

BASIS, PURPOSE, AND STATUTORY AUTHORITY

The basis and purpose of these rules is to generally set forth rules describing the service to be provided by jurisdictional electric utilities and master meter operators to their customers. The rules address a wide variety of subject areas including, but not limited to, service interruption, meter testing and accuracy, safety, line extensions, construction standards, customer information, customer deposits, rate schedules and tariffs, discontinuance of service, and master meter operations.

The statutory authority for these rules can be found at §§ 40-1-103.5, 40-2-108, 40-3-102, 40-3-103, 40-4-101, 40-4-106, 40-4-108, and 40-4-109, C.R.S.

RULE (4 CCR) 723-3-1. APPLICATION OF RULES.

723-3-1(a) The following rules shall apply to any person, co-partnership, cooperative electric association, non-profit electric corporation or association, firm, corporation, their lessees, trustees, or receivers appointed by any court, now or hereafter engaged in the business of a public utility furnishing electricity to domestic, commercial or industrial customers operating under the jurisdiction of The Public Utilities Commission of the State of Colorado.

723-3-1(b) The adoption of these rules shall in no way preclude the Commission from altering or amending the same in whole or in part or from requiring any other additional service equipment, facility or standard, either upon complaint or upon its own motion, or upon the application of any utility. In special cases, for good cause shown, not contrary to statute, the Commission may permit deviation from these rules insofar as it may find compliance therewith to be impossible, impracticable or unnecessary. If, for good cause shown, any utility is permitted a deviation from any of these rules, such modified rules as authorized by the Commission shall be set forth in the filed tariffs of the utility. Furthermore, these rules shall not in any way relieve any utility from any of its duties under the laws of this State.

RULE (4 CCR) 723-3-2. DEFINITIONS.

723-3-2(a) The word "Utility" as used in these rules shall be construed to mean any person, co-partnership, cooperative electric association, non-profit electric corporation or association, firm, corporation, whether privately owned or otherwise, when subject to the jurisdiction of this Commission, their lessees, trustees or receivers appointed by any court whatsoever that may now or hereafter be engaged as a public utility in the business of furnishing electricity to domestic, commercial or industrial customers in the State of Colorado.

723-3-2(b) The word "Commission" as used in these rules shall be construed to mean the Public Utilities Commission of the State of Colorado.

723-3-2(c) The word "Customer" as used in these rules shall be construed to mean any person, group of persons, co-partnership, firm, corporation, institution, any agency of the Federal, State or local governments, their lessees, trustees, or receivers appointed by any court, contracting for electric service from any utility for consumptive domestic, commercial, or industrial use, or at wholesale.

RULE (4 CCR) 723-3-3. OPERATING SCHEDULES AND INTERRUPTIONS OF SERVICE.

723-3-3(a) Each utility shall adopt an operating schedule, and shall report the same, or any changes therein, to this Commission, indicating in any case where service is not rendered continuously, the time at which service is commenced, and the time at which it is discontinued. Any changes in such operating schedules shall be made only with the approval of this Commission. The operating schedules may be filed as a part of the utility rate schedules.

723-3-3(b) Each utility shall keep a record of all interruptions of service upon its entire system or major divisions thereof, including a statement of the time, duration and cause of any such interruption. Each utility shall, except for stations operated without attendants, also keep a record of the time of starting up or shutting down the central station or substations. This record shall include the readings taken periodically of station meters and switchboard instruments, which readings shall be taken with such frequency as the utility or the Commission may from time to time require.

723-3-3(c) The record of interruptions of service and a statement of the operating schedules of the utility shall be open at all times to the inspection of the duly authorized representatives of this Commission.

723-3-3(d) All records under this rule shall be retained by the utility for a period of three years.

RULE (4 CCR) 723-3-4. INSPECTION OF PLANT AND EQUIPMENT.

Each utility shall inspect its plant and distributing equipment and facilities in such manner and with such frequency as is in accord with good practice, in order that the same may be maintained in proper condition for use in rendering safe and adequate service.

RULE (4 CCR) 723-3-5. METER TESTING FACILITIES AND EQUIPMENT.

723-3-5(a) Each utility furnishing metered electric service shall, unless specifically excused by the Commission, provide such meter laboratory, standard meters, instruments, and other equipment and facilities as may be necessary to make the tests required by these rules. Such equipment and facilities shall be acceptable to the Commission and shall be available at all reasonable times for the inspection of its authorized representatives.

723-3-5(b) Each utility shall make such tests as are prescribed under these rules with such frequency and in such manner and at such places as may be approved by this Commission.

723-3-5(c) Each utility furnishing metered electric service shall provide such portable indicating electrical testing instruments or watt-hour meters of suitable range and type for testing service watt-hour meters, switchboard instruments, recording volt-meters, and other electrical instruments in use, as may be deemed necessary and satisfactory by the Commission.

723-3-5(d) For testing the accuracy of portable watt-hour meters, commonly called "rotating standards," and other portable instruments used for testing service meters, each utility not specifically excused by the Commission, as provided for in paragraph 5(a) of this rule, shall provide as reference or check standards suitable indicating electrical instruments, watt-hour meters, or any or all of them hereafter called "reference standards." Such reference standards may be of the service type of watt-hour meters, but if so, such watt-hour meters shall be permanently mounted in the meter laboratory of the utility and be used for no other purpose than for checking rotating standards.

723-3-5(e) Reference standards shall be submitted at least once each year to a laboratory of recognized standing, for the purpose of test and adjustment. Utilities maintaining standardizing laboratories will be permitted to make their own tests and certification of reference standards, provided the instruments and methods in use are acceptable to this Commission.

723-3-5(f) All working rotating standards (portable watt-hour meters) shall be compared with the reference standards at least once a week for commutator types, and once in two weeks for induction types, during the time such working standards are being regularly used. If working rotating standards (portable watt-hour meters) are in error of not more than one percent, plus or minus, at any load at which the standard shall be used, the standard may be adjusted by comparison with the utility's reference standards. However, if working rotating standards test in

error of more than one percent, plus or minus, such standards shall be tested, adjusted, and certified in a standardizing laboratory of recognized standing. Where a utility does not have a reference standard of its own but has an exemption as provided in paragraph 5(a), it shall have its working rotating standards (portable watt-hour meters) tested by a standardizing laboratory of recognized standing at least once a year. Each rotating standard (portable watt-hour meters) shall at all times be accompanied by a certificate or calibrating card signed by the standardizing laboratory, giving the date when it was last certified and adjusted. Records of certification and calibrations shall be kept on file in the office of the utility, for the life of the instruments.

723-3-5(g) All portable indicating electrical testing instruments, such as voltmeters, ammeters and wattmeters, when in regular use for testing purposes, shall have their calibration regularly and frequently determined, using suitable reference standards. Instruments in constant use should be checked at least every two weeks, and if found appreciably in error at zero, or more than one percent of full scale value at commonly used scale deflection shall, unless accompanied by a calibration card, be adjusted and certified by a laboratory acceptable to this Commission. This two-week interval may be lengthened if the instrument is used infrequently and is carefully handled, but in any case the instrument shall be checked at least annually.

RULE (4 CCR) 723-3-6. RECORDS OF TESTS AND OF METERS.

723-3-6(a) A record shall be maintained on each meter owned or used by the utility. Such records shall show the date of purchase, manufacturer's serial number, record of the present location, and date and results of the last test performed by the utility, which record shall be retained for the life of the meter.

723-3-6(b) Whenever a meter is tested either on request or upon complaint the test record shall include the information necessary for identifying the meter, the reason for making the test, the reading of the meter if removed from service, the result of the test, together with all data taken at the time of the test in sufficiently complete form to permit the convenient checking of the methods employed and the calculations made. Such record shall be retained for a period of two years.

RULE (4 CCR) 723-3-7. ACCIDENTS.

723-3-7(a) Each utility shall, as soon as possible, report to this Commission each accident happening in connection with the operation of its property, facilities or service, wherein any person shall have been killed or seriously injured, or whereby any serious property damage shall have resulted. Such report to this Commission shall describe in detail:

- (1) Date, time, place, location
- (2) Extent of injuries and other damage
- (3) Names of all parties involved
- (4) Type of accident

In addition to the above, all utilities shall immediately upon the setting of any formal investigation of the accident, notify the Commission of the date, time and place of such investigation.

723-3-7(b) All accident reports submitted to the Commission by the utility shall be treated by the Commission in accordance with the provisions of the Colorado Open Records Act, § 24-72-201, et seq., C.R.S..

RULE (4 CCR) 723-3-8. COMPLAINTS.

Each utility shall make a full and prompt investigation of all complaints made to it by its customers, either directly or through the Commission, and it shall keep a record of all written complaints received which shall show the name and address of the complainant, the date and character of the complaint, and the adjustment or disposal made thereof. This record shall be open at all times to the inspection of the duly authorized representatives of this Commission, and unless otherwise specified in these rules shall be retained by the utility for a period of two years.

RULE (4 CCR) 723-3-9. INFORMATION FOR CUSTOMERS.

723-3-9(a) Each utility shall at any time, on request, give its customers such information and assistance as is reasonably possible in order that customers may secure safe and efficient service and may secure lamps and appliances properly adapted to the service furnished. Each utility shall inform each customer of any such change made, or proposed to be made, in any condition as to its service as would affect the efficiency of the service or the operation of the appliances or equipment which may be in use by said customer.

723-3-9(b) Each utility supplying metered service, on request, shall explain to its customers the method of reading meters.

723-3-9(c) Each electric utility shall transmit to each of its electric consumers a clear and concise explanation of the existing rate schedule applicable to such consumer. Such statement shall be transmitted to each consumer:

723-3-9(c)(1) Upon application for service, but not later than 60 days after the date of commencement of service to such consumer or 90 days after the establishment of this rule, whichever last occurs, and

723-3-9(c)(2) Not later than 10 days after request of an electric consumer of such utility.

723-3-9(d) Each electric utility, on request of an electric consumer of such utility, shall transmit to each such consumer:

723-3-9(d)(1) A clear and concise summary of the existing rate schedule applicable to each of the major classes of its electric consumers for which there is a separate rate, and

723-3-9(d)(2) An identification of any classes whose rates are not summarized. Such summary may be transmitted together with such consumer's billing or in such other manner as each electric utility deems appropriate.

723-3-9(e) Each electric utility, on request of an electric consumer of such utility, shall transmit to each such consumer a clear and concise statement of the actual consumption (or degree-day adjusted consumption) of electric energy by such consumer for each billing period during the prior year (unless such consumption data is not reasonably ascertainable by the utility).

723-3-9(f) Transmittal shall be by such method as to assure receipt by each and every consumer of information required to be provided pursuant to this Rule, including "bill stuffer," periodical or direct mail where the same is mailed to all consumers.

723-3-9(g) Any information required to be transmitted pursuant to this Rule shall contain a statement in Spanish to the effect that "If you do not read English you should request someone who understands Spanish and English to translate this notice for you."

RULE (4 CCR) 723-3-10. METER READINGS AND BILL FORMS.

723-3-10(a) Each service meter shall indicate clearly the kilowatt hours and units of demand where

applicable for which service the charge is made to the customer. In cases where the register and/or chart reading must be multiplied by a constant or factor to obtain the units consumed, the factor, factors or constant shall be clearly marked on the register or face of the meter.

723-3-10(b) At the time of the reading of the customer's meter or thereafter, upon the customer's request, the utility will provide a card or slip showing the date of the reading, and either the total usage expressed in kilowatt hours or other unit of service recorded, or the position of the hands upon the dial of such meter at the time of the reading.

723-3-10(c) All bills rendered to customers for metered service furnished shall show:

723-3-10(c)(1) Net amount due;

723-3-10(c)(2) Dates and meter readings beginning and ending the period during which service was rendered;

723-3-10(c)(3) A distinct marking to identify an estimated bill;

723-3-10(c)(4) An appropriate rate or rate code identification;

723-3-10(c)(5) Last date payable after which the bill becomes past due; and

723-3-10(c)(6) All other essential facts upon which the bill is based, including factors and/or constants where practical as in Rule 10(a) above.

723-3-10(d) Where a utility has the customer read the meter and submit the data to the utility, the tariff of the utility shall clearly state what areas provide for customer meter reading and what areas are to read by the utility. The tariff shall also state whether all meters in a particular area are to be read by the customer or if special conditions apply to certain classes of service, such as residential, commercial, industrial or seasonal. The tariff shall also specify in detail the procedure to be followed for customer meter reading.

723-3-10(e) Any customer shall be permitted to make installment payments if a bill includes amounts from past billing periods arising solely from events under control of the utility such as meter malfunctions, billing errors, utility meter reading errors or failure to read the meter, which failure shall not apply where the meter is not readily accessible to the utility and the customer refuses to read his own meter. Any installment payments under the provisions of this rule may extend over a period equal in length to the period during which the errors were accumulated and shall bear no interest.

723-3-10(f) Each utility with a total system load of greater than 100 megawatts shall provide (i) itemized average electricity bill component percentages for power supply and power delivery and (ii) electricity power supply fuel source information to all end-use customers. The information shall be provided in October and April of each year, at a minimum. This itemized information may be provided to customers in the form of a bill insert or a separate mailing. The required individual items are fully described below.

723-3-10(f)(1) An application for approval of the proposed customer information statement, along with the explanatory information to be issued to customers with the statement, shall be filed with the Commission on or before June 1, 1999. Supporting documentation concerning the calculations used to determine the percentages set forth in the disclosure shall also be included with the application. An example of the proposed customer information statement, along with the explanatory information to be issued with the statement, shall be filed with the Commission by transmittal letter on or before June 1 of each subsequent year.

723-3-10(f)(2) The percentage components of the total average delivered price of electricity attributable to power supply and to power delivery, respectively, for the previous calendar year shall be listed. Power supply shall include all generation, purchase power, and non-utility transmission components. Power delivery shall include all utility transmission and distribution components. Percentage components shall be provided based upon an average residential or commercial bill, as applicable. Fixed and variable components of the bill shall be averaged over the previous calendar year. Disclosure of percentage components on bills other than residential and commercial may be provided at the option of the utility.

