reports when an electric or gas utility seeks to increase a rate or charge. They also require utilities to file reports annually demonstrating that they do not use ratepayer funds to subsidize nonregulated activities or to recover

certain costs prohibited from rates as set forth in statute, including a percentage of costs associated with compensation for the utility's board of directors, certain other expenses incurred by such boards, tax penalties or fines, investor-relation expenses, certain advertising and public relations expenses, certain other communication expenses, lobbying expenses, charitable expenses, certain organizational or membership dues, political contributions, entertainment and gift expenses.

8. SB 23-291 became effective on August 7, 2023, the day following the expiration of the 90-day period after final adjournment of the Colorado General Assembly. Consequently, in order to avoid disruption of the continuity in the process by which electric and gas utilities change rates for the provision of their critical electric and gas utility service to their customers in Colorado, the Commission found it imperative to adopt temporary rules at that time in order to comply with state law. *See* Proceeding No. 23R-0408EG. The Commission now finds it imperatively necessary to re-issue these rules, for immediate effect, on a temporary basis in order to allow such utilities to continue to file for necessary changes in rates and comply with the requirements set forth in SB 23-291. We find that, without adoption of these temporary rules, electric and gas utilities may find it difficult to continue to operate effectively in the ordinary course of business, which would be contrary to the public interest. For these reasons, and as authorized by § 24-4-103(6)(a), C.R.S., the Commission finds that immediate adoption of these temporary rules is imperatively necessary to comply with state law and to provide for the health, safety, and welfare of the public.

9. The statutory authority for adoption of these rules is found, generally, at § 40-1-103.5, C.R.S. (authorizing the Commission to promulgate implementing rules) and § 40-2-108, C.R.S. (authorizing the Commission to promulgate rules necessary to administer and enforce Title 40) and, specifically, in SB 23-291, as codified at §§ 40-3-102.5 and 40-3-114, C.R.S., and § 24-4-103(6), C.R.S.

10. The Commission anticipates that it will have the Notice of Proposed Rulemaking and proposed rules finalized and ready to issue by the end of this month, March 2024, in order to soon commence a rulemaking to adopt permanent rules to replace these temporary rules. To date, the Commission’s staff has been diligently engaging in pre-rulemaking stakeholder engagement and will take into consideration the input that it has received when finalizing the Notice of Proposed Rulemaking and the proposed rules for consideration by the Commission in the rulemaking. Once the rulemaking commences, utilities and other stakeholders will have full and robust opportunity to participate and to provide written and oral comment to the Commission on the proposed rules and to provide any suggested additions or modifications to the proposed language before permanent rules are adopted.

11. These re-issued temporary rules are substantially the same as those previously adopted by Decision No. C23-0538.² Nonetheless, for clarity, we repeat in this Decision the discussion of the statutory and policy reasons for adopting each temporary rule, which remain the same as the reasons we provided in ¶¶ 11–43 of Decision No. C23-0538.

1. Applicability

12. Section 40-3-102.5(1)(d), C.R.S., defines “utility” to mean “an investor-owned electric or gas utility.” Accordingly, these temporary rules apply to the investor-owned electric and gas utilities subject to the Commission’s Electric Rules or Gas Rules.

² The position of certain definitions in rule 3001 of the Electric Rules is different from their position in rule 3001 of temporary rules previously adopted by Decision No. C23-0538 because new terms were added to rule 3001 through other rulemakings since August 2023.

2. Definitions

13. Section 40-3-102.5(1)(d), C.R.S., introduces new defined terms that are commonly used in electric and gas proceedings before the Commission but are absent from the Electric Rules and the Gas Rules.

14. SB 23-291 defines a “base rate” to mean: “charges used to recover costs of utility infrastructure and operations, including a return on capital investment, not otherwise recovered through a utility rate rider or rate adjustment mechanism.”³

15. The term “test year” is further defined to mean: “a twelve-month period that is examined to determine a utility’s costs of service in a rate case.”⁴

16. Accordingly, we add definitions for the terms “base rate” and “test year” within Rule 3001 of the Electric Rules and within Rule 4001 of the Gas Rules.

17. We also add a definition of “rate adjustment mechanism” for clarity, since the term is used in the rule provisions that relate to the filing of utility rates and charges in both the Electric Rules and the Gas Rules as modified by this Decision. The definition of rate adjustment mechanism derives from § 40-3-114(6)(i), C.R.S., also enacted in SB 23-291.

3. Certification of the Completeness of a Base Rate Tariff Filing

18. Section 40-3-102.5(1)(b), C.R.S., requires the Commission to certify that a filing from an electric or gas utility to modify its base rates is complete. The Commission must determine whether the base rate tariff filing includes sufficient information both to compare test years presented by the utility and prospective parties in the case to what is commonly called a “historic test year” and whether the filing includes sufficient information to satisfy other purposes as

³ § 40-3-102.5(1)(d)(I), C.R.S.

⁴ § 40-3-102.5(1)(d)(II), C.R.S.

established by the Commission. At a minimum, the filing must include a comprehensive cost and revenue requirement analysis based on actual, auditable, historic data, or, in other words, a historic test year. Such analysis also must be accompanied by workpapers and other supporting materials.

19. Section 40-3-102.5(1)(b), C.R.S., specifically identifies “an investor-owned utility’s application to modify base rates.” In accordance with the use of the term “application” both in Title 40 and in the Commission’s rules, the statute implicitly references the Commission’s practice of determining whether an application filing is “complete.” The determination of completeness of an application is principally governed by § 40-6-109.5, C.R.S., and the purpose of the Commission’s determination of completeness pursuant to § 40-6-109.5, C.R.S., is to establish a deadline for the Commission’s decision on the application.

20. The process by which the Commission determines the completeness of an application filed by an electric or gas utility is set forth in paragraph 1303(c) of the Commission’s Rules of Practice and Procedure, 4 CCR 723-1. For an application, the determination of completeness is not, and shall not be taken or assumed to be, a decision on the merits of the application.⁵ Subparagraph 1303(c)(II) sets forth the process by which the Commission determines an application to be complete, short of a determination on the application’s merits, including an opportunity for the utility to cure the application filing. Notably, “The Commission shall not issue a decision granting an application that has been determined to be incomplete until any deficiencies are cured.”⁶

21. Notwithstanding the language in § 40-3-102.5(1)(b), C.R.S., the filing mechanism for an electric or gas utility seeks to modify its base rates is not an application, as generally used in

⁵ 4 CCR 723-1-1303(c)(I).

⁶ 4 CCR 723-1-1303(c)(II).

Title 40 and as defined in the Commission's rules, but is instead an advice letter tariff filing.⁷ Advice letter filings are distinct from application filings in terms of critical process and procedures as specified in the Commission's Rules of Practice and Procedure as well as its Electric Rules and Gas Rules. Advice letter tariff filings for rates and charges are further governed by several statutes in Title 40 and by provisions in the Commission's rules that are separate from the statutes and provisions applicable to application filings with the Commission.

22. Paragraph 3109(b) of the Electric Rules and paragraph 4109(b) of the Gas Rules as modified by this Decision specify the filing mechanisms required for utilities to introduce or change tariffs. Neither the Electric Rules nor the Gas Rules specifically define the term tariff; instead, the rules state that: "'Regulated charges' means charges billed by a utility to a customer if such charges are approved by the Commission or contained in a tariff of the utility."⁸

23. We find it necessary to modify paragraphs 3109(b) of the Electric Rules and paragraph 4109(b) of the Gas Rules to properly implement § 40-3-102.5(1)(b), C.R.S.⁹ These changes are necessary to reflect the distinctions between utility filings to modify base rate tariffs from utility filings to modify non-base rate tariffs, including tariffs that implement a rate adjustment mechanism.

24. We modify paragraph 3109(b) and paragraph 4109(b) to specifically address the situations where the utility seeks to add a new tariff other than a base rate tariff. The two filing mechanisms available to the utility include: (1) a tariff filing with an advice letter filed on not less than 30-days' notice in accordance with Rule 1207 of the Commission's Rules of Practice and

⁷ 4 CCR 723-1-1210.

⁸ 4 CCR 723-3-3001(dd) and 4 CCR 723-4-4001(rr).

⁹ As discussed below, the modifications to paragraph 3109(b) of the Electric Rules and paragraph 4109(b) of the Gas Rules are also necessary to implement the provisions in § 40-3-102.5(2), C.R.S.

Procedure; or (2) an application that includes a *pro forma* tariff that takes effect upon an advice letter compliance tariff filing in accordance with a decision of the Commission on the application. The introduction of the application process in these rules is necessary to clarify the potential role of an application relative to a utility's tariffs given the language used in § 40-3-102.5(1)(b), C.R.S. As explained below, the introduction of the application process is further necessary to fulfill the new statutory requirement for informing the public about potential increases in utility rates and the historical context for such rate increases pursuant to § 40-3-102.5(2)(a), C.R.S.

