

**PROPOSED FOR ADOPTION**  
**CHAPTER 1**  
**AUTHORITY AND DEFINITIONS**

**Section 1. Authority.**

These Rules are promulgated pursuant to the Wyoming Administrative Procedure Act, Wyoming Statute §§ 16-3-101 through 16-3-115 and Chapters 1, 2, 3, 6, 12, 15, 16 and 17 of Title 37 of the Wyoming Statutes.

**Section 2. Definitions.**

(a) The following definitions ~~shall apply to as used in~~ Chapters 2 and 3 ~~shall apply:~~

(i) **Advertising:** the commercial use, by an electric or gas utility, of any media, including newspaper, printed matter, radio and television, in order to transmit a message to a substantial number of members of the public or to such utility's consumers;

(ii) **ANSI:** American National Standards Institute;

(iii) **Appearances before the Wyoming Public Service Commission:**

(A) Individuals may appear on their own behalf;

(B) A partnership may appear by a partner;

(C) A corporation or a limited liability company may appear by an officer or full-time employee;

(D) A municipality or a municipal council may appear by an officer, council member or full-time employee;

(E) An unincorporated association may appear by any bona fide general officer or full time employee;

(F) Any party to a proceeding may appear and be represented by an attorney at law admitted to practice in Wyoming and an active member of the Wyoming State Bar. Other attorneys shall comply with the Uniform Rules for District Courts of the State of Wyoming Rule 104 prior to entry of an appearance; or

~~(G) Any person, who, as a matter of law, entitles the petitioner, applicant, complainant or respondent an opportunity to be heard.~~

(iv) **Applicant:** any public utility or person seeking the whole or part of any Commission permit, certificate approval, registration or similar approval, the grant or denial of which is required by law to be determined by the Commission;

(v) **ASME:** American Society of Mechanical Engineers;

(vi) **Authorized person:** an individual possessing the legal power to commit a person or municipality, including, but not limited to, a binding agreement, payment authority, revenue authority, spending authority or indebtedness authority. This includes any authority delegated by an authoritative body (such as a board of directors) to organizational positions (such as president, managing director or manager), appointing them as agents of the organization for general or specific purposes;

(vii) **AWWA:** American Water Works Association;

(viii) **Case:** means any matter docketed by the Commission from the time of the initial filing or action instituting the case through the final order, future ordered action and the appeal process;

(ix) **CBA:** Commodity Balancing Account;

(x) **Class 1 Location:** any location that has 10 or fewer buildings intended for human occupancy within 660 feet of the pipeline in a running mile;

(xi) **Class rate:** a rate which applies on any one or more of various articles according to the class rating to which they are assigned in a classification or tariff of exceptions thereto or in the class rate tariff;

(xii) **Classification:** a publication containing a list of articles or commodities and the class ratings to which they are assigned for the purpose of applying class rates, together with governing rules and regulations;

(xiii) **Commencing construction:** any excavation or physical placement of fixed facilities, but does not mean work done for the purpose of studying or testing possible facility locations;

(xiv) **Commission and Commissioner:** the Public Service Commission of Wyoming or a member thereof respectively;

(xv) **Commission's Authorized Interest Rate:** a rate that will be computed from the arithmetic mean of the following: (1) the bank prime loan rate at the close of business on the last business day of September, also as published by the Federal Reserve economic data and (2) the arithmetic mean of the twelve monthly one-year U.S. Treasury constant maturity rates for the previous twelve-month period ending on the last

business day of September, as published by the Federal Reserve economic data. The Commission will provide notice of the assigned interest rate by November 30th of each year. The Commission's Authorized Interest Rate shall be in effect for the following calendar year, beginning January 1st and ending December 31<sup>st</sup>;

(xvi) **Complainant:** any party as defined in (a)(xlii) below complaining to the Commission of anything, actual or proposed, done or omitted to be done in violation of the Wyoming Public Utilities Act or of an order, rule or regulation of or authorized by the Commission;

(xvii) **Construction necessary in the ordinary course of business:** any work done primarily to provide continued telecommunication service to customers within the utility's certificated area or to improve the quality or quantity of telecommunication service provided to such customers or to the routine extension of facilities to make telecommunication service available to new customers within the utility's established certificated area or within territory contiguous thereto;

(xviii) **Contiguous territory:** that territory lying immediately adjacent to the line, plant or system of any public utility; however, this definition shall not be construed to mean the extent of territory beyond the area immediately adjacent to the utility's line, plant or system, even though such territory is not occupied by another utility;

(xix) **DEQ:** Wyoming Department of Environmental Quality;