723-3-10(f)(3) The power supply mix shall list the fuel sources, expressed as a percentage of average annual power acquired and generated by the utility. The power supply mix percentages shall be those for the previous calendar year. Power supplied by non-utility generation sources shall be included in the power supply fuel source composition to the extent that the generation sources of that power are known or identifiable. The utility shall make every reasonable effort to identify all such supply sources. Those sources which are not identifiable shall be listed as "imported, fuel source unknown". At a minimum, fuel mixture information shall be provided using the following fuel type categories and in the following order, rounded to the nearest tenth of one percent:

- a) Bio-mass and Waste
- b) Coal
- c) Geothermal
- d) Hydroelectric
- e) Natural gas
- f) Nuclear
- g) Solar
- h) Wind
- i) Imported, Fuel Source Unknown

723-3-10(f)(4) FORMAT. Price components and sources of power supply shall appear together in a format no larger than one page and shall be clearly legible. The suggested format for the information disclosure is as follows:

ELECTRICITY FACTS**Price Components**

Percentage components for an average monthly residential* electric bill.

	Residential * Service
Power Supply (Generation & Purchase)	xx%
Power Delivery (Transmission & Distribution)	xx%

Power Supply Mix
(Generation & Purchase)

Fuel sources used in power generation and purchase for the calendar year xxxx for all utility customers.

Fuel Type	%
Bio-mass and Waste	x.x%
Coal	x.x%
Geothermal	x.x%
Hydroelectric	x.x%
Natural Gas	x.x%
Nuclear	x.x%
Solar	x.x%
Wind	x.x%
Imported, Fuel Source Unknown	x.x%
Total	100%

* Commercial Service should be substituted in the disclosure for commercial customers.

RULE (4 CCR) 723-3-11. CUSTOMER DEPOSITS.

723-3-11(a) A utility may require at any time from a customer or prospective customer, a cash deposit intended to guarantee payment of current bills, but only in accordance with this rule. A deposit intended to guarantee payment of current bills shall not exceed an amount equal to an estimated ninety days' bill of the customer, except in the case of a customer whose bills are payable in advance of service, in which case, the deposit shall not exceed an estimated sixty days' bill of the customer. A deposit required pursuant to this rule may be in addition to any advance, contribution, or guarantee in connection with construction of lines or facilities, as provided in the extension policy of the utility's tariffs on file with the Commission. Simple interest shall be paid by the utility upon a deposit at the percentage rate per annum as calculated by the Staff of the Commission and in the manner provided in this rule, payable upon the return of the deposit, or annually at the request of the customer. Interest on a deposit shall be earned for the time such deposit is held by the utility, and shall be calculated from the date the deposit is received by the utility to the date of payment to the customer or to the date an amount equal to the deposit is credited to the customer's account. Interest payments, at the option of the utility, may be paid directly to the customer or by a credit to the customer's account. The simple interest rate to be paid on customer deposits shall be determined by the Commission Staff on an annual basis. The rate shall be computed at a rate equal to the average for the period October 1 through September 30 (of the immediately preceding year) of the 12 monthly average rates of interest expressed in

percent per annum, as quoted for one-year United States Treasury constant maturities, as published in the Federal Reserve Bulletin, by the Board of Governors of the Federal Reserve System. If the difference between the existing customer deposit interest rate and the newly calculated rate is 25 basis points or more, the newly calculated interest rate shall be used beginning January 1 of the following year; otherwise the rate shall remain unchanged. When it is determined that a change in the interest rate is warranted, the Commission shall send a letter to each utility within the State by November 15th identifying the new rate to be paid on deposits beginning January 1 of the next year. Following notification by the Commission, each provider shall file an Advice Letter and revised tariff containing the new interest rate, on not less than one day's notice, citing this rule as authority, to be effective January 1 of the following year. To the extent any of the dates contemplated herein are modified, there shall be at least 45 days between the date of the notification letter and the effective date of the rate change.

723-3-11(b) Customers who have previously received service from the utility shall be required to make a new or additional deposit only if previous payment record includes recent or substantial delinquencies. Customers who have not previously been served by the utility shall be treated uniformly within each rate classification so that either all or none of the new customers within such classification will be required to make a deposit.

723-3-11(c) Each utility having on hand such deposits from customers, or hereafter receiving such deposits from customers, shall keep records to show:

723-3-11(c)(1) The name of each customer making a deposit;

723-3-11(c)(2) The premises occupied by the customer when making the deposit and each successive premises occupied while the deposit is retained by the utility;

723-3-11(c)(3) The amount and date of making the deposit; and

723-3-11(c)(4) A record of each transaction, such as the payment of interest, interest credited, etc., concerning such deposit.

723-3-11(d) Each utility shall issue a receipt to every customer from whom such deposit is received.

723-3-11(e) No utility shall refuse to return a deposit or any balance to which a customer may be entitled solely upon the basis that the customer is unable to show a receipt for such deposit.

723-3-11(f) Each utility shall file as part of its tariffs a brief statement setting forth its deposit requirement policy, explaining under what circumstances a deposit shall be required and when such deposit shall be returned.

723-3-11(g) The making of a deposit shall not relieve any customer from payment of current bills as they become due and no deposit shall be applied by the utility to any indebtedness of the customer to the utility except to a bill for utility services due or past due after service is terminated.

723-3-11(h) No utility shall require any security other than a cash deposit to secure payment for utility services except that a utility may provide for an acceptable third-party guarantee of payment instead of a cash deposit requirement under this rule. In no event shall the furnishing of utility services or extension of utility facilities or any indebtedness in connection therewith result in a lien, mortgage or other security interest in any real or personal property of the customer, unless such indebtedness has been reduced to judgment.

RULE (4 CCR) 723-3-12. FILING OF RATE SCHEDULES, RULES AND REGULATIONS.

723-3-12(a) Copies of all schedules of rates and individual contracts for service, forms of routine

contracts, charges for service connections and extensions of lines and of all rules and regulations covering the relations of customer and utility shall be filed by each utility in the office of this Commission.

723-3-12(b) Advice Notices. Advice Notices, numbered serially, shall accompany each tariff sheet filing with the Commission. This notice shall list all sheets included in the filing by number and showing the sheet or sheets, if any, being cancelled. The purpose of the filing shall be explained in a brief statement as well as a statement concerning the extent to which customers will be affected by such filing. The Advice Notice shall be in substantially the following form:

723-4-12(b)-Form

ADVICE NO.	<u>NAME OF PUBLIC UTILITY</u>	DATE
_____	_____	_____
_____	_____	_____

The Public Utilities Commission of the State of Colorado Logan Tower 1580 Logan Street, Office Level 2 Denver, Colorado 80203

The accompanying tariff sheet(s) issued by _____ (name of utility) _____ is (are) sent you for filing in compliance with the requirements of the Public Utilities Law: Colo. P.U.C. No. _____ Electric _____ (Tabulate sheets attached as follows):

Colo. P.U.C. Sheet Number	Title of Sheet	Cancels Colo. P.U.C. Sheet Number
_____	_____	_____
_____	_____	_____
_____	_____	_____

Etc. . . .

(Here give purposes to be accomplished by the filing and direct attention generally to the changes being made; also, state the amounts, if any, by which the utility's revenues will be affected. If customers are not adversely affected, so state).

It is desired that this filing shall become effective on statutory (30 days) notice. (If special short term authority has been sought, pursuant to Rule 17 B (2) of the Commission's Rules of Practice and Procedure, appropriately change language).

(Name and Title of Issuing Officer)

723-3-12(c) REVISED TARIFF SHEETS: Each tariff sheet, not an original, shall be designated 1st revised sheet No. _____ cancels original sheet No. _____ or 2nd revised sheet No. _____ cancels 1st revised sheet No. _____, etc., shall direct attention to the changes contained therein by the use of suitable symbols in the right margin. These symbols may be "I" increase, "D" decrease, "C" change in text, "N" new text, etc. On a contents or index page

the utility shall show the meaning of the symbols used by it to point out changes contained in its revised tariff filings.

If a tariff sheet is issued under a specific authority or decision of this Commission, each sheet so affected shall show the correct number in the space provided at the foot of the sheet.

723-3-12(d) Number of copies to be filed: An original and one copy of each advice letter and tariff sheet shall be filed. The copy will be stamped as filed and returned to the utility.

NOTE: The utility may file as many additional copies as it wishes which will also be stamped and returned.

723-3-12(e) Schedules of rates, forms of contracts and rules and regulations as filed with the Commission and available in the territory concerned shall also be on file in the local office of the utility and shall be open to inspection by the public during regular business hours.

723-3-12(f) If the reasonableness of any charge, rule, regulation or practice of any utility with reference to service connections or extensions, or of any rule covering the relations between customer and utility, is challenged, the Commission may, upon complaint and investigation, prescribe the proper charge, rule, regulation or practice which shall thereafter be followed.

723-3-12(g) The Commission may reject any filing under this rule if the utility fails to comply with the provisions as set forth in said rule.

RULE (4 CCR) 723-3-13. DISCONTINUANCE OF SERVICE.

723-3-13(a) No utility shall discontinue the service of any customer for violation of any rule of such utility and/or for non-payment of any sum due for utility service, deposits or other tarified charges, except in accordance with this rule.

723-3-13(b) REQUIREMENT FOR WRITTEN NOTICE.

723-3-13(b)(1) Written notice of proposed discontinuance of service must be mailed by first class mail, or delivered at least ten (10) days in advance of the proposed date, advising the customer in what particular such rule has been violated for which service will be discontinued, and/or the amount past due and the date by which the same shall be paid to avoid discontinuance. For purposes of this rule, "amount past due" shall refer to any sum due for utility service, deposits or other tarified charges.

723-3-13(b)(2) The notice of discontinuance shall be conspicuous in nature and in easily understood language. The heading of the notice of discontinuance shall be in block letters. The heading shall contain, at a minimum, the following warning written in English:

THIS IS A FINAL NOTICE OF DISCONTINUANCE OF ELECTRIC UTILITY SERVICE AND
CONTAINS IMPORTANT INFORMATION INVOLVING YOUR LEGAL RIGHTS AND REMEDIES.

The heading shall also contain the same warning written in Spanish, with an additional sentence at the end of the warning stating in Spanish:

IF YOU DO NOT READ ENGLISH YOU SHOULD REQUEST SOMEONE WHO UNDERSTANDS
SPANISH AND ENGLISH TO TRANSLATE THIS NOTICE FOR YOU.

723-3-13(b)(3) At a minimum, said notice shall advise the customer:

723-3-13(b)(3)(a) How to contact the utility, without expense to the customer of a toll call,

from within the utility's service area, to resolve any dispute, with respect to the amount or date due, and/or with respect to violation of any rule.

- 723-3-13(b)(3)(b) That the customer has right to make an informal complaint to the Commission staff by letter, telephone, or in person.
- 723-3-13(b)(3)(c) That the customer has a right to submit any dispute, relative to the notice, to a formal hearing by filing a written formal complaint with the Commission, as provided for in the Commission's rules, and also to file with the complaint a motion for an order to the utility not to disconnect service pending the outcome of the hearing.
- 723-3-13(b)(3)(d) That the Commission may grant a customer's motion upon such terms as the Commission deems reasonable, including but not limited to the posting of a deposit or bond with the utility or timely payment of all undisputed charges.
- 723-3-13(b)(3)(e) That a residential customer may avoid discontinuance of service by paying, on or before the expiration date of the notice, at least one-tenth of the amount shown on the notice and entering into a reasonable installment plan with the utility to pay the remaining past-due balance in equal monthly installments, according to the provisions of Rule 13 of these Rules.
- 723-3-13(b)(3)(f) That in the event a residential customer is unable to pay for service as regularly billed by the utility, or is able to pay for such service but only in reasonable installments and a medical certification is delivered to the utility indicating that discontinuance of service would be especially dangerous to the health or safety of a residential customer or a permanent resident of the residential customer's household, that there will not be discontinuance of service for sixty days from the date of the medical certification with a possible thirty-day extension upon delivery of a second medical certification, prior to the expiration of the initial sixty-day period.
- 723-3-13(b)(3)(g) That in the event service is discontinued for non-payment, service may be restored if a residential customer pays any reconnection and collection charges as may be specifically required in the event of discontinuance according to the utility's tariff and enters into an installment payment arrangement; or if the customer presents a medical certification.
- 723-3-13(b)(3)(h) Of major federal, state or local government agencies, known to the utility, which provide customer assistance or benefits relating to utility service. Unintentional error, by omission or incorrectness, of a utility in providing such information shall not render the notice void.
- 723-3-13(b)(3)(i) Whether the utility will require, as a condition of avoiding discontinuance or of restoring service if discontinued, payment only in the form of cash or certified funds from the customer to whom notice is sent.
- 723-3-13(b)(3)(j) That the customer has the right to a hearing in person, at a reasonable time and place, within ten (10) days of the date notice is sent, before the utility's manager or manager's designee, according to procedures adopted by the utility for such hearings.
- 723-3-13(b)(4) In the event the customer previously has executed a third-party notification form indicating a third-party to whom notices of discontinuance are to be sent, written notice also shall be mailed by first class mail or delivered at least ten (10) days in advance of

the proposed discontinuance date to said third-party. The utility shall furnish a third-party notification form to each new residential customer. Moreover, the utility shall inform its residential customers at least annually of the availability of the third-party notification form and a method for obtaining a copy of the form. The customer, at his/her option, may mail or deliver to the utility such third-party notification form, which form shall be signed by both the customer (or his/her legal representative) and by the third-party to be notified in the event of possible discontinuance of service. Said third-party notification form shall be substantially in the following format:

723-3-13(b)(4)-Form

Name of customer _____

_____ Street address of customer _____ City,
State and Zip Code Telephone Number _____

Third-party to be notified in the event of possible discontinuance of service:

Name _____ Street Address
_____ City, State and Zip Code Telephone Number
_____ Relationship to Customer _____

_____ Signature of Customer _____ Signature of
Third-Party

Date _____

723-3-13(b)(5) Energy Diversion.

723-3-13(b)(5)(a) If any energy-consuming devices are discovered connected on the line side of the utility's meter, or if connections or devices of any kind are found installed on the customer's premises which would prevent the meter from registering the actual amount of energy used, notice may be given as for a rule violation, giving the customer ten (10) days in which to remove or correct said devices or connections, and advising the customer of the possibility of an estimated bill for energy consumed but not properly registered. Or, the utility may elect to remove or correct said devices or connections itself. In the latter event, any momentary interruption of service necessary for the purpose of repair or remedy shall not constitute discontinuance, and thus shall not require advance notice. However, written notice must be left at the premise, advising the customer of the nature of the violation, the steps taken by the utility to correct it, and the possibility that the customer may be billed for estimated consumption not properly registered.