25. We introduce paragraph 3109(c) to the Electric Rules and paragraph 4109(c) to the Gas Rules to address the situations where the utility seeks to change an existing rate adjustment mechanism. This paragraph includes the same filing options for rate adjustment mechanism as in the currently effective paragraphs 3109(b) in the Electric Rules and 4109(b) in the Gas Rules.

26. We further introduce paragraph 3109(d) to the Electric Rules and paragraph 4109(d) to the Gas Rules to clarify that a filing to modify a base rate tariff remains an advice letter as well as to apply the new certification process for determining the completeness of a base rate tariff filing in accordance with § 40-3-102.5(1)(b), C.R.S.

27. The process by which the Commission shall certify the completeness of an advice letter filing is set forth in paragraph 3109(f) of the modified Electric Rules and 4109(f) of the modified Gas Rules. Specifically, the Commission shall certify by written decision that a utility base rate tariff filing made in accordance with paragraph 3909(d) includes sufficient information to compare test years and to satisfy other purposes as determined by the Commission.

28. Subparagraphs 3109(f)(I) and 4109(f)(I) list the required elements in the advice letter filing informed by the elements listed in § 40-3-102.5(1)(a)(IV), C.R.S., linking the Commission's determination of completeness of the advice letter tariff filing with respect to certain

information necessary to compare test years with the information the Commission requires the utility to disclose to parties in its base rate proceedings to reduce time and costs associated with the discovery process, at least with respect to test year analyses. This paragraph is further required to set a standard by which the completeness of a base rate tariff filing will be determined by the Commission. In contrast to an application, where completeness is generally a function of whether the applicant has stated the relief requested, identified all applicable requirements of Commission rule and decision(s), and address each of those respective requirements,¹⁰ completeness for an advice letter tariff filing requires the Commission to analyze the prospects for test year comparability in the rate proceeding and to specify what other purposes the information required from the utility will serve.

29. Subparagraphs 3109(f)(II) and 4109(f)(II) offer the utility a means to mitigate the risk of the Commission suspending the effective date of the base rate tariff and a finding by the Commission that the filing is incomplete. To prevent a delay in a base rate tariff proceeding and the potential for a Commission decision deeming the base rate tariff filing incomplete, the utility may confer with Commission Trial Staff and the Colorado Office of the Utility Consumer Advocate and file in the advice letter proceeding an unopposed motion for an order certifying the base rate tariff filing to be complete.

30. Subparagraphs 3109(f)(III) and 4109(f)(III) set forth the process by which the Commission will certify a utility base rate tariff filing as complete.

31. First, the utility shall serve a copy of the utility base rate tariff filing on all parties to its previous base rate proceeding within three business days of the utility's base rate tariff filing with the Commission.

¹⁰ 4 CCR 723-1-1303(b).

32. Second, any person affected by the base rate tariff filing may submit a written protest addressing the certification of the filing with respect to completeness. Such protest must be filed sufficiently in advance of the effective date of the base rate tariffs.

33. Third, the Commission will address the certification of utility's base rate tariff filing at a regular weekly meeting prior to the effective date of the base rate tariffs. The filing of advice letters for utility tariffs is governed, in part, by the provisions in § 40-6-111, C.R.S. For instance, pursuant to § 40-6-111(1), C.R.S., the Commission may suspend tariff sheets for 120 days by setting the matter for hearing. Subparagraphs 3109(f)(III)(c) of the modified Electric Rules and subparagraph 4109(f)(III)(c) of the modified Gas Rules thus incorporate the suspension provisions for advice letter tariff filings in § 40-6-111, C.R.S., so that the utility and the parties are afforded the time to implement procedures in order for the Commission to resolve whether a base rate tariff filing is complete pursuant to § 40-3-102.5(1)(b), C.R.S.

34. Finally, subparagraphs 3109(f)(III)(d) of the modified Electric Rules and subparagraph 4109(f)(III)(d) of the modified Gas Rules provide the utility an opportunity to remedy its base rate tariff filing so that the Commission may determine that the filing is complete. The Commission may condition the certification of the remedied utility base rate tariff filing on the utility's filing of an amended advice letter extending the proposed effective date of the base rate tariffs.

35. In accordance with § 40-3-102.5(1)(b), C.R.S., subparagraphs 3109(f)(IV) and 4109(f)(IV) state that the Commission shall not issue a decision approving a modified base rate if the base rate tariff filing has been determined to be incomplete and the filing has not been cured by the utility. Likewise, subparagraphs 3109(f)(V) and 4109(f)(V) specify that the Commission may

permanently suspend the effective date of the proposed base rate tariffs and the proposed tariffs shall not go into effect if the Commission deems the utility's base rate tariff filing incomplete.

36. Due to the modifications to Rule 3109 of the Electric Rules and Rule 4109 of the Gas Rules described above, we strike the provisions in subparagraph 3109(b)(III) and 4109(b)(III) because they are no longer necessary.

4. Rate Trend Report

37. Section 40-3-102.5(2), C.R.S., requires electric and gas utilities to provide a "rate trend report" when filing any request to increase a rate, charge, fee, fare, toll, rental, or classification. A rate trend report presents changes in the rate, charge, etc., over the previous ten years and includes: (1) the amount of increase relative to the amount in effect on the date of the utility's filing; (2) the "annual total amount" of the rate, charge, etc.; and (3) a chart, graph, or "other visualization" of each of the utility's rates, charges, etc., including the total of all utility bill line items such as base rates and rate adjustment mechanisms, for the ten years prior to the date of the utility filing. In addition, a rate trend report must include, for the same rate, charge, etc., over the ten years prior to the date of the utility's filing: (1) the dates when a previous increase or decrease went into effect; (2) the amount of the rate, charge, etc., before a previous increase or decrease went into effect; (3) the amount of increase or decrease relative to the amount before the previous increase or decrease went into effect; and (4) the proceeding number for the tariff filing where the rate, charge, etc., either was allowed to go into effect by operation of law or was approved by the Commission.

38. Section 40-3-102.5(2)(b), C.R.S., emphasizes the role of the rate trend report plays in informing the public about potential increases in utility rates and about the historical context for such rate increases. The utility is required to post on its website the rate trend report data, including

the chart, graph, or pictographic demonstration for the ten-year historical trend submitted as part of each filed rate trend report.

39. Paragraph 3109(e) of the modified Electric Rules and paragraph 4109(e) of the modified Gas Rules implement the provisions in § 40-3-102.5(2)(a), C.R.S. Most of the provisions in these modified rules correspond directly to the language in the statute, however some terms are modified to match the common ratemaking lexicon of the Commission, the utilities, and the parties to rate cases.

40. Notably, the temporary rules make a specific clarification in the rules to implement the provision requiring the rate trend report provide the “the annual total amount of the rate, charge, fee, fare, toll, rental, or classification.” We conclude that the “annual total amount” is best represented by the annual revenues collected or expected to be collected from the rate as proposed in the utility’s filing and that the historic trend is demonstrated by the collected annual revenues in the ten years prior to the filing. This interpretation of “annual total amount” aligns with the new statutory definition of a test year and the concept of a revenue requirement being calculated for a given test year.

41. In accordance with § 40-3-102.5(2)(a), C.R.S., a rate trend report is required only in instances where a utility files a request to increase any rate, charge, etc. The rules that address the types of filings a utility makes to request to change a rate or tariff are therefore modified to cross-reference paragraph 3109(e) of the Electric Rules and paragraph 4109(e) of the Gas Rules.

5. Annual Compliance Report

42. Section 40-3-114, C.R.S., requires the Commission to prohibit electric and gas utilities from using ratepayer funds to subsidize nonregulated activities. The new statute further prohibits utilities from recovering several types of expenses from ratepayers.

43. Although we conclude that temporary rules are not necessary to implement the provisions in §§ 40-3-114(1) through (4), C.R.S., upon the effective date of SB 23-291, § 40-3-114(5), C.R.S., states that the Commission shall require electric and gas utilities to file an annual report to ensure their compliance with the requirements in § 40-3-114, C.R.S. The report must include the purpose, payee, and amount of any expenses associated with the costs and activities that are not permitted to be recovered from customers as set forth in the statute.

44. Accordingly, through these temporary rules adopted by this Decision, we introduce a new Rule 3350 in the Electric Rules and Rule 4350 in the Gas Rules to cause the annual reporting to take effect pursuant to a Commission requirement upon the effective date of SB 23-291. Rule 3350 and 4350 will be the location of the rules promulgated in the permanent rulemaking to fully implement the rate-related provisions of SB 23-291.

