

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 16R-0607EG

IN THE MATTER OF THE PROPOSED RULES RELATING TO LOW INCOME PROGRAMS FOR ELECTRIC UTILITIES, 4 CODE OF COLORADO REGULATIONS 723-3 AND GAS UTILITIES, 4 CODE OF COLORADO REGULATIONS 723-4.

NOTICE OF PROPOSED RULEMAKING

Mailed Date: August 11, 2016

Adopted Date: August 10, 2016

I. BY THE COMMISSION

A. Statement

1. The Colorado Public Utilities Commission issues this Notice of Proposed Rulemaking (NOPR) to amend its rules governing low income assistance programs (Low Income Programs), Rule 3412 of the Commission's Rules Regulating Electric Utilities, 4 Code of Colorado Regulations (CCR) 723-3 (Electric Rules), and Rule 4412 of the Commission's Rules Regulating Gas Utilities and Pipeline Operators, 4 CCR 723-4 (Gas Rules). The proposed rules eliminate outdated sections, consolidate and clarify sections, specify data elements to be provided the Commission in future annual reports, and provide clarification for the operation of the low income programs.

B. Background

2. In Decision R11-0606, Proceeding No. 11R-110EG (Low Income Rulemaking Proceeding), the assigned Administrative Law Judge found that the Commission had authority to mandate Low Income Programs, and proposed the Commission adopt Rules 3412 for

regulated electric utilities and 4412 for regulated gas utilities.¹ Consistent with this recommendation, the Commission ultimately adopted rules requiring low-income assistance programs for regulated electric utilities and regulated natural gas utilities.² Both Rule 3412 and Rule 4412 went into effect on December 15, 2011. Together, Rule 3412 and Rule 4412 are referred to as the “Low Income Rules.”

3. As a result of the Low Income Rulemaking Proceeding and subsequent filings by regulated utilities, each regulated electric and gas utility in Colorado now offers a Low Income Program in its tariff, providing quantifiable benefits to low income customers under individualized tariff terms and conditions governed by Commission Rules.³ All regulated electric and gas utilities have had a low income program in effect for more than four years.

4. Representative participants with an interest in the subject matter of this rulemaking, including Energy Outreach Colorado, the Colorado Energy Office, the Colorado Office of Consumer Counsel, the Colorado Department of Human Services, and all regulated gas and electric utilities submitted views and participated informally with Staff of the Public Utilities Commission on the proposals under consideration. Due to the experience gained over these four years, including input from industry and other stakeholders, the Commission proposes modification and improvements to the Low Income Rules through the attached rules.

¹ See Paragraph 8, Decision No. R11-0606.

² Decision No. C11-1217, issued November 10, 2011 (addressing requests for rehearing, reargument, or reconsideration). Non-substantive corrections were made in Decision C11-1217 to the Low Income Rules adopted in Decision R11-0606, issued June 3, 2011.

³ Atmos Energy (13A-0868G), Public Service Company of Colorado (electric and gas) (12A-428EG), Black Hills Energy Colorado (electric and gas) (12AL-438E and 12AL-439G), Colorado Natural Gas Company (12A-430G), and SourceGas Distribution (now Black Hills Gas Distribution) (12A-427G).

C. Discussion

5. The primary purpose of this rulemaking is to update the Low Income Rules and make these rules more effective and efficient. Through this NOPR, we propose to eliminate outdated sections, consolidate and clarify certain other sections, specify data elements to be provided the Commission in future annual reports, and specifically provide clarification for the operation of the low income programs. Updated rules are revised to provide added transparency and processes for Low Income Programs, in addition to proposing changes to the Low Income Rules consistent with recent updates in the Commissions electric rules, and rules of practice and procedure.

6. Several sections of the Low Income Rules are outdated or obsolete. For example, we propose striking current Rule 3412(c)(II)(B), which established phase-in criteria, and current Rule 3412(h), which describes a “safe harbor option” for initial filings, because each of the regulated utilities has a well-established Low Income Program in place. In addition, the proposed rules also eliminate sections that specified the information each utility was to provide in its initial low income filings.⁴ Each utility has an active low income program in place; these sections addressing “initial” filings of the low income rules are no longer needed. We request participant comment on deletion of these sections.

7. We propose reorganization of the rules to make them more effective and efficient. The original rules promulgated in the Low Income Rulemaking Proceeding the Commission adopted a “safe harbor option” for utilities.⁵ In effect, this option identifies the requirements for establishing a phase in of the Low Income Program when it was initially begun. The proposed rules for consideration in this NOPR recognize that most of the utilities have implemented a plan

⁴ Current Rules 3412(d) and 4412(d).

⁵ Current Rule 3412(h).

based on the requirements laid out in existing Rule 3412(h). Therefore, while the proposed rules propose deleting Rule 3412(h), the majority of which is obsolete, we propose incorporating relevant sections of this rule into the revised structure of Rule 3412. The incorporation of relevant sections of this rule into the body of the revised rule is an example of the Commission's interest in this rulemaking to make the proposed rules more effective and efficient.

8. We propose revision in order to provide added transparency of the impact on “non-participants,” in addition to revisions to address processes for excess funding from “non-participants.” As defined in the Low Income Rules, “non-participants” are utility customers who do not receive low-income assistance through a Low Income Program.⁶ Each of the Low Income Programs are primarily funded by charging all Residential class non-participants a low income rate stated in the utility's tariff, which is limited to a maximum monthly impact on non-participants of up to 31.5 cents.⁷ The Commission has reviewed the annual reports filed by the utilities and notes that several utilities report recovery in excess of Low Income Program costs.⁸ Through the proposed rules, the Commission suggests updates to better ensure transparency of the Low Income Program on the charges and impact on non-participants.⁹ In addition, the proposed rules specify a process to resolve current over collection, and potential future over and under collections.¹⁰

⁶ Current Rule 3412(b)(II).

⁷ Public Service of Colorado (Public Service) does not state a specific rate in its tariff for each rate class to fund the low income plan; however a review of Public Service's approved tariff sheets (34D for gas and 99D for electric) state the amount of funding for low income assistance is included in the Service and Facility Charge for each rate schedule. The proposed rules require a stated rate for recovery of program costs for each rate class. *See* Proposed Rules 3412(g)(II)(C) and 4412(g)(II)(C).

⁸ Proceeding No. 16M-0327EG. The Commission notes that many utilities have reduced their rates to zero in recognition of the over funding condition.

⁹ *See, e.g.*, Proposed Rule 3412(f) and 4412(f).

¹⁰ Proposed Rules 3412(g)(II)(D) and 4412(g)(II)(D).

9. In Decision C16-0185, Proceeding No. 15R-0699E, in addition to other revisions to the Commission's rules regulating electric utilities contained in 4 CCR 723-3,¹¹ the Commission made minor revisions to Rule 3412. These revisions included updates for clarity regarding the Low Income Program, in addition to consistency with recent revisions to the Commission's rules of practice and procedure contained in 4 CCR 723-1. Through the proposed rules, we suggest further revision to more fully clarify the Commission's interest in having Low Income Programs effectively provide benefits to low income ratepayers. For example, for these purposes we revise Rule 3412(c), defining participant eligibility, and Rule 3412(d), clarifying the enrollment process.