723-3-13(b)(5)(b) The mere discovery of a broken seal or any evidence that the meter has been tampered with shall not constitute cause for discontinuance, by itself. Rather, the utility shall mail or deliver written notice advising the customer of the discovery, the steps to be taken by the utility to determine whether non-registration of energy has occurred and/or subsequently occurs, and the possibility that the customer may be billed for estimated energy consumed but not registered, if any.

723-3-13(b)(6) The foregoing requirements for notice may be waived:

723-3-13(b)(6)(a) When, in the opinion of the utility, an immediate discontinuance of

service to the premises is imperative for reasons of safety. Such reasons might include a condition or installation of any part of the customer's or the utility's lines, pipes, apparatus or appliances which is found to be dangerous to life, health or safety of any person.

723-3-13(b)(6)(b) When discontinuance is ordered by any properly constituted governmental authority due to alleged violations by the customer of the ordinances, statutes or regulations applicable to the service. The utility shall not be responsible for ascertaining such conditions.

723-3-13(b)(6)(c) When service, having been discontinued in accordance with this rule, is discovered restored by someone other than the utility and the original cause for the discontinuance has not been cured.

723-3-13(b)(7) Multi-Unit Dwellings.

723-3-13(b)(7)(a) In situations involving permanent residents in multi-unit dwellings, or a cluster of dwellings, known by the utility to exist, where the utility service recorded on a single meter is used either directly or indirectly by more than one dwelling unit, the utility shall issue notice as required in Rule 13(b) (1)–(3), except that the notice period shall be thirty (30) days and except that such notice also may include the current bill. Service may be discontinued for failure to pay the amount on the notice, subject to the other provisions of this Rule 13(b)(7).

723-3-13(b)(7)(b) No less than thirty (30) days prior to the proposed date of discontinuance, for which notice has been given in accordance with Rule 13(b)(7) (a), the utility also shall provide written notice to each individual dwelling unit, in the manner set forth in Rule 13(b)(7)(c). Said notice shall state that a notice of discontinuance has been sent to the party responsible for the payment of utility bills for the dwelling; the proposed date of discontinuance; that the occupants of the dwelling units may avoid discontinuance by paying the next new bill in full within thirty (30) days of its issuance and successive new bills within thirty (30) days of issuance; how to contact the utility for additional information or to make arrangements to receive a copy of the next new bill.

723-3-13(b)(7)(c) Notice to occupants as described in Rule 13(b)(7)(b) shall be delivered to each dwelling unit or mailed to the addressee or occupant of each unit. In addition, a copy of the notice shall, to the extent possible, be posted in at least one of the common areas of the multi-unit dwelling. A copy of the notice, together with an affidavit stating how the utility has delivered, mailed or posted notices, or attempted to do so to each dwelling unit or occupant of each unit shall be retained by the utility for a period of six months from the date the notice was issued. The notices and affidavit shall be made available to the Commission upon request during the retention period. The utility shall provide to the Commission by the tenth day of each month a list of notices issued during the preceding month. This list shall contain the name or account number of party responsible for payment and the service address.

723-3-13(b)(7)(d) Service may not be discontinued if the party responsible for payment pays the amount on the notice or if the occupants pay each new bill within thirty (30) days of issuance.

723-3-13(b)(7)(e) Occupants shall not be entitled to installment payments or any payment plan other than paying each new bill in full within thirty (30) days of issuance to avoid discontinuance.

723-3-13(b)(7)(f) Service may be discontinued, without further notice or attempt at personal contact, for failure of the occupants to pay each new bill within thirty (30) days of issuance.

723-3-13(b)(8) In addition to the written notice required by this Rule 13(b), the utility also shall send, on a separate document which need not be under separate cover, a notice that the customer has certain rights with regard to discontinuance, together with a statement advising the customer how to contact the staff of the Commission for further information. Said notice shall be printed in no less than 10-point bold-face type and shall be, in style and content, substantially in the following format:

YOUR RIGHTS CONCERNING DISCONTINUANCE

Under the rules of the Colorado Public Utilities Commission (PUC), you have certain rights related to the discontinuance and restoral of your service.

Many of these rights are described on your notice of discontinuance. These require prompt action on your part to avoid discontinuance.

If you have any questions about your rights, contact the PUC consumer affairs office. The phone number is 1-800-456-0858 or (303) 894-2070. The address is 1580 Logan Street, OL-2, Denver, CO 80203.

723-3-13(c) Service shall not be discontinued:

723-3-13(c)(1) For non-payment of any sum due which has not appeared on a regular monthly bill. The due date on the bill must be specifically indicated on the bill and the due date shall be no earlier than ten (10) days subsequent to the mailing or delivery of the bill.

723-3-13(c)(2) For non-payment of any sum due which is less than thirty (30) days past due; nor shall any notice of intent to discontinue service be sent with respect to any amount which is not thirty days past due.

723-3-13(c)(3) For non-payment of any sum due, on which payment arrangements have not otherwise been made, with respect to any other account presently or previously held or guaranteed by the customer, or with respect to which the customer was a beneficiary of service, unless the amount has first been transferred to the account on which notice may be given and displayed on the regular monthly bill. In such event, the amount so transferred shall be considered "due" on the regular due date of the bill on which it first appears as a transfer and shall be subject to notice the same as if it had been billed for the first time. However, no amount may be transferred from any other account unless the accounts to and from which the transfer is made are for the same class of service, or unless the customer has previously pledged the one account to secure the other.

723-3-13(c)(4) For non-payment of any amount due on any other account on which the customer is or was neither the customer of record nor a guarantor, unless the customer is or was a user obtaining service through subterfuge without the knowledge or consent of the named customer of record.

723-3-13(c)(5) For non-payment of any amount due on any other account for which the present customer is or was the customer of record, in the event that the customer provides to the utility convincing evidence that said account was established as a subterfuge by another user without the customer's knowledge or consent.

723-3-13(c)(6) For non-payment of any sum due from a previous occupant of the premises who

was a customer of record. However, a utility may give notice of intent to discontinue service, as for a rule violation, and upon expiration of the notice may decline to continue to furnish service at the same premises if it believes the service is being obtained by a delinquent customer by subterfuge in any manner. Subterfuge includes, but is not restricted to, an application for service at a given location in the name of another party by an applicant whose account is delinquent and who continues to reside or do business at the premises.

723-3-13(c)(7) For failure to pay any indebtedness except as incurred for utility service rendered by the utility in the State of Colorado.

723-3-13(c)(8) Between 12 Noon on Friday and 8 a.m. the following Monday, or between 12 Noon on the day prior to and 8:00 a.m. on the day following any federal holiday or utility observed holiday.

723-3-13(c)(9) Until the utility has made a reasonable effort to give notice of the proposed discontinuance in person or by telephone both to the residential customer (or to a resident of the customer's household 18 years of age or over) and to any third-party who is listed by the customer on a third-party notification form. "Reasonable effort" shall be, at a minimum:

723-3-13(c)(9)(a) At least two attempts on separate days and at least 24 hours prior to the proposed discontinuance to make telephone contact at such telephone numbers as the customer and any third-party requiring notice may provide for such purpose, to remind the customer of the pending discontinuance and the terms to avoid same; or

723-3-13(c)(9)(b) At least two attempts by a field collector on separate days and at least 24 hours prior to the proposed discontinuance to make personal contact at the location of service to remind the customer of the pending discontinuance and the terms to avoid same; or having tried and failed to make contact in person, leaving written notice of the attempted contact and its purpose; or

723-3-13(c)(9)(c) At least one of each of the above-described attempts.

723-3-13(c)(10) In the event a customer at any time proffers full payment of the amount shown on the notice by cash or bona fide check (unless the utility's discontinuance notice provides that payment is to be paid only by cash or certified funds) to a utility employee authorized to receive payment. Any employee dispatched to discontinue service must be authorized to receive payment. The provision herein shall not preclude the utility, by tariff rule and rate, from making a reasonable charge for a service call; however, payment of said charge shall not be required as a condition to avoid discontinuance.

723-3-13(c)(11) If a residential customer pays, on or before the expiration date of the notice, at least one-tenth of the amount shown on the notice and enters into a reasonable installment payment plan with the utility, as elsewhere provided in this rule.

723-3-13(c)(12) If a residential customer presents a medical certification, as elsewhere provided in this rule.

723-3-13(d) Service must be restored within 12 hours after the customer satisfies any one of the provisions set forth in this paragraph (d), unless extenuating circumstances prevent restoral. If it is required by the utility's safety standards that the customer or someone designated by the customer be at the premise at the time of restoral, then the unavailability of the customer (or designee) shall be an extenuating circumstance. Service must be restored after the customer:

723-3-13(d)(1) Pays in full the amount shown on the notice, plus any deposit and/or fees as may be specifically required by the utility's tariff in the event of discontinuance of service.

723-3-13(d)(2) Pays, at a minimum, any reconnection and/or collection charges as may be specifically required in the event of discontinuance according to the utility's tariff, enters into a reasonable installment payment plan with the utility, as elsewhere provided in this rule, and makes the first installment payment. This provision shall not apply if the cause for discontinuance was the customer's breach of arrangements.

723-3-13(d)(3) Presents a medical certification, as elsewhere provided in this rule.

723-3-13(d)(4) Notifies the utility, and the utility confirms, that the cause for discontinuance, if other than non-payment, has been cured.

723-3-13(e) INSTALLMENT PAYMENT.

723-3-13(e)(1) Installment payment plan arrangements must be made if a residential customer fulfills one of the following conditions:

723-3-13(e)(1)(a) On or before the expiration date of the notice of discontinuance pays at least ten (10) percent of the amount shown on the notice and enters into installment payment plan arrangements.

723-3-13(e)(1)(b) On or before the last day covered by a medical certification or extension thereof pays at least ten (10) percent of any amount more than 30 days past due and enters into installment payment plan arrangements.

723-3-13(e)(1)(c) If service has been discontinued, pays at least any collection and/or reconnection charges and enters into installment payment plan arrangements, unless such arrangements already have been breached.

723-3-13(e)(2) Installment payment plan arrangements must be made with respect to any and all of the following amounts as may be applicable at the time the request for arrangements is made. The total amount on which an arrangement is made shall be referred to as the "arrangement amount". The "arrangement amount" shall include:

723-3-13(e)(2)(a) The unpaid remainder of the amount shown on the notice.

723-3-13(e)(2)(b) Any amounts not included in the amount shown on the notice which have since become more than 30 days past due.

723-3-13(e)(2)(c) The current bill. "Current bill" refers to any bill which is past due but is less than 30 days past the due date.

723-3-13(e)(2)(d) Any new bill. "New bill" refers to any bill which has been issued but is not past due.

723-3-13(e)(2)(e) Any collection fees as provided for in the utility's tariff, whether or not such fees have appeared on a regular monthly bill.

723-3-13(e)(2)(f) Any deposit, whether already billed, billed in part, or required according to the utility's tariff due to discontinuance or delinquency or to establish initial credit. This paragraph (f) shall not apply to deposits required by a utility's tariff as a condition of initiating service, but shall apply to deposits required subsequent to

initiation of service.

723-3-13(e)(2)(g) Any other charges or fees provided for in the utility's tariff, whether or not such charges have appeared on a regular monthly bill, including but not limited to miscellaneous service charges, investigative charges or insufficient check charges.

723-3-13(e)(3) The terms of an installment payment plan arrangement, including a "modified budget billing" arrangement, must be explained and offered to each residential customer who contacts the utility in response to a notice of discontinuance. Terms for arrangements are set forth in Rule 13(e)(5)(a) and (b).

723-3-13(e)(4) Any customer who agrees to enter into an installment payment plan arrangement shall be provided a copy of this part (e) of this rule, together with a statement of the payment arrangement as agreed upon by the customer. Said copy and statement must be provided by mail or delivered within ten (10) days after arrangement is agreed upon. The copy shall include a prominent heading, in English and Spanish:

YOUR RIGHTS AND RESPONSIBILITIES CONCERNING INSTALLMENT PAYMENT PLAN ARRANGEMENTS.

The heading shall also contain an additional line in Spanish:

IF YOU DO NOT READ ENGLISH YOU SHOULD REQUEST SOMEONE WHO UNDERSTANDS SPANISH AND ENGLISH TO TRANSLATE THIS INFORMATION FOR YOU.

723-3-13(e)(5)(a) Installment Plan Arrangement. An installment payment plan arrangement shall consist of equal monthly installments over a period of time selected by the customer up to six (6) months. The amount of the monthly installment payment shall be the arrangement amount divided by the number of months over which the payments are to be made.

723-3-13(e)(5)(a)(1) The first monthly installment payment shall be due, together with the new bill unless the new bill has been made part of the arrangement amount, on the due date of the new bill.

723-3-13(e)(5)(a)(2) The second and succeeding monthly installment payments shall be due, together with the new bill, on the due date of the new bill.

723-3-13(e)(5)(b) As an alternative payment arrangement, the customer may choose a modified "budget billing" arrangement, under which the arrangement amount shall be added to the preceding year's total billing to the customer's premise, modified as necessary for increases in base rates or cost adjustments, and the resulting total shall be divided into equal monthly installment payments to be billed as other "budget billing" accounts are billed, in eleven (11) equal monthly payments followed by a settlement billing in the twelfth month.

723-3-13(e)(6) Any monthly installment payment or modified budget billing payment not paid on the due date of the new bill shall be considered "in default." Any new bill which is not paid by the due date shall be considered "past due."

723-3-13(e)(7) In the event a monthly installment payment becomes in default and/or a new bill becomes past due, the utility shall mail or deliver a written notice, with a heading in English and Spanish:

NOTICE OF BROKEN ARRANGEMENTS.

Said notice shall also contain an additional sentence in Spanish:

IF YOU DO NOT READ ENGLISH, YOU SHOULD REQUEST SOMEONE WHO UNDERSTANDS SPANISH AND ENGLISH TO TRANSLATE THIS NOTICE FOR YOU.