II. ORDER

A. The Commission Orders That:

1. The rules in final version format available in this Proceeding, through the Commission's E-Filings system, are hereby adopted as temporary rules, consistent with the discussion above.

2. The temporary rules shall be effective on the Mailed Date of this Decision. Such rules shall remain in effect until permanent rules become effective or for 210 days, whichever period is less.

3. The 20-day period provided in § 40-6-114, C.R.S., within which to file applications for rehearing, reargument, or reconsideration, begins on the first day following the effective date of this Decision.

4. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
March 6, 2024.**

(S E A L)



ATTEST: A TRUE COPY

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ERIC BLANK

MEGAN M. GILMAN

TOM PLANT

Commissioners

A handwritten signature in cursive script that reads "Rebecca E. White".

Rebecca E. White,
Director

COLORADO DEPARTMENT OF REGULATORY AGENCIES

Public Utilities Commission

4 CODE OF COLORADO REGULATIONS (CCR) 723-4

PART 4 RULES REGULATING GAS UTILITIES

BASIS, PURPOSE, AND STATUTORY AUTHORITY.

The basis and purpose of these rules is to set forth the manner of regulation over jurisdictional gas utilities, the services they provide, and their actions to maintain just and reasonable rates, ensure system safety, reliability, and resiliency, protect disproportionately impacted communities, and reduce greenhouse gas emissions from the use of gas by their customers and from leaks in their facilities. These rules also set forth the manner of regulation over master meter operators. These rules address a wide variety of subject areas including, but not limited to, planning, expenditure and demand forecasting, cost and rate impacts, system safety and integrity planning, service interruption, meter testing and accuracy, safety, customer information, customer deposits, rate schedules and tariffs, discontinuance of service, master meter operations, transportation service, flexible regulation, procedures for administering the Low-Income Energy Assistance Act, gas service low-income programs, cost allocation between regulated and unregulated operations, recovery of gas costs, appeals regarding local government land use decisions, demand side management programs, the reduction of greenhouse gas emissions from the distribution and end-use consumption of gas, and authority of the Commission to impose civil penalties on public utilities. The statutory authority for these rules can be found at §§ 29-20-108, 40-1-103.5, 40-2-108, 40-3-102, [40-3-102.5](#), 40-3-103, 40-3-104.3, 40-3-106, 40-3-111, 40-3-114, 40-3-101, 40-3.2-103, 40-3.2-106, 40-3.2-107, 40-3.2-108, 40-4-101, 40-4-106, 40-4-108, 40-4-109, 40-5-103, 40-7-117, 40-7-113.5, 40-7-116.5; and 40-8.7-105(5), C.R.S.

GENERAL PROVISIONS

* * * *

[indicates omission of unaffected rules]

4001. Definitions.

The following definitions apply throughout this Part 4, except where a specific rule or statute provides otherwise. In addition to the definitions here, the definitions found in the Public Utilities Law and Part 1 apply to these rules. In the event of a conflict between these definitions and a statutory definition, the statutory definition shall apply. In the event of a conflict between these definitions and a definition in Part 1, these definitions shall apply.

- (a) "Affiliate" of a utility means a subsidiary of a utility, a parent corporation of a utility, a joint venture organized as a separate corporation or partnership to the extent of the individual utility's

involvement with the joint venture, a subsidiary of a parent corporation of a utility or where the utility or the parent corporation has a controlling interest over an entity.

- (b) “Aggregated data” means customer data, alone or in combination with non-customer data, resulting from processing (e.g., average of a group of customers) or a compilation of customer data of one or more customers from which and personal information has been removed.
- (c) “Applicant for service” means a person who applies for utility service and who either has taken no previous utility service from that utility or has not taken utility service from that utility within the most recent 30 days.
- (d) “Air Pollution Control Division” means the Air Pollution Control Division of the Colorado Department of Public Health and Environment established by § 25-1-102(2)(a), C.R.S.
- (e) “Air Quality Control Commission” means the decision-making body within the Colorado Department of Public Health and Environment established by § 25-7-104, C.R.S., to oversee and promulgate the rules to administer Colorado’s air quality programs.
- (f) “Base rate” means charges used to recover costs of utility infrastructure and operations, including a return on capital investment, not otherwise recovered through a utility rate adjustment mechanism.
- (fg) “Basis Point” means one-hundredth of a percentage point (100 basis points = 1 percent).
- (gh) “Benefit of service” means the use of utility service by each person of legal age who resides at a premises to which service is delivered and who is not registered with the utility as the customer of record.
- (hi) “Best value employment metrics” means additional labor metrics required to be obtained by a utility from bidders and contractors for a utility construction contract, specifically, the length and type of training and apprenticeship programs available to the workforce, the percentage of labor estimated to be Colorado residents as compared to out-of-state workers, the number and type of long-term careers supported by the project, whether the workforce will be covered by a labor agreement, and the wage rates and health care and pension benefits, including employer pension contribution rates, provided to protect labor.
- (ij) “Biomethane” means:
 - (I) a mixture of carbon dioxide and hydrocarbons released from the biological decomposition of organic materials that is primarily methane and provides a net reduction in greenhouse gas emissions; and
 - (II) includes biomethane recovered from manure management systems or anaerobic digesters that has been processed to meet pipeline quality gas standards.
- (jk) “Commission” means the Colorado Public Utilities Commission.
- (kl) “Contracted agent” means any person that has contracted with a utility in compliance with rule 4030 to assist in the provision of regulated utility services (e.g., an affiliate or vendor).

- (~~fm~~) "Cubic foot" means, as the context requires.
- (I) At Local Pressure Conditions. For the purpose of measuring gas to a customer at local pressure conditions, a cubic foot is that amount of gas which occupies a volume of one cubic foot under the conditions existing in the customer's meter as and where installed. When gas is metered at a pressure in excess of eight inches of water column gauge pressure, a suitable correction factor shall be applied to provide for measurement of gas as if delivered and metered at a pressure of six inches of water column gauge pressure. A utility may also apply appropriate factors to correct local pressure measurement to standard conditions.
 - (II) At Standard Conditions. For all other purposes, including testing gas, a standard cubic foot is that amount of gas at standard conditions which occupies a volume of one cubic foot.
- (~~fn~~) "Curtailement" means the inability of a transportation customer or a sales customer to receive gas due to a shortage of gas supply.
- (~~fo~~) "Customer" means any person who is currently receiving utility service. Any person who moves within a utility's service territory and obtains utility service at a new location within 30 days shall be considered a "customer." Unless stated in a particular rule, "customer" applies to any class of customer as defined by the Commission or by utility tariff.
- (~~fp~~) "Customer data" means customer specific information, excluding personal information as defined in paragraph 1004(x), that is:
- (I) collected from the gas meter by the utility and stored in its data systems;
 - (II) combined with customer-specific energy usage information on bills issued to the customer for regulated utility service when not publicly or lawfully available to the general public; or
 - (III) about the customer's participation in regulated utility programs, such as renewable energy, demand-side management, load management, or energy efficiency programs.
- (~~fq~~) "Dekatherm" (Dth) means a measurement of gas commodity heat content. One Dekatherm is the energy equivalent of 1,000,000 British Thermal Units (1 MMBtu).
- (~~fr~~) "Dedicated recovered methane pipeline" means a conveyance of recovered methane that is not a part of a common carrier pipeline system, and which conveys recovered methane from where it is generated to a common carrier pipeline or to the end user in Colorado for which the recovered methane was produced so long as the recovered methane replaces geologic gas supplied by a gas distribution utility or small gas distribution utility.
- (~~fs~~) "Design peak demand" refers to the maximum gas flow rate projected for a utility system, or a portion thereof, which is utilized by a utility for gas infrastructure capacity planning.
- (~~ft~~) "Disproportionately impacted community" means a geographic area defined pursuant to § 40-2-108(3)(d), C.R.S., and as may be further modified by Commission rule or order. Mapping of such

geographic areas shall be conducted in accordance with the best available mapping tool developed by the Colorado Department of Public Health and Environment, until such time as a different practice is adopted by Commission rule or order.