10. We propose revisions to Rule 4412 for natural gas utilities to parallel the changes adopted to Rule 3412 in Proceeding No. 15R-0699E. Other proposed rule changes for Rule 4412 regulating natural gas utilities' Low Income Programs are intended to mirror applicable, proposed changes for Rule 3412 regulating electric utilities.

D. Conclusion

11. The statutory authority for the rules proposed here is found at §§ 24-4-101, *et seq.*, 40-1-101, *et seq.*, 40-2-108, 40-3-102, 40-3-103, 40-3-106, 40-4-101, and 40-4-108, C.R.S.

12. Prior to our issuance of this NOPR, consistent with § 24-4-103(2), C.R.S., representative groups of participants with an interest in the subject matter of this rulemaking were established, submitted views, and participated informally on the proposals

¹¹ Through Proceeding No. 15R-0699E, the Commission revised its rules regulating electric utilities contained in 4 CCR 723-3, consistent with Senate Bills (SB) 15-046 and 15-254 and House Bills (HB) 15-1284 and 15-1377, which modified the renewable energy statute, § 40-2-124, C.R.S., and the statute authorizing community solar gardens, § 40-2-127, C.R.S. The Commission also updated the low income rules, references to federal rules, and procedures for testing services meters upon a customer's request, in addition to updates consistent with recent changes to the rules of practice and procedure.

under consideration. These participants are included on the list of persons who receive notification of the NOPR.

13. The proposed changes to the Electric Rules are set forth in legislative (i.e., ~~strikeout~~ and underline) format (Attachment A) and final format (Attachment B). Changes to the Gas Rules are also set forth in legislative format (Attachment C) and final format (Attachment D). These attachments 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=16R-0607EG.

14. This matter is referred to an Administrative Law Judge (ALJ) for the issuance of a recommended decision.

15. The ALJ will conduct a hearing on the proposed rules and related issues on September 19, 2016. Interested persons may submit written comments on the rules and present these orally at hearing, unless the ALJ deems oral presentation unnecessary.

16. We encourage interested persons to recommend rule revisions to the Electric Rules and Gas Rules relevant to Low Income Programs, including, but not limited to, the specific revisions discussed above. The Commission encourages interested persons to submit written comments before the hearing scheduled in this matter. In the event interested persons file comments before the hearing, the Commission requests that initial comments be filed no later than August 29, 2016. The Commission further requests that comments responsive to initial comments be submitted no later than September 12, 2016. The Commission prefers that comments be filed in this Proceeding No. 16R-0607EG using its E-Filing System at:

<http://www.dora.state.co.us/pls/efi/EFI.homepage>.

II. ORDER

A. The Commission Orders That:

1. This Notice of Proposed Rulemaking, and Attachments A and C shall be filed with the Colorado Secretary of State for publication in the August 25, 2016, edition of *The Colorado Register*.

2. This matter is referred to an Administrative Law Judge for the issuance of a recommended decision.

3. A hearing on the proposed rules and related matters shall be held as follows:

DATE: September 19, 2016

TIME: 9:00 a.m. until not later than 5:00 p.m.

PLACE: Commission Hearing Room
1560 Broadway, Suite 250
Denver, Colorado

At the time set for hearing in this matter, interested persons may submit written comments and may present these orally unless the Commission deems oral comments unnecessary.

4. Interested persons may file written comments in this matter before hearing.

5. The Commission requests that initial pre-filed comments be submitted no later than August 29, 2016, and that any pre-filed comments responsive to the initial comments be submitted no later September 12 2016. The Commission will consider all submissions, whether oral or written. The Commission prefers that comments be filed in this Proceeding No. 16R-0607EG using its E-Filing System at <http://www.dora.state.co.us/pls/efi/EFI.homepage>.

6. This Order is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
August 10, 2016.**

(S E A L)



ATTEST: A TRUE COPY

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

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JOSHUA B. EPEL

GLENN A. VAAD

FRANCES J. KONCILJA

Commissioners

COLORADO DEPARTMENT OF REGULATORY AGENCIES

Public Utilities Commission

4 CODE OF COLORADO REGULATIONS (CCR) 723-3

PART 3 RULES REGULATING ELECTRIC UTILITIES

* * * *

[indicates omission of unaffected rules]

3412. Electric Service Low-Income Program.

(a) Scope and applicability.

- (I) Electric utilities with Colorado retail customers shall provide low-income energy assistance by offering rates, charges, and services that grant a reasonable preference or advantage to residential low-income customers, as permitted by § 40-3-106, C.R.S.
- (II) Rule 3412 is applicable to investor-owned electric utilities subject to rate regulation by the Commission.

(b) Definitions. The following definitions apply only in the context of rule 3412. In the event of a conflict between these definitions and a statutory definition, the statutory definition shall apply.

- ~~(I)~~ “Administrative cost” means the utility’s direct cost for labor, materials, and other verifiable expenditures directly related to the administration and operation of the program not to exceed ten percent of the total cost of program credits applied against bills for current usage and pre-existing arrearages or \$10,000, whichever amount is greater.
- ~~(II)~~ “Affordable percentage of income payment” means the amount of the participant’s annual bill deemed affordable under subparagraph 3412(e)(I).
- ~~(V)~~~~(III)~~ “Arrearage” means the past-due amount appearing, as of the date on which a participant newly enters the program, on the then most recent prior bill rendered to a participant for which they received the benefit of service.
- ~~(IV)~~ “Colorado Energy Office” means the Colorado Energy Office created in § 24-38.5-101, C.R.S.

- ~~(V)~~(V) “Eligible low-income customer” means a residential utility customer who meets the household income thresholds ~~computed annually by the Commission staff~~ pursuant to ~~sub~~paragraph 3412(c)~~(II)(A)~~.
- ~~(VI)~~(VI) “Fixed credit” means an annual bill credit established at the beginning of a participant’s participation in a program each year delivered as a monthly credit on each participant’s bill. The fixed credit is the participant’s full annual bill minus the participant’s affordable percentage of income payment obligation on the full annual bill.
- ~~(VII)~~(VII) “Full annual bill” means the current consumption of a participant billed at standard residential rates. The full annual bill of a participant is comprised of two parts: that portion of the bill that is equal to the affordable percentage of income payment; and, that portion of the bill that exceeds the affordable percentage of income payment.
- ~~(VIII)~~(VIII) “LEAP” means Low Energy Assistance Program, a county-run, federally-funded, program supervised by the Colorado Department of Human Services, Division of Low-Income Energy Assistance.
- ~~(IX)~~(IX) “LEAP participant” means a utility customer who at the time of applying to participate in a program has been determined to be eligible for LEAP benefits by the Department during either: the Department’s current six-month (November 1 – April 30) LEAP application period, if that period is open at the time the customer applies for program participation; or, the Department’s most recently closed six-month (November 1 – April 30) LEAP application period, if that period is closed at the time the customer applies to participate in the program and the Department’s next six-month (November 1 – April 30) LEAP application period has not yet opened, provided, however, that in order to retain status as a LEAP participant under this definition, the utility customer must apply to the Department during the Department’s next six-month (November 1 – April 30) LEAP benefit application period and be determined eligible for such benefits.
- ~~(X)~~(X) “Non-participant” means a utility customer who is not receiving low-income assistance under rule 3412.
- ~~(XI)~~(XI) “Participant” means an eligible low-income residential utility customer who is granted the reasonable preference or advantage through participation in an electric service low-income program.
- ~~(XII)~~(XII) “Program” means an electric service low-income program approved under rule 3412.
- ~~(XIII)~~ (XIII) “Program credits” means the amount of benefits provided to participants to offset the unaffordable portion of a participant’s utility bill as well as dollar amounts credited to participants for arrearage forgiveness. “Percentage of income plan thresholds” means household income levels for different numbers of persons adjusted by the federal poverty levels specified in subparagraphs (1) and (2) of subparagraph 3412(h)(II)(B)(i) as calculated annually by the Commission staff.
- ~~(XIV)~~ (XIV) “Unaffordable portion” means the amount of the estimated full annual bill that exceeds the affordable percentage of income payment.

