

COLORADO DEPARTMENT OF REGULATORY AGENCIES

Public Utilities Commission

4 CODE OF COLORADO REGULATIONS (CCR) 723-1

PART 1 RULES OF PRACTICE AND PROCEDURE

1004. Definitions.

The following definitions apply to all Commission rules, except where a specific rule or statute provides otherwise:

- (a) "Accelerated telecommunications interconnection complaint" means a formal complaint that is filed to resolve a dispute arising out of a telecommunications interconnection agreement, and that meets the requirements of paragraph (d) of rule 1302.
- (b) "Administrative proceeding" means a non-adjudicatory proceeding regarding any matter the Commission wishes to investigate, any matter concerning the administration of programs or functions committed to the Commission, any matter concerning general Commission policy, any miscellaneous matter, advice letter proceedings prior to suspension of the effective date by Commission decision, any petition requesting a rulemaking proceeding, or any proceeding designated by the Commission as an administrative proceeding.
- (c) "Adjudicatory proceeding" means the following types of proceedings: applications, petitions, other than petitions for rulemaking, formal complaints, show cause proceedings, advice letter proceedings after suspension of the effective date by the Commission, or any other proceeding designated by the Commission as an adjudicatory proceeding.
- (d) "Advice letter" means the introductory letter to a formal proposal by a utility to establish new tariffs or to revise existing tariffs, through which the utility submits proposed new or revised tariff pages to the Commission for inclusion in its effective tariff and provides the information required by paragraph 1210(c).
- (e) "Advisory staff" means Commission staff designated as advisory staff in a particular adjudicatory proceeding by operation of rule 1007; Commission staff in an administrative proceeding, or Commission staff in an adjudicatory proceeding in which Commission staff does not intervene; or any assistant attorney general advising the Commissioners, Administrative Law Judges, or advisory staff. Advisory staff directly supports the Commissioners and the Administrative Law Judges. Advisors provide technical analysis and policy advice; manage cases; and assist the Commissioners and Administrative Law Judges in reaching their decision in formal proceedings.
- (f) "Affiliate" of a regulated entity means a subsidiary of a regulated entity, a parent corporation of a regulated entity, a joint venture organized as a separate corporation or a partnership to the extent of the regulated entity's involvement with the joint venture, or a fellow subsidiary of a parent corporation of a regulated entity.

(g) "Business day" means Monday through Friday from 8:00 a.m. to 5:00 p.m. Mountain Time, excluding legal holidays and any other day when the Commission's office is lawfully closed.

(h) "Colorado Enviroscreen" means the environmental justice mapping tool developed by the Colorado Department of Health and Human Services in partnership with the Colorado Department of Public Health and Environment, and administered pursuant to § 24-4-109(5)(a)(I), C.R.S.

(i) "Colorado Rules of Civil Procedure" means the Colorado Rules of Civil Procedure, as published in the 202542 edition of the Colorado Revised Statutes.¹ No later amendments to or editions of the incorporated material are incorporated into these rules. Any person seeking information regarding how the incorporated material may be obtained or examined may contact the Chief Administrative Law Judge, Colorado Public Utilities Commission, 1560 Broadway, Suite 250, Denver, Colorado 80202. The material incorporated by reference may be examined at any state publications depository library.

(j) "Commission" means the Public Utilities Commission of the state of Colorado, two or more commissioners acting on behalf of the Public Utilities Commission, a hearing Commissioner, or an Administrative Law Judge, as the context requires.

(k) "Colorado Open Records Act" means the Colorado Open Records Act, §§ 24-72-201, et seq., C.R.S.

(l) "Commission staff" means individuals employed by the Commission, including individuals appointed or hired by the Director pursuant to § 40-2-104, C.R.S.

(m) "Contracted agent" means any person or entity that has contracted with a regulated entity to assist in the provision of the regulated entity's services (e.g., an affiliate or vendor).

(n) "Customer" means any person who has applied for, been accepted for, or is receiving regulated service in Colorado from a regulated entity subject to Commission jurisdiction.

(o) "Day" means a calendar day.

(p) "Director" means the Director of the Commission appointed pursuant to § 40-2-103, C.R.S.

(q) "Disproportionately impacted community" is defined consistent with § 40-1-102(6.5), C.R.S., referencing § 24-4-109(2)(b)(II), C.R.S., and is a community that meets one or more of the following criteria:

(I) the community is a mobile home park as defined by § 38-12-201.5(6);

(II) the community is located on the Southern Ute or Ute Mountain Ute Indian Reservation;

(III) as shown on Colorado EnviroScreen, the community is within a census block group as determined in accordance with the most recent five-year United States Bureau of the Census American Community Survey and meets one or more of the following criteria:

¹ All or a portion of the incorporated Colorado Rules of Civil Procedure may be available through the Commission's website.

- (A) the proportion of the population living in households that are below 200 percent of the federal poverty level is greater than 40 percent within the census block group;
- (B) the proportion of households that spend more than 30 percent of household income on housing is greater than 50 percent within the census block group;
- (C) the proportion of the population that identifies as people of color is greater than 40 percent within the census block group;
- (D) the proportion of the population that is linguistically isolated is greater than 20 percent within the census block group;
- (E) the census block group is within a census tract that qualifies as disadvantaged under the most recent version of the Climate and Economic Justice Screening Tool developed by the Council on Environmental Quality in the Office of the President of the United States;
- (F) the census block group scores above the 80th percentile using Colorado EnviroScreen; or
- (G) the census block group has been determined to be a disproportionately impacted community by the Commission or another statewide agency pursuant to rule 1604; or

(IV) the community is a vulnerable population, as defined in paragraph 1602(c), and as approved by the Commission in a relevant proceeding.

- (pr) "E-Filings System" means the Internet-based process available through the Commission's website that is authorized by the Commission for, among other uses, the electronic submission of filings, pleadings, and other papers and service of process in Commission proceedings.
- (s) "Equity impact proceeding" means a proceeding as defined in paragraph 1603(a).
- (et) "List of witnesses" means a list of the names, titles, addresses, and telephone numbers of the persons a party intends to call as a witness in a hearing.
- (fu) "Motor carrier" means a motor carrier as defined in § 40-10.1-101(10), C.R.S.
- (sv) "Newspaper of general circulation" means a newspaper having a paid Colorado circulation of at least 100,000, or a newspaper having a paid circulation of at least 1,000 in the area where the members of the public affected by the matter of which notice is given are located.
- (tw) "Office of Utility Consumer Advocate" or "UCA" means the Colorado Office of Utility Consumer Advocate, pursuant to § 40-6.5-102(1), C.R.S.
- (x) "Participant" means a person providing comments, information, documents, or otherwise engaging in an administrative proceeding or a rulemaking proceeding.
- (uy) "Party" means "party" as that term is defined in rule 1200.

(vz) "Person" means Commission staff or any individual, firm, partnership, corporation, company, association, cooperative association, joint stock association, joint venture, governmental entity, or other legal entity.

(waa) "Personal information" means the following:

- (I) social security or tax identification number;
- (II) driver's license number or identification card number;
- (III) credit card, debit card, other account number used for payment;
- (IV) any required security code, access code, or password that would permit access to the customer's account;
- (V) customer's name only in combination with any one or more other enumerated data elements that relate to such customer; and
- (VI) other individually identifiable or socioeconomic information in the regulated entity's possession or control when not publicly or lawfully available to the general public from federal, state or local government records, the North American Industry Classification System (NAICS) information used for the purpose of telephone directory publishing, or widely distributed media.