- (~~tu~~) "Distribution system" means the utility-owned piping and associated facilities used to deliver gas to customers, excluding facilities owned by a utility that are classified on the books and records of the utility as production, storage, or transmission facilities.
- (~~uv~~) "Energy assistance organization" means the nonprofit corporation established for low-income energy assistance pursuant to § 40-8.5-104, C.R.S.
- (~~wv~~) "Gas" means natural or geological gas; hydrogen, or recovered methane, or any mixture thereof transported by a common carrier or dedicated pipeline; flammable gas; manufactured gas; petroleum or other hydrocarbon gases including propane; or any mixture of gases injected into a pipeline and transmitted, distributed, or furnished by any utility.
- (~~wx~~) "Income-qualified utility customer" or "low-income customer" is a customer meeting the requirements of § 40-3-106(1)(d)(II), C.R.S.
- (~~xy~~) "Informal complaint" means an informal complaint as defined and discussed in the Commission's Rules Regulating Practice and Procedure, 4 CCR 723-1.
- (~~yz~~) "Interruption" means a utility's inability to provide transportation to a transportation customer, or its inability to serve a sales customer, due to constraints on the utility's pipeline system.
- (~~zaa~~) "Intrastate transmission pipeline" or "ITP" means generally any person that provides gas transportation service for compensation to or for another person in the State of Colorado using transmission facilities rather than distribution facilities and is exempt from FERC jurisdiction.
- (~~aabb~~) "Local distribution company" (LDC) means any person, other than an interstate pipeline or an intrastate transmission pipeline, engaged in the sale and distribution of gas for end-user consumption. A LDC may also perform transportation services for its end-use customers, for another LDC or its end-use customers, as authorized under its effective Colorado jurisdictional tariffs.
- (~~bcc~~) "Local government" means any Colorado county, municipality, city and county, home rule city or town, home rule city and county, or city or town operating under a territorial charter.
- (~~eedd~~) "Local office" means any Colorado office operated by a utility at which persons may make requests to establish or to discontinue utility service. If the utility does not operate an office in Colorado, "local office" means any office operated by a utility at which persons may make requests to establish or to discontinue utility service in Colorado.
- (~~deee~~) "Mandatory relocation" means a project to relocate the utility's gas infrastructure as required by a federal, tribal, state, county, or local governmental body.
- (~~eeff~~) "Main" means a distribution line that serves, or is designed to serve, as a common source of supply for more than one service lateral.

- (~~ff~~gg) "Mcf" means 1,000 standard cubic feet.
- (~~gg~~hh) "MMBtu" means 1,000,000 British Thermal Units, or one Dekatherm.
- (~~hh~~ii) "Natural gas" or "geological gas" means methane or other hydrocarbons that occur underground without human intervention and may be used as fuel.
- (~~ii~~jj) "Non-pipeline alternative" means programs, equipment, or actions that avoid, reduce, or delay the need for investment in certain types of new gas infrastructure and may include energy efficiency, demand response, and beneficial electrification.
- (~~jj~~kk) "Non-standard customer data" means all customer data that are not standard customer data.
- (~~kk~~ll) "Past due" means the point at which a utility can affect a customer's account for regulated service due to non-payment of charges for regulated service.
- (~~ll~~mm) "Pipeline system" means the utility-owned piping and associated facilities used in the transmission or distribution of gas.
- (~~mm~~nn) "Principal place of business" means the place, in or out of the State of Colorado, where the executive or managing principals who directly oversee the utility's operations in Colorado are located.
- (~~nn~~oo) "Pressure district" means a localized area within a utility's service territory whereby an established minimum and maximum pressure range is intended to be maintained and is distinct from neighboring regions.
- (~~oo~~pp) "Property owner" means the legal owner of government record for a parcel of real property within the service territory of a utility. A utility may rely upon the records of a county clerk for the county within which a parcel of real property is located to determine ownership of government record.
- (~~pp~~qq) "Pyrolysis" means the thermochemical decomposition of material at elevated temperatures without the participation of oxygen.
- (~~qq~~rr) "Rate adjustment mechanism" or "rate rider" means a charge added to a utility bill to recover a specific cost that is not part of the base rate.
- (~~rr~~ss) "Recovered methane" means any of the following that are located in the State of Colorado and meet the recovered methane protocol approved by the Air Quality Control Commission: biomethane; methane derived from municipal solid waste, the pyrolysis of municipal solid waste, biomass pyrolysis or enzymatic biomass, or wastewater treatment; coal mine methane as defined in § 40-2-124(1)(a)(II), C.R.S, the capture of which is not otherwise required by law; or methane that would have leaked without repairs of the gas distribution or service pipelines from the city gate to customer end use.
- (~~ss~~tt) "Regulated charges" means charges billed by a utility to a customer if such charges are approved by the Commission, presented on a tariff sheet, or contained in a tariff of the utility.

- (~~ssuu~~) "Sales customer" or "full service customer" means a customer who receives sales service from a utility and is not served under a utility's gas transportation service at that same meter.
- (~~#vv~~) "Sales service" means a bundled gas utility service in which the utility both purchases gas commodity for resale to the customer and delivers the gas to the customer.
- (~~ttvvv~~) "Security" includes any stock, bond, note, or other evidence of indebtedness.
- (~~vvxx~~) "Service lateral" means that part of a distribution system from the utility's main to the entrance to a customer's physical location.
- (~~wwwy~~) "Standard conditions" means gas at a temperature of 60 degrees Fahrenheit and subject to an absolute pressure equal to 14.73 pounds per square inch absolute.
- (~~xxzz~~) "Standard customer data" means customer data maintained by a utility in its systems in the ordinary course of business.
- (~~yyaaa~~) "Standby capacity" means the maximum daily volumetric amount of capacity reserved in the utility's system for use by a transportation customer, if the customer purchased optional standby service.
- (~~zzbbb~~) "Standby supply" means the daily volumetric amount of gas reserved by a utility for the use by a transportation customer should that customer's supply fail, if the customer purchased optional standby service.
- (~~ccc~~) "Test year" means a twelve-month period that is examined to determine a utility's costs of service in a rate case.
- (~~aaadd~~) "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 on the customer's behalf, a regulated utility serving the customer, or a contracted agent of the utility.
- (~~bbbee~~) "Transportation" means the exchange, forward-haul, backhaul, flow reversal, or displacement of gas between a utility and a transportation customer through a pipeline system.
- (~~eeeff~~) "Transportation customer" means a person who, by signing a gas transportation agreement, elects to subscribe to gas transportation service offered by a utility.
- (~~dddggg~~) "Unique identifier" means customer's name, mailing address, telephone number, or email address that is displayed on a bill.
- (~~eehhh~~) "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, and are for service or merchandise not required as a condition of receiving regulated utility service.
- (~~###iii~~) "Utility" means a public utility as defined in § 40-1-103, C.R.S., providing sales service or transportation service (or both) in Colorado. This term includes both an ITP and a LDC.

~~(gggiii)~~ "Utility service" or "service" means a service offering of a utility, which service offering is by the Commission.

~~(hhkkk)~~ "Whole building data" means the sum of the monthly gas use for either all service connections at a building on a parcel of real property or all buildings on a parcel of real property.

4002. 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 4100;
 - (II) issuance or extension of a certificate of public convenience and necessity for service territory, as provided in rule 4101;
 - (III) issuance of a certificate of public convenience and necessity for construction of facilities, as provided in rule 4102;
 - (IV) amendment of a certificate of public convenience and necessity to change, extend, curtail, abandon, or discontinue any service or facility, as provided in rule 4103;
 - (V) 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 4104;
 - (VI) approval of the issuance or assumption of any security, or to create a lien pursuant to § 40-1-104, C.R.S., as provided in rule 4105;
 - (VII) flexible regulatory treatment to provide service without reference to tariffs, as provided in rule 4106;
 - (VIII) approval of a new tariff or an amendment of a tariff for a rate adjustment mechanism on less than statutory notice, as provided in rule 4109;
 - (IX) approval of a meter sampling program, as provided in rule 4304;
 - (X) approval of a refund plan, as provided in rule 4410;
 - (XI) approval of a Low-Income Energy Assistance Plan, as provided in rule 4411;
 - (XII) approval of a cost assignment and allocation manual, as provided in rule 4503;
 - (XIII) approval of a gas infrastructure plan, as provided in rule 4552;
 - (XIV) approval of a clean heat plan, as provided in rule 4729 or 4734;

- (XV) approval of a gas demand side management plan, as provided in paragraph 4752(e) and rule 4753, or for determinations on demand side management strategic issues, as provided in rule 4761;
- (XVI) appeal of a local government land use decision, as provided in rule 4703; or
- (XVII) 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.