~~(c) Program requirements.~~

- ~~(I) Program components. A utility's program shall address the following four aspects of energy assistance:
 - ~~(A) how it integrates with existing energy efficiency or DSM programs offered by the utility or other entity;~~
 - ~~(B) how it integrates with existing weatherization programs offered by the state of Colorado or other entities;~~
 - ~~(C) how it integrates with LEAP or other existing low-income energy assistance programs; and~~
 - ~~(D) consideration of arrearage forgiveness for participants who enter the program. Arrearage credits shall be sufficient to reduce the pre-existing arrearage to \$0.00 over twenty-four months.~~~~

~~(cH)~~ Participant eligibility. Eligible participants are limited to those with a household income at or below 185 percent of the current federal poverty level, or, if the utility applies individual LEAP benefits to offset the costs of the unaffordable portion of the participating customer's utility bill, 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.

- ~~(I) Electric utilities may obtain federal annual poverty level income amounts based on household size on the Colorado Department of Human Services, Division of Low Income Energy Assistance website at <https://sites.google.com/a/state.co.us/cdhs-leap/program-eligibility>.~~
- ~~(II) If the utility applies individual LEAP benefits to offset the unaffordable portion of the participant's utility bill, the utility shall obtain household income information from LEAP.~~
- ~~(III) If a participant's household income is \$0, the utility may establish a process that verifies income on a more frequent basis.~~
- ~~(IV) Program participants shall not be required to make payment on their utility account as a condition of entering into the program.~~

~~(d) Enrollment. Utilities shall be responsible for the methods by which participant enrollment in their approved low income program is obtained and sustained, however the utility should engage in enrollment processes that are efficient and attempt to maximize the potential benefits of participation in the low income program by low income customers.~~

- ~~(I) Utilities may require eligible low-income customers to apply for participation in the low-income program in writing or other means of direct communications.~~
- ~~(II) Should the utility not require an eligible low-income customer to submit an application prior to enrollment, the utility shall:~~

- ~~(A) — determine potential program participants from the information provided by LEAP to the utility under subparagraph 3412(c)(II);~~
- ~~(B) — perform and document an analysis of the customer's account in order to determine that the customer will benefit from the utility's low-income program, and enroll only eligible low-income customers for whom a financial benefit will be realized;~~
- ~~(C) — provide to the eligible low-income customer:
 - ~~(i) — a description of the low-income program and the customer's responsibilities under the program;~~
 - ~~(ii) — the estimated net benefit the customer may realize from participating in the program; and~~
 - ~~(iii) — the customer's right to opt-out of the program prior to enrollment.
 - ~~(1) — The utility shall provide the eligible low-income customer a 45 day period to opt-out of participation in the low-income program from the date of the notification.~~
 - ~~(2) — The utility shall provide opt-out information to the customer in the original communication to the customer and shall send a second notification at least two weeks prior to enrollment.~~
 - ~~(3) — The customer may opt-out of the low-income program in writing or other forms of direct communication with the utility.~~~~~~

~~(e) — Payment plan.~~

- ~~(I) — Participant payments for electric bills rendered to participants shall not exceed an affordable percentage of income payment. The percentage of a participant's household income for which the participant is responsible shall be determined as follows:
 - ~~(A) — for electric accounts for which electricity is the primary heating fuel, participant payments shall be no lower than three percent and not greater than six percent of the participant's household income; and~~
 - ~~(B) — for electric accounts for which electricity is not the primary heating fuel, participant payments shall be no lower than two percent and not greater than three percent of the participant's household income.~~~~
- ~~(II) — In the event that a primary heating fuel for any particular participant has been identified by LEAP, that determination shall be final.~~
- ~~(III) — Notwithstanding the percentage of income limits established in subparagraph 3412(e)(I), a utility may establish minimum monthly payment amounts for participants with household income of \$0, provided that:~~

- (A) the participant's minimum payment for an electric heating account shall be no more than \$20.00 a month; and
- (B) the participant's minimum payment for an electric non-heating account shall be no more than \$10.00 a month.
- (IV) Full annual bill calculation. The utility shall be responsible for estimating a participant's full annual bill for the purpose of determining the unaffordable portion of the participant's full annual bill delivered as a fixed credit on the participant's monthly billing statement.
- (V) Fixed credit benefit. The fixed credit shall be adjusted during a program year in the event that standard residential rates, including commodity or fuel charges change to the extent that the full annual bill at the new rates would differ from the full annual bill upon which the fixed credits are currently based by 25 percent or more.
- (VI) Levelized budget billing participation. A utility shall enroll participants in its levelized budget billing program as a condition of participation in the program. Should a participant fail to meet monthly bill obligations and be placed by a utility in its regular delinquent collection cycle, the utility may remove the participant from levelized budget billing in accordance with the utility's levelized budget billing tariff.
- (VII) Arrearage credits.

 - (A) Arrearage credits shall be applied to pre-existing arrearages.
 - (B) Arrearage credits shall be sufficient to reduce, when combined with participant copayments, if any, the pre-existing arrearages to \$0.00 over a period not less than one month and not more than twenty-four months.
 - (C) Application of an arrearage credit to a participant account may be conditioned by the utility on one or more of the following:

 - (i) the receipt of regular participant payments toward bills for current usage;
or
 - (ii) the payment of a participant copayment toward the arrearages so long as the participant copayment does not exceed one percent of gross household income.
 - (D) Should the participant exit the program prior to the full forgiveness of all pre-existing arrearages, the amount of remaining pre-existing arrearages shall become due in accordance with the utilities tariff filed under rules 3401, 3407, and 3408.
 - (E) Pre-existing arrears under this subparagraph shall not serve as the basis for the termination of service for nonpayment or as the basis for any other utility collection activity while the customer is participating in the safe harbor program.