(xbb) "Pleading" means applications, petitions, complaints, answers, notices, interventions, motions, statements of position, briefs, exceptions, applications for rehearing, reargument, or reconsideration, responses, and proposed decisions requested by the Commission to be filed by a party in a proceeding.

(ycc) "Presiding officer" means an Administrative Law Judge, the chairman of the Commission, or a hearing Commissioner conducting a Commission hearing, as applicable.

(zdd) "Price list" means a publication showing rates or classifications collected or enforced, or to be collected or enforced. A price list typically does not contain information duplicated in a tariff.

(aaee) "Rate" includes any fare, toll, rental, or charge. Rate also includes any rule, regulation, classification, or practice relating to a fare, toll, rental, or charge.

(ff) "Retail customer program" means an offering to a group of retail customer of a regulated electric or gas utility which may include incentives, rebates, financing, services, or other offerings. In addition to customer programs designated by Commission order or industry-specific rules, retail customer programs include, but are not limited to, residential customer programs related to beneficial electrification, clean heat, demand-side management, renewable energy, and transportation electrification. The provision and receipt of utility service pursuant to standard tariffs, rules, and terms and conditions are not retail customer programs.

(bbgg) "Refund" means any money, other than a deposit, collected by a utility in its rates and charges that is required to be returned to customers.

(eehh) "Regulated entity" means any entity subject to Commission regulation pursuant to Title 40, C.R.S.

(~~edii~~) "Regulated intrastate carrier" means a common carrier as defined in § 40-10.1-101(4), C.R.S. or a contract carrier as defined in § 40-10.1-101(6), C.R.S., except as may be exempted from regulation under § 40-10.1-105, C.R.S.

(~~eejj~~) "RRR" means an application for rehearing, reargument, or reconsideration, as that phrase is used in § 40-6-114, C.R.S.

(~~ffkk~~) "Rulemaking proceeding" means a proceeding initiated by a Notice of Proposed Rulemaking or any other proceeding designated by the Commission as a rulemaking proceeding. All rulemaking proceedings are conducted in compliance with § 24-4-101 et seq., C.R.S; but where there is a specific statutory provision in title 40 C.R.S. applying to the commission, such specific statutory provision shall control as to the Commission.

(~~ggll~~) "Signed" means an original signature or an electronic signature created through the process of submitting a filing through the Commission's E-Filings System.

(~~hhmm~~) "Tariff" means a schedule that is filed with the Commission pursuant to § 40-3-103, C.R.S. showing all rates and classifications collected or enforced, or to be collected or enforced, and/or rules, regulations, terms, and conditions, that in any manner affect or relate to rates, classifications, or service.

(~~iiin~~) "Third party" means a person who is not the customer, a regulated entity, or a contracted agent.

(~~jooo~~) "Time schedule" means a document that is submitted to the Commission by a common carrier, as defined in § 40-10.1-101(4), C.R.S., showing the carrier's pick-up and drop-off times and locations, including flagstops.

(~~kkpp~~) "Trial staff" means Commission staff designated as trial staff in a proceeding pursuant to rule 1007. Trial staff provides expert testimony, participates in settlement conferences and agreements, and otherwise participates as full parties in proceedings in which they have intervened or otherwise filed notice of participation.

(~~llqq~~) "Utility" means a public utility as defined in § 40-1-103, C.R.S.

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[indicates omission of unaffected rules]

1006. Director.

The Director of the Commission has the following functions, consistent with §§ 40-2-103, 40-2-104, and 40-2-109, C.R.S. The Director shall:

(a) be the appointing authority for the Commission staff;

(b) be responsible for all Commission staff functions, including providing and receiving all notices and service required of or by the Commission;

(c) serve as the custodian of the Commission's records; and

(d) approve and implement policies, procedures, trainings, and other activities as necessary to carry out rules promulgated by the Commission and internal business functions.

1007. Commission Staff.

- (a) When Commission staff intervenes in any adjudicatory proceeding the entry of appearance by Commission staff's counsel shall specify those Commission staff members assigned by the Director or the Director's designee to serve as trial staff and as advisory staff.
- (b) Trial staff, for purposes of the particular proceeding, shall be considered a party for purposes of the standards of conduct. Once ~~a~~ members of Commission staff ~~have~~ been designated as ~~T~~trial staff in a proceeding, ~~that those~~ staff members ~~shall act independently and~~ shall not function in any advisory capacity with respect to that proceeding.
- (c) Advisory staff is available to provide advice, consultation, summaries and recommendations to the Commission regarding policy and technical issues, and shall be considered the Commission for purposes of the standards of conduct. Certain communications between advisory staff and Commissioners or Administrative Law Judges are covered by the deliberative process doctrine and privilege.
- (d) The Commission staff may provide informal assistance to the general public and to prospective applicants for Commission authorizations. Opinions expressed by Commission staff do not represent the official views of the Commission, but are designed to aid the public and to facilitate the accomplishment of the Commission's functions. Nothing communicated by the Commission staff constitutes legal advice.

1008. Utility Language Accessibility.

- (a) Utilities, and other regulated entities as ordered by the Commission, shall provide all customer notices and forms required by the Commission pursuant to its rules in at least English and Spanish. Utilities regulated by the Commission shall allow customers to request that notices and forms be provided in other languages at reasonable costs.
- (b) All utilities shall create and maintain a publicly available policy regarding language accessibility for customer notices.

1009. Community Compensation.

- (a) The Director may implement a policy regarding appropriate use of community compensation consistent with § 40-2-127.2(8)(a)(VII), C.R.S.
- (b) Community compensation may be provided to representatives of disproportionately impacted communities for activities like focus groups, educational events, and non-adjudicated proceedings, including rulemakings.
- (c) Community compensation shall be implemented to avoid the appearance of impropriety and shall aim to support broad inclusion and to ensure robust participation by members of disproportionately impacted communities.

100810. – 1099. [Reserved].

[indicates omission of unaffected rules]

1104. Personal Information – Collection.

- (a) A regulated entity shall collect only that personal information, including information regarding credit worthiness that is necessary to provide, bill, and collect for services, including to ensure that provision of such services is equitable. Information regarding credit worthiness may include, but is not limited to, the customer's employer; the employer's phone number; the customer's landlord's name, address, and phone number; and the customer's previous regulated service supplier. A regulated entity may request, but shall not require, a customer's Social Security Number as a prerequisite to evaluating credit worthiness or to providing regulated service.
- (b) If a regulated entity collects personal information concerning a customer, then not later than three months after first billing the customer, the regulated entity shall notify the customer, in writing of his or herthe customer's right to request a copy of any or all personal information that the regulated entity holds concerning that customer, including a true copy of that information. Upon such request and upon verification of the customer's identity, the regulated entity shall provide the requested information and shall take all necessary steps to explain the information to the customer.
- (c) A customer may request in writing an amendment of the personal information held by a regulated entity. Within 30 days of the request, the regulated entity shall:
 - (I) verify and correct any portion of a record that is not accurate, timely, or complete, and inform the customer in writing of the corrections; or
 - (II) inform the customer in writing of its refusal to amend the record in accordance with the request, give a reason for the refusal, clearly note any portion of the record that is disputed, and include in its records the customer's concise statement of disagreement. The regulated entity shall also inform the customer of his or herthe customer's right to file a complaint with the Commission regarding the disputed personal information.