~~(xx) **Emergency response facilities:** official fire stations, police stations, sheriff offices, state patrol headquarters, hospitals or public safety answering points (PSAP);~~

(xxi) **EPA:** United States Environmental Protection Agency;

(xxii) **FCC:** United States Federal Communications Commission;

(xxiii) **FERC:** Federal Energy Regulatory Commission;

(xxiii) **Financial condition:** includes the following information and, where practical, may be presented in the manner prescribed in the Uniform System of Accounts for the FERC, FCC, RUSREA, NARUC or in such manner as may hereafter be prescribed by the Commission:

(A) The amount and class of stock authorized by the certificate of incorporation and by any other authority;

(B) The amount and classes of stock issued and outstanding;

(C) The terms of preference of all preferred stock;

(D) A brief description of each mortgage upon any property of the applicant, giving date of execution, name of mortgagor, the name of the mortgagee or trustee, the amount of indebtedness authorized to be secured thereby, the amount of indebtedness actually accrued, the amount of principal outstanding, the amount of interest due and unpaid and a brief description of the mortgaged property;

(E) The number and amount of bonds authorized and issued, giving the name of the issuing company, describing each class separately, giving the date of issue, par value, rate of interest, date of maturity and how said bonds are secured. If convertible debentures are authorized or outstanding, the date when the conversion privilege accrues and expires and the securities into which, and the rates at which conversion may be made, shall be given;

(F) Other indebtedness, giving name of classes and describing security, if any;

(G) The amount of interest paid during the previous calendar year and the rate thereof. If different rates were paid, give the amount paid at each rate;

(H) The rate and amount of dividends paid upon each class of stock during the previous five years; and

(J) A detailed income statement and balance sheet for the latest calendar year.

(xxiv) **Good utility practice:** any of the practices, methods and acts engaged in or generally approved by the utility industry during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment, in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability and safety. Good utility practice is not intended to be limited to the optimum practice, method, or act to the exclusion of all others, but rather to be acceptable practices, methods, or acts generally accepted in the industry.

(xxv) **IEC:** International Electrotechnical Commission;

(xxvi) **Institutional advertising:** any advertising solely intended to enhance the customer's image of the utility;

~~(xxviii) **Interference:** includes, but is not limited to, facility locations, inductive effects, electrical currents, commodity releases and expected work performed on facilities;~~

(xxvii\*) **Intervenor:** any person or entity affected by any application, petition, formal complaint or motion filed with the Commission, who files an intervention petition in Commission proceedings involving the same, when admitted by the Commission, and means the Office of Consumer Advocate, upon filing a Notice of Intervention;

(xxviii\*) **ISO:** International Organization for Standardization;

(xxix\*) **IRP:** Integrated Resource Plan;

(xxxii\*) **Joint rate:** a rate that applies over the lines of two or more carriers made pursuant to arrangement or agreement between such carriers and evidenced by concurrence or power of attorney;

(xxxiii\*) **Local rate:** a rate that applies over the lines of one carrier only;

(xxxiv\*) **Main:** a distribution line that serves as a common source of supply for more than one telecommunication service line;

(xxxv\*) **Maintenance power:** electric energy or capacity supplied by an electric utility during scheduled outages of the qualifying facility;

(xxxvi\*) **Major utility facility:**

(A) An electric generating plant and associated facilities, utilizing any source of energy;

(B) An electric transmission line or an electric distribution line of more than three miles, designed for operation at 69 kV or above;

(C) An electric substation or a switching station designed to operate at 69 kV or above;

(D) A natural or manufactured gas transmission pipeline, a natural or manufactured gas processing plant, a natural or manufactured gas compressor station or a natural or manufactured gas storage system, any part of which is designed for or capable of transporting or storing natural or manufactured gas at pressures in excess of 125 pounds per square inch gauge for a distance of greater than ~~three~~ one miles in length in Class 1 Locations not designated as a High Consequence Area, or one mile in length in all other locations;

(E) A crude oil trunk transmission line, a liquid petroleum or

refined products trunk transmission line or associated processing or pumping facilities, any part of which is designed for or capable of processing or transporting crude oil, liquid petroleum or refined products, excluding well head facilities;

~~(F) — A coal slurry common carrier pipeline;—~~

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~~(FG)~~ A coal gasification plant and associated facilities or a plant and associated facilities for in situ utilization of coal for gas;

~~(GH)~~ A major water transmission line, water pumping station, water storage facilities or water diversion facilities, not including construction accomplished in the regular course of business.