Said notice shall advise the customer, at a minimum:

723-3-13(e)(7)(a) That service may be discontinued if the monthly installment payment is not received by the utility within ten (10) days after the notice is sent or delivered.

723-3-13(e)(7)(b) That service may be discontinued if payment for the current bill is not received by the utility within thirty days after its due date.

723-3-13(e)(7)(c) That if service is discontinued, the utility may decline to provide further service until all amounts more than thirty days past due have been paid, together with any collection or reconnection charges.

723-3-13(e)(8) Service may be discontinued to a customer whose monthly installment payment remains in default after the tenth day following the mailing or delivery of a notice of broken arrangements or whose current bill becomes more than thirty days past due and to whom a notice of broken arrangements has been mailed or delivered, unless the customer presents a medical certification, as elsewhere provided in this rule.

723-3-13(e)(9) If service is discontinued for broken arrangements, a utility may decline to restore service until all amounts more than thirty days past due have been paid, together with such collection and/or reconnection charges and interest as may be provided for in the utility's tariff. However, discontinued service must be restored if the customer presents a medical certification, as elsewhere provided in this rule. Service may be discontinued without further notice upon the expiration of such medical certification, or extension thereof, and the terms for restoral shall be the payment of all amounts more than thirty days past due, together with such collection and/or reconnection charges and interest as may be provided for in the utility's tariff.

723-3-13(e)(10) A customer whose monthly installment payment is not in default and whose new bill is not past due may renegotiate an installment payment plan arrangement that was made according to paragraph (e)(5)(a) of this rule. A renegotiated installment payment plan arrangement may consist of a lesser installment payment amount to be paid in a greater number of months, provided that the original arrangement amount be paid in no more than six (6) months from the date the original installment payment plan arrangement was entered into.

723-3-13(e)(11) Nothing in this part (e) shall be construed to prevent the utility from offering any other installment payment plan arrangement terms to avoid discontinuance or terms for restoral, which offer is at least as favorable to the customer as the terms and conditions set forth in this rule or to which the customer agrees.

723-3-13(f) Safety and Health - Non-Discontinuance or Restoral. Service may not be discontinued, or if already discontinued must be restored, during any period when discontinuance of service would be especially dangerous to the health or safety of the residential customer or a permanent resident of the customer's household.

723-3-13(f)(1) Discontinuance of service that would be especially dangerous to the health or safety of the residential household means that discontinuance of service would aggravate

an existing medical condition or create a medical emergency for the customer or a permanent resident of the customer's household. Such shall be deemed to be the case when a physician licensed by the State of Colorado, or a health practitioner licensed by the State of Colorado and acting under a physician's authority, makes a certification thereof and said certification is received by the utility in writing or by phone. A utility may require written confirmation of a certification received by phone within ten (10) days of the call. Such certification shall be incontestable by the utility as to medical judgment, although the utility may use reasonable means to verify the authenticity of such certification.

723-3-13(f)(2) In the event a medical certification is delivered to or received by the utility, the non-discontinuance of service shall be effective for sixty (60) days from the date of said medical certification. One thirty-day extension of non-discontinuance of service may be effected by delivery to or receipt by the utility of a second medical certification, as aforesaid, prior to the expiration of the initial sixty-day period.

723-3-13(f)(3) A residential customer may invoke the provisions of subsection (f) herein no more than once during any period of twelve consecutive months, said period to begin on the first date said medical certification is presented.

723-3-13(f)(4) A customer who invokes this part (f) may request an installment payment plan arrangement on or before the last day covered by a medical certification or extension thereof. A customer who already has entered an installment payment plan arrangement and who has not broken arrangements prior to invoking this part (f) may renegotiate the installment payment plan arrangement on or before the last day covered by a medical certification or extension thereof. A customer who already has entered an installment payment plan arrangement but has broken arrangements prior to invoking this part (f) must pay, on or before the last day covered by the medical certification or extension thereof, all amounts that would have been paid up to that date had arrangements not been broken, and resume the installment payment plan arrangement, in order to avoid discontinuance of service.

723-3-13(g) Whenever reference is made herein to a notice or other document being mailed or delivered, that phrase shall mean that the notice or other document is either deposited in the United States Mails, or physically delivered to the address of the addressee, and does not necessarily include actual physical receipt by the addressee.

723-3-13(h) Reporting Requirements. Each utility shall keep on-going monthly statistics as set forth in Rule 13(h)(1)-(8). Such statistics shall be provided quarterly to the supervisor of the consumer affairs office of the Public Utilities Commission within thirty (30) days of the close of the preceding calendar quarter. Such statistics shall include:

723-3-13(h)(1) The number of disconnections of residential and non-residential service for non-payment and for any other violations of rules including energy diversion;

723-3-13(h)(2) The number of residential and non-residential disconnected accounts which are subsequently restored for payment in full or cure, and the number of residential disconnected accounts which are subsequently restored for payment arrangements;

723-3-13(h)(3) The number of customers submitting medical certifications;

723-3-13(h)(4) The number of customers who entered into payment arrangements;

723-3-13(h)(5) The number of customers defaulting on such payment arrangements;

723-3-13(h)(6) The number of residential and non-residential accounts currently in arrears, and the total dollar amount of the arrears;

723-3-13(h)(7) The number of customers requesting a hearing before the utility manager or the manager's designee with regard to pending discontinuance;

723-3-13(h)(8) The number of proven instances of energy diversion among residential consumers and the total dollar loss to the utility as a result of such diversion.

RULE (4 CCR) 723-3-14. METERS AND SERVICE CONNECTIONS.

723-3-14(a) All meters used in connection with electric metered service for billing purposes shall be furnished, installed and maintained at the expense of the utility.

723-3-14(b) Any equipment, devices, or facilities furnished at the expense of the utility or on which the utility bears the expense of maintenance and renewal shall remain the property of the utility and may be removed by it at any time after discontinuance of service.

723-3-14(c) Service connection to the customer premises or property in the case of aerial equipment of electric utilities shall be installed and maintained at the expense of the utility. The utility shall file with the Commission in its tariff the conditions under which underground service connection will be made. In special cases involving either overhead or underground service connections, the Commission will, if necessary, prescribe the proper charge.

723-3-14(d) Sub-metering, which is the resale of electricity by a master-metered customer of an electric utility is prohibited. Nothing in the foregoing sentence shall prohibit a master-metered customer from check-metering tenants, lessees, or other persons to whom ultimately the electricity is distributed, for the purpose of reimbursing the master-metered customer by an appropriate allocation procedure, provided the master-metered customer does not receive more than is necessary to pay the master-metered bill.

RULE (4 CCR) 723-3-15. PRACTICE UNDER THESE RULES TO BE FILED.

723-3-15(a) Each utility shall file with this Commission within four months after receipt of this order, a statement, typewritten, properly identified and dated, on 8 1/2 x 11 sheets, describing its practice under these rules as follows:

723-3-15(a)(1) Description of test methods employed and frequency of tests or observations for determining voltage of electric service furnished.

723-3-15(a)(2) Description of meter testing equipment, including methods employed to ascertain and maintain accuracy of all testing equipment.

723-3-15(a)(3) Rules covering testing and adjustment of service meters when installed and periodic tests after installation.

723-3-15(b) Revisions in any portion of this statement after filing will necessitate the filing of an entire new statement, properly identified and dated, canceling the one on file.

RULE (4 CCR) 723-3-16. REPORTS TO THE COMMISSION.

Each utility shall make special reports at such time and in such form as the Commission may from time to time require.

RULE (4 CCR) 723-3-17. MICROFILMING OF RECORDS.

Nothing in these rules shall prevent any utility from microfilming any records it desires, provided that the microfilm shall be retained by the utility for the same period of time as specified for the original records.

RULE (4 CCR) 723-3-18. CONSTRUCTION REQUIREMENT.

723-3-18(a) The electric plant of the utility shall be constructed, installed, maintained, and operated in accordance with accepted engineering practice in the electric industry to assure, as far as reasonably possible, continuity of service, uniformity in the quality of service furnished, and the safety of persons and property.

723-3-18(a)(1) The utility shall use as a minimum standard of accepted engineering practice the 1993 edition of the National Electrical Safety Code published by the Institute of Electrical and Electronics Engineers on August 3, 1992 and endorsed by the American National Standards Institute (ANSI), for all electric plant construction or installation commenced on or after August 3, 1992. This rule does not include later amendments to or later editions of the National Electrical Safety Code.

723-3-18(a)(2) With regard to electric plant constructed or installed prior to August 3, 1992, the minimum standard of accepted engineering practice shall be the edition of the National Electrical Safety Code in effect at the time of commencing construction or installation of the electric plant.

723-3-18(a)(3) Any electric plant of the utility that is constructed, installed, maintained, and operated in accordance with the National Electrical Safety Code in effect at the time of its construction or installation shall be presumed to comply with accepted engineering practice in the electric industry and the provisions of this rule.

723-3-18(b) Certified copies of the complete text of the National Electrical Safety Code shall be maintained by the Public Utilities Commission, which copies shall be available for public inspection during regular business days and hours. Certificated copies of the National Electrical Safety Code shall be provided at cost upon request. The Director of the Public Utilities Commission, OL-2, 1580 Logan Street, Denver, Colorado 80203, will provide information regarding how the National Electrical Safety Code may be obtained or examined.

723-3-18(c) Distribution facilities are those lines designed to be operated at the utility's normal distribution voltage in the area, or lower, and substations constructed under existing lines, regardless of voltage. Extensions of distribution facilities (lines and substations) shall be deemed to occur in the ordinary course of business of utilities, and shall not require a certificate of public convenience and necessity.

723-3-18(d) Transmission facilities are those lines designed and operating at voltage levels above the utility's normal voltage for distribution facilities in the area, or higher, and related substation facilities.

723-3-18(d)(1) Each Colorado electric utility shall file annually, no later than April 30 of each year, the information required by paragraph (f) of this rule, pertaining to any proposed new construction or extensions of transmission facilities for the next three calendar years.

723-3-18(d)(2) The Staff of the Commission shall review the data filed by utilities pursuant to paragraph (d)(1) of this rule and make recommendations to the Commission within the time period as set forth in paragraph (d) (3). The Commission will designate those transmission projects for which the utility is not required to obtain a certificate of public convenience and necessity or for which it must file an application for a (1) certificate of public convenience and necessity or (2) a formal determination that no such certificate is required within the time periods as set forth in paragraph (d)(3) and (d)(4).

- 723-3-18(d)(3) For new construction or the extension of transmission projects, the construction of which are to begin in the next calendar year, the Staff of the Commission shall make its recommendations within 30 days of April 30 of the year the data is filed. The Commission shall issue its decision on whether a certificate is not required or whether an application for (1) a certificate of public convenience and necessity or (2) a formal determination that no such certificate is required within 60 days of April 30 of the calendar year such data is filed.
- 723-3-18(d)(4) For new construction or the extension of transmission projects, the construction of which are to begin in the second and third calendar year subsequent to the filing of annual data, the Staff of the Commission shall make its recommendations within 120 days of April 30 of the year such data is filed. The Commission shall issue its decision on whether a certificate is not required or whether an application for a certificate of public convenience and necessity or for a formal determination that no certificate is required within 60 days of the Staff's recommendation.
- 723-3-18(e) Each Colorado electric utility shall annually file, no later than April 30 of each calendar year for the next three subsequent calendar years, the information required by paragraph (f) of this rule concerning any new construction or extensions which will result in an increase in generating capacity for the utility of ten megawatts or more.
- 723-3-18(e)(1) The Staff of the Commission shall review the data filed by utilities pursuant to paragraph (e) of this rule and make recommendations as set forth in paragraph (e)(2). The Commission will designate those generation projects which do not require a certificate of public convenience and necessity and those generation projects for which the utility shall file an application for a certificate of public convenience and necessity or for a formal determination that no such certificate is required.
- 723-3-18(e)(2) For any new construction or extension which will result in an increase in generating capacity for the utility of ten megawatts or more, the construction of which is to begin in the next calendar year, the Staff of the Commission shall make its recommendations within 30 days of April 30 of the year the data is filed. The Commission shall issue its decision on whether a certificate of public convenience and necessity is not required or whether an application for a certificate of public convenience and necessity or a formal determination that no such certificate is required within 60 days of April 30 of the calendar year in which the data is filed.
- 723-3-18(e)(3) For any new construction or extension which will result in an increase in generating capacity for the utility of ten megawatts or more, the construction of which is to begin in the second or third calendar year subsequent to the year the data is filed, the Staff of the Commission shall make its recommendations within 120 days of April 30 of the year such data is filed. The Commission shall issue its decision on whether a certificate is not required or whether an application shall be filed by the utility seeking a certificate of public convenience and necessity or for a formal determination that no certificate is required within 60 days of the Staff's recommendation. 723-3-18(e)(4) Any extension of generation capacity which will result in an increase in generating capacity for the utility of less than ten megawatts is deemed to be in the ordinary course of its business and shall not require a certificate of public convenience and necessity.
- 723-3-18(e)(5) Generating plant remodeling and the installation of any equipment or building space required for pollution control systems shall be deemed to occur in the ordinary course of its business for a utility and shall not require a certificate of public convenience and necessity.
- 723-3-18(f) Each electric public utility, whether or not each such utility is deregulated pursuant to § 40-9.5-101 *et seq.*, C.R.S., shall submit to the Commission, no later than April 30 of each year, a

schedule of its proposed new construction or extensions for the next three subsequent calendar years pertaining to generation and transmission facilities as described in paragraph (d) and (e) of this rule. For each such project, each utility shall set forth the following:

1. Name of project.
2. The function of the project.
3. The estimated cost of the project.
4. The manner in which the project is expected to be financed.
5. The projected date for the start of construction of the project.
6. The estimated date of completion of each project.
7. The estimated date of commencement of operation of each project.
8. The proposed general location.

723-3-18(g) The information and data filed by each utility pursuant to paragraph (f) of this rule shall be public information, available for inspection at the offices of the Commission, during regular business days and hours.

723-3-18(g)(1) The Commission will give notice of the filing of such data to all those, who in the opinion of the Commission, are interested persons, firms, or corporations.