1105. Personal Information– Disclosure.

- (a) A utility may only disclose personal information as permitted by Commission rule or as compelled by state or federal law.
- (b) Requests to disclose personal information must specify the identity of the requestor, the electronic or mail address to which requested information is to be delivered, and the authority or authorization for the request. With the exception of requests pursuant to paragraph 1105(c) or by the consumer requesting a copy of his or her personal information as permitted in paragraph 1104(b), all requests must be in writing. Written requests must be on official letterhead or from an official e-mail address. Permitted disclosure of personal information may be provided in response to a telephone request; however, the employee of the regulated entity must first verify the caller's identity by returning the call using a telephone number verified independently of the caller, including without limitation, prior experience of the authorized representative. Permitted disclosure of personal information may also be provided in person; however, the person requesting information in person must demonstrate to the regulated entity that he or shethe person is authorized to request the personal information.

(c) A utility may disclose information regarding monthly gas, steam, and electric customer charges and general usage for up to ~~thirty-six~~³⁶ months (at no more granular level than monthly totals), payment history, past due amounts, pending deposits, current shut-off due dates or disconnection, current life support status, payment arrangements, history of energy assistance payments, number of heating degree days, and other specifically requested information in response to requests from Energy Outreach Colorado (EOC), the Low-Income Energy Assistance Program (LEAP), the Weatherization Assistance Program (WAP) and any other affiliated agencies using the information to provide energy assistance and programs to Colorado customers. The disclosure of information is permitted provided that EOC, LEAP, WAP, and any other affiliated agencies receiving information pursuant to this rule have included as part of their application process notice to the applicant for assistance that his or her~~the~~ the applicable utility may disclose certain information including a notice to the customer of all personal information that is or may be requested, to facilitate the energy assistance and program application process.

(d) A regulated entity may disclose personal information to a contracted agent to assist in the provision of regulated services, provided, however, that the contract contains the following minimum requirements:

- (I) The contracted agent shall implement and maintain reasonable data security procedures and practices appropriate to the private nature of the information to protect the personal information from unauthorized access, destruction, use, modification, or disclosure. These data security procedures and practices shall be equal to or greater than the data privacy and security policies and procedures used by the regulated entity internally to protect personal information.
- (II) The contracted agent shall use personal information only for the purpose of fulfilling the terms of the contract. The use of personal information for a secondary commercial purpose not related to the purpose of the contract without the regulated entity first obtaining the customer's consent is prohibited.
- (III) The contracted agent shall destroy or return to the regulated entity all personal information that is no longer necessary for the purpose for which it was transferred.
- (IV) The contracted agent shall execute a non-disclosure agreement with the regulated entity.
- (V) In the event a contracted agent uses, maintains, or otherwise distributes personal information in a way that would violate Commission rule if done directly by a regulated entity, such use, maintenance, or distribution shall be considered a violation of these rules by the regulated entity that disclosed the personal information to the contracted agent.

(e) The regulated entity shall maintain records of the disclosure of personal information to the contracted agent for a minimum of three years. Such records shall include all contracts with the contracted agent and executed non-disclosure agreements.

1106. Prohibited Communications – Generally.

(a) Ex parte communications concerning any disputed substantive or procedural issue, or facts or allegations at issue, are strictly prohibited. ~~Commission staff members shall not act as conduits of communication in a manner that would violate this rule if the communication had occurred directly.~~ Prohibited ex parte communication includes any oral or written communication that:

- (Ia) occurs during the pendency of an adjudicatory proceeding or occurs when the persons engaging in the communication know or reasonably should know that the adjudication will commence within 30 days;
- (IIb) occurs between any advisory staff, Commissioner, or Administrative Law Judge, on the one hand, and, on the other hand, any person, including trial staff, related to, acting as, or acting on behalf of a party, amicus curiae, or member of the public submitting comments pursuant to rule 1509; and
- (IIIe) is made without providing other parties notice and an opportunity to respond.

(b) Ex parte restrictions governing Commission staff apply to specific individuals, depending on their role, rather than the entire Commission staff. Commission staff shall not act as conduits of communication in a manner that would violate this rule if the communication had occurred directly.

(c) Consistent with rule 1110, certain ex parte communications are not prohibited.

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[indicates omission of unaffected rules]

1110. Commissioners and Administrative Law Judge Communications – Generally

- (a) Prohibited communications do not include:
 - (I) procedural, scheduling, status inquiries, E-Filings System support, or requests for information that have no bearing on the merits, substance, or outcome of the proceeding;
 - (II) protests or comments made by any customer of a utility concerning any proposed tariff, price list, or time schedule;
 - (III) communications that occur in educational programs or conferences, or that occur in meetings of an association of regulatory agencies, except for substantive issues involving pending matters;
 - (IV) communications relating to pending legislative proposals, appropriations, budget, or oversight matters, except for substantive issues involving pending matters; or
 - (V) communications relating to a pending administrative or rulemaking proceeding.
- (b) Every Commissioner and Administrative Law Judge shall comply with the disclosure requirements of § 40-6-122, C.R.S.
 - (I) All disclosures shall include:
 - (A) the date, time, and place of the communication;
 - (B) the names of the persons present;
 - (C) the interested persons' affiliations;

- (D) the subject matter of the communication;
- (E) a statement that the communication did not relate to any pending adjudicatory proceeding before the Commission; and
- (F) the signature of the Commissioner or Administrative Law Judge to certify that the disclosure is complete and accurate.

- (II) The Director shall ensure the completeness of all disclosures.
- (III) All disclosures shall be posted on the Commission's website within three business days of the receipt by the Director.
- (IV) If a disclosure is required by § 40-6-122, C.R.S., such disclosure shall be completed for all methods of communications including communications in person, by phone, and by e-mail exchange.

1111. Permit, but Disclose Process.

- (a) In administrative and rulemaking proceedings, the Commission may choose to allow interested persons to schedule ~~ex parte~~^{direct} presentations to a Commissioner in a meeting that may include Commission ~~s~~Staff. Any such ~~ex parte~~^{direct} contacts must relate to matters being reviewed in the specific administrative proceeding and cannot concern any matter pending before the Commission in another proceeding. The Commission will attempt to accommodate all reasonable requests for ~~ex parte~~^{direct} meetings allowed by this rule, subject to the schedule and availability of each Commissioner. There is no requirement that an interested person must make the same presentation to each of the three Commissioners.
- (b) To schedule ~~an ex parte direct~~ meeting under the permit, but disclose process, the interested person should contact the Commission's executive assistant and identify the proceeding with which the presentation is associated.
- (c) Within two business days following a permitted ~~ex parte~~^{direct} presentation, the person requesting the meeting shall file with the Commission in the particular proceeding, a letter disclosing the contact. The letter shall include the following information:
 - (I) the date, time, and place of the meeting;
 - (II) a list of all individuals in attendance;
 - (III) the affiliations of all individuals in attendance;
 - (IV) a summary description of the presentation; and
 - (V) a statement that the subject matter of the communications did not relate to any pending adjudicatory proceeding before the Commission.
 - (VI) If materials were provided to the Commissioner during the meeting, those materials must be identified in the letter and attached to the filing.
- (d) The disclosure letter and any materials will become part of the official record of the proceeding.

1112. – 1199. [Reserved].