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

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

~~(IX) Payment default provisions. Failure of a participant to make his or her monthly bill payments will result in a utility placing the participant in its regular collection cycle. Missed, partial or late payments shall not result in the removal of a participant from the program.~~

~~(III) Maximum impact on non-participant.~~

~~(A) The utility shall quantify the anticipated impact of its program on non-participants, for each phase identified in subparagraph 3412(c)(II)(B), as required by § 40-3-106(d)(III), C.R.S.~~

~~(B) If program cost recovery is a fixed fee, then the program's maximum cost impact on residential non-participants shall be no more than \$0.315 per month.~~

~~(C) If program cost recovery is usage-based, then the program's maximum cost impacts on non-participant's volumetric rates shall be no more than \$0.0005 per kWh.~~

~~(d) Program implementation.~~

~~(I) Each utility shall maintain effective terms and conditions in its tariffs on file with the Commission containing its low-income program.~~

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

~~(A) A tariff containing the rules that govern the operation of the program, including all of the requirements of paragraph 3412(c).~~

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

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

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

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

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

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

~~(ge)~~ Cost recovery.

~~(I) Each utility shall address-include in its low income tariff terms and conditions filing how costs of the program will be recovered.~~

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

~~(III) The following costs are eligible for recovery by a utility as Pprogram costs recovery:-~~

~~(A) Program cost recovery shall be based on a fixed monthly fee.~~

~~(B) The maximum impact on residential rates shall be no more than \$00.315 per month.~~

~~(C) In order to determine monthly rates applicable to rate classes other than residential, program costs shall be allocated to each retail rate based on each rate class's share of the test year revenue requirement established in the utility's last Phase II rate case, or under another reasonable methodology supported by quantifiable information. The monthly rate per this subparagraph to be charged each rate schedule customer shall be clearly stated on a tariff sheet.~~

~~(D) Utilities shall separately account for the cumulative program cost recovery and cumulative program and administrative costs to determine if the net of program cost recovery and program and administrative cost are in balance during the program year.~~

~~(i) By October 31, 2016 utilities shall determine if the total cumulative cost recovery amount exceeds total cumulative program and administrative costs through September 30, 2016. If at that time total cumulative cost recovery exceeds total cumulative program and administrative costs by 50 percent or more, the over collected amount shall be refunded to all customers in accordance with rule 3410.~~

(ii) Beginning November 30, 2017 and in each year thereafter, the utility shall file a report with the Commission in the most recent miscellaneous proceeding for annual low-income filings detailing the net difference between program cost recovery and program costs as of September 30 of each year.

(1) Should the net difference of program cost recovery over program costs be greater than 50 percent derived in (ii) above, either positive or negative, and the utility is not currently at the maximum impact for non-participants, the utility shall file with the Commission an advice letter and tariff pages seeking approval for the rates determined in subparagraph 3412(g)(II)(D) in order to bring the projected recovery in balance for the ensuing 12 month period. The revised charge shall not exceed the maximum impact for non-participants in subparagraph 3412(g)(II)(C).

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

- (A) ~~P~~program credits or discounts applied against bills for current usage.
- (B) ~~P~~program credits applied against pre-existing arrearages.
- (C) ~~P~~program administrative costs.
- (D) ~~Other reasonable costs that the utility is able to demonstrate are attributable to its program. Commission-sponsored program evaluation costs required under paragraph 3412(k)~~

(IV) The utility shall apply, as an offset to cost recovery, all program expenses ~~s-reductions~~ attributable to the program. Program expenses ~~reductions~~ include ~~decreases in~~ utility operating costs; ~~decreases-changes~~ in the return requirement on cash working capital for carrying arrearages; ~~decreases-changes~~ in the cost of credit and collection activities ~~for dealing with~~ directly related to low-income participants; and ~~decreases-changes~~ in uncollectable account costs for these participants. ~~The utility shall begin providing the offset to cost recovery expense reductions data by Phase III of program implementation pursuant to the timeline in subparagraph 3412(c)(II)(B)(iii).~~

~~(Vf)~~ Energy assistance ~~LEAP~~ grants.

~~(I)~~ The utility shall apply energy assistance grants provided to the participant by the LEAP program to the dollar value of credits granted to individual program participants.

- ~~(AH)~~ A utility ~~providing a program as a percentage of income plan~~ shall apply any energy assistance grant benefit granted to the participant by LEAP to that portion of the program participant's full annual bill that exceeds the participant's affordable percentage of income payment.

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

- (i) first, to any pre-existing arrearages that at the time of the energy assistance grant continues to be outstanding; and
- (ii) second, to the account of the program participant as a benefit to the participant.

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

(D) If an all-electric utility's low-income customers do not benefit widely from LEAP grants, the utility shall not apply the dollar value of credits granted to individual LEAP grantees to the dollar value of credits granted to individual program participants.

(h) Other programs. In addition to the utility's low-income program, with Commission approval, a utility may offer other rate relief options to eligible households.

(I) Other programs offered by the utility under rule 3412 must be intended to reach low-income households that do not substantially benefit from the provisions of the low-income program. Such programs may take the form of discount rates, tiered discount rates or other direct bill relief methods where the low-income household benefitting from the program is granted a reasonable preference in tariffed rates assessed to all residential utility customers.

(II) Cost recovery for other programs combined with the Percentage of Income Payment Plan shall not exceed the maximum impact on residential rates described in subparagraph 3412(g)(II)(C).

(i) Energy efficiency and weatherization.

(I) The utility shall provide all program participants with information on energy efficiency programs offered by the utility or other entities and existing weatherization programs offered by the state of Colorado or other entities.

(II) The utility shall provide the Colorado Energy Office with the name and service address of participant households for which annual electricity usage exceeds 10,000 kWh annually.

(j) Stakeholder engagement. A utility shall conduct annual meetings with low-income stakeholders for the purpose of seeking solutions to issues of mutual concern and aligning program practices with the needs of customers and other stakeholders.