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[indicates omission of unaffected rules]

OPERATING AUTHORITY

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[indicates omission of unaffected rules]

4108. Tariffs.

- (a) A utility shall keep on file with the Commission the following documents pertaining to gas sales service and gas transportation service: its current Colorado tariffs, forms of contracts (including gas sales agreements), and those gas transportation service agreements which are not the same as the standard gas transportation service agreement contained in the utility's tariffs. These documents, unless filed under seal, shall be available for public inspection at the Commission and at the principal place of business of the utility.
- (b) All tariffs shall comply with rule 1210 of the Commission's Rules of Practice and Procedure.
- (c) Filing and contents of tariff.
 - (I) In addition to the requirements and contents in rule 1210, the following shall be included in a utility's tariff as applicable:
 - (A) a description of the minimum heating value for gas service as required by paragraph 4202(a);
 - (B) a description of testing methods for gas quality as required by paragraph 4202(f);
 - (C) interruption and curtailment criteria, policies, and implementation priorities, as required by rule 4203;
 - (D) transportation service rates, terms, and conditions, as required by rule 4205;
 - (E) the utility's transportation service request form as required by paragraph 4206(a);

- (F) information regarding the utility's meter testing equipment and facilities, scheduled meter testing, meter testing records, fees for meter testing upon request, and meter reading, as required by rules 4303, 4304, 4305, 4306, and 4309;
- (G) information regarding benefit of service transfer policies as required by paragraph 4401(c);
- (H) information regarding installment payment plans and other plans, as required by rule 4404;
- (I) information regarding collection fees or miscellaneous service charges, as required by subparagraph 4404(c)(VI) and (c)(VIII).
- (J) information regarding any after-hour restoration fees, as required by paragraph 4409(b); and
- (K) all other rules, regulations, and policies covering the relations between the customer and the utility.

4109. New or Changed Tariffs.

- (a) A utility shall file with the Commission any new or changed tariffs. No new or changed tariff shall be effective unless it is filed with the Commission and either is allowed to go into effect by operation of law or is approved by the Commission.
- (b) A utility shall use one of the following filing processes to seek to add a new tariff ~~or to change an existing tariff other than a tariff setting forth a base rate. If the new tariff represents an increase in the utility's rates, charges, fees, fares, tolls, rentals, or classifications, the utility shall include a rate trend report with the elements in subparagraphs 4109(e)(I) through (IV).~~
 - (I) The utility may file the proposed new tariff, including the proposed effective date, accompanied by an advice letter pursuant to rule 1210. The utility shall provide notice in accordance with rule 1206. If the Commission does not suspend the proposed tariff in accordance with rule 1305 prior to the tariff's proposed effective date, the proposed tariff shall take effect on the proposed effective date.
 - (II) The utility may file an application to implement a proposed-new tariff ~~on less than 30 days' notice, accompanied by the proposed tariff, including the proposed effective date. The utility shall provide notice in accordance with rule 1207.~~ The application shall include the information required in paragraphs 4002(b) and 4002(c); shall explain the details of the proposed tariff, including financial data if applicable; ~~shall state the facts which are the basis for the request that the proposed tariff become effective on less than 30 days' notice;~~ and shall identify any prior Commission action, in any proceeding, pertaining to the present or proposed tariff. If the application is approved by the Commission, the utility shall file a compliance advice letter and tariff which tariff shall be the same in substance as was approved by decision. The advice letter and tariff shall be filed in a new proceeding with the prescribed notice period either in the decision or pursuant to paragraph 1207(g). In order to be eligible to make a compliance advice letter filing on

less than 30 days' notice if the application is approved by the Commission, the utility shall provide notice in accordance with rule 1207 at the time of the application filing for any rate, fare, toll, rental, charge, classification, or in any rule, regulation, or contract relating to or affecting any rate, fare, toll, rental, charge, classification, or service or in any privilege or facility.

~~(III) Unless the Commission orders otherwise, a utility shall be permitted to file new tariffs complying with an order of the Commission or updating adjustment clauses previously approved by the Commission on not less than two business days' notice. No additional notice beyond the tariff filing itself shall be required.~~

(c) A utility shall use the following filing process to change an existing tariff for a rate adjustment mechanism. A filing to increase a rate, charge, fee, fare, toll, rental, or classification pursuant to a tariff for an existing rate adjustment mechanism also shall include a rate trend report in accordance with paragraph 4109(e).

(I) The utility may file the proposed change to the tariff, including the proposed effective date, accompanied by an advice letter pursuant to rule 1210. The utility shall provide notice in accordance with rule 1207. If the Commission does not suspend the proposed tariff in accordance with rule 1305 prior to the tariff's proposed effective date, the proposed tariff shall take effect on the proposed effective date.

(II) The utility may file an application to implement the change to the tariff on less than 30-days' notice, accompanied by the proposed tariff, including the proposed effective date. The utility shall provide notice in accordance with rule 1207. The application shall include the information required in paragraphs 3002(b) and 3002(c); shall explain the details of the proposed tariff, including financial data if applicable; shall state the facts which are the basis for the request that the proposed tariff become effective on less than 30-days' notice; and shall note any prior Commission action, in any proceeding, pertaining to the present or proposed tariff.

(d) A utility shall use the following filing process to change a tariff setting forth a base rate. A filing to increase a base rate also shall include a rate trend report in accordance with paragraph 4109(e).

(I) The utility shall file the proposed new tariff, including the proposed effective date, accompanied by an advice letter pursuant to rule 1210. The utility shall provide notice in accordance with rule 1207.

(II) The Commission shall certify the advice letter filing for completeness in accordance with paragraph 4109(f).

(e) A utility filing that introduces or increases any rate, charge, fee, fare, toll, rental, or classification shall include a rate trend report. Unless not required by another rule, the rate trend report shall include:

(I) the amount of increase in the rate, charge, fee, fare, toll, rental, or classification relative to the amount in effect on the date of the utility's filing;

- (II) the amount in change in annual revenues collected by the utility as a result of the utility's filing;
 - (III) a chart, graph, or other pictographic demonstration of each of the utility's rates, charges, fees, fares, tolls, rentals, or classifications, including the total of all utility bill line items such as base rates and rate adjustment mechanisms, for the ten years prior to the date of the utility filing; and
 - (IV) for the same rate, charge, fee, fare, toll, rental, or classification as the utility's filing over the ten years prior to the date of the utility's filing:
 - (A) the dates when a previous increase or decrease went into effect;
 - (B) the amount of the rate, charge, fee, fare, toll, rental, or classification before a previous increase or decrease went into effect;
 - (C) the amount of increase or decrease relative to the amount before the previous increase or decrease went into effect;
 - (D) the change in annual revenues collected by the utility as a result of the utility's filing; and
 - (E) the proceeding number for the tariff filing where the rate, charge, fee, fare, toll, rental, or classification either was allowed to go into effect by operation of law or was approved by the Commission.
- (f) The Commission shall certify by written decision that a utility base rate tariff filing made in accordance with paragraph 4109(d) includes sufficient information to compare test years and to satisfy other purposes as determined by the Commission.
- (I) The utility shall include in its base rate tariff filing:
 - (A) a cost of service study that calculates the utility's base rate revenue requirement for a twelve-month period concluding no later than six months prior to the date of the utility's base rate tariff filing;
 - (B) detailed explanations of all adjustments made to the auditable historical data used in all of the cost of service studies presented in the utility's filing;
 - (C) an executable copy of each of the cost of service studies presented in the utility's filing, with links and formulas intact;
 - (D) workpapers, in executable format, to which the executable copies of the cost of service study are linked; and
 - (E) any other information or documentation, as determined by the Commission.
 - (II) To prevent delay in a base rate tariff proceeding and the potential for a Commission decision deeming the base rate tariff filing incomplete, the utility may confer with

Commission staff and the Office of Utility Consumer Advocate and file in the advice letter proceeding an unopposed motion for an order certifying the base rate tariff filing to be complete.

- (III) The process for certifying a utility base rate tariff filing as complete shall be implemented as follows.
- (A) The utility shall serve a copy of the utility base rate tariff filing on all parties to its previous base rate proceeding within three business days of the utility's base rate tariff filing with the Commission.
- (B) Any person affected by the base rate tariff filing may submit a written protest addressing the certification of the filing. Such protest must be filed sufficiently in advance of the effective date of the base rate tariffs.
- (C) The Commission will address the certification of utility's base rate tariff filing at a regular weekly meeting prior to the effective date of the base rate tariffs. The Commission may suspend the proposed tariff's effective date by ordering that a hearing be held on the certification of the utility base rate tariff filing in accordance with § 40-6-111(1), C.R.S.
- (D) The Commission shall provide the utility an opportunity to cure any deficiencies of its base rate tariff filing. The Commission may condition the certification of the remedied utility base rate tariff filing on the utility's filing of an amended advice letter extending the proposed effective date of the base rate tariffs.
- (IV) The Commission shall not issue a decision approving a base rate whose base rate tariff filing has been determined to be incomplete until any deficiencies are cured.
- (V) The Commission may permanently suspend the effective date of the proposed base rate tariffs and the proposed tariffs shall not go into effect if the Commission deems the utility's base rate tariff filing incomplete.

4110. Advice Letters.

- (a) All advice letter filings shall comply with rule 1210 of the Commission's Rules of Practice and Procedure.
- (b) In addition to the requirements and contents in rule 1210, the advice letter shall include the estimated amounts, if any, by which the utility's revenues will be affected, calculated on an annual basis.
- (c) Customer notice of advice letter. If the utility is required by statute, Commission rule or order to provide notice to its customers of the advice letter, such notice shall include the requirements of subparagraphs 4002(d)(I) – (XII).