FORMALITIES

1200. Parties, Amicus Curiae, and Non-PartiesParticipants.

- (a) Parties shall include any person who:
 - (I) initiates action through the filing of a complaint, application, or petition, except petitions for rulemaking;
 - (II) appeals an emergency decision in a pipeline safety matter concerning public safety, health, or welfare;
 - (III) has filed a tariff, price list, or time schedule, which tariff, price list, or time schedule the Commission has suspended and set for hearing;
 - (IV) is served as a respondent under rule 1302;
 - (V) intervenes as of right or is granted permissive intervention under rule 1401; or
 - (VI) is joined as a party to any Commission proceeding by Commission decision.
- (b) ~~Persons participating solely through public, academic, or policy comments are not parties. Participants engaging solely through academic, policy, or public comments in administrative or rulemaking proceedings are not parties.~~
- (c) A non-party who desires to present legal argument to assist the Commission in arriving at a just and reasonable determination of a proceeding may move to participate as an amicus curiae. The motion shall identify why the non-party has an interest in the proceeding, shall identify the issues that the non-party will address through argument, and shall explain why the legal argument may be useful to the Commission. An amicus curiae is not a party, and may present a legal argument only, as permitted by the Commission. The arguments of amicus curiae shall not be considered as evidence in the proceeding and shall not become part of the evidentiary record. All requests for amicus curiae status may be accepted or declined at the Commission's discretion. Unless ordered otherwise, the filing deadlines governing amicus curiae shall correspond to the deadlines applicable to the parties' opening statements of position, legal briefs or responses to motions.
- (d) ~~Persons participating in certain non-adjudicatory proceedings, e.g., rulemaking proceedings and administrative proceedings, Participants are not parties. For ease of reference, such persons shall be referred to as "participants". Participants are generally subject to the same rules regulating confidentiality contained in rule 1100, as are parties.~~

1201. Attorneys.

- (a) A party or an amicus curiae shall be represented by an attorney at law, currently in good standing before the Colorado Supreme Court or the highest tribunal of another state as authorized in rule 205.4, C.R.C.P.of the Colorado Rules of Civil Procedure.
- (b) Notwithstanding paragraph (a) of this rule, an individual who is not an attorney may represent:

- (I) ~~his or her~~ the individual's own interests;
- (II) the interests of a closely held entity, subject to and in accordance with § 13-1-127, C.R.S., after demonstrating eligibility to do so in the closely held entity's initial application or petition or its motion for intervention;
- (III) a partnership, corporation, association, or any other entity in order to complete forms that do not require any knowledge or skill beyond that possessed by the ordinarily experienced and intelligent ~~layman~~layperson;
- (IV) a partnership, corporation, association, or any other entity in a proceeding involving the adoption of a rule of future effect where no vested rights of liberty or property are at stake; or
- (V) a partnership, corporation, association or any other entity, solely to provide public, academic or policy comments, pursuant to rule 1509. In no event shall a non-attorney representative take actions that constitute the practice of law.

(c) No attorney shall appear before the Commission in any proceeding until the attorney has entered an appearance by filing an entry of appearance, signing a pleading, or stating the entry of appearance for the record. An entry of appearance shall state the identity of the party for whom the appearance is made, the attorney's office address, the attorney's telephone number, e-mail address, and the attorney's registration number. If the attorney's address, telephone number or e-mail address changes during a proceeding the attorney shall file in the proceeding a notice that includes the updated information.

(d) An attorney of record who wishes to withdraw from a proceeding shall file a notice of withdrawal. The notice of withdrawal shall include a list of all pending hearing and procedural dates and shall be served in accordance with rule 1205, and on the party represented by the withdrawing attorney. The withdrawing attorney shall specifically advise the party represented of its right to object. Objections to withdrawal of an attorney shall be filed within ten days of the filing of the notice. If any objection is made, no substitution or withdrawal shall occur without a decision of the Commission.

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[indicates omission of unaffected rules]

1206. Commission Notice – Generally.

- (a) Except as provided in paragraph (c) of this rule, the Commission shall, within 15 days of the date an application or petition is filed, provide notice of the application or petition to any person who in the opinion of the Commission may be affected by the grant or denial of the application or petition. Unless a mailed notice is required by Commission decision or specific rule, the Commission shall give notice of applications or petitions to all persons through the E-Filings System.
- (b) The notice required by paragraph (a) of this rule shall state the following:
 - (I) the name and address of the applicant or petitioner;
 - (II) the caption and proceeding number of the proceeding;

- (III) the date the application or petition was filed;
- (IV) a brief description of the purpose and scope of the application or petition;
- (V) whether the applicant has filed testimony and is seeking a Commission decision within 120 days, or has waived the time limits under § 40-6-109.5, C.R.S.;
- (VI) the date by which any objection, notice of intervention as of right, motion to permissively intervene, testimony or any other document must be filed;
- (VII) the date by which Commission staff must file any objection, notice of intervention, testimony, or any other document, if different from the date(s) fixed in subparagraph (b)(VI) of this rule;
- (VIII) a statement that the Commission may consider the application or petition without a hearing if:
 - (A) no notice of intervention as of right or motion to permissively intervene is timely filed, or
 - (B) no notice of intervention as of right or motion to permissively intervene requests a hearing and contests or opposes the application or petition; and
- (IX) a statement that any person who files an objection, notice of intervention as of right, motion to permissively intervene, testimony, or any other document shall do so in accordance with the instructions set forth in the notice; and that the Commission may dismiss or strike any such document not filed in accordance with the instructions set forth in the notice. The notice shall include that any person seeking to permissively intervene must meet the standard in paragraph 1401(c).

(c) Nothing in paragraph (a) of this rule shall require the Commission to provide notice of:

- (I) an application or petition that does not reasonably specify the information required by subparagraph (b)(IV) of this rule;
- (II) a restrictive amendment of any pleading;
- (III) a petition for declaratory order or a petition for rulemaking, until the Commission in its discretion opens a proceeding regarding such a petition;
- (IV) a regulated intrastate carrier application that does not include the requisite filing fee; or
- (V) a regulated intrastate carrier application for emergency temporary authority.

(d) Unless shortened by Commission decision or rule, the intervention period for notice mailed by the Commission shall expire 30 days after the mailing date. The Commission shall re-notice any application or petition that, through amendment or otherwise, is changed in any manner that broadens the application's or petition's purpose or scope.

(e) Notice of proposed rulemaking shall be conducted in accordance with rule 1306. In addition to complying with § 24-4-103, C.R.S., the Commission shall provide a notice of proposed

~~rulemaking to: each regulated entity that may be affected; each person who previously notified the Commission in writing that he or she desires notice of proposed rulemaking proceedings; each person who registered to receive notification of rulemakings through the E Filings System; and any other person who in the opinion of the Commission may be interested in or affected by the rulemaking proceedings.~~

1207. Utility Notice.

- (a) A utility, other than a rail carrier, motor carrier, or intrastate telecommunications provider, filing to change, on thirty days' notice, any rate, fare, toll, rental, charge, classification, or in any rule, regulation, or contract relating to or affecting any rate, fare, toll, rental, charge, classification, or service or in any privilege or facility shall provide notice in accordance with the requirements of § 40-3-104(1)(c)(I), C.R.S.
 - (I) A utility, other than a rail carrier, motor carrier, or intrastate telecommunications provider filing to change any rate, fare, toll, rental, charge, classification, or service on less than statutory notice shall provide notice in accordance with the requirements of § 40-3-104(2), C.R.S.
 - (II) A utility that provides regulated intrastate telecommunications services filing to change any rate, charge, term, or condition for any regulated telecommunications service shall provide notice in accordance with the requirements of § 40-3-104(1)(c)(V), C.R.S.
- (b) Notice regarding the filing of an equity impact proceeding shall follow the requirements of rule 1600 through 1604.
 - (I) If one or more disproportionately impacted communities is affected by the filing in an equity impact proceeding for which notice is being provided, the utility shall notify representatives of those communities that have requested notices pursuant to paragraph 1306(b).
 - (A) If one or more disproportionately impacted communities is affected by the filing for which notice is being provided, the utility shall provide a plain language summary of the issues being contemplated in the filing and quantify the range of impacts the issues could have within the utility's service territory. The utility shall provide a plain language summary of the effects or potential effects to those communities.
 - (B) If one or more disproportionately impacted communities as identified based on the linguistic isolation criteria is affected or potentially affected by the filing for which notice is being provided, the utility shall translate its notice into appropriate languages other than English.
 - (C) The utility shall file in the proceeding, its proposed notice and any activities taken to socialize the notice, including as required under alternative notice requests pursuant to paragraph 1207(c), for Commission review and approval, or approval with modifications.
 - (cb) A utility may also file a request for an alternative form of notice pursuant to § 40-3-104(1)(c)(I)(E), C.R.S. Such request shall be in the form of a motion filed as a separate pleading within the proceeding in which the utility is proposing a change to its rates or schedules. The utility's motion

shall address each of the forms of notice set forth in § 40-3-104(1)(c)(I)(A) through (D), C.R.S., and explain why the utility seeks an alternative.