723-3-18(g)(2) Any interested person, firm, or corporation may file comments in regard to the projects identified by the data filed with the Commission, pursuant to paragraph (f) of this rule, within fifteen (15) days of the filing of such data. The Commission will consider such comments in determining which projects do not require a certificate of public convenience and necessity or for which projects the utility will be required to file an application for a certificate of public convenience and necessity or for a formal determination that such a certificate is not required.

723-3-18(h) No utility may commence new construction or an extension of either transmission or generation facilities or projects as described in paragraph (d) and (e) of this rule until they are notified by the Commission that such facilities or projects do not require a certificate of public convenience and necessity, or until such a final certificate is issued by the Commission.

723-3-18(i) The utility shall include the concept of prudent avoidance with respect to planning, siting, construction, and operation of transmission facilities. Prudent avoidance shall mean the striking of a reasonable balance between the potential health effects of exposure to magnetic fields and the cost and impacts of mitigation of such exposure, by taking steps to reduce the exposure at reasonable or modest cost. Such steps might include, but are not limited to: (1) Design alternatives considering the spatial arrangement of phasing of conductors; (2) Routing lines to limit exposures to areas of concentrated population and group facilities such as schools and hospitals; (3) Installing higher structures; (4) Widening right of way corridors; and (5) Burial of lines.

723-3-18(j) With respect to transmission facilities, the applicant shall describe those actions and techniques being evaluated pursuant to the requirements of paragraph (i) of this Rule 18.

RULE (4 CCR) 723-3-19. STANDARD VOLTAGE, FREQUENCY AND PERMISSIBLE VARIATIONS.

723-3-19(a) Each utility shall adopt and file with this Commission a standard average voltage, or voltages, and frequency, or frequencies, as may be required by its distribution system, for its entire system, or for each of the several districts into which the system may be divided.

723-3-19(b) Every reasonable effort shall be made by the use of proper equipment and operation to maintain such voltage practically constant at all times. The suitability and adequacy of these service voltages may be determined at any time by this Commission. The voltage maintained at the utility's main service terminals as installed for individual customers or groups of customers shall be reasonably constant as follows (namely the points at which the utility's service connections terminate, at which point connection is made with the customer's wiring, and beyond which the utility has no responsibility):

723-3-19(b)(1) For service rendered under a lighting contract or primarily for lighting purposes the voltage shall be within five percent plus or minus of the standard adopted.

723-3-19(b)(2) For service rendered under a power contract or primarily for power purposes the voltage variation shall not exceed ten percent above or ten percent below the standard average voltage at any time when the service is furnished.

723-3-19(b)(3) A greater variation of voltage than that specified above may be allowed when service is furnished directly from a transmission line or in a limited or extended area where customers are widely scattered and the business done does not justify close voltage regulation. In such cases the best voltage regulation should be provided that is practicable under the circumstances. This clause refers particularly to individual customers or small groups of customers whose service from a transmission line is incidental, and does not refer to the voltage regulation in communities, cities or towns for which the transmission line was primarily built.

723-3-19(c) Variations in voltage in excess of those specified caused by the operation of power apparatus on the customer's premises, which necessarily requires large starting currents, by the action of the elements, by infrequent and unavoidable fluctuations of short duration due to necessary station or line operations shall not be considered a violation of this rule.

723-3-18(d) Utilities supplying power to one or more other electric utilities may make application to the Commission for a specific ruling applicable to each particular case.

RULE (4 CCR) 723-3-20. POLE IDENTIFICATION.

723-3-20(a) In the case of two or more utilities jointly owning or using a pole or pole line structure, each of these utilities shall mark each such pole or structure with the initials of its name, abbreviation of its name, corporate symbol, or other distinguishing mark by which the ownership of such structure may be readily and definitely determined.

723-3-20(b) Each utility shall in the future mark each such pole, post or other structure used for supporting electrical conductors with "dating nails" or other approved devices which will indicate the year in which such structures were installed. It is suggested that a different type of dating nail be used for new poles or structures and for poles re-used. All poles or structures known to have been installed or replaced during the preceding year shall likewise be so marked.

723-3-20(c) The requirements herein shall apply to all existing and future erected structures and to all changes in ownership.

RULE (4 CCR) 723-3-21. POLE INSPECTION.

Each pole, post, tower or other structure used for the support or attachment of electrical conductors, guys,

or lamps, must be inspected by the utility owning or using it with sufficient frequency to determine the necessity for replacement or repair.

RULE (4 CCR) 723-3-22. VOLTAGE SURVEYS AND RECORDS.

Each utility shall provide itself with one or more portable indicating volt-meters and each utility serving more than 200 customers shall have one or more recording volt-meters of the curve drawing type suitable for the service voltages furnished. Each utility shall make a sufficient number of voltage surveys to indicate the character of service furnished from each center of distribution and to satisfy this Commission, upon request, of its compliance with the above voltage requirements. Utilities having curve drawing volt-meters shall keep at least one of these instruments in continuous service at the plant, office or some customer's premises. All volt-meter records shall be available for inspection by the authorized representatives of this Commission for a period of at least one year from the date of such records.

RULE (4 CCR) 723-3-23. LOCATION OF METERS.

723-3-23(a) Meters shall be located in accordance with the pertinent rules of the utility as filed with the Commission and in accordance with accepted safe practice.

723-3-23(b) Meters shall not be installed where they will interfere with traffic in halls or passageways, if indoors, or sidewalks or driveways, if outdoors, or where they will obstruct the opening of doors or windows; or in any location considered hazardous or where reading, testing or servicing of the meter may become impracticable; or where damage may be caused to any part of customer's premises. Meters shall not be installed in coal or wood bins or on partitions forming such bins or on any unstable partitions or supports. Meters shall not be located where visits of meter reader or servicemen will cause unreasonable annoyance or inconvenience to customer.

723-3-23(c) Meter locations shall be such that the meters are easily accessible for reading, testing and servicing in accordance with the requirements of the utility.

RULE (4 CCR) 723-3-24. ACCURACY REQUIREMENTS FOR SERVICE WATT-HOUR METERS.

723-3-24(a) No service watt-hour meter that has an incorrect register constant, test constant, gear ratio or dial train, or that registers upon no load ("creeps") shall be placed in service or allowed to remain in service without proper adjustment and correction.

723-3-24(b) No service watt-hour meter that has an error in registration of more than plus or minus two percent at light load, or at heavy load, shall be placed in service. Demand meters may have an allowable error of not more than two percent of full scale deflection except that the allowable error for thermal type meters may be three percent. Whenever on installation, periodic or any other tests, a meter is found to exceed these limits, it must be adjusted. A meter creeps when, with all load wires disconnected, the moving element makes one complete revolution in ten minutes or less.

723-3-24(c) Light load shall be construed to mean approximately five to ten percent of the nameplate rated capacity of the meter. Heavy load shall be construed to mean not less than sixty percent nor more than one hundred percent of the nameplate rated capacity of the meter.

723-3-24(d) Meters used with instrument transformers or shunts shall be adjusted so that the overall accuracy of the metering installation will meet the requirements of this rule.

RULE (4 CCR) 723-3-25. METER TESTING ON REQUEST.

Each utility furnishing metered electric service shall make a test of the accuracy of any electric service meter free of charge upon request of a customer; provided, first, that the meter has not been tested within

the twelve months period prior to such request, and second, that the customer will accept the results of such test as basis for the settlement of the difference claimed. No charge shall be made to the customer for any such test except as may be allowed by the Commission in special cases. A written report giving the result of such test shall be made to the customer requesting same, the original record being kept on file at the office of the utility for a period of at least two years.

RULE (4 CCR) 723-3-26. METER TEST VERIFICATION.

723-3-26(1) Upon written application to the Commission by the customer, the Commission will send a trained employee to witness the test of any service meter as performed by the utility. The application for the service shall be accompanied by a remittance of the amount fixed below as the fee for the service. If the meter is found to be fast beyond the limits prescribed in Rule 27, this fee shall be reimbursed to the customer by the utility. The schedule of fees for this service shall be as follows:

723-3-26(1)-Schedule	
For continuous current and single phase meters operating at 480 volts or less, up to and including 200 amperes rated capacity of meter element, each	\$20.00
For single phase meters above 480 volts and for polyphase meters with or without instrument transformer	\$30.00

723-3-26(2) Upon written application to the Commission by any electric utility, the Commission will send a trained employee to witness a test on any of the utility's service meters upon payment of the scheduled fee. This Rule and the above schedule of fees apply only when there is a dispute between the customer and the company regarding the accuracy of the meter.

RULE (4 CCR) 723-3-27. ADJUSTMENT OF BILLS FOR METER ERRORS.

723-3-27(a) If on test of any service watt-hour meter made upon the request of the customer, by either the utility or the Commission it is found to be more than two percent fast at any load, additional tests shall be made to determine the average error of the meter.

723-3-27(b) Average Error: The average error of the meter in tests made by the Commission or the utility at the request of the customer shall be defined as the arithmetic average of the percent registration at light load and at heavy load, giving the heavy load registration a weight of four and the light load registration a weight of one.

723-3-27(c) When a meter is found to have a positive average error, that is, it is fast in excess of two percent in tests made at the request of the customer by either the Commission or the utility, the utility shall refund to the customer an amount equal to the excess charged for the kilowatt-hours incorrectly metered for a period equal to one-half of the time elapsed since the last previous test, but not to exceed six months.

723-3-27(d) When a meter is found to have a negative average error, that is, it is slow in excess of two

percent in tests made at the request of the customer by either the Commission or the utility, the utility may make a charge to the customer for the kilowatt-hours incorrectly metered for a period equal to one-half of the time elapsed since the last previous test, but not to exceed six months.

723-3-27(e) If a meter is found to have an incorrect register ratio or multiplier, the error shall be corrected. Where the error is adverse to the customer, the utility shall refund to the customer an amount equal to the excess charged for the kilowatt-hours incorrectly metered for the period of time the meter was used in billing the customer. Where the error is adverse to the company, the utility may make a charge to the customer for the kilowatt-hours incorrectly metered for the period of time the meter was used in billing the customer.

723-3-27(f) If a meter is found not to register, to register intermittently, or to partially register for any period, the utility shall estimate a charge for the kilowatt-hours used by averaging the amounts register over similar periods, or over corresponding periods in previous years or such other acceptable information available.

RULE (4 CCR) 723-3-28. INSTALLATION TESTS.

All service watt-hour meters shall be tested and adjusted to register accurately to within the limits specified in Rule 24 and to otherwise conform with the requirements of that rule, either before installation or within sixty days after installation.

RULE (4 CCR) 723-3-29. PERIODIC TEST SCHEDULE.

In the test intervals specified below, the word “years” means calendar years and the word “months” means calendar months. The basic periodic test interval shall not be longer than provided for in the following schedule:

723-3-29-Schedule	
a. Alternating current watt-hour meters:	
1. Meters used with instrument transformers:	
a. Polyphase meters	4 years
b. Single phase meters	8 years
2. Self-contained polyphase meters	6 years
3. Self-contained single phase meters and three wire network meters	8 years
b. Direct current watt-hour meters:	
1. Up to and including 6-KW	42 months
2. Over 6 KW up to including 100 KW	18 months
3. Over 100 KW	12 months
c. Var-hour Meters:	Same as the schedule for associated watt-hour

	meters
d. Demand meters:	
1. Integrated (block interval) demand meters including demand registers and associated control devices.	Same as the schedule for associated watt-hour meters, but not to exceed 6 years.
2. Lagged demand meters	Same as the schedule for associated watt-hour meters.

RULE (4 CCR) 723-3-30. STATION INSTRUMENTS AND WATT-HOUR METERS.

Each utility shall install such wattmeters, indicating instruments or watt-hour meters as may be necessary to obtain a daily record of the load and a monthly record of the output of its plants. Each utility purchasing electrical energy shall install such instruments or watt-hour meters as may be necessary to furnish full information as to the monthly purchases.

RULE (4 CCR) 723-3-31. SERVICE CONNECTION AND DISTRIBUTION LINE EXTENSION.

723-3-31.1 Each electric utility shall file with the Commission its specific provision for the making of service connections and distribution line extensions. No electric utility shall make or refuse to make any connection or extension except as permitted by this Rule or by tariffs currently effective and on file with the Commission, and which are open to public inspection at each office of the utility where applications for service are received. Each utility's specific provisions shall:

723-3-31.1.1 Set forth the service connection and distribution line extension requirements to be observed by the utility:

723-3-31.1.2 Be just and reasonable with respect to the impact upon existing customers through rates and services;

723-3-31.1.3 Provide for service connections and distribution line extensions by customer class and the appropriate terms and conditions under which such connections and extensions will be made;

723-3-31.1.4 Obligate the utility to provide service connection information to a customer, upon request, necessary to allow the customer's facility(s) to be connected to the utility's system;

723-3-31.1.5 Obligate the utility to exercise due diligence with respect to providing an estimate to the customer of the anticipated cost of the connection and/or extension;

723-3-31.1.6 Set forth a policy equitably allowing future customers to share costs incurred by the initial or existing customers served by such connection and/or extension, including a refund of customer connection and/or extension payments when appropriate;

723-3-31.1.7 Describe specific customer categories within each customer class such as permanent, indeterminate and temporary;

723-3-31.1.8 Consider the implications of such provisions on energy efficiency and conservation; and

723-3-31.1.9 Require the utility to provide a comparison of photovoltaic energy to the proposed extension, as more fully set forth in this rule's Appendix A.

RULE (4 CCR) 723-31-APPENDIX A.

Bona Fide applicants, when requesting of the utility a cost estimate of a distribution line extension, shall receive a photovoltaic system cost comparison, upon meeting the following conditions:

- (1) The applicant provides the utility with load data (estimated monthly kilowatt-hour usage) as requested by the utility to conduct the comparison; and
- (2) The applicant's peak demand is estimated to be less than 25 kw.

In performing the comparison analysis, the utility will consider line extension distance, overhead/underground construction, terrain, other variable construction costs, and the probability of additions to the line extension within the life of the open extension period.

For applicants whose ratio of estimated monthly kilowatt-hour usage divided by line extension mileage is less than or equal to one thousand (1,000) (i.e., Kwh/Mileage is $\leq 1,000$) the utility will provide the photovoltaic system cost comparison at no cost to the applicant. Above a ratio of 1,000 the applicant shall bear the cost of the comparison, if requested by the applicant, not the utility.