- (k) Program evaluation. A triennial evaluation of the program provisions under rule 3412 beginning in 2019 shall be undertaken in order to review best practices in similar low-income assistance programs in existence in other regulatory jurisdictions, as well as evaluate operation of each utility's program for effectiveness in achieving optimum support being provided to low income participants. The evaluation shall also recommend modifications if available that improve the delivery of benefits to participants and increase the efficiency and effectiveness of each program as they exist at the point of evaluation.
- (I) Procurement of the third-party vendor that will perform the evaluation will be undertaken by the Colorado Energy Office under the requirements set forth by the Commission in the most current miscellaneous proceeding opened by the Commission to receive the annual reports required under rule 3412. The third party vendor CEO shall seek the involvement of interested stakeholders including, but not limited to, Commission staff, all Commission regulated electric and gas utilities, LEAP, the Office of Consumer Counsel, the Colorado Energy Office, and Energy Outreach Colorado in the design of review the requirements regarding study focus and final reporting.
- (II) Selection-Approval of the third-party vendor shall be the responsibility of the Commission. The CEO shall file with the Commission in the most recent annual report proceeding, a request for approval of the contract of the vendor selected. The Commission shall review and act on the request within 30 days.
- (III) \$00.0013 per customer per month shall be set aside by the utility starting in the 2016-2017 program year in order to fund the triennial evaluation of the program provisions under paragraph 3412(k).
- (IV) The dollars resulting from the \$00.0013 charge shall be recovered as a program cost under subparagraph 3412(f)(IV).
- (V) The evaluation will be filed by Commission staff in the most recent miscellaneous proceeding for annual low income filings.
- (VI) Staff and the CEO will assess the individual utilities deferred balances set aside for the program evaluation starting in 2019 at the conclusion of the third program year and each three years thereafter and will determine the amounts each utility is to remit to the third party evaluator based on the contractual terms approved by the Commission for the evaluation.
- (lg) Annual report. No later than November 30, 2015~~6~~ each utility shall file a report in the most recent miscellaneous proceeding for annual low-income filings using the form available on the Commission website, based on the six ~~seven~~-month period April 1, 2015~~6~~ through ~~September 30, 2015~~ October 31, 2016, and then on November 30 each of the following years, based on each 12-month period ending ~~September 30~~ October 31, containing the following information:
- (IA) monthly information on the program including number of participants, amount of benefit disbursement, type of benefit disbursement, LEAP benefits applied to the unaffordable portion participant's bills, administrative costs, and revenue collection;
- (IIB) the number of applicants for the program;

- (III~~G~~) the number of applicants qualified for the program;
- (IV~~D~~) the number of participants;
- (V~~E~~) the average assistance provided, both mean and median;
- (VI~~F~~) the maximum assistance provided to an individual participant;
- (VII~~G~~) the minimum assistance provided to an individual participant;
- (VIII~~H~~) total cost of the program and the average rate impact on non-participants by rate class, including impact based on typical monthly consumption of both its residential and small business customers;
- (IX~~I~~) the number of participants that had service discontinued as a result of late payment or non-payment, and the amount of uncollectable revenue from participants;
- (X~~J~~) an estimate of utility savings as a result of the implementation of the program (e.g., reduction in trips related to discontinuance of service, reduction in uncollectable revenue, etc.); ~~and~~
- (XI) the average monthly and annual total electric consumption in PIPP participants' homes;
- (XII) the average monthly and annual total electric consumption in the utility's residential customer's homes;
- (XIII) the number of program participants referred to the weatherization program;
- (XIV) a description of the ways in which the program is being integrated with existing energy efficiency of DSM programs offered by the utility or other entities;
- (XV) a description of the ways of the ways in which the program is being integrated with existing weatherization programs offered by the state of Colorado or other entities;
- (XVI) a description of program outreach strategies and metrics that illustrate the effectiveness of each outreach strategy;
- (XVII) the number of participants at the start of the program year that the utility removed for any reason, the number of potential participants rejected because of the existence of a cap on the program, the period of arrearage time from date participants became eligible and were granted arrearage forgiveness, and the number of participants who came back as eligible participants in the program year after being eligible in a prior program year and were provided arrearage in the program year; and
- ~~(XVIII)~~ (XVIII) the utility's recommended program modifications based on report findings.

~~(h) — Safe harbor program option.~~

~~Paragraph (h) describes an option that each utility may propose as a low-income energy assistance program. The program detailed in this paragraph may be adopted by a utility in satisfaction of the requirements of this rule 3412 and, as such, constitutes a safe harbor for compliance. Each utility electing the safe harbor program option shall file a notice describing the safe harbor program pursuant to rules 1207 and 1210 of the Commission's rules of Practice and Procedure applicable to tariff filings. If, after review, the Commission verifies the program is in compliance with this paragraph (h), the Commission will deem the filing in compliance and approve the safe harbor program without setting it for evidentiary hearing or otherwise subjecting the tariff filing to any further adjudicatory process.~~

~~(I) — Customer eligibility for the safe harbor program shall be phased in as provided in subparagraph 3412(c)(II)(B).~~

~~(II) — Safe harbor design requirements. The following design requirements shall be included in the safe harbor tariff filing of a utility.~~

~~(A) — Safe harbor enrollment shall be limited to the utility's LEAP participants based on the three-year phase-in schedule contained in subparagraph 3412(c)(II)(B).~~

~~(B) — Payment plan proposal. Participant payments for electric bills rendered to safe harbor participants shall not exceed a percentage of the participant's annual income.~~

~~(i) — Percentage of income plan. The total payment for all electric home energy under a percentage of income plan is determined based upon a percentage of the participant's annual gross household income. On or before March 1 of each year, Commission staff shall compute percentage of income plan thresholds for each percentage of the Federal Poverty Level indicated in subparts (1) and (2) of this subparagraph 3412(h)(III)(B)(i). For this purpose the Commission staff shall obtain the most recent federal poverty level for households of different sizes from the Federal Poverty Guidelines updated periodically in the Federal Register by the U.S. Department of Health and Human Services under the authority of 42 U.S.C. 9902(2). On or before April 1 of each year, the Commission shall send a letter to each utility subject to these rules that sets forth the resulting current percentage of income plan thresholds for subparts (1) and (2) of this subparagraph 3412(h)(III)(B)(i). Annually following receipt of the Commission's letter, each utility shall file an advice letter revising its tariffs to be effective on or before July 1 to show the same new percentage of income plan thresholds.~~

~~(1) — For electric accounts for which electricity is the primary heating fuel, maximum participant payments shall be set at the following percentage of income burdens:~~

- ~~(a) Household income at or below 75 percent of Federal Poverty Level: four percent of income.~~
 - ~~(b) Household income exceeding 75 percent but at or below 125 percent of Federal Poverty Level: five percent of income.~~
 - ~~(c) Household income exceeding 125 percent but at or below 165 percent of Federal Poverty Level: six percent of income.~~
- ~~(2) For electric accounts for which electricity is not the primary heating fuel, maximum customer payments shall be set at the following percentage of income burdens:~~
- ~~(a) Household income at or below 75 percent of the Federal Poverty Level: two percent of income;~~
 - ~~(b) Household income exceeding 75 percent but at or below 125 percent of the Federal Poverty Level: two and one-half percent of income; and~~
 - ~~(c) Household income exceeding 125 percent but at or below 165 percent of the Federal Poverty Level: three percent of income.~~
- ~~(3) Notwithstanding the percentage of income limits established in subparagraphs 3412(h)(III)(B)(i) (1) and (2), a utility may establish minimum monthly payment amounts for participants with household income of \$0, provided that:~~
- ~~(a) The participant's minimum payment for an electric heating account shall be no more than \$20 a month.~~
 - ~~(b) The participant's minimum payment for an electric non-heating account shall be no more than \$10 a month.~~
- ~~(ii) In the event that a primary heating fuel for any particular safe harbor participant has been identified by LEAP, that determination shall be final.~~
- ~~(C) Full annual bill calculation. The utility shall be responsible for estimating a safe harbor participant's full annual bill for the purpose of determining the participant's fixed credit.~~
- ~~(D) Fixed credit benefit delivery.~~
- ~~(i) A utility shall, unless infeasible, deliver safe harbor benefits as a percentage of income-based fixed credit on a participant's bill.~~