(I) No responses to such motions shall be allowed, except if Trial staff or the UCA opposes a motion requesting an alternative form of notice, they each may file a response within two business days of the filing of the motion.

(II) If a utility submits a request for an alternative form of notice with the filing of an equity impact proceeding as defined in paragraph 1603(a), the utility shall specifically address how the alternative notice would meet the requirements of notice to affected disproportionately impacted communities. The alternative form of notice may also address, as necessary, language access consistent with rule 1008.

(de) A utility that files an application to make a refund shall, within three days of filing the application, publish notice of the application in a newspaper of general circulation. The notice shall include the following information:

- (I) the name and address of the utility;
- (II) a statement that the utility has filed an application with the Colorado Public Utilities Commission for approval of its proposed refund plan;
- (III) a statement summarizing the amount of the refund, the date for making the refund, the date the refund is anticipated to be completed, and the manner in which the refund is proposed to be made;
- (IV) a statement that the application is available for inspection at each local office of the utility and at the Colorado Public Utilities Commission;
- (V) a statement that any person may file with the Commission a written objection to the application, or may file to intervene to participate as a party, and an explanation that a mere objection without an intervention shall not be adequate to permit participation as a party; and
- (VI) a statement that written objections and interventions must be filed by the time listed in the notice separately given by the Colorado Public Utilities Commission.

(ee) All persons who are required to provide notice shall, within 15 days of providing notice, file an affidavit with the Commission stating the date notice was completed and the method used to provide it, accompanied by a copy of the notice or notices provided.

(fe) The Commission may order an applicant or a petitioner to provide such additional notice as the Commission deems appropriate as provided pursuant to § 40-3-104, C.R.S.

(gf) In all cases, notice shall contain adequate information to enable interested persons to be reasonably informed of the purpose of the matter noticed.

(gh) Unless the Commission orders otherwise, a utility shall be permitted to file tariffs complying with a decision of the Commission or updating adjustment clauses previously approved by the Commission on not less than two business days' notice. A tariff filing is considered to be a compliance filing when it is the subject of a Commission decision and agrees in both substance

and timing determined in that decision. All compliance filings shall be made as a new advice letter proceeding. A notification shall also be filed on the same date as the compliance filing in the proceeding authorizing the compliance filing that identifies the compliance filing (e.g., advice letter number and date). No additional notice shall be required.

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[indicates omission of unaffected rules]

1210. Tariffs and Advice Letters.

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[indicates omission of unaffected rules]

(c) Advice letters.

- (I) Filing with tariff. A utility shall file an advice letter with each tariff filing.
- (II) The advice letter shall include:
 - (A) the utility's name, trade name, if any, and address;
 - (B) the sequentially numbered identification of the advice letter;
 - (C) an identification of the corresponding tariff number;
 - (D) an identification of the corresponding Commission proceeding number and decision number, if applicable;
 - (E) a brief description of the tariff or tariff changes, which at a minimum shall include:
 - (i) affected classes of service;
 - (ii) affected classes of customers;
 - (iii) for equity impact proceedings, whether and how disproportionately impacted communities or income-qualified utility customers may be affected;
 - (iv) whether the tariff contains an increase in rates, a decrease in rates, or both;
 - (v) whether the tariff changes terms or conditions; and
 - (vi) whether the tariff makes textual changes;
 - (F) an identification of tariff page numbers included in the filing;
 - (G) if applicable, a listing of revised page numbers and/or canceled page numbers;
 - (H) the tariff's or tariff page's proposed effective date;

- (I) the name, telephone number, and email address of the person to contact regarding the filing; and
- (J) the signature of the agent of the utility authorized to file the advice letter.

(III) If there is a change in any information contained in the title page of the tariff, the utility shall file an advice letter with the new information and the new title page. The advice letter and title page may be filed on not less than five-days' notice, if the only revision to the tariff is to provide the new information on the title page.

(IV) The advice letter shall be filed in the prescribed form as available from the Commission.

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[indicates omission of unaffected rules]

1302. Formal Complaints and Show Cause Proceedings.

- (a) Any person may file a formal complaint at any time. A formal complaint shall set forth sufficient facts and information to adequately advise the respondent and the Commission of the relief sought and, if known, how any statute, rule, tariff, price list, time schedule, decision, or agreement memorialized, accepted, or approved by Commission decision is alleged to have been violated. In addition, a formal complaint shall meet the following requirements, as applicable:
 - (I) a complaint that seeks to modify, limit, suspend, annul, or revoke a certificate, permit, registration, license or other authority shall be signed and sworn by the complainant;
 - (II) a complaint that claims unreasonable rates or charges of any gas, electric, water, or telephone public utility shall comply with the provisions of § 40-6-108(1)(b), C.R.S.; and
 - (III) a complaint against a cooperative electric association shall comply with the provisions of § 40-9.5-106, C.R.S., if applicable.
- (b) The Commission may impose a civil penalty, when provided by law. The Commission will consider any evidence concerning some or all of the following factors:
 - (I) the nature, circumstances, and gravity of the violation;
 - (II) the degree of the respondent's culpability;
 - (III) the respondent's history of prior offenses;
 - (IV) the respondent's ability to pay, including whether the respondent is an individual who participates in an income-qualified program or an individual living in a disproportionately impacted community;
 - (V) any good faith efforts by the respondent in attempting to achieve compliance and to prevent future similar violations;
 - (VI) the effect on the respondent's ability to continue in business;

- (VII) the size of the respondent's business;
- (VIII) whether the violation impacted individuals participating in income qualified programs or individuals living in a disproportionately impacted community; and
- (VI)~~XII~~ such other factors as equity and fairness may require.

(c) The Commission may expedite a formal complaint proceeding on its own motion or upon the motion of a party if such motion shows good cause or the consent of all the parties, thereby adjudicating the proceeding as an accelerated complaint. If the Commission expedites a formal complaint, it shall enter a procedural decision that:

- (I) establishes the expedited schedule, including hearing dates;
- (II) details the limits, if any, that the Commission, in its discretion, places on discovery; and
- (III) requires compliance with the following paragraphs, if applicable: 1205(c); 1308(d); 1308(e); 1400(c); 1405(i); and 1409(b).