~~(xxxvii)~~ **NARUC:** National Association of Regulatory Utility Commissioners;

~~(xxxviii)~~ **NEC:** National Electric Code;

~~(xxxix)~~ **NERC:** North American Electric Reliability Corporation;

~~(xl)~~ **NESC:** National Electrical Safety Code;

~~(xli)~~ **NIST:** National Institute of Standards and Technology;

~~(xlii)~~ **Party:** each public utility, person, agency, partnership, corporation, other legally recognized business entity, unincorporated association, group, the Office of Consumer Advocate, the Wyoming Attorney General or his representative, or Commission staff member assigned by the Commission to assert or have an adversary position, named or admitted as an applicant, complainant, intervenor, defendant or respondent in any proceeding before the Commission or any person or entity properly seeking and entitled as of right to be admitted as a party. However, nothing in these Rules shall prevent the Commission, upon its own motion for good cause shown, from allowing any interested person or entity to appear in any proceedings before the Commission, whether or not such a person or entity shall have been granted permission to intervene;

~~(xliii)~~ **Person:** includes individuals, associations of individuals, firms, partnerships, companies, corporations, their lessees, trustees, or receivers, appointed by any court whatsoever in the singular number, as well as the plural;

~~(xliv)~~ **PHMSA:** Pipeline and Hazardous Materials Safety Administration;

~~(xlv)~~ **Point of delivery:** the outlet point where the utility's service facilities are connected with the customer's facilities, unless otherwise altered by service contract. If the utility's facilities are connected with the customer's facilities at more than

one point, each connecting point shall be considered a separate point of delivery, unless the additional connecting points are made by the utility for its sole convenience in supplying service. Additional service of a different type supplied by the utility shall also be considered a separate point of delivery;

(xlv~~v~~) **Political advertising:** any advertising for the purpose of influencing public opinion with respect to legislative, administrative or electoral matters, or with respect to any controversial issue of public importance;

(xlv~~ii~~) **Presiding officer:** the presiding member of the Commission or Commission employee designated by the Commission to conduct a specific public hearing in matters before the Commission;

(xlv~~iii~~) **Promotional advertising:** any advertising for the purpose of encouraging any person to select or use the service or additional service of an electric or gas utility or the selection or installation of any appliance or equipment designed to use such utility's service;

(xlv~~ix~~) **Proportional rate:** a rate published to apply only on traffic originating beyond the point from which such rate applies, destined beyond the point to which such rate applies or originating and destined beyond the points from and to which contain proportional rates;

(xlv~~viii~~) **Protestant or Proponent:** any person or entity objecting to or supporting an application or petition which the Commission may have under consideration. Protestants or proponents may file written comments or make oral presentations in a contested case which will alert the Commission to issues to be considered. However, such action will not serve to make the protestant or proponent an intervenor. Any protestant or proponent desiring to be an intervenor shall petition to intervene. Protestants or proponents shall be subject to cross-examination as provided in the Wyoming Administrative Procedure Act;

(xlv~~ix~~) **PURPA:** Public Utilities Regulatory Policies Act of 1978;

~~(lii) **REA:** Rural Electric Association;~~

(li~~ii~~) **Real gas law:** P = pressure, in psia; V = volume; T = temperature, degrees Rankine; Z = gas compressibility factor;

$$\frac{P_1 V_1}{Z_1 T_1} = \frac{P_2 V_2}{Z_2 T_2}$$

(li~~v~~) **Respondent:** any person subject to the jurisdiction of the Commission to whom an order or notice is issued by the Commission; and any person

subject to the laws, rules, regulations and orders administered or promulgated by the Commission against whom any complaint is filed;

(lii) RUS: Rural Utilities Service;

~~(lii\*)~~ **Service line:** a distribution line that transports gas from a common source of supply to the connection to a customer's piping, where it first enters the building wall or to the building wall or roof top or other exterior connection;

~~(liv\*)~~ **SIRT:** Service Interruption Reporting Telephone;

~~(lvii\*)~~ **Through rate:** the total rate from point of origin to destination. It may be a local rate, a joint rate or a combination of separately established rates;

~~(lvi\*)~~ **TIER:** Times interest earned ratio;

~~(lviii\*)~~ **Utility:** a public utility as defined by Wyoming Statute § 37-1-101(a)(vi);

~~(lviii\*)~~ **WAPA:** Wyoming Administrative Procedure Act (Wyoming Statute §§ 16-3-101 through 16-3-115). All references therein to the "court" shall be deemed to refer to the Commission;

~~(lix\*)~~ **WECC:** Western Electricity Coordinating Council; and

~~(lxii\*)~~ **W.R.C.P.:** Wyoming Rules of Civil Procedure. All references therein to the "court" shall be deemed to refer to the Commission.