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

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

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

~~(F) Arrearage credits.~~

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

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

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

~~(1) The receipt of regular participant payments toward safe harbor bills for current usage; or~~

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

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

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

~~(G) Cost recovery.~~

- ~~(i) Each utility shall include as part of its safe harbor the cost recovery requirements listed in paragraph 3412(e).~~
- ~~(ii) Safe harbor program costs shall be allocated to each retail rate based on each rate class's share of the test year revenue requirement. Cost recovery shall also be based on a fixed fee.~~
- ~~(iii) Each utility shall include as part of its safe harbor a hard budget cap for each year the program is in operation, including program administrative costs, that complies with subparagraph 3412(c)(III).~~
- ~~(H) Energy assistance grants. The utility shall apply energy assistance grants to the dollar value of credits granted to the individual program participants as set forth in paragraph 3412(f).~~
- ~~(I) Cost control features.
 - ~~(i) A utility shall refer safe harbor participants who historically use 150 percent or more of the median use of its residential class participants to public or private usage reduction programs, including the utility's own demand-side management programs and the usage reduction programs of local weatherization agencies that provide free energy efficiency upgrades to income-qualified consumers based on availability of funding.~~
 - ~~(ii) Households approved to receive a safe harbor benefit must agree to have their dwelling weatherized if contacted by a state authorized weatherization agency. Failure to permit or complete weatherization may result in the denial of safe harbor benefits for the following year, subject to the following exceptions:
 - ~~(1) Households containing a member(s) whose mental or physical health could be jeopardized because of weatherization shall be exempt from this requirement. Such participants must provide a certificate of medical hardship which shall be in writing sent to the utility from the office of a licensed physician, and show clearly the name of the participant or individual whose health is at issue; the Colorado medical identification number, phone number, name, and signature of the physician or health care practitioner acting under a physician's authority certifying the medical hardship.~~
 - ~~(2) A household whose landlord refuses to allow weatherization shall not have benefits denied.~~
 - ~~(3) A household shall not have benefits denied for failure to provide matching funds for weatherization.~~~~~~

- ~~(J) Targeted outreach. Within its residential customer base, a utility shall make special efforts to target safe harbor outreach to payment-troubled customers.~~
- ~~(K) Portability of benefits. A safe harbor participant may continue to participate without reapplication should the participant change service addresses, but remain within the service territory of the utility providing the benefit, provided that the utility may make necessary adjustments in the levelized budget billing amount to reflect the changed circumstances. A safe harbor participant who changes service addresses and does not remain within the service territory of the utility providing the benefit must reapply to become a participant at the participant's new service address.~~
- ~~(L) Maximum cost impact on non-participants. The maximum cost impact to non-participants shall be no more than the limits established in subparagraph 3412(c)(III)(B).~~
- ~~(M) Program requirements conflict. In the event there is a conflict between participant benefits in subparagraphs 3412(h)(II)(B) and (F) and non-participant impacts in subparagraph 3412(h)(II)(L), the non-participant impact limits shall not be exceeded.~~
- ~~(N) Administrative program components. The safe harbor program administration shall include:
 - ~~(i) A written explanation of safe harbor provided to participants.~~
 - ~~(ii) Consumer education programs that shall include information on the benefits of energy conservation, and that may include referrals to other appropriate weatherization and income supplement programs.~~
 - ~~(iii) An annual process that verifies a participant's continuing income eligibility for benefits, provided that:
 - ~~(1) A process through which a participant may reapply on a less frequent basis may be implemented for categories of participants that are not likely to experience annual fluctuations in income; and~~
 - ~~(2) A process through which a participant must verify income on a more frequent basis may be implemented for participants for whom the calculation of benefits is based on a \$0 income.~~
 - ~~(3) A utility shall notify the participant for whom the benefit is based on a \$0 income of the frequency with which income must be verified.~~
 - ~~(4) A utility must provide an income verification process for a participant for whom the benefit is based on a \$0 income.~~~~~~

~~(5) — A participant whose benefit is based on a \$0 income who fails to timely verify income shall be removed from safe harbor.~~

~~(O) — Payment default provisions. Failure of a participant to make his or her monthly bill payments will result in a utility placing the participant in its regular collection cycle. A single missed, partial or late payment shall not result in the automatic removal of a participant from safe harbor.~~

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[indicates omission of unaffected rules]

COLORADO DEPARTMENT OF REGULATORY AGENCIES

Public Utilities Commission

4 CODE OF COLORADO REGULATIONS (CCR) 723-3

PART 3 RULES REGULATING ELECTRIC UTILITIES

* * * *

[indicates omission of unaffected rules]

3412. Electric Service Low-Income Program.

- (a) Scope and applicability.
- (I) Electric utilities with Colorado retail customers shall provide low-income energy assistance by offering rates, charges, and services that grant a reasonable preference or advantage to residential low-income customers, as permitted by § 40-3-106, C.R.S.
 - (II) Rule 3412 is applicable to investor-owned electric utilities subject to rate regulation by the Commission.
- (b) Definitions. The following definitions apply only in the context of rule 3412. In the event of a conflict between these definitions and a statutory definition, the statutory definition shall apply.
- (I) “Administrative cost” means the utility’s direct cost for labor, materials, and other verifiable expenditures directly related to the administration and operation of the program not to exceed ten percent of the total cost of program credits applied against bills for current usage and pre-existing arrearages or \$10,000, whichever amount is greater.
 - (II) “Affordable percentage of income payment” means the amount of the participant’s annual bill deemed affordable under subparagraph 3412(e)(I).
 - (III) “Arrearage” means the past-due amount appearing, as of the date on which a participant newly enters the program, on the then most recent prior bill rendered to a participant for which they received the benefit of service.
 - (IV) “Colorado Energy Office” means the Colorado Energy Office created in § 24-38.5-101, C.R.S.

- (V) "Eligible low-income customer" means a residential utility customer who meets the household income thresholds pursuant to paragraph 3412(c).
- (VI) "Fixed credit" means an annual bill credit established at the beginning of a participant's participation in a program each year delivered as a monthly credit on each participant's bill. The fixed credit is the participant's full annual bill minus the participant's affordable percentage of income payment obligation on the full annual bill.
- (VII) "Full annual bill" means the current consumption of a participant billed at standard residential rates. The full annual bill of a participant is comprised of two parts: that portion of the bill that is equal to the affordable percentage of income payment; and, that portion of the bill that exceeds the affordable percentage of income payment.
- (VIII) "LEAP" means Low Energy Assistance Program, a county-run, federally-funded, program supervised by the Colorado Department of Human Services, Division of Low-Income Energy Assistance.
- (IX) "LEAP participant" means a utility customer who at the time of applying to participate in a program has been determined to be eligible for LEAP benefits by the Department during either: the Department's current six-month (November 1 – April 30) LEAP application period, if that period is open at the time the customer applies for program participation; or, the Department's most recently closed six-month (November 1 – April 30) LEAP application period, if that period is closed at the time the customer applies to participate in the program and the Department's next six-month (November 1 – April 30) LEAP application period has not yet opened, provided, however, that in order to retain status as a LEAP participant under this definition, the utility customer must apply to the Department during the Department's next six-month (November 1 – April 30) LEAP benefit application period and be determined eligible for such benefits.
- (X) "Non-participant" means a utility customer who is not receiving low-income assistance under rule 3412.
- (XI) "Participant" means an eligible low-income residential utility customer who is granted the reasonable preference or advantage through participation in an electric service low-income program.
- (XII) "Program" means an electric service low-income program approved under rule 3412.
- (XIII) "Program credits" means the amount of benefits provided to participants to offset the unaffordable portion of a participant's utility bill as well as dollar amounts credited to participants for arrearage forgiveness.
- (XIV) "Unaffordable portion" means the amount of the estimated full annual bill that exceeds the affordable percentage of income payment.

