

Decision No. C21-0411

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 21R-0327ALL

IN THE MATTER OF THE PROPOSED AMENDMENTS TO RULE 1207 OF THE
COMMISSION RULES OF PRACTICE AND PROCEDURE 4 CODE OF COLORADO
REGULATIONS 723-1.

NOTICE OF PROPOSED RULEMAKING

Mailed Date: July 15, 2021
Adopted Date: June 30, 2021

I. BY THE COMMISSION

A. Statement

1. The Colorado Public Utilities Commission (Commission) issues this Notice of Proposed Rulemaking (NOPR) to amend customer notice requirements contained in Rule 1207 of the Commission's Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (CCR) 723-1.

2. Decision No. C21-0217, issued April 13, 2021 in Proceeding No. 20M-0546ALL, directed Staff of the Commission (Staff) to prepare a NOPR to modify and clarify Rule 1207 for the Commission's consideration. Consistent with this direction, Staff has proposed redline amendments to Rule 1207 in Attachment A to this Decision. These proposed amendments require utilities to provide notice to customers of all changes in any rate, fare, toll, rental charge, classification, or service. The proposed amendments make it clear that customer notice requirements apply to applications requesting recovery of costs through a rate adjustment mechanism or "rider," even if the rider or adjustment mechanism may be implemented in a later filing. Additionally, the proposed amendments would require a utility requesting an alternative

form of notice to explain why it seeks to deviate from each of the forms of notice allowed by § 40-3-104(1)(c)(I)(A)-(D), C.R.S., and would require utilities to confer with Staff prior to filing a motion for an alternative form of notice.

B. Discussion

3. On December 22, 2020, in Proceeding No. 20M-0546ALL, the Office of Consumer Counsel (OCC) filed a petition requesting the Commission open a rulemaking proceeding to clarify and modify Rule 1207, 4 CCR 723-1. The OCC argued that certain applications recently filed by Colorado utilities essentially entail the approval of a future rate increase through the implementation of a rate adjustment mechanism or “rider,” however the applicant utilities had failed to provide notice to their customers about such rate increases in accordance with statutory mandates. The OCC claimed that absent proper notice, the affected utility customers have little or no knowledge of the requested rider at all. More generally, the OCC argued that § 40-3-104(1), C.R.S., which sets forth the statutory requirements for utility notice, applies to all changes in any rate, fare, toll, rental, charge, classification, or service and is thus not limited to advice letter and tariff filings as it claims the Commission has interpreted Rule 1207(a) to apply.

4. We found that the OCC raises legitimate inconsistencies in the notice provided to customers for applications to implement a rider, and that there is good cause to consider modifying and clarifying Rule 1207.

5. Our proposed rule changes addressing customer notice of applications requesting riders are set forth in Attachment A to this NOPR.

6. The proposed amendments would also require that utilities requesting an alternative form of notice explain why it seeks to deviate from each of the notice methods

allowed by § 40-3-104(1)(c)(I)(A)-(D), C.R.S. We propose this amendment to aid our determinations of whether there is good cause for requested alternative forms of notice, including whether a utility's proposed notice methods reach a sufficient amount of customers and whether they are appropriately cost-effective when compared to statutory options such as e-mail.

7. Additionally, the proposed amendments would require utilities to confer with Staff prior to filing a motion requesting an alternative form of notice. And, if Staff opposes the motion after conferral, the proposed amendments would allow Staff to file a response within two business days.

C. Conclusion

8. The statutory authority for the rules proposed here is found at §§ 24-4-101 *et seq.*; 40-1-101, *et seq.*, 40-2-108, 40-3-102, 40-3-103, 40-3-104, 40-4-101, 40-4-108, and 40-6-101(1), C.R.S.

9. The proposed rules in legislative (*i.e.*, ~~strikeout~~/underline) format (Attachment A) and final format (Attachment B) are available through the Commission's Electronic Filings system at:

https://www.dora.state.co.us/pls/efi/EFI.Show_Docket?p_session_id=&p_docket_id=21R-0327ALL

10. The Commission encourages and invites public comment on all proposed rule amendments. We request that commenters propose any changes in legislative redline format.

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

12. The ALJ will conduct a hearing on the proposed rules and related issues on August 24, 2021. Interested persons may submit written comments on the rules and present these orally at hearing, unless the ALJ deems oral presentations unnecessary.

13. The Commission encourages interested persons to submit written comments before the hearing scheduled in this matter. In the event interested persons wish to file comments before the hearing, the Commission requests that comments be filed no later than August 6, 2021, and that any pre-filed comments responsive to the initial comments be submitted no later than August 13, 2021. The Commission prefers that comments be filed using its E-Filing System at <https://www.dora.state.co.us/pls/efi/EFI.homepage>.

II. ORDER

A. The Commission Orders That:

1. This Notice of Proposed Rulemaking (including Attachment A and Attachment B) attached hereto, shall be filed with the Colorado Secretary of State for publication in the July 25, 2021, edition of *The Colorado Register*.

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

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

DATE August 24, 2021

TIME: 10:00 a.m. until not later than 5:00 p.m.

PLACE: By video conference using Zoom

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

5. Interested persons may file written comments in this matter. The Commission requests that initial pre-filed comments be submitted no later than August 6, 2021, and that any pre-filed comments responsive to the initial comments be submitted no later than August 13, 2021. The Commission will consider all submissions, whether oral or written.

6. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
June 30, 2021.**

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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JOHN GAVAN

MEGAN M. GILMAN

Commissioners