RULE (4 CCR) 723-3-32 ELECTRIC TRANSMISSION LINE EXTENSION.

Each electric utility shall file with the Commission its specific provision for the making of transmission line extensions. No electric utility shall make or refuse to make any extension except as permitted by this Rule or by tariffs currently effective and on file with the Commission, and which are open to public inspection at each office of the utility where applications for service are received. Each utility's specific provisions shall:

- 723-3-32.1 Set forth the transmission line extension requirements to be observed by the utility;
- 723-3-32.2 Be just and reasonable with respect to the impact upon existing customers through rates and service;
- 723-3-32.3 Provide for terms and conditions under which such connections and extensions will be made;
- 723-3-32.4 Obligate the utility to provide service connection information to a customer's facility(s) to be connected to the utility's system;
- 723-3-32.5 Obligate the utility to exercise due diligence with respect to providing an estimate to the customer of the anticipated cost of the extension;
- 723-3-32.6 Set forth a policy equitably allowing future customers to share costs incurred by the initial or existing customers served by such extension, including a refund of customer extension payments when appropriate;
- 723-3-32.7 Describe specific customer categories within each customer class such as permanent, indeterminate and temporary; and
- 723-3-32.8 Consider the implications of such provisions on energy efficiency and conservation.

RULE (4 CCR) 723-3-33. RULES REGULATING THE SERVICE OF ELECTRIC UTILITIES MASTER METER OPERATORS- ELECTRIC.

723-3-33(a) DEFINITIONS.

723-3-33(a)(1) Master Meter Operators — (MMO) — any person who purchases electric service from a Colorado regulated public utility for the purpose of delivery to end users at a charge the aggregate usage for which is to be measured by a master meter or other composite measurement device, which will be used by the Colorado regulated public utility for billing the MMO.

723-3-33(a)(2) Application — pleading filed with the Commission under this rule to obtain an order that the MMO is exempt from regulation.

723-3-33(a)(3) Master Meter — the meter or other composite measurement device used for billing purposes by the Colorado regulated utility.

723-3-33(a)(4) Check Meter — meter used by the MMO for purposes of determining usage of those served by the MMO, if the MMO is exempt from regulation.

723-3-33(a)(5) Sub Meter — meter used for purposes of determining usage of end users by an MMO that is not exempt from regulation.

723-3-33(a)(6) Resale — charging more than the amount billed to the MMO by the Colorado regulated utility, or including — unauthorized charges in the amounts passed on to end users.

723-3-33(b) PROCEDURE.

Any MMO desiring to be exempt from regulation of rates under the “Public Utilities Law”, Articles 1 to 7 of Title 40 C.R.S., shall file an application requesting such, and which shows:

723-3-33(b)(1) The MMO does not charge the end users, as part of its billing for utility service, for any costs in addition to the actual cost billed to the MMO by the serving utility, including without limitation costs of construction, maintenance, financing, administration, metering, or billing for the utility distribution system owned by the MMO;

723-3-33(b)(2) If the MMO bills the end users separately for service, the sum of such billings does not exceed the amount billed to the MMO by the serving utility;

723-3-33(b)(3) If the MMO bills the end users separately for service, the MMO passes on to the end users any refunds, rebates, rate reductions, or similar adjustments it receives from the serving utility;

723-3-33(b)(4) In passing on refunds, rebates, rate reductions, or similar adjustments to end users, the MMO shall notify its current end users, either by first class mail with a certificate of mailing or by inclusion in any monthly or more frequent regular written communication, of such adjustments and inform the end users that they may claim the adjustments within ninety days after receipt of the notice. The MMO may retain any portion of such adjustments which rightfully belongs to the MMO. Upon the expiration of the ninety-day claims period, the MMO shall identify any such adjustments which are unclaimed and, if the aggregate amount unclaimed exceeds one hundred dollars, the MMO shall contribute such unclaimed amount to the fund established by the Legislative Commission on Low-Income Energy Assistance pursuant to § 40-8.5-104, C.R.S.

723-3-33(b)(5) The procedures proposed by the MMO for notifying those that are not current end users, but who were users during the period covered, for the matters discussed in paragraph (4) above.

723-3-33(b)(6) The methods the MMO proposes to use to show compliance with paragraphs (b)

(1) through (5) above.

723-3-33(c) ACTION BY COMMISSION ON ITS OWN MOTION.

723-3-33(c)(1) The Commission may on its own motion enter an order exempting an MMO, just as if an application had been filed, so long as appropriate information has been obtained to show such an order would be authorized by § 40-1-103.5, C.R.S.

723-3-33(d) RESALE NOT AUTHORIZED.

723-3-33(d)(1) MMOs having obtained an order of exemption are not authorized to engage in any practice that would constitute a resale under these rules.

723-3-33(d)(2) Resale activity is a basis for revocation of an exemption order. Sub-meters are used for resale activity. If it is shown that § 40-1-103.5, C.R.S., is complied with, the meter will be deemed a check meter.

RULES (4 CCR) 723-3-34. RULES FOR THE REPORTING OF UNCLAIMED DEPOSITS AND REFUNDS BY ELECTRIC UTILITIES AND ELECTRIC MASTER METER OPERATORS, AND PROCEDURES FOR THE PAYMENT OF UNCLAIMED DEPOSITS AND REFUNDS TO THE FUND ESTABLISHED BY SECTION 40-8.5-104, C.R.S.

723-3-34.1 DEFINITIONS

723-3-34.1.1 “Commission” means the Colorado Public Utilities Commission.

723-3-34.1.2 “Cooperative Electric Association” includes a nonprofit electric corporation or association but does not include nonprofit generation and transmission electric corporations or associations.

723-3-34.1.3 “Customer” means a subscriber of Electric Utility supply or delivery services, and also means a landlord acting as a Master Meter Operator.

723-3-34.1.4 “Deposit” means moneys deposited by a customer with a utility to secure payment for services or any other amount which is paid in advance for Electric Utility services to be furnished, including, but not limited to, moneys received by the utility in accordance with the utility's security or construction Deposit policy.

723-3-34.1.5 “Electric Utility” means every electrical corporation operating for the purpose of supplying electricity to the public for domestic, mechanical, or public uses and includes every public utility supplying electricity; except that this definition includes only those cooperative electric associations which notify the commission that they elect to come under this article.

723-3-34.1.6 “Fund” means the Colorado Energy Assistance Foundation, a Colorado nonprofit corporation, or its successor, which is the nonprofit corporation established by the Colorado Commission on Low-Income Energy Assistance pursuant to § 40-8.5-104, C.R.S. (Vol. 11, 1998).

723-3-34.1.7 “Interest” means the compensation paid for the use of money.

723-3-34.1.7.1 Interest shall be earned on a Customer deposit from the time the deposit is received by a Electric Utility or Master Meter Operator to the date the unclaimed amount is paid into the Fund. The interest rate from the time the deposit is received by the Electric Utility or Master Meter Operator to the date the unclaimed amount is due to be paid to the Fund pursuant to Rule 723-3-34.1.11.2, if paid within four months thereof, shall be calculated at the percentage rate per annum prescribed in Rule 723-4-11. The interest rate on unclaimed deposits that are not paid into the Fund within four months of

the time the deposit is deemed unclaimed and abandoned pursuant to Rule 723-4-34.1.11.2 shall be calculated at the percentage rate per annum prescribed in Rule 723-3-11 plus 6%.

723-3-34.1.7.2 Interest shall be earned on refundable customer advances in aid of construction from the time the refundable amount is deemed owed to the customer pursuant to the terms of the Electric Utility's extension policy to the date any unclaimed amount is paid into the Fund. The interest rate from the time the refundable advance is deemed owed to the customer to the date the unclaimed amount is due to be paid to the Fund, if paid within four months thereof, shall be calculated at the percentage rate per annum prescribed in Rule 723-3-11. The interest rate on unclaimed advances that are not paid into the Fund within four months of the time the deposit is deemed unclaimed and abandoned pursuant to Rule 723-3-34.1.11.2 shall be calculated at the same percentage rate per annum prescribed in Rule 723-3-11 plus 6%.

723-3-34.1.7.3 Interest shall be earned on Undistributed Refunds from the time the refund is received by a Electric Utility or Master Meter Operator to the date the unclaimed amount is paid into the Fund. An Electric Utility or Master Meter Operator must pay the Undistributed Refund into the Fund within four months of, respectively, the time the refund is deemed undistributed pursuant to the refund plan approved by the Commission, or the expiration of the 90 day claims period specified in § 40-1-103.5(2), C.R.S. The interest rate from the time the refund is received by the Electric Utility or Master Meter Operator to the date the unclaimed amount is due to be paid to the Fund, if paid within four months thereof, shall be calculated at the percentage rate per annum prescribed in Rule 723-3-11. The interest rate on Undistributed Refunds that are not paid into the Fund within four months of the time the refund is deemed unclaimed and abandoned shall be calculated at the percentage rate per annum prescribed in Rule 723-3-11 plus 6%.

723-3-34.1.8 "MMO" as used herein means any person, corporation, or other entity who purchases electric service from a regulated Electric Utility for the purpose of delivery of such service to end users whose aggregate usage is to be measured by a master meter or other composite measurement device which will be used by the Electric Utility for billing the MMO. For purposes of these rules, delivery of service to end-users means delivery in which the commodity of electricity consumed by or transported to the end-user is either: a) measured by the MMO by means of a check meter, or b) specifically allocated to the end-user by the MMO.

723-3-34.1.9 "Refund" means moneys previously collected by the Electric Utility in its rates and charges (directly or through an MMO) which the Electric Utility becomes obligated to return to particular Customers pursuant to Commission order or order of a court of competent jurisdiction. Refund does not include prospective rate reductions, unclaimed utility Deposits, or cost-adjustments previously approved by the Commission and contained in the Electric Utility's tariffs.

723-3-34.1.10 "Reporting Year" means the 12 month calendar year ending December 31, immediately preceding the date any Refund or Deposit report is due to the Commission from the Electric Utility or MMO.

723-3-34.1.11 "Unclaimed Deposits" means

723-3-34.1.11.1 Deposits, including any interest thereon, less any lawful deductions or amounts owed to an Electric Utility, that the Electric Utility has been directed to return to the customer by an administrative or judicial order or that is due the customer through the utility's security or construction Deposit policy and that remains unclaimed by the customer for more than two years from the date of the order;

723-3-34.1.11.2 Deposits which shall be deemed unclaimed and presumed abandoned when left with the utility for more than two years after termination of the services for which the

Deposit or advance was made or for more than two years after the Deposit becomes payable to the Customer and the utility has made reasonable efforts to locate the owner of the unclaimed moneys or distribution is attempted pursuant to a final order of the Commission or an administrative agency or judicial body having jurisdiction to establish the terms and conditions of such Deposit or advance.

723-3-34.1.11.3 The term “Unclaimed Deposits” does not include (i) Undistributed Refunds for overcharges that are subject to other statutory provisions; and (ii) credits to existing Customers through cost-adjustment mechanisms previously approved by the Commission and contained in Electric Utility tariffs; or (iii) unclaimed patronage capital held by Cooperative Electric Associations.

723-3-34.1.12 “Undistributed Refund” or “Undistributed Amounts” means any Refund, or portion thereof, owed to a particular Customer that for any reason is not returned to that Customer, provided the Electric Utility and, as applicable, the MMO makes a reasonable effort to, respectively, carry out the refund in accordance with the Commission order, or comply with the requirements of § 40-1-103.5(2), C.R.S.

723-3-34.2 PAYMENT OF UNCLAIMED DEPOSITS BY ELECTRIC UTILITIES TO THE FUND.

All jurisdictional Electric Utilities and Cooperative Electric Associations that elect to come under the provisions of Article 8.5, title 40, Colorado Revised Statutes, shall pay all Unclaimed Deposits to the Fund.

723-3-34.3 UNCLAIMED DEPOSIT REPORTS BY ELECTRIC UTILITIES.

On or before July 1 of each year, with respect to the previous twelve months ending December 31 (the “Reporting Year”), every jurisdictional Electric Utility and every Cooperative Electric Association that elects to come under the provisions of Article 8.5, title 40, Colorado Revised Statutes shall file a sworn, verified report with the Commission showing:

723-3-34.3.1 The amount of Deposits, as defined herein, and associated Interest on hand attributable to amounts received from Customers;

723-3-34.3.2 The amount of Deposits and associated Interest on hand attributable to advances from Customers for new connections, new construction or new lines under the Electric Utility's extension policies or tariffs;

723-3-34.3.3 Payments by the Electric Utility during the Reporting Year to the Fund of Unclaimed Deposits having their origin in:

723-3-34.3.3.1 Deposits attributable to amounts received from Customers under Rule 723-3-11, or any equivalent rule or tariff of the Electric Utility;

723-3-34.3.3.2 Deposits attributable to advances from Customers for new connections, new construction or new lines under the Electric Utility's extension policies or tariffs;

723-3-34.3.3.3 A combined Electric and Gas Utility may satisfy the reporting requirement by filing a single report containing combined Gas and Electric information.

723-3-34.3.4 The report shall be filed with the Commission entitled “Unclaimed Deposit Report” and shall be public. The Commission shall establish a docket or dockets as a repository for these reports. Concurrently upon filing the report with the Commission, the utility or MMO shall provide a copy of the report to the Fund.

723-3-34.4 PROCEDURES FOR COOPERATIVE ELECTRIC ASSOCIATIONS TO ELECT TO COME

UNDER ARTICLE 8.5, TITLE 40, COLORADO REVISED STATUTES.

Cooperative Electric Associations may elect to come under article 8.5 of title 40, Colorado Revised Statutes, and under the provisions of this Rule 723-3-34, by filing written notice of their intent to do so with the Commission at any time, effective January 1 of the year in which the notice is filed. The election shall continue in effect year to year thereafter unless revoked in writing before January 1 of the year in which revocation is to be effective. Any notice of election or revocation under this Rule 723-3-34.4 shall be filed in the docket in which these rules are adopted.

723-3-34.5 PAYMENT OF UNDISTRIBUTED AMOUNTS TO THE FUND.