- (c) Participant eligibility. Eligible participants are limited to those with a household income at or below 185 percent of the current federal poverty level, or, if the utility applies individual LEAP benefits to offset the costs of the unaffordable portion of the participating customer's utility bill, 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.
- (I) Electric utilities may obtain federal annual poverty level income amounts based on household size on the Colorado Department of Human Services, Division of Low Income Energy Assistance website at <https://sites.google.com/a/state.co.us/cdhs-leap/program-eligibility>.
 - (II) If the utility applies individual LEAP benefits to offset the unaffordable portion of the participant's utility bill, the utility shall obtain household income information from LEAP.
 - (III) If a participant's household income is \$0, the utility may establish a process that verifies income on a more frequent basis.
 - (IV) Program participants shall not be required to make payment on their utility account as a condition of entering into the program.
- (d) Enrollment. Utilities shall be responsible for the methods by which participant enrollment in their approved low income program is obtained and sustained, however the utility should engage in enrollment processes that are efficient and attempt to maximize the potential benefits of participation in the low income program by low income customers.
- (e) Payment plan.
- (I) Participant payments for electric bills rendered to participants shall not exceed an affordable percentage of income payment. The percentage of a participant's household income for which the participant is responsible shall be determined as follows:
 - (A) for electric accounts for which electricity is the primary heating fuel, participant payments shall be no lower than three percent and not greater than six percent of the participant's household income; and
 - (B) for electric accounts for which electricity is not the primary heating fuel, participant payments shall be no lower than two percent and not greater than three percent of the participant's household income.
 - (II) In the event that a primary heating fuel for any particular participant has been identified by LEAP, that determination shall be final.
 - (III) Notwithstanding the percentage of income limits established in subparagraph 3412(e)(I), a utility may establish minimum monthly payment amounts for participants with household income of \$0, provided that:
 - (A) the participant's minimum payment for an electric heating account shall be no more than \$20.00 a month; and

- (B) the participant's minimum payment for an electric non-heating account shall be no more than \$10.00 a month.
- (IV) Full annual bill calculation. The utility shall be responsible for estimating a participant's full annual bill for the purpose of determining the unaffordable portion of the participant's full annual bill delivered as a fixed credit on the participant's monthly billing statement.
- (V) Fixed credit benefit. The fixed credit shall be adjusted during a program year in the event that standard residential rates, including commodity or fuel charges change to the extent that the full annual bill at the new rates would differ from the full annual bill upon which the fixed credits are currently based by 25 percent or more.
- (VI) Levelized budget billing participation. A utility shall enroll participants in its levelized budget billing program as a condition of participation in the program. Should a participant fail to meet monthly bill obligations and be placed by a utility in its regular delinquent collection cycle, the utility may remove the participant from levelized budget billing in accordance with the utility's levelized budget billing tariff.
- (VII) Arrearage credits.
 - (A) Arrearage credits shall be applied to pre-existing arrearages.
 - (B) Arrearage credits shall be sufficient to reduce, when combined with participant copayments, if any, the pre-existing arrearages to \$0.00 over a period not less than one month and not more than twenty-four months.
 - (C) Application of an arrearage credit to a participant account may be conditioned by the utility on one or more of the following:
 - (i) the receipt of regular participant payments toward bills for current usage; or
 - (ii) the payment of a participant copayment toward the arrearages so long as the participant copayment does not exceed one percent of gross household income.
 - (D) Should the participant exit the program prior to the full forgiveness of all pre-existing arrearages, the amount of remaining pre-existing arrearages shall become due in accordance with the utilities tariff filed under rules 3401, 3407, and 3408.
 - (E) Pre-existing arrears under this subparagraph shall not serve as the basis for the termination of service for nonpayment or as the basis for any other utility collection activity while the customer is participating in the safe harbor program.
 - (F) A participant may receive arrearage credits under this section even if that participant does not receive a credit toward current bills, if the participant enters into and maintains a levelized budget billing plan.

- (VIII) Portability of benefits. A participant may continue to participate without reapplication should the participant change service addresses, but remain within the service territory of the utility providing the benefit, provided that the utility may make necessary adjustments in the levelized budget billing amount to reflect the changed circumstances. A participant who changes service addresses and does not remain within the service territory of the utility providing the benefit must reapply to become a participant at the participant's new service address.
 - (IX) Payment default provisions. Failure of a participant to make his or her monthly bill payments will result in a utility placing the participant in its regular collection cycle. Missed, partial or late payments shall not result in the removal of a participant from the program.
- (f) Program implementation.
- (I) Each utility shall maintain effective terms and conditions in its tariffs on file with the Commission containing its low-income program.
- (g) Cost recovery.
- (I) Each utility shall include in its low income tariff terms and conditions how costs of the program will be recovered.
 - (II) Program cost recovery.
 - (A) Program cost recovery shall be based on a fixed monthly fee.
 - (B) The maximum impact on residential rates shall be no more than \$00.315 per month.
 - (C) In order to determine monthly rates applicable to rate classes other than residential, program costs shall be allocated to each retail rate based on each rate class's share of the test year revenue requirement established in the utility's last Phase II rate case, or under another reasonable methodology supported by quantifiable information. The monthly rate per this subparagraph to be charged each rate schedule customer shall be clearly stated on a tariff sheet.
 - (D) Utilities shall separately account for the cumulative program cost recovery and cumulative program and administrative costs to determine if the net of program cost recovery and program and administrative cost are in balance during the program year.
 - (i) By October 31, 2016 utilities shall determine if the total cumulative cost recovery amount exceeds total cumulative program and administrative costs through September 30, 2016. If at that time total cumulative cost recovery exceeds total cumulative program and administrative costs by 50 percent or more, the over collected amount shall be refunded to all customers in accordance with rule 3410.