(d) Formal complaints to enforce a telecommunication provider's interconnection duties or obligations, and formal complaints regarding interconnection service quality matters, shall be treated as accelerated telecommunication interconnection complaints if:

- (I) at least ten days prior to filing the complaint, the complainant has personally served upon the respondent written notice of intent to file an accelerated complaint, together with identification of the provision of any applicable law or agreement that the complainant contends is not being complied with, and a description of the facts demonstrating any alleged violation of any applicable law or agreement;
- (II) the complainant has attached to the complaint copies of all relevant non-confidential documents, including correspondence and work papers;
- (III) the complaint includes a certification that any and all methods of dispute resolution established in any applicable agreement, including escalation to higher levels of management within the parties' organizations, have been exhausted;
- (IV) the complaint provides specific facts demonstrating that the complainant engaged in good faith negotiations to resolve the disagreement, and that despite those negotiations the parties failed to resolve the issue;
- (V) the complaint includes a certification of the complainant's compliance with subparagraph (d)(I) above; and
- (VI) on the same day as the complaint is filed with the Commission, the complainant serves a copy of the complaint by hand-delivery or through the E-Filings System during normal business hours on the person designated by the respondent to receive service of process.

(e) In complaint proceedings where discontinuance of service becomes an issue, the Commission or an Administrative Law Judge may issue an interim decision to a regulated entity requiring it to provide service pending a hearing:

- (I) if the customer has posted a deposit or bond with the regulated entity equal to the amount in dispute or as otherwise prescribed by interim decision, the amount of which may be increased, or the terms adjusted, by the Commission, Hearing Commissioner or Administrative Law Judge as needed at any time while the dispute is pending;
- (II) if the customer has previously made an informal complaint to the Commission, and Commission staff investigation indicates probable success of the customer;
- (III) if the customer provides information regarding establishing whether a medical condition makes discontinuance of service will aggravate an existing medical condition or may create a medical emergency; or
- (IV) upon such other good cause as the Commission may deem appropriate.

(f) Upon the filing of any formal complaint, except as provided in rule 1205(c), the Director shall promptly serve the respondent with the complaint, an order to satisfy the complaint or file an answer, and a notice setting the date, time, and location of the hearing. Except in the case of an accelerated complaint, the order shall require the respondent to satisfy the complaint or file its answer within 20 days of service of the order. If the complaint is an accelerated complaint the order shall require the respondent to satisfy or answer within ten days. For accelerated complaints, the Commission shall set the hearing to occur within 45 days of the filing of the complaint. Unless all parties agree otherwise or the Commission finds exceptional circumstances warrant, a hearing on an accelerated complaint may not be continued beyond 60 days after the filing of the complaint.

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[indicates omission of unaffected rules]

1303. Applications.

- (a) An application may be made as follows:
 - (I) telecommunications matters, as provided in rule 2002;
 - (II) electric matters, as provided in rule 3002;
 - (III) gas matters, as provided in rule 4002;
 - (IV) water, including combined water and sewer, matters, as provided in rule 5002;
 - (V) motor carrier matters, as provided in rule 6002;
 - (VI) rail matters, as provided in rule 7002; or
 - (VII) steam matters, as provided in rule 8002.
- (b) All applications must state the relief requested, identify all applicable requirements of Commission rule and decision(s), and address each of those respective requirements. If an application fails to meet each of these requirements the application may be deemed incomplete.

(c) Applications that are equity impact proceedings shall also meet the requirements of paragraph 1604(b).

(ed) Determination of the completeness of an application for purposes of § 40-6-109.5, C.R.S.

- (I) The Commission shall determine whether an application meets the application requirements prescribed by Commission rule and decision. This determination is not, and shall not be taken or assumed to be, a decision on the merits.
- (II) Commission staff shall evaluate the application and prepare a recommendation regarding completeness. Not more than ten days after the filing of an application, Commission staff may send the applicant and its attorney written notification concerning any specific deficiencies of the application regarding its completeness. The deficiency notification may be made by mail or e-mail and shall be filed in the E-Filings System. Upon receiving the notification, the applicant may file a response either curing all the deficiencies noted by Commission staff or explaining why it believes no further action is required. The applicant's response, if any, shall be filed no later than ten days after Commission staff's written notification was sent. If the applicant does not respond in the time allotted, the Commission may, after the application's notice period has expired, deem the application incomplete, dismiss the application without prejudice, and close the proceeding. The Commission shall not issue a decision granting an application that has been determined to be incomplete until any deficiencies are cured.
- (III) If the Commission finds that more information is necessary before deeming the application complete (e.g., to understand fully the implications of an application and the requested relief), it may issue a decision identifying such information and establishing a deadline for supplementation. For example, the Commission may identify information to assist in understanding how the relief requested will affect other current or future proceedings; how it will affect the applicable state, regional or national markets; how it will impact disproportionately impacted communities and income-qualified utility customers; or how it will affect the applicant's future growth plans. If the applicant does not respond in the time allotted or within such additional time upon motion, the Commission may dismiss the application without prejudice and close the proceeding. If the applicant files responsive information or offers an explanation to the satisfaction of the Commission, the Commission shall issue a decision deeming the application complete for purposes of § 40-6-109.5, C.R.S.
- (IV) If the Commission does not issue a determination on completeness within 15-20 days of the expiration of the application's notice period, and absent a determination that the application is not complete or that more information is found to be necessary, the application shall be automatically deemed complete. At any time, the Commission may, by decision or by minute entry, deem an application complete.
- (V) Nothing in this paragraph (c) shall be construed to prohibit dismissal of an application on its merits, as provided by law and these rules.

(de) At any time, an applicant may waive the time limits provided in § 40-6-109.5, C.R.S. If an application is a joint application, a waiver filed by any one of the applicants shall be effective for all applicants.

[indicates omission of unaffected rules]

1306. Rulemaking Proceedings.

(a) Rulemaking proceedings generally. Either upon its own motion or upon the petition of any person, the Commission may issue a notice of proposed rulemaking, in accordance with rule 1206. A rulemaking proceeding shall be governed by § 24-4-103, C.R.S., and such specific procedures as the Commission may order.

(b) Notice of proposed rulemaking (NOPR).

(I) In addition to complying with § 24-4-103, C.R.S., when issuing a NOPR, the Commission shall provide notice to: each regulated entity that in the opinion of the Commission may be affected; each person subscribed to receive notification of rulemakings in the affected industry area through the E-Filings System; and any other person who in the opinion of the Commission may be interested in or affected by the rulemaking proceedings, including representatives of actually or potentially impacted disproportionately impacted communities that have registered in the Commission's E-Filings System for notifications, and have otherwise indicated their interest to be included in notice as directed through the Commission's website.

(II) For rulemakings that introduce or modify retail customer programs, and in other rulemaking proceedings as determined by the Commission:

(A) the Commission shall identify whether the proposed rules impact disproportionately impacted communities and income-qualified utility customers using Colorado EnviroScreen or other tools as appropriate;

(B) the Commission shall address either through the NOPR or a subsequent procedural order how it intends to meet the requirement to host informational meetings, workshops, and public comment hearings that invite input from disproportionately impacted communities pursuant to § 40-2-108(3)(c)(II), C.R.S.;

(C) the Commission may direct Commission staff to host one or more informational meetings providing plain-language educational information to specifically explain the intended outcome of the proposed rules to disproportionately impacted communities. Informational meetings are not considered part of the rulemaking record. Agendas for informational meetings shall be filed by Commission staff in the rulemaking proceeding as confirmation that such meetings were held; and

(D) the Commission shall structure public comment hearings to solicit input from disproportionately impacted communities with consideration toward the unique needs of those communities, including factors such as notice, timing, language accessibility, geographic location, and access to technology.

(III) The Director may cause to be filed in the rulemaking proceeding a record of all public comments made during a public comment hearing. A transcript of the public comment may be ordered and filed in the proceeding by any interested person.

(IV) Written public comments are encouraged in rulemaking proceedings and are given equal weight as oral comments in the decision making process. Public comments can be

submitted at any time during the rulemaking proceeding but are encouraged to be filed within ten days after the conclusion of the public comment hearing or as otherwise ordered.