723-3-34.5.1 Electric utilities that make Refunds shall pay 90% of all associated Undistributed Amounts, plus associated Interest, into the Fund, in accordance with the Commission decision directing and approving the refund. Electric MMO's that receive or make Refunds shall pay all associated Undistributed Amounts, including interest, into the Fund whenever the total, aggregate value of such Undistributed Amounts exceeds \$100.00.

723-3-34.5.2 Whenever an Electric Utility makes a Refund to Customers, the Electric Utility shall give notice in writing to those of its customers that the Electric Utility believes may be MMOs of a) an MMOs obligation to remit Undistributed Amounts in excess of \$100 to the Fund; and, b) the definition of MMO contained in rule 723-3-34.1.8 of these rules. A notice to a class of customers that the Electric Utility reasonably believes is likely to include MMO customers shall satisfy this requirement.

723-3-34.6 REFUND REPORTS BY ELECTRIC UTILITIES.

On or before July 1 of each year, every jurisdictional Electric Utility shall file a sworn, verified report with the Commission that either:

723-3-34.6.1 States that the Electric Utility neither made nor was in the process of making any Refunds during the Reporting Year; or,

723-3-34.6.2 States with respect to each Refund the Electric Utility made or was in the process of making during the Reporting Year:

723-3-34.6.2.1 The Undistributed Amounts and Interest associated with the Refund;

723-3-34.6.2.2 A brief summary of what gave rise to the Refund.

723-3-34.6.3 The report shall be filed with the Commission entitled "Refund Report" and shall be public. The Commission shall establish a docket or dockets as a repository for these reports. Concurrently upon filing the report with the Commission, the utility or MMO shall provide a copy of the report to the Fund.

723-3-34.7 REFUND REPORTS BY MMOS.

On or before July 1 of each year, every MMO shall file a sworn, verified report with the Commission that either:

723-3-34.7.1 States that the MMO neither received from an Electric Utility nor was in the process of distributing to Customers a Refund during the Reporting Year; or,

723-3-34.7.2 States with respect to each Electric Utility Refund the MMO received or was in the process of distributing during the Reporting Year:

723-3-34.7.2.1 The total dollar amount of the Refund received by the MMO from the Electric Utility, and when received;

723-3-34.7.2.2 The dollar amount of the Refund retained by the MMO as a Customer in its own right;

723-3-34.7.2.3 The dollar amount of the Refund returned by the MMO to Customers entitled to such Refund amounts;

723-3-34.7.2.4 All Undistributed Amounts from the Refund, and the calculation of Interest on said amounts from the date received by the MMO to the date paid by the MMO to the Fund, or, if not yet paid to the Fund, through the Reporting Year;

723-3-34.7.2.5 The date and amount of Undistributed Amounts (inclusive of Interest earned while in the possession of the MMO) paid by the MMO into the Fund.

723-3-34.7.3 The report shall be filed with the Commission entitled "Refund Report" and shall be public. The Commission shall establish a docket or dockets as a repository for these reports. Concurrently upon filing the report with the Commission, the utility or MMO shall provide a copy of the report to the Fund.

723-3-34.8 COMMISSION ORDERS ON DISPOSITION OF UNDISTRIBUTED AMOUNTS.

At any time an Electric Utility is in possession of a sum subject to refund in excess of an amount that would result in payment of \$1 or more to the Electric Utility's average residential customers, the Electric Utility shall within sixty (60) days file an application with the Commission for an order approving a plan for the refund thereof, including provision for the payment into the Fund of ninety percent (90%) of the Undistributed Amount associated with the refund or such other disposition as the Commission may order. A copy of each such application shall be served on the Fund and on the Office of Consumer Counsel. The application shall be processed, and an appropriate order entered by the Commission, in accordance with § 40-6-109.5, C.R.S. and the Commission's procedural rules implementing that statute.

723-3-34.9 ACCOUNTABILITY TO CUSTOMERS.

In no case shall an Electric Utility or MMO refer Customers to the Fund for explanations of, or disposition of claims or potential claims with respect to, payments to the Fund of unclaimed utility deposits and refunds made by an Electric Utility or MMO pursuant to Rule 723-3-34.2 or 723-3-34.5.

ELECTRIC LEAST-COST RESOURCE PLANNING RULES 4 *Code of Colorado Regulations* 723-3, Rules 3600 Through 3615

3006. Reports.

Each utility shall provide reports to the Commission as follows:

(a)–(d) [Reserved for Future Use]

(e) Reports relating to least-cost resource planning as required by rules 3605, 3610(e), and 3614.

LEAST-COST RESOURCE PLANNING

3600. Special Definitions.

The following definitions apply only to rules 3600 – 3615:

- (a) "Availability factor" means the ratio of the time a generating facility is available to produce energy at its rated capacity, to the total amount of time in the period being measured.
- (b) "Annual capacity factor" means the ratio of the net energy produced by a generating facility in a year, to the amount of energy that could have been produced if the facility operated continuously at full capacity year-round.
- (c) "End-use" means the light, heat, cooling, refrigeration, motor drive, or other useful work produced by equipment that uses electricity or its substitutes.
- (d) "Energy conservation" means the decrease in electricity requirements of specific customers during any selected time period, with end-use services of such customers held constant.
- (e) "Energy efficiency" means increases in energy conservation, reduced demand or improved load factors resulting from hardware, equipment, devices, or practices that are installed or instituted at a customer facility. Energy efficiency measures can include fuel switching.
- (f) "Heat Rate" means the ratio of energy inputs used by a generating facility expressed in BTUs (British Thermal Units), to the energy output of that facility expressed in kilowatt-hours.
- (g) "Least-cost resource plan" or "plan" means a utility plan consisting of the elements set forth in rule 3604.
- (h) "Net present value of rate impact" means the current worth of the average annual rates associated with a particular resource portfolio, expressed in dollars per kilowatt-hour in the year the plan is filed. The net present value of rate impact for a particular resource portfolio is first calculated by discounting the total annual revenue requirement by the appropriate discount rate. The discounted revenue requirement is then divided by the total utility kilowatt-hour requirement for that year and averaged across the years of the planning period. The total annual revenue requirement for each year of the planning period is the total expected future revenue requirements associated with a particular resource portfolio.
- (i) "Planning period" means the future period for which a utility develops its plan, and the period, over which net present value of rate impact for resources are calculated. For purposes of this rule, the planning period is twenty to forty years and begins from the date the utility files its plan with the Commission.
- (j) "Renewable resource" means any facility, technology, measure, plan or action utilizing a renewable "fuel" source such as wind; solar; biomass; geothermal; municipal, animal, waste-tire or other waste; or hydroelectric generation of twenty megawatts or less.
- (k) "Resource acquisition period" means the first six to ten years of the planning period, in which the utility acquires specific resources to meet projected electric system demand. The resource acquisition period begins from the date the utility files its plan with the Commission.
- (l) "Resources" means supply-side resources, energy efficiency, or renewable resources used to meet electric system requirements.
- (m) "Supply-side resource" means a resource that can provide electrical energy or capacity to the utility. Supply-side resources include utility-owned generating facilities, and energy or capacity purchased from other utilities and non-utilities.
- (n) "Typical day load pattern" means the electric demand placed on the utility's system for each hour of the day.

3601. Overview.

The purpose of these rules is to establish a process to determine the need for additional electric resources by Commission jurisdictional electric utilities, pursuant to the power to regulate public utilities delegated to the Commission by Article XXV of the Colorado Constitution and by §§ 40-2-123, 40-3-102, 40-3-111, and 40-4-101, C.R.S. It is the Commission's policy that a competitive acquisition process will normally be used to acquire new utility resources. This process is intended to result in least-cost resource portfolios, taking into consideration projected system needs, reliability of proposed resources, expected generation loading characteristics, and various risk factors. The rules are intended to be neutral with respect to fuel type or resource technology.

3602. Applicability.

This rule shall apply to all jurisdictional electric utilities in the state of Colorado that are subject to the Commission's regulatory authority. Cooperative electric associations engaged in the distribution of electricity (*i.e.* rural electric associations) are exempt from these rules. Cooperative electric generation and transmission associations are subject only to reporting requirements as specified in rule 3605.

3603. Least-Cost Resource Plan Filing Requirements.

Jurisdictional electric utilities, as described in rule 3602, shall file a least-cost resource plan ("plan") pursuant to these rules on or before October 31, 2003, and every four years thereafter. In addition to the required four-year cycle, a utility may file an interim plan, pursuant to rule 3604. If a utility chooses to file an interim plan more frequently than the required four-year cycle, its application must state the reasons and changed circumstances that justify the interim filing. Each utility shall file an original and fifteen copies of the plan with the Commission.

3604. Contents of the Least-Cost Resource Plan.

The utility shall file a plan with the Commission that contains the information specified below. When required by the Commission, the utility shall provide work-papers to support the information contained in the plan. The plan shall include:

- (a) A statement of the utility-specified resource acquisition period, and planning period. The utility shall consistently use the specified resource acquisition and planning periods throughout the entire least-cost plan and resource acquisition process. The utility shall include a detailed explanation as to why the specific period lengths were chosen in light of the assessment of base-load, intermediate and peaking needs of the utility system;
- (b) An annual electric demand and energy forecast developed pursuant to rule 3606;
- (c) An evaluation of existing resources developed pursuant to rule 3607;
- (d) An assessment of planning reserve margins and contingency plans for the acquisition of additional resources developed pursuant to rule 3608;
- (e) An assessment of need for additional resources developed pursuant to rule 3609;
- (f) A description of the utility's plan for acquiring these resources pursuant to rule 3610;
- (g) The proposed RFP(s) the utility intends to use to solicit bids for the resources to be acquired through a competitive acquisition process, pursuant to rule 3612; and
- (h) An explanation stating whether current rate designs for each major customer class are consistent with the contents of its plan. The utility shall also explain whether possible future changes in rate

design will facilitate its proposed resource planning and resource acquisition goals.

3605. Cooperative Electric Generation and Transmission Association Reporting Requirements.

Pursuant to the schedule established in rule 3603, each cooperative electric generation and transmission association shall report its forecasts, existing resource assessment, planning reserves, and needs assessment, consistent with the requirements specified in rules 3606, 3607, 3608(a) and 3609. Each cooperative generation and transmission association shall also file annual reports pursuant to rules 3614(a)(I) through 3614(a)(VI).

3606. Electric Energy and Demand Forecasts.

- (a) Forecast Requirements. The utility shall prepare the following energy and demand forecasts for each year within the planning period:
- (I) Annual sales of energy and coincident summer and winter peak demand in total and disaggregated among Commission jurisdictional sales, FERC jurisdictional sales, and sales subject to the jurisdiction of other states;
 - (II) Annual sales of energy and coincident summer and winter peak demand on a system-wide basis for each major customer class;
 - (III) Annual energy and capacity sales to other utilities; and capacity sales to other utilities at the time of coincident summer and winter peak demand;
 - (IV) Annual intra-utility energy and capacity use at the time of coincident summer and winter peak demand;
 - (V) Annual system losses and the allocation of such losses to the transmission and distribution components of the system. Coincident summer and winter peak system losses and the allocation of such losses to the transmission and distribution components of the systems; and
 - (VI) Typical day load patterns on a system-wide basis for each major customer class. This information shall be provided for peak-day, average-day, and representative off-peak days for each calendar month.
- (b) Range of forecasts. The utility shall develop and justify a range of forecasts of coincident summer and winter peak demand and energy sales that its system may reasonably be required to serve during the planning period. The range shall include base case, high, and low forecast scenarios of coincident summer and winter peak demand and energy sales, based on alternative assumptions about the determinants of coincident summer and winter peak demand and energy sales during the planning period.
- (c) Required Detail.
- (I) In preparing forecasts, the utility shall develop forecasts of energy sales and coincident summer and winter peak demand for each major customer class. The utility shall use end-use, econometric or other supportable methodology as the basis for these forecasts. If the utility determines not to use end-use analysis, it shall explain the reason for its determination as well as the rationale for its chosen alternative methodology.
 - (II) The utility shall explain the effect on its energy and coincident peak demand forecast of all existing energy efficiency and energy conservation programs for each major customer class, as well as any such measures that have been approved by the Commission but

are not included in the forecasts.

- (III) The utility shall maintain, as confidential, information reflecting historical and forecasted demand and energy use for individual customers in those cases when an individual customer is responsible for the majority of the demand and energy used by a particular rate class. However, when necessary in the least-cost resource plan proceedings, such information may be disclosed to parties who intervene in accordance with the terms of non-disclosure agreements approved by the Commission and executed by the parties seeking disclosure.
- (d) Historical Data. The utility shall compare the annual forecast of coincident summer and winter peak demand and energy sales made by the utility to the actual coincident peak demand and energy sales experienced by the utility for the five years preceding the year in which the plan under consideration is filed. In addition, the utility shall compare the annual forecasts in its most recently filed resource plan to the annual forecasts in the current resource plan.
- (e) Description and Justification. The utility shall fully explain, justify, and document the data, assumptions, methodologies, models, determinants, and any other inputs upon which it relied to develop its coincident peak demand and energy sales forecasts pursuant to this rule, as well as the forecasts themselves.
- (f) Format and Graphical Presentation of Data. The utility shall include graphical presentation of the data to make the data more understandable to the public, and shall make the data available to requesting parties in such electronic formats as the Commission shall reasonably require.

3607. Evaluation of Existing Generation Resources.

- (a) Existing Generation Resource Assessment. The utility shall describe its existing generation resources, all utility-owned generating facilities for which the utility has obtained a CPCN from the Commission pursuant to C.R.S. § 40-5-101 at the time the plan is filed, and existing or future purchases from other utilities or non-utilities pursuant to agreements effective at the time the plan is filed. The description shall include when applicable:
 - (I) Name(s) and location(s) of utility-owned generation facilities;
 - (II) Rated capacity and net dependable capacity of utility-owned generation facilities;
 - (III) Fuel type, heat rates, annual capacity factors and availability factors projected for utility-owned generation facilities over the planning period;
 - (IV) Estimated in-service dates for utility-owned generation facilities for which a CPCN has been granted but which are not in-service at the time the plan under consideration is filed;
 - (V) Estimated remaining useful lives of existing generation facilities without significant new investment or maintenance expense;
 - (VI) The amount of capacity and/or energy purchased from utilities and non-utilities, the duration of such purchase contracts and a description of any contract provisions that allow for modification of the amount of capacity and energy purchased pursuant to such contracts; and
 - (VII) The amount of capacity and energy provided pursuant to wheeling or coordination agreements, the duration of such wheeling or coordination agreements, and a description of any contract provisions that allow for modification of the amount of capacity and energy provided pursuant to such wheeling or coordination agreements.