- (ii) Beginning November 30, 2017 and in each year thereafter, the utility shall file a report with the Commission in the most recent miscellaneous proceeding for annual low-income filings detailing the net difference between program cost recovery and program costs as of September 30 of each year.
 - (1) Should the net difference of program cost recovery over program costs be greater than 50 percent derived in (ii) above, either positive or negative, and the utility is not currently at the maximum impact for non-participants, the utility shall file with the Commission an advice letter and tariff pages seeking approval for the rates determined in subparagraph 3412(g)(II)(D) in order to bring the projected recovery in balance for the ensuing 12 month period. The revised charge shall not exceed the maximum impact for non-participants in subparagraph 3412(g)(II)(C).
- (III) The following costs are eligible for recovery by a utility as program costs:
 - (A) program credits or discounts applied against bills for current usage.
 - (B) program credits applied against pre-existing arrearages.
 - (C) program administrative costs.
 - (D) Commission-sponsored program evaluation costs required under paragraph 3412(k)
- (IV) The utility shall apply, as an offset to cost recovery, all program expenses attributable to the program. Program expenses include utility operating costs; changes in the return requirement on cash working capital for carrying arrearages; changes in the cost of credit and collection activities directly related to low-income participants; and changes in uncollectable account costs for these participants.
- (V) LEAP grants. The utility shall apply energy assistance grants provided to the participant by the LEAP program to the dollar value of credits granted to individual program participants.
 - (A) A utility shall apply any energy assistance benefit granted to the participant by LEAP to that portion of the program participant's full annual bill that exceeds the participant's affordable percentage of income payment.
 - (B) If the dollar value of the energy assistance grant is greater than the dollar value of the difference between the program participant's full annual bill and the participant's affordable percentage of income payment, the dollar amount by which the energy assistance grant exceeds the difference will be applied:
 - (i) first, to any pre-existing arrearages that at the time of the energy assistance grant continues to be outstanding; and

- (ii) second, to the account of the program participant as a benefit to the participant.
 - (C) No portion of the LEAP grant provided to a program participant may be applied to the account of a participant other than the participant to whom the energy assistance grant was rendered.
 - (D) If an all-electric utility's low-income customers do not benefit widely from LEAP grants, the utility shall not apply the dollar value of credits granted to individual LEAP grantees to the dollar value of credits granted to individual program participants.
- (h) Other programs. In addition to the utility's low-income program, with Commission approval, a utility may offer other rate relief options to eligible households.
 - (I) Other programs offered by the utility under rule 3412 must be intended to reach low-income households that do not substantially benefit from the provisions of the low-income program. Such programs may take the form of discount rates, tiered discount rates or other direct bill relief methods where the low-income household benefitting from the program is granted a reasonable preference in tariffed rates assessed to all residential utility customers.
 - (II) Cost recovery for other programs combined with the Percentage of Income Payment Plan shall not exceed the maximum impact on residential rates described in subparagraph 3412(g)(II)(C).
- (i) Energy efficiency and weatherization.
 - (I) The utility shall provide all program participants with information on energy efficiency programs offered by the utility or other entities and existing weatherization programs offered by the state of Colorado or other entities.
 - (II) The utility shall provide the Colorado Energy Office with the name and service address of participant households for which annual electricity usage exceeds 10,000 kWh annually.
- (j) Stakeholder engagement. A utility shall conduct annual meetings with low-income stakeholders for the purpose of seeking solutions to issues of mutual concern and aligning program practices with the needs of customers and other stakeholders.
- (k) Program evaluation. A triennial evaluation of the program provisions under rule 3412 beginning in 2019 shall be undertaken in order to review best practices in similar low-income assistance programs in existence in other regulatory jurisdictions, as well as evaluate operation of each utility's program for effectiveness in achieving optimum support being provided to low income participants. The evaluation shall also recommend modifications if available that improve the delivery of benefits to participants and increase the efficiency and effectiveness of each program as they exist at the point of evaluation.

- (I) Procurement of the third-party vendor that will perform the evaluation will be undertaken by the Colorado Energy Office. The CEO shall seek the involvement of interested stakeholders including, but not limited to, Commission staff, all Commission regulated electric and gas utilities, LEAP, the Office of Consumer Counsel, and Energy Outreach Colorado in the design of the requirements regarding study focus and final reporting.
 - (II) Approval of the third-party vendor shall be the responsibility of the Commission. The CEO shall file with the Commission in the most recent annual report proceeding, a request for approval of the contract of the vendor selected. The Commission shall review and act on the request within 30 days.
 - (III) \$00.0013 per customer per month shall be set aside by the utility starting in the 2016-2017 program year in order to fund the triennial evaluation of the program provisions under paragraph 3412(k).
 - (IV) The dollars resulting from the \$00.0013 charge shall be recovered as a program cost under subparagraph 3412(f)(IV).
 - (V) The evaluation will be filed by Commission staff in the most recent miscellaneous proceeding for annual low income filings.
 - (VI) Staff and the CEO will assess the individual utilities deferred balances set aside for the program evaluation starting in 2019 at the conclusion of the third program year and each three years thereafter and will determine the amounts each utility is to remit to the third party evaluator based on the contractual terms approved by the Commission for the evaluation.
- (I) Annual report. No later than November 30, 2016 each utility shall file a report in the most recent miscellaneous proceeding for annual low-income filings using the form available on the Commission website, based on the seven-month period April 1, 2016 through October 31, 2016, and then on November 30 each of the following years, based on each 12-month period ending October 31, containing the following information:
- (I) monthly information on the program including number of participants, amount of benefit disbursement, type of benefit disbursement, LEAP benefits applied to the unaffordable portion participant's bills, administrative costs, and revenue collection;
 - (II) the number of applicants for the program;
 - (III) the number of applicants qualified for the program;
 - (IV) the number of participants;
 - (V) the average assistance provided, both mean and median;
 - (VI) the maximum assistance provided to an individual participant;
 - (VII) the minimum assistance provided to an individual participant;

- (VIII) total cost of the program and the average rate impact on non-participants by rate class, including impact based on typical monthly consumption of both its residential and small business customers;
- (IX) the number of participants that had service discontinued as a result of late payment or non-payment, and the amount of uncollectable revenue from participants;
- (X) an estimate of utility savings as a result of the implementation of the program (e.g., reduction in trips related to discontinuance of service, reduction in uncollectable revenue, etc.);
- (XI) the average monthly and annual total electric consumption in PIPP participants' homes;
- (XII) the average monthly and annual total electric consumption in the utility's residential customer's homes;
- (XIII) the number of program participants referred to the weatherization program;
- (XIV) a description of the ways in which the program is being integrated with existing energy efficiency of DSM programs offered by the utility or other entities;
- (XV) a description of the ways of the ways in which the program is being integrated with existing weatherization programs offered by the state of Colorado or other entities;
- (XVI) a description of program outreach strategies and metrics that illustrate the effectiveness of each outreach strategy;
- (XVII) the number of participants at the start of the program year that the utility removed for any reason, the number of potential participants rejected because of the existence of a cap on the program, the period of arrearage time from date participants became eligible and were granted arrearage forgiveness, and the number of participants who came back as eligible participants in the program year after being eligible in a prior program year and were provided arrearage in the program year; and
- (XVIII) the utility's recommended program modifications based on report findings.

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[indicates omission of unaffected rules]