(bc) Petition for rulemaking. Upon the filing of a petition for rulemaking, the Commission, at its discretion, may accept the petition and issue a notice of petition filed in accordance with rule 1206, unless a different notice period is requested and the Commission consents in writing to a modified notice period. If the Commission accepts the petition, it may set a schedule to receive comments on the petition from interested participants. The Commission may also allow for the filing of reply comments. Once all comments are received, the Commission will deliberate and determine whether good cause exists to proceed to grant the petition, in whole or in part, and proceed to issue a notice of proposed rulemaking.

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[indicates omission of unaffected rules]

1401. Intervention.

(a) Except as provided by paragraph (d) of this rule, any person may file a notice of intervention as of right or a motion to intervene by permission within 30 days of notice of any administrative or adjudicatory proceeding, unless the Commission's notice or a specific rule or statute provides otherwise. The Commission shall not enter a final decision in any proceeding before the intervention period has expired. The Commission may, for good cause shown, allow late intervention, subject to reasonable procedural requirements. If a person wishes to intervene and to request a hearing, that person's intervention as of right or motion to intervene by permission must state that the application or petition is contested or opposed, must give reason why the application or petition is contested or opposed, and must explicitly request a hearing. The Commission may consider any application or petition without a hearing and without further notice if a hearing is not required by law.

(b) A notice of intervention as of right, unless filed by Commission staff, shall state the basis for the claimed legally protected right that may be affected by the proceeding. Motions to strike interventions of right are allowed to the extent that the challenge is to the party's legally protected interest or the party's request for hearing. No decision shall be entered permitting intervention in response to a notice of intervention as of right, but rather a decision on motions to intervene may include an acknowledgement of the parties that have intervened as of right.

(c) A motion to permissively intervene shall state the specific grounds relied upon for intervention; the claim or defense within the scope of the Commission's jurisdiction on which the requested intervention is based, including the specific interest that justifies intervention; and why the filer is positioned to represent that interest in a manner that will advance the just resolution of the proceeding. The motion must demonstrate that the subject proceeding may substantially affect the pecuniary or tangible interests of the movant (or those it may represent) and that the movant's interests would not otherwise be adequately represented. Subjective, policy, or academic interest in a proceeding is not a sufficient basis to intervene.

(d) If a motion to permissively intervene is filed in a natural gas or electric proceeding by a residential consumer, agricultural consumer, or small business consumer, the motion must discuss whether the distinct interest of the consumer is either not adequately represented by the UCA or inconsistent with other classes of consumers represented by the UCA. The Commission will consider these factors in determining whether permissive intervention should be granted.

~~Subjective, policy, or academic interest in a proceeding is not a sufficient basis to intervene. Anyone desiring to respond to the motion for permissive intervention shall have seven days after service of the motion, or such lesser or greater time as the Commission may allow, in which to file a response. The Commission may decide motions to intervene by permission prior to expiration of the notice period.~~

(e) Notices of intervention as of right and motions to permissively intervene may include a description of any specific outreach to disproportionately impacted communities and income-qualified utility customers regarding the proceeding that resulted in the shaping the positions and interests that may be raised by the entity. Filings for permissive intervention in any equity impact proceeding shall, and interventions of right may include specifically if any disproportionately impacted communities were or plan to be consulted through the course of the proceeding by the filer, and if the filer holds itself out to represent any disproportionately impacted community.

(f) Communities affected by a qualifying retail utility's clean energy plan pursuant to § 40-2-125.5(5)(f), C.R.S. may move to intervene in such a proceeding, but must be represented by an attorney.

(g) Anyone desiring to respond to a motion for permissive intervention shall have seven days after service of the motion, or such lesser or greater time as the Commission may allow, in which to file a response. The Commission may decide motions to intervene by permission prior to expiration of the notice period.

(h) Commission staff is permitted to intervene by right in any proceeding. Commission staff shall be permitted to file its notice of intervention within seven days after the time otherwise specified by paragraph (a) of this rule.

(i) Transportation regulated intrastate carrier application proceedings.

(I) A notice of intervention as of right must include a copy of the common carrier's letter of authority, must show that the common carrier's authority is in good standing, must identify the specific parts of that authority that are in conflict with the application, and must explain the consequences to the common carrier and the public interest if the application is granted.

(II) A common carrier holding either temporary or suspended authority in conflict with the authority sought in the application shall not have standing to intervene as of right, but may file a motion to permissively intervene.

(III) A person filing a notice of intervention as of right or motion to permissively intervene in temporary authority application proceedings shall, if applicable, include a description of the services the intervenor is ready, willing, and able to provide, or has provided, to the persons or class of persons supporting the application.

(IV) An intervention, whether permissive or as of right, in temporary authority application proceedings shall not constitute an intervention or a request to intervene in a corresponding permanent authority application proceeding.

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[indicates omission of unaffected rules]

1403. Uncontested (Modified) Proceedings.

- (a) The Commission may determine any application or petition without a hearing and without further notice, upon either its own motion or upon the motion of a party, if the application or petition is uncontested or unopposed, if a hearing is not requested or required by law, and if the application or petition is accompanied by a sworn statement verifying sufficient facts and supported by attachments and/or exhibits that adequately support the filing. A person having knowledge of the stated facts shall, under oath, sign a sworn statement attesting to the facts stated in the application or petition and any attachments and/or exhibits.
- (b) An equity impact proceeding filed pursuant to rules 1600 through 1604 shall include information required by rule or order and the Commission shall determine whether the evidence brought forth is adequate to consider the equity impacts of the filing.
- (c) A proceeding will not be considered to be contested or opposed, unless an intervention has been filed that contains a clear statement specifying the grounds on which the proceeding is contested or opposed.
- (d) If all parties withdraw their interventions before completion of a hearing, the matter may be determined as an uncontested proceeding.

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[indicates omission of unaffected rules]

1408. Settlements.

- (a) The Commission encourages settlement of contested proceedings. Any settlement agreement shall be reduced to writing and shall be filed along with a motion requesting relief with regard thereto. Those supporting approval of a settlement agreement are encouraged to attest that they are not aware of a settlement agreement's violation of any applicable laws and to file testimony providing adequate facts (i.e., not in the form of conclusory statements) demonstrating that the agreement meets the applicable standard, be it an applicable law, Commission decision, Commission rule, or in the public interest.
- (b) A settlement agreement filed in an equity impact proceeding pursuant to paragraph 1604(f) shall meet the requirements of that rule as to content.
- (c) The Commission shall enter a decision approving or disapproving the settlement, or recommend a modification as a condition for approval. Parties are encouraged to provide comprehensive reasoning regarding the terms of a settlement. The Commission may hold a hearing on the motion prior to issuing its decision. An agreement that is disapproved shall be privileged and inadmissible as evidence in any Commission proceeding.

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[indicates omission of unaffected rules]

HEARINGS, ORDERS, AND POST-HEARING PROCEDURES

1500. Burden of Proof.

(a) The burden of proof and the initial burden of going forward shall be on the party that is the proponent of a decision, unless previously agreed to or assumed by a party. The proponent of the order is that party commencing a proceeding, except that in the case of suspension of a proposed tariff, price list, or time schedule, the regulated entity shall bear the burden of proof.

(b) An applicant filing an equity impact proceeding and an applicant filing a proceeding that the Commission has determined to be an equity impact proceeding, has the burden of proof of demonstrating that burdens, if any, on disproportionately impacted communities are in the public interest.