4111. – 4199. [Reserved]

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[indicates omission of unaffected rules]

METERS

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[indicates omission of unaffected rules]

4310. – ~~4399~~4349. [Reserved]

BASE RATE PROCEEDINGS

4350. Annual Reporting on Costs Prohibited from Rates.

(a) On or before April 30th of each year, each utility shall file with the Commission a report that demonstrates compliance with prohibitions of costs recoverable through the utility's rates in accordance with § 40-3-114, C.R.S. The report must include the purpose, payee, and amount of any expenses associated with the costs and activities that are not permitted to be recovered from customers. The report shall be filed concurrently with and in the same proceeding as the investor-owned utility's annual report filed in accordance with rule 4006.

4351. – 4399. [Reserved].

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[indicates omission of unaffected rules]

COLORADO DEPARTMENT OF REGULATORY AGENCIES

Public Utilities Commission

4 CODE OF COLORADO REGULATIONS (CCR) 723-4

PART 4 RULES REGULATING GAS UTILITIES

BASIS, PURPOSE, AND STATUTORY AUTHORITY.

The basis and purpose of these rules is to set forth the manner of regulation over jurisdictional gas utilities, the services they provide, and their actions to maintain just and reasonable rates, ensure system safety, reliability, and resiliency, protect disproportionately impacted communities, and reduce greenhouse gas emissions from the use of gas by their customers and from leaks in their facilities. These rules also set forth the manner of regulation over master meter operators. These rules address a wide variety of subject areas including, but not limited to, planning, expenditure and demand forecasting, cost and rate impacts, system safety and integrity planning, service interruption, meter testing and accuracy, safety, customer information, customer deposits, rate schedules and tariffs, discontinuance of service, master meter operations, transportation service, flexible regulation, procedures for administering the Low-Income Energy Assistance Act, gas service low-income programs, cost allocation between regulated and unregulated operations, recovery of gas costs, appeals regarding local government land use decisions, demand side management programs, the reduction of greenhouse gas emissions from the distribution and end-use consumption of gas, and authority of the Commission to impose civil penalties on public utilities. The statutory authority for these rules can be found at §§ 29-20-108, 40-1-103.5, 40-2-108, 40-3-102, 40-3-102.5, 40-3-103, 40-3-104.3, 40-3-106, 40-3-111, 40-3-114, 40-3-101, 40-3.2-103, 40-3.2-106, 40-3.2-107, 40-3.2-108, 40-4-101, 40-4-106, 40-4-108, 40-4-109, 40-5-103, 40-7-117, 40-7-113.5, 40-7-116.5; and 40-8.7-105(5), C.R.S.

GENERAL PROVISIONS

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[indicates omission of unaffected rules]

4001. Definitions.

The following definitions apply throughout this Part 4, except where a specific rule or statute provides otherwise. In addition to the definitions here, the definitions found in the Public Utilities Law and Part 1 apply to these rules. In the event of a conflict between these definitions and a statutory definition, the statutory definition shall apply. In the event of a conflict between these definitions and a definition in Part 1, these definitions shall apply.

- (a) "Affiliate" of a utility means a subsidiary of a utility, a parent corporation of a utility, a joint venture organized as a separate corporation or partnership to the extent of the individual utility's

involvement with the joint venture, a subsidiary of a parent corporation of a utility or where the utility or the parent corporation has a controlling interest over an entity.

- (b) “Aggregated data” means customer data, alone or in combination with non-customer data, resulting from processing (e.g., average of a group of customers) or a compilation of customer data of one or more customers from which and personal information has been removed.
- (c) “Applicant for service” means a person who applies for utility service and who either has taken no previous utility service from that utility or has not taken utility service from that utility within the most recent 30 days.
- (d) “Air Pollution Control Division” means the Air Pollution Control Division of the Colorado Department of Public Health and Environment established by § 25-1-102(2)(a), C.R.S.
- (e) “Air Quality Control Commission” means the decision-making body within the Colorado Department of Public Health and Environment established by § 25-7-104, C.R.S., to oversee and promulgate the rules to administer Colorado’s air quality programs.
- (f) “Base rate” means charges used to recover costs of utility infrastructure and operations, including a return on capital investment, not otherwise recovered through a utility rate adjustment mechanism.
- (g) “Basis Point” means one-hundredth of a percentage point (100 basis points = 1 percent).
- (h) “Benefit of service” means the use of utility service by each person of legal age who resides at a premises to which service is delivered and who is not registered with the utility as the customer of record.
- (i) “Best value employment metrics” means additional labor metrics required to be obtained by a utility from bidders and contractors for a utility construction contract, specifically, the length and type of training and apprenticeship programs available to the workforce, the percentage of labor estimated to be Colorado residents as compared to out-of-state workers, the number and type of long-term careers supported by the project, whether the workforce will be covered by a labor agreement, and the wage rates and health care and pension benefits, including employer pension contribution rates, provided to protect labor.
- (j) “Biomethane” means:
 - (I) a mixture of carbon dioxide and hydrocarbons released from the biological decomposition of organic materials that is primarily methane and provides a net reduction in greenhouse gas emissions; and
 - (II) includes biomethane recovered from manure management systems or anaerobic digesters that has been processed to meet pipeline quality gas standards.
- (k) “Commission” means the Colorado Public Utilities Commission.
- (l) “Contracted agent” means any person that has contracted with a utility in compliance with rule 4030 to assist in the provision of regulated utility services (e.g., an affiliate or vendor).

- (m) "Cubic foot" means, as the context requires.
- (I) At Local Pressure Conditions. For the purpose of measuring gas to a customer at local pressure conditions, a cubic foot is that amount of gas which occupies a volume of one cubic foot under the conditions existing in the customer's meter as and where installed. When gas is metered at a pressure in excess of eight inches of water column gauge pressure, a suitable correction factor shall be applied to provide for measurement of gas as if delivered and metered at a pressure of six inches of water column gauge pressure. A utility may also apply appropriate factors to correct local pressure measurement to standard conditions.
 - (II) At Standard Conditions. For all other purposes, including testing gas, a standard cubic foot is that amount of gas at standard conditions which occupies a volume of one cubic foot.
- (n) "Curtailment" means the inability of a transportation customer or a sales customer to receive gas due to a shortage of gas supply.
- (o) "Customer" means any person who is currently receiving utility service. Any person who moves within a utility's service territory and obtains utility service at a new location within 30 days shall be considered a "customer." Unless stated in a particular rule, "customer" applies to any class of customer as defined by the Commission or by utility tariff.
- (p) "Customer data" means customer specific information, excluding personal information as defined in paragraph 1004(x), that is:
- (I) collected from the gas meter by the utility and stored in its data systems;
 - (II) combined with customer-specific energy usage information on bills issued to the customer for regulated utility service when not publicly or lawfully available to the general public; or
 - (III) about the customer's participation in regulated utility programs, such as renewable energy, demand-side management, load management, or energy efficiency programs.
- (q) "Dekatherm" (Dth) means a measurement of gas commodity heat content. One Dekatherm is the energy equivalent of 1,000,000 British Thermal Units (1 MMBtu).
- (r) "Dedicated recovered methane pipeline" means a conveyance of recovered methane that is not a part of a common carrier pipeline system, and which conveys recovered methane from where it is generated to a common carrier pipeline or to the end user in Colorado for which the recovered methane was produced so long as the recovered methane replaces geologic gas supplied by a gas distribution utility or small gas distribution utility.
- (s) "Design peak demand" refers to the maximum gas flow rate projected for a utility system, or a portion thereof, which is utilized by a utility for gas infrastructure capacity planning.
- (t) "Disproportionately impacted community" means a geographic area defined pursuant to § 40-2-108(3)(d), C.R.S., and as may be further modified by Commission rule or order. Mapping of such

geographic areas shall be conducted in accordance with the best available mapping tool developed by the Colorado Department of Public Health and Environment, until such time as a different practice is adopted by Commission rule or order.