(b) Utilities required to comply with these rules shall coordinate their plan filings such that the amount of electricity purchases and sales between utilities during the planning period is reflected uniformly in their respective plans. Disputes regarding the amount, timing, price, or other terms and conditions of such purchases and sales shall be fully explained in each utility's plan. If a utility files an interim plan as specified in rule 3603, the utility is not required to coordinate that filing with other utilities.

(c) Existing Transmission Capabilities and Future Needs.

(I) The utility shall report its existing transmission capabilities, and future needs during the planning period, for facilities of 115 kilovolts and above, including associated substations and terminal facilities. The utility shall generally identify the location and extent of transfer capability limitations on its transmission network that may affect the future siting of resources. With respect to future needs, the utility shall explain the need for facilities based upon future load projections (including reserves). To the extent reasonably available, the utility shall include a description of the length and location of any additional facilities needed, their estimated costs, terminal points, voltage and megawatt rating, alternatives considered or under consideration, and other relevant information.

(II) In order to equitably compare possible resource alternatives, the utility shall consider all transmission costs required by, or imposed on the system by, a particular resource as part of the bid evaluation criteria.

3608. Planning Reserve Margins.

(a) The utility shall provide a description of, and justification for, the means by which it assesses the desired level of reliability on its system throughout the planning period (*e.g.*, probabilistic or deterministic reliability indices).

(b) The utility shall develop and justify planning reserve margins for each year of the resource acquisition period for the base case, high, and low forecast scenarios established under rule 3606, to include risks associated with: 1) the development of generation, 2) losses of generation capacity, 3) purchase of power, 4) losses of transmission capability, 5) risks due to known or reasonably expected changes in environmental regulatory requirements, and 6) other risks. The utility shall develop planning reserve margins for its system for each year of the planning period outside of the resource acquisition period for the base case forecast scenario. The utility shall also quantify the recommended or required reliability performance criteria for reserve groups and power pools to which the utility is a party.

(c) Since actual circumstances may differ from the most likely estimate of future resource needs, the utility shall develop contingency plans for each year of the resource acquisition period. As a part of its plan, the utility shall provide, under seal, a description of its contingency plans for the acquisition of additional resources if actual circumstances deviate from the most likely estimate of future resource needs developed pursuant to rule 3609. The Commission will consider approval of contingency plans only after the utility receives bids, as described in rule 3614(b)(II). The provisions of rule 3613(d), Effect of the Commission Decision, shall not apply to the contingency plans unless explicitly ordered by the Commission.

3609. Assessment of Need for Additional Resources.

By comparing the electric energy and demand forecasts developed pursuant to rule 3606 with the existing level of resources developed pursuant to rule 3607, and planning reserve margins developed pursuant to rule 3608, the utility shall assess the need to acquire additional resources during the resource acquisition period.

3610. Utility Plan for Meeting the Resource Need.

- (a) The utility shall describe its least-cost resource plan for acquiring the resources to meet the need identified in rule 3609. The utility shall specify the portion of the resource need that it intends to meet as a part of a stand-alone voluntary tariff service, where all costs are separate from standard tariff services, if any. If the utility chooses to offer a stand-alone voluntary service it must comply with the provisions of rule 3610(e), and the costs associated with any independent auditor will be assigned to the stand-alone voluntary service offering and will not be borne by the general body of utility ratepayers. The utility shall specify the portion of the resource need that it intends to meet through a competitive acquisition process and the portion that it intends to meet through an alternative method of resource acquisition.
- (b) The utility shall meet the resource need identified in the plan through a competitive acquisition process, unless the Commission approves an alternative method of resource acquisition. If the utility proposes that a portion of the resource need be met through an alternative method of resource acquisition, the utility shall identify the specific resource(s) that it wishes to acquire, and the reason the specific resource(s) should not be acquired through a competitive acquisition process. In addition, the utility shall provide a cost-benefit analysis to demonstrate the reason why the public interest would be served by acquiring the specific resource(s) through an alternative method of resource acquisition. The least-cost resource plan shall describe and estimate the cost of all new transmission facilities associated with any specific resources proposed for acquisition other than through a competitive acquisition process. The utility shall also explain and justify how the alternative method of resource acquisition complies with the requirements of the Public Utility Regulatory Policy Act and Commission rules implementing such act.

The lesser of 250 megawatts, or 10% of the highest base case forecast peak requirement identified for the resource acquisition period, shall be the maximum amount of power that the utility may obtain through such alternative method of resource acquisition (I) in any single resource acquisition period, and (II) from any single specific resource, regardless of the number of resource acquisition periods over which the units, plants or other components of the resource might be built, or the output of the resource made available for purchase.

- (c) The utility shall have the flexibility to propose multiple acquisitions at various times over the resource acquisition period. However, the limits specified in paragraph (b) of this rule shall apply to the total resources acquired through an alternative method during an entire four-year least cost planning cycle.
- (d) Each utility shall establish, and include as a part of its filing, a written bidding policy to ensure that bids are solicited and evaluated in a fair and reasonable manner. The utility shall specify such competitive acquisition procedures that it intends to use to obtain resources under the utility's plan.
- (e) If the utility intends to accept proposals from the utility or from an affiliate of the utility, the utility shall include as part of its filing a written separation policy and the naming of an independent auditor whom the utility proposes to hire to review and report to the Commission on the fairness of the competitive acquisition process. The independent auditor shall have at least five years' experience conducting and/or reviewing the conduct of competitive electric utility resource acquisition, including computerized portfolio costing analysis. The independent auditor shall be unaffiliated with the utility; and shall not, directly or indirectly, have benefited from employment or contracts with the utility in the preceding five years, except as an independent auditor under these rules. The independent auditor shall not participate in, or advise the utility with respect to, any decisions in the bid-solicitation or bid-evaluation process. The independent auditor shall conduct an audit of the utility's bid solicitation and evaluation process to determine whether it was conducted fairly. For purposes of such audit, the utility shall provide the independent auditor immediate and continuing access to all documents and data reviewed, used or produced by the

utility in its bid solicitation and evaluation process. The utility shall make all its personnel, agents and contractors involved in the bid solicitation and evaluation available for interview by the auditor. The utility shall conduct any additional modeling requested by the independent auditor to test the assumptions and results of the bid evaluation analyses. Within sixty days of the utility's selection of final resources, the independent auditor shall file a report with the Commission containing the auditor's views on whether the utility conducted a fair bid solicitation and bid evaluation process, with any deficiencies specifically reported. After the filing of the independent auditor's report, the utility, other bidders in the resource acquisition process and other interested parties shall be given the opportunity to review and comment on the independent auditor's report.

- (f) In selecting its final resource plan, the utility's objective shall be to minimize the net present value of rate impacts, consistent with reliability considerations and with financial and development risks. The utility shall consider renewable resources; resources that produce minimal emissions or minimal environmental impact; energy-efficient technologies; and resources that provide beneficial contributions to Colorado's energy security, economic prosperity, environmental protection, and insulation from fuel price increases; as a part of its bid solicitation and evaluation process. Further, the utility shall grant a preference to such resources where cost and reliability considerations are equal.

3611. Exemptions from competitive acquisition.

The following resources need not be acquired through a competitive acquisition process and need not be included in an approved Least-Cost Plan prior to acquisition:

- (a) Emergency maintenance or repairs made to utility-owned generation facilities;
- (b) Capacity and/or energy from newly-constructed, utility-owned, supply-side resources with a nameplate rating of not more than thirty megawatts;
- (c) Capacity and/or energy from the generation facilities of other utilities or from non-utility generators pursuant to agreements for not more than a two year term (including renewal terms) or for not more than thirty megawatts of capacity;
- (d) Improvements or modifications to existing utility generation facilities that change the production capability of the generation facility site in question, by not more than thirty megawatts, based on the utility's share of the total generation facility site output, and that have an estimated cost of not more than \$30 million;
- (e) Interruptible service provided to the utility's electric customers;
- (f) Modifications to, or amendments of, existing power purchase agreements, which do not extend the agreement more than four years, that add not more than thirty MW of capacity to the utility's system, and that are cost effective in comparison to other supply-side alternatives available to the utility; and
- (g) Utility investments in emission control equipment at existing generation plants.

3612. Request(s) For Proposals.

- (a) Purpose of the Request(s) for Proposals. The proposed RFP(s) filed by the utility shall be designed to solicit competitive bids to acquire additional resources pursuant to rule 3610.
- (b) Contents of the Request(s) for Proposals. The proposed RFP(s) shall include the bid evaluation criteria the utility plans to use in ranking the bids received. The utility shall also include in its proposed RFP(s): 1) base-load, intermediate and/or peaking needs, and preferred fuel type; 2)

reasonable estimates of transmission costs for resources located in different areas; 3) the extent and degree to which resources must be dispatchable, including the requirement, if any, that resources be able to operate under automatic dispatch control; 4) the utility's proposed standard contract(s) for the acquisition of resources; 5) proposed contract term lengths; 6) discount rate and 7) general planning assumptions, and any other information necessary to implement a fair and reasonable bidding program.

3613. Commission Review and Approval of Least-Cost Resource Plans.

- (a) Review on the Merits. The utility's plan, as developed pursuant to rule 3604 will be filed in the form of an application administered pursuant to the Commission's Rules of Practice and Procedure. The Commission may hold a hearing for the purpose of reviewing and rendering a decision regarding the contents of the utility's plan upon its filing.
- (b) Basis for Commission Decision. Based upon the evidence of record, the Commission shall issue a written decision approving, disapproving, or ordering modifications, in whole or in part to the utility's plan. If the Commission declines to approve a plan, either in whole or in part, the utility shall make changes to the plan in response to the Commission's decision. Within 60 days of the Commission's rejection of a plan, the utility shall file an amended plan with the Commission, and provide copies to all parties who participated in the application docket concerning the utility's plan. All such parties may participate in any hearings regarding the amended plan.
- (c) Contents of the Commission Decision. The Commission decision approving or denying the plan shall address the contents of the utility's plan filed in accordance with rule 3604. If the record contains sufficient evidence, the Commission shall specifically approve or modify: (1) the utility's assessment of need for additional resources in the resource acquisition period, (2) the utility's plans for acquiring additional resources through the competitive acquisition process, or through an alternative acquisition process, and (3) components of the utility's proposed RFP, such as the proposed evaluation criteria.
- (d) Effect of the Commission Decision. A Commission decision specifically approving the components of a utility's plan creates a presumption that utility actions consistent with that approval are prudent. Because the Commission will not approve a utility's selection of specific resources, the Commission's approval of a plan creates no presumptions regarding those resources.
 - (I) In a proceeding concerning the utility's request to recover the investments or expenses associated with new resources:
 - (A) The utility must present *prima facie* evidence that its actions were consistent with Commission decisions specifically approving or modifying components of the plan.
 - (B) To support a Commission decision to disallow investments or expenses associated with new resources on the grounds that the utility's actions were not consistent with a Commission approved plan, an intervenor must present evidence to overcome the utility's *prima facie* evidence that its actions were consistent with Commission decisions approving or modifying components of the plan. Alternatively, an intervenor may present evidence that, due to changed circumstance timely known to the utility or that should have been known to a prudent person, the utility's actions were not proper.
 - (II) In a proceeding concerning the utility's request for a certificate of public convenience and necessity to meet customer need specifically approved by the Commission in its decision on the least-cost resource plan, the Commission shall take administrative notice of its decision on the plan. Any party challenging the Commission's decision regarding need for

additional resources has the burden of proving that due to a change in circumstances the Commission's decision on need is no longer valid.

3614. Reports

- (a) Annual Progress Reports. The utility shall file with the Commission, and provide copies to all parties to the most recent least-cost planning docket, annual progress reports after submission of its plan application. The annual progress reports will inform the Commission of the utility's efforts under the approved plan. Annual progress reports shall also contain:
- (I) An updated annual electric demand and energy forecast developed pursuant to rule 3606;
 - (II) An updated evaluation of existing resources developed pursuant to rule 3607;
 - (III) An updated evaluation of planning reserve margins and contingency plans developed pursuant to rule 3608;
 - (IV) An updated assessment of need for additional resources developed pursuant to rule 3609;
 - (V) An updated report of the utility's plan to meet the resource need developed pursuant to rule 3610 and the resources the utility has acquired to date in implementation of the plan; and
 - (VI) In addition to the items required in 3614(a)(I) through 3614(a)(V), cooperative electric generation and transmission associations shall include in their annual report a full explanation of how its future resource acquisition plans will give fullest possible consideration to the cost-effective implementation of new clean energy and energy-efficient technologies in its consideration of generation acquisitions for electric utilities, bearing in mind the beneficial contributions such technologies make to Colorado's energy security, economic prosperity, environmental protection, and insulation from fuel price increases.
- (b) Reports of the competitive acquisition process. The utility shall provide reports to the Commission concerning the progress and results of the competitive acquisition of resources. The following reports shall be filed:
- (I) Within 30 days after bids are received in response to the RFP(s), the utility shall report: (1) the number of bids received, (2) the quantity of MW offered by bidders, (3) a breakdown of the number of bids and MW received by resource type, and (4) a description of the prices of the resources offered.
 - (II) If, upon examination of the bids, the utility determines that the proposed resources may not meet the utility's expected resource needs, the utility shall file an application for approval of a contingency plan, within 30 days after bids are received. The application shall include justification for need of the contingency plan, proposed action by the utility, expected costs, and expected timeframe for implementation.
 - (III) Within 45 days after the utility has selected the winning bidders, the utility shall report: (1) the number of winning bids, (2) the quantity of MW offered by the winning bidders, (3) a breakdown of the number and MW of winning bids by resource type, name and location, and (4) a description of the prices of the winning bids.

3615. Amendment of an Approved plan.

The utility may, at any time, file an application to amend the contents of a plan approved pursuant to rule 3613. Such an application shall be administered pursuant to the Commission's rules of Practice and

Procedure.