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[indicates omission of unaffected rules]

1509. Public, Academic, or Policy Comments.

(a) The Commission may accept oral or written comments from the public concerning any proceeding; ~~however, anonymous or vulgar comments will not be accepted~~. These comments may be general in nature or may specifically address consideration of academic or policy concerns. Vulgar, derogatory, malicious, or anonymous comments will not be accepted.

(b) Comments shall not be considered evidence in the proceeding. Rather, comments provide a means for interested persons to encourage the Commission in the exercise of discretion. While not considered evidence, comments are the primary means of input for participants in rulemaking proceedings.

(c) Parties and amici curiae to a proceeding may not provide public comment in that proceeding; they are not considered part of the public for comment purposes. Parties and amici curiae must participate in the scope and manner permitted in the proceeding (e.g., testimony or argument). Further, it will be presumed that the interests of individuals associated with a party or amicus curiae are represented in the proceeding.

(d) The Commission will not rely upon comments submitted in adjudicatory proceedings after the latter of the close of the evidentiary record or the latest due date for filing statements of position.

(e) The Commission shall accept public comments in writing or orally. Written comments may be accepted by email, the Commission's online form available through its website, through the E-Filings System, U.S. Mail, or direct delivery to the Commission's office. Oral comments may be accepted by public comment hearing, telephone, audio recording, or video recording. Public comments may be submitted at any time during a proceeding. However, the Commission encourages public commentors to submit comments as soon as possible. The Director shall regularly review the sufficiency of these means of accepting comments, ensure that appropriate tools are in place, and inform the public of their options to submit comments.

1510. – **19991599.** [Reserved].

EQUITY IMPACT PROCEEDINGS

1600. Scope and Applicability.

Rules 1600 through 1604 shall apply to all entities and services regulated by the Commission.

1601. Overview and Purpose.

The purpose of these rules is to set a common framework for ensuring that appropriate proceedings at the Commission include a consideration of how best to incorporate equity, minimize harm, and prioritize benefits to disproportionately impacted communities and address historical inequalities, pursuant to § 40-2-108(3)(b), C.R.S.

1602. Definitions.

(a) “Equity” for purposes of this rule, means, a fairness in the Commission’s decision making process and may include a combination of the following:

- (I) equitable distribution: a fair and just, but not necessarily equal, allocation of benefits or burdens to disproportionately impacted communities
- (II) distributional equity: the equitable distribution of benefits and burdens across all segments of a community and across generations;
- (III) procedural equity: the inclusive, accessible, authentic, and meaningful involvement of disproportionately impacted communities; and
- (IV) restorative equity: the identification and reparation of historical inequities, elimination of practices that perpetuate inequities, and promotion of accountability for decision-makers.

(b) “Income-qualified utility customer” is a customer meeting the requirements of § 40-3-106(1)(d)(II), C.R.S.

(c) “Vulnerable population” means a type of disproportionately impacted community. Vulnerable populations:

- (I) experience multiple factors, including socioeconomic stressors, public health vulnerabilities, disproportionate environmental burdens, vulnerability to environmental degradation or climate change, and lack of public participation in decision-making, which may act individually or cumulatively to contribute to disparities in health, economic, or social conditions within these populations; or
- (II) experience one or more common conditions including but not limited to race, income, disability, or Tribal or Indigenous status.

1603. Categories of Equity Impact Proceedings.

(a) The following filings shall be equity impact proceedings:

- (I) electric resource plans filed pursuant to rule 3600;

- (II) distribution system plans filed pursuant to rule 3528;
- (III) gas infrastructure plans filed pursuant to rule 4550;
- (IV) applications addressing retail customer programs and/or programs for income-qualified utility customers;
- (V) applications or advice letter filings to modify base rates as defined pursuant to § 40-3-102.5(1)(d)(I), C.R.S.
- (VI) applications for certificates of public convenience and necessity filed pursuant to § 40-5-101, C.R.S., that include electric or gas infrastructure proposed to be located in disproportionately impacted communities;
- (VII) applications for approval of an emergency telephone charge in excess of the threshold established by the Commission filed pursuant to rule 723-2-2147; and
- (VIII) any other proceeding as determined by the Commission or where disproportionately impacted communities are specifically addressed pursuant to statute or rule including those proceeding that could result in a health and safety impact on disproportionately impacted communities.

(b) At the time of filing an equity impact proceeding, an applicant may file a motion for waiver of one or more requirements of rule 1604. Any such motion shall demonstrate good cause for the requested waiver and how statutory compliance will be achieved.

1604. Requirements for Equity Impact Proceedings.

- (a) In advance of the filing of an equity impact proceeding pursuant to subparagraphs 1603(a)(I) through (VII), or as directed by the Commission, the applicant shall identify and engage representatives of disproportionately impacted communities who may be impacted by the filing about the purposes of the filing and any potential impacts or benefits. Engagement prior to a specific equity impact proceeding does not prohibit a utility from having ongoing engagements with disproportionately impacted communities in its service territory.
- (b) At the time of filing, or as otherwise directed by the Commission, the applicant shall:
 - (I) identify the disproportionately impacted communities that are affected by using the version of Colorado EnviroScreen that is currently in effect;
 - (II) identify whether and how any other vulnerable populations are affected;
 - (III) provide a summary report on engagement of disproportionately impacted communities conducted by the applicant in advance of the filing, including the date(s) of engagement, the format and content of the engagement, what comments were received, and how those comments were addressed in the filing;
 - (IV) identify how the filing addresses the equitable distribution of burdens and benefits to disproportionately impacted communities or subsets thereof, as compared to customers generally;

- (V) for retail customer programs, identify how proportionate access to program benefits is being achieved pursuant to § 40-2-108(3)(c)(II), C.R.S.;
- (VI) if applicable, address how the utility intends to balance protections for confidential or highly confidential information with the need to allow consideration of equity impacts by members of the public, including a request for a waiver of Commission rules regarding privacy or confidentiality if necessary; and
- (VII) describe the process by which it will notify representatives of disproportionately impacted communities of the filing. The notice should include at least a plain-language summary of the filing, approvals being sought, and impacts and benefits anticipated to disproportionately impacted communities, provided in appropriate languages.

(c) If the filing utility has not identified and provided information required by paragraph (a) and an intervening party believes the Commission should determine that the proceeding should be treated as an equity impact proceeding, then, in addition to the information required by rule 1401 and at the time of the filing of a notice of intervention or motion for permissive intervention, the entity shall clearly request that the Commission make such a determination and shall provide a basis for the determination.

(d) Proposed procedural schedules in an equity impact proceeding should address:

- (I) how the schedule will promote the meaningful involvement of disproportionately impacted communities, and specifically whether one or more public comment hearings should be scheduled. Any procedural schedule proposed by parties to the proceeding shall provide a recommendation, if any, as to whether to schedule a public comment hearing, and if so, a location, time, and format;
- (II) equity considerations which, based on information provided through initial filings, may be necessary to address in the course of the proceeding in order to make findings related to how best to provide equity, including minimizing impacts, and prioritizing benefits to disproportionately impacted communities, and addressing historical inequities, pursuant to § 40-2-108(3)(b), C.R.S.; and
- (III) the sufficiency of the utility's proposal to provide non-confidential information to allow for consideration of equity issues by members of the public.

(f) A settlement agreement or settlement testimony filed pursuant to rule 1408 shall address how the settlement advances equity to disproportionately impacted communities, and specifically how the equity concerns raised in the initial filing, in any answer testimony filed, are addressed.

(g) A final Commission decision shall include a summary of efforts by the utility and other parties to engage the public, and specifically members of disproportionately impacted communities; a summary of themes identified within public comments; and a description of how its decision addresses equitable outcomes.

1605. – 1999. [Reserved].