- (u) "Distribution system" means the utility-owned piping and associated facilities used to deliver gas to customers, excluding facilities owned by a utility that are classified on the books and records of the utility as production, storage, or transmission facilities.
- (v) "Energy assistance organization" means the nonprofit corporation established for low-income energy assistance pursuant to § 40-8.5-104, C.R.S.
- (w) "Gas" means natural or geological gas; hydrogen, or recovered methane, or any mixture thereof transported by a common carrier or dedicated pipeline; flammable gas; manufactured gas; petroleum or other hydrocarbon gases including propane; or any mixture of gases injected into a pipeline and transmitted, distributed, or furnished by any utility.
- (x) "Income-qualified utility customer" or "low-income customer" is a customer meeting the requirements of § 40-3-106(1)(d)(II), C.R.S.
- (y) "Informal complaint" means an informal complaint as defined and discussed in the Commission's Rules Regulating Practice and Procedure, 4 CCR 723-1.
- (z) "Interruption" means a utility's inability to provide transportation to a transportation customer, or its inability to serve a sales customer, due to constraints on the utility's pipeline system.
- (aa) "Intrastate transmission pipeline" or "ITP" means generally any person that provides gas transportation service for compensation to or for another person in the State of Colorado using transmission facilities rather than distribution facilities and is exempt from FERC jurisdiction.
- (bb) "Local distribution company" (LDC) means any person, other than an interstate pipeline or an intrastate transmission pipeline, engaged in the sale and distribution of gas for end-user consumption. A LDC may also perform transportation services for its end-use customers, for another LDC or its end-use customers, as authorized under its effective Colorado jurisdictional tariffs.
- (cc) "Local government" means any Colorado county, municipality, city and county, home rule city or town, home rule city and county, or city or town operating under a territorial charter.
- (dd) "Local office" means any Colorado office operated by a utility at which persons may make requests to establish or to discontinue utility service. If the utility does not operate an office in Colorado, "local office" means any office operated by a utility at which persons may make requests to establish or to discontinue utility service in Colorado.
- (ee) "Mandatory relocation" means a project to relocate the utility's gas infrastructure as required by a federal, tribal, state, county, or local governmental body.
- (ff) "Main" means a distribution line that serves, or is designed to serve, as a common source of supply for more than one service lateral.

- (gg) "Mcf" means 1,000 standard cubic feet.
- (hh) "MMBtu" means 1,000,000 British Thermal Units, or one Dekatherm.
- (ii) "Natural gas" or "geological gas" means methane or other hydrocarbons that occur underground without human intervention and may be used as fuel.
- (jj) "Non-pipeline alternative" means programs, equipment, or actions that avoid, reduce, or delay the need for investment in certain types of new gas infrastructure and may include energy efficiency, demand response, and beneficial electrification.
- (kk) "Non-standard customer data" means all customer data that are not standard customer data.
- (ll) "Past due" means the point at which a utility can affect a customer's account for regulated service due to non-payment of charges for regulated service.
- (mm) "Pipeline system" means the utility-owned piping and associated facilities used in the transmission or distribution of gas.
- (nn) "Principal place of business" means the place, in or out of the State of Colorado, where the executive or managing principals who directly oversee the utility's operations in Colorado are located.
- (oo) "Pressure district" means a localized area within a utility's service territory whereby an established minimum and maximum pressure range is intended to be maintained and is distinct from neighboring regions.
- (pp) "Property owner" means the legal owner of government record for a parcel of real property within the service territory of a utility. A utility may rely upon the records of a county clerk for the county within which a parcel of real property is located to determine ownership of government record.
- (qq) "Pyrolysis" means the thermochemical decomposition of material at elevated temperatures without the participation of oxygen.
- (rr) "Rate adjustment mechanism" or "rate rider" means a charge added to a utility bill to recover a specific cost that is not part of the base rate.
- (ss) "Recovered methane" means any of the following that are located in the State of Colorado and meet the recovered methane protocol approved by the Air Quality Control Commission: biomethane; methane derived from municipal solid waste, the pyrolysis of municipal solid waste, biomass pyrolysis or enzymatic biomass, or wastewater treatment; coal mine methane as defined in § 40-2-124(1)(a)(II), C.R.S, the capture of which is not otherwise required by law; or methane that would have leaked without repairs of the gas distribution or service pipelines from the city gate to customer end use.
- (tt) "Regulated charges" means charges billed by a utility to a customer if such charges are approved by the Commission, presented on a tariff sheet, or contained in a tariff of the utility.

- (uu) "Sales customer" or "full service customer" means a customer who receives sales service from a utility and is not served under a utility's gas transportation service at that same meter.
- (vv) "Sales service" means a bundled gas utility service in which the utility both purchases gas commodity for resale to the customer and delivers the gas to the customer.
- (ww) "Security" includes any stock, bond, note, or other evidence of indebtedness.
- (xx) "Service lateral" means that part of a distribution system from the utility's main to the entrance to a customer's physical location.
- (yy) "Standard conditions" means gas at a temperature of 60 degrees Fahrenheit and subject to an absolute pressure equal to 14.73 pounds per square inch absolute.
- (zz) "Standard customer data" means customer data maintained by a utility in its systems in the ordinary course of business.
- (aaa) "Standby capacity" means the maximum daily volumetric amount of capacity reserved in the utility's system for use by a transportation customer, if the customer purchased optional standby service.
- (bbb) "Standby supply" means the daily volumetric amount of gas reserved by a utility for the use by a transportation customer should that customer's supply fail, if the customer purchased optional standby service.
- (ccc) "Test year" means a twelve-month period that is examined to determine a utility's costs of service in a rate case.
- (ddd) "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 on the customer's behalf, a regulated utility serving the customer, or a contracted agent of the utility.
- (eee) "Transportation" means the exchange, forward-haul, backhaul, flow reversal, or displacement of gas between a utility and a transportation customer through a pipeline system.
- (fff) "Transportation customer" means a person who, by signing a gas transportation agreement, elects to subscribe to gas transportation service offered by a utility.
- (ggg) "Unique identifier" means customer's name, mailing address, telephone number, or email address that is displayed on a bill.
- (hhh) "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, and are for service or merchandise not required as a condition of receiving regulated utility service.
- (iii) "Utility" means a public utility as defined in § 40-1-103, C.R.S., providing sales service or transportation service (or both) in Colorado. This term includes both an ITP and a LDC.

- (jjj) "Utility service" or "service" means a service offering of a utility, which service offering is by the Commission.
- (kkk) "Whole building data" means the sum of the monthly gas use for either all service connections at a building on a parcel of real property or all buildings on a parcel of real property.

4002. 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 4100;
 - (II) issuance or extension of a certificate of public convenience and necessity for service territory, as provided in rule 4101;
 - (III) issuance of a certificate of public convenience and necessity for construction of facilities, as provided in rule 4102;
 - (IV) amendment of a certificate of public convenience and necessity to change, extend, curtail, abandon, or discontinue any service or facility, as provided in rule 4103;
 - (V) 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 4104;
 - (VI) approval of the issuance or assumption of any security, or to create a lien pursuant to § 40-1-104, C.R.S., as provided in rule 4105;
 - (VII) flexible regulatory treatment to provide service without reference to tariffs, as provided in rule 4106;
 - (VIII) approval of a new tariff or an amendment of a tariff for a rate adjustment mechanism on less than statutory notice, as provided in rule 4109;
 - (IX) approval of a meter sampling program, as provided in rule 4304;
 - (X) approval of a refund plan, as provided in rule 4410;
 - (XI) approval of a Low-Income Energy Assistance Plan, as provided in rule 4411;
 - (XII) approval of a cost assignment and allocation manual, as provided in rule 4503;
 - (XIII) approval of a gas infrastructure plan, as provided in rule 4552;
 - (XIV) approval of a clean heat plan, as provided in rule 4729 or 4734;

- (XV) approval of a gas demand side management plan, as provided in paragraph 4752(e) and rule 4753, or for determinations on demand side management strategic issues, as provided in rule 4761;
- (XVI) appeal of a local government land use decision, as provided in rule 4703; or
- (XVII) 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.

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[indicates omission of unaffected rules]

OPERATING AUTHORITY

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[indicates omission of unaffected rules]

4108. Tariffs.

- (a) A utility shall keep on file with the Commission the following documents pertaining to gas sales service and gas transportation service: its current Colorado tariffs, forms of contracts (including gas sales agreements), and those gas transportation service agreements which are not the same as the standard gas transportation service agreement contained in the utility's tariffs. These documents, unless filed under seal, shall be available for public inspection at the Commission and at the principal place of business of the utility.
- (b) All tariffs shall comply with rule 1210 of the Commission's Rules of Practice and Procedure.
- (c) Filing and contents of tariff.
 - (I) In addition to the requirements and contents in rule 1210, the following shall be included in a utility's tariff as applicable:
 - (A) a description of the minimum heating value for gas service as required by paragraph 4202(a);
 - (B) a description of testing methods for gas quality as required by paragraph 4202(f);
 - (C) interruption and curtailment criteria, policies, and implementation priorities, as required by rule 4203;
 - (D) transportation service rates, terms, and conditions, as required by rule 4205;
 - (E) the utility's transportation service request form as required by paragraph 4206(a);

- (F) information regarding the utility's meter testing equipment and facilities, scheduled meter testing, meter testing records, fees for meter testing upon request, and meter reading, as required by rules 4303, 4304, 4305, 4306, and 4309;
- (G) information regarding benefit of service transfer policies as required by paragraph 4401(c);
- (H) information regarding installment payment plans and other plans, as required by rule 4404;
- (I) information regarding collection fees or miscellaneous service charges, as required by subparagraph 4404(c)(VI) and (c)(VIII).
- (J) information regarding any after-hour restoration fees, as required by paragraph 4409(b); and
- (K) all other rules, regulations, and policies covering the relations between the customer and the utility.

4109. New or Changed Tariffs.

- (a) A utility shall file with the Commission any new or changed tariffs. No new or changed tariff shall be effective unless it is filed with the Commission and either is allowed to go into effect by operation of law or is approved by the Commission.
- (b) A utility shall use one of the following filing processes to seek to add a new tariff other than a tariff setting forth a base rate. If the new tariff represents an increase in the utility's rates, charges, fees, fares, tolls, rentals, or classifications, the utility shall include a rate trend report with the elements in subparagraphs 4109(e)(I) through (IV).
 - (I) The utility may file the proposed new tariff, including the proposed effective date, accompanied by an advice letter pursuant to rule 1210. The utility shall provide notice in accordance with rule 1206. If the Commission does not suspend the proposed tariff in accordance with rule 1305 prior to the tariff's proposed effective date, the proposed tariff shall take effect on the proposed effective date.
 - (II) The utility may file an application to implement a new tariff. The application shall include the information required in paragraphs 4002(b) and 4002(c); shall explain the details of the proposed tariff, including financial data if applicable; and shall identify any prior Commission action, in any proceeding, pertaining to the present or proposed tariff. If the application is approved by the Commission, the utility shall file a compliance advice letter and tariff which tariff shall be the same in substance as was approved by decision. The advice letter and tariff shall be filed in a new proceeding with the prescribed notice period either in the decision or pursuant to paragraph 1207(g). In order to be eligible to make a compliance advice letter filing on less than 30 days' notice if the application is approved by the Commission, the utility shall provide notice in accordance with rule 1207 at the time of the application filing for any rate, fare, toll, rental, charge, classification, or in any

rule, regulation, or contract relating to or affecting any rate, fare, toll, rental, charge, classification, or service or in any privilege or facility.

- (c) A utility shall use the following filing process to change an existing tariff for a rate adjustment mechanism. A filing to increase a rate, charge, fee, fare, toll, rental, or classification pursuant to a tariff for an existing rate adjustment mechanism also shall include a rate trend report in accordance with paragraph 4109(e).
 - (I) The utility may file the proposed change to the tariff, including the proposed effective date, accompanied by an advice letter pursuant to rule 1210. The utility shall provide notice in accordance with rule 1207. If the Commission does not suspend the proposed tariff in accordance with rule 1305 prior to the tariff's proposed effective date, the proposed tariff shall take effect on the proposed effective date.
 - (II) The utility may file an application to implement the change to the tariff on less than 30-days' notice, accompanied by the proposed tariff, including the proposed effective date. The utility shall provide notice in accordance with rule 1207. The application shall include the information required in paragraphs 3002(b) and 3002(c); shall explain the details of the proposed tariff, including financial data if applicable; shall state the facts which are the basis for the request that the proposed tariff become effective on less than 30-days' notice; and shall note any prior Commission action, in any proceeding, pertaining to the present or proposed tariff.
- (d) A utility shall use the following filing process to change a tariff setting forth a base rate. A filing to increase a base rate also shall include a rate trend report in accordance with paragraph 4109(e).
 - (I) The utility shall file the proposed new tariff, including the proposed effective date, accompanied by an advice letter pursuant to rule 1210. The utility shall provide notice in accordance with rule 1207.
 - (II) The Commission shall certify the advice letter filing for completeness in accordance with paragraph 4109(f).
- (e) A utility filing that introduces or increases any rate, charge, fee, fare, toll, rental, or classification shall include a rate trend report. Unless not required by another rule, the rate trend report shall include:
 - (I) the amount of increase in the rate, charge, fee, fare, toll, rental, or classification relative to the amount in effect on the date of the utility's filing;
 - (II) the amount in change in annual revenues collected by the utility as a result of the utility's filing;
 - (III) a chart, graph, or other pictographic demonstration of each of the utility's rates, charges, fees, fares, tolls, rentals, or classifications, including the total of all utility bill line items such as base rates and rate adjustment mechanisms, for the ten years prior to the date of the utility filing; and

- (IV) for the same rate, charge, fee, fare, toll, rental, or classification as the utility's filing over the ten years prior to the date of the utility's filing:
 - (A) the dates when a previous increase or decrease went into effect;
 - (B) the amount of the rate, charge, fee, fare, toll, rental, or classification before a previous increase or decrease went into effect;
 - (C) the amount of increase or decrease relative to the amount before the previous increase or decrease went into effect;
 - (D) the change in annual revenues collected by the utility as a result of the utility's filing; and
 - (E) the proceeding number for the tariff filing where the rate, charge, fee, fare, toll, rental, or classification either was allowed to go into effect by operation of law or was approved by the Commission.

- (f) The Commission shall certify by written decision that a utility base rate tariff filing made in accordance with paragraph 4109(d) includes sufficient information to compare test years and to satisfy other purposes as determined by the Commission.
 - (I) The utility shall include in its base rate tariff filing:
 - (A) a cost of service study that calculates the utility's base rate revenue requirement for a twelve-month period concluding no later than six months prior to the date of the utility's base rate tariff filing;
 - (B) detailed explanations of all adjustments made to the auditable historical data used in all of the cost of service studies presented in the utility's filing;
 - (C) an executable copy of each of the cost of service studies presented in the utility's filing, with links and formulas intact;
 - (D) workpapers, in executable format, to which the executable copies of the cost of service study are linked; and
 - (E) any other information or documentation, as determined by the Commission.

 - (II) To prevent delay in a base rate tariff proceeding and the potential for a Commission decision deeming the base rate tariff filing incomplete, the utility may confer with Commission staff and the Office of Utility Consumer Advocate and file in the advice letter proceeding an unopposed motion for an order certifying the base rate tariff filing to be complete.

 - (III) The process for certifying a utility base rate tariff filing as complete shall be implemented as follows.

- (A) The utility shall serve a copy of the utility base rate tariff filing on all parties to its previous base rate proceeding within three business days of the utility's base rate tariff filing with the Commission.
- (B) Any person affected by the base rate tariff filing may submit a written protest addressing the certification of the filing. Such protest must be filed sufficiently in advance of the effective date of the base rate tariffs.
- (C) The Commission will address the certification of utility's base rate tariff filing at a regular weekly meeting prior to the effective date of the base rate tariffs. The Commission may suspend the proposed tariff's effective date by ordering that a hearing be held on the certification of the utility base rate tariff filing in accordance with § 40-6-111(1), C.R.S.
- (D) The Commission shall provide the utility an opportunity to cure any deficiencies of its base rate tariff filing. The Commission may condition the certification of the remedied utility base rate tariff filing on the utility's filing of an amended advice letter extending the proposed effective date of the base rate tariffs.
- (IV) The Commission shall not issue a decision approving a base rate whose base rate tariff filing has been determined to be incomplete until any deficiencies are cured.
- (V) The Commission may permanently suspend the effective date of the proposed base rate tariffs and the proposed tariffs shall not go into effect if the Commission deems the utility's base rate tariff filing incomplete.

4110. Advice Letters.

- (a) All advice letter filings shall comply with rule 1210 of the Commission's Rules of Practice and Procedure.
- (b) In addition to the requirements and contents in rule 1210, the advice letter shall include the estimated amounts, if any, by which the utility's revenues will be affected, calculated on an annual basis.
- (c) Customer notice of advice letter. If the utility is required by statute, Commission rule or order to provide notice to its customers of the advice letter, such notice shall include the requirements of subparagraphs 4002(d)(I) – (XII).

4111. – 4199. [Reserved]

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[indicates omission of unaffected rules]

METERS

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[indicates omission of unaffected rules]

4310. – 4349. [Reserved]

BASE RATE PROCEEDINGS

4350. Annual Reporting on Costs Prohibited from Rates.

- (a) On or before April 30th of each year, each utility shall file with the Commission a report that demonstrates compliance with prohibitions of costs recoverable through the utility's rates in accordance with § 40-3-114, C.R.S. The report must include the purpose, payee, and amount of any expenses associated with the costs and activities that are not permitted to be recovered from customers. The report shall be filed concurrently with and in the same proceeding as the investor-owned utility's annual report filed in accordance with rule 4006.

4351. – 4399. [Reserved].

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[indicates omission of unaffected rules]