(b) **PURPA Definitions:** Public Utilities Regulatory Policies Act. Terms defined in PURPA shall have the same meaning for purposes of these Rules as they have under PURPA and the Rules of the FERC issued in Docket No. RM79-55:

(i) **Avoided costs:** the incremental costs to an electric utility of electric energy or capacity or both which, but for the purchase from the qualifying facility or qualifying facilities, such utility would generate itself or purchase from another source;

(ii) **Back-up power:** electric energy or capacity supplied by an electric utility to replace energy ordinarily generated by a facility's own generation equipment during an unscheduled outage of the facility;

(iii) **Interconnection costs:** the reasonable costs of connection, switching, metering, transmission, distribution, safety provisions and administrative costs incurred by the electric utility directly related to the installation and maintenance of the physical facilities necessary to permit interconnected operations with a qualifying facility,



to the extent such costs are in excess of the corresponding costs which the electric utility would have incurred if it had not engaged in interconnected operations but instead generated an equivalent amount of electric energy itself or purchased an equivalent amount of electric energy or capacity from other sources. Interconnection costs do not include any costs included in the calculation of avoided costs;

(iv) **Interruptible power:** electric energy or capacity supplied by an electric utility subject to interruption by the electric utility under specified conditions;

(v) **Maintenance power:** electric energy or capacity supplied by an electric utility during scheduled outages of the qualifying facility;

(vi) **Purchase:** the purchase of electric energy or capacity or both from a qualifying facility by an electric utility;

(vii) **Qualifying cogeneration facility:** a facility which produces electrical or other forms of useful thermal energy for industrial, commercial, heating or cooling purposes through the sequential use of energy. In order for such facility to qualify, such facility must meet the efficiency criteria as set forth in section 201 of PURPA, and no more than 50% equity interest therein can be held by an electric utility or its affiliates. Such facility may not be diesel powered. A qualifying facility may not be owned by a person or entity engaged primarily in the generation or sale of electrical power;

(viii) **Qualifying facility:** any qualifying small power facility or cogeneration facility as defined in section 201 of PURPA and the FERC regulation in Docket No. RM79-54;

(ix) **Qualifying small power production facility:**

(A) A facility whose power production capacity is owned by one person or entity at one location;

(B) A facility whose production capacity is less than 80 megawatts; and

(C) A facility which derives more than 50% of its energy input from biomass, wastes, renewable resources or any combination thereof, but with less than 25% of its total energy being derived from oil, natural gas and/or coal;

(x) **Rate:** any price, rate, charge or classification made, demanded, observed or received with respect to the sale or purchase of electric energy or capacity, or any rule, regulation or practice respecting any such rate, charge or classification, and any contract pertaining to the sale or purchase of electric energy or capacity;

(xi) **Sale:** the sale of electric energy or capacity or both by an electric utility to a qualifying facility;

(xii) **Supplementary power:** electric energy or capacity supplied by an electric utility, regularly used by a qualifying facility in addition to that which the facility generates itself;

(xiii) **System emergency:** a condition on a utility's system which is likely to result in imminent significant disruption of service to customers or is imminently likely to endanger life or property;

### **Section 3. Incorporation by Reference.**

(a) For any code, standard, rule or regulation incorporated by reference in these Rules:

(i) The Commission has determined that incorporation of the full text in these Rules would be cumbersome or inefficient given the length or nature of the Rules;

(ii) The incorporation by reference does not include any later amendments or editions of the incorporated matter beyond the applicable date identified in subsection (b) of this section;

(iii) The incorporated code, standard, rule or regulation is maintained at the Commission's offices at 2515 Warren Avenue, Suite 300 in Cheyenne, WY and is available for public inspection and copying at cost at the same location.

(b) Each code, standard, rule or regulation incorporated by reference in these Rules is further identified as follows:

(i) Wyoming Rules of Civil Procedure, Rule 7(b), in effect on October 11, 1964; and 16, in effect on July 1, 2010. Copies can be obtained from the following designated depository library: Wyoming State Library, 2800 Central Avenue, Cheyenne, WY 82002; or at: <http://www.courts.state.wy.us/WSC/CourtRule?RuleNumber=48>;

(ii) Uniform Rules for District Courts of the State of Wyoming, Rule 104, in effect on May 13, 2014. Copies can be obtained from the following designated depository library: Wyoming State Library, 2800 Central Avenue, Cheyenne, WY 82002; or at: <http://www.courts.state.wy.us/WSC/CourtRule?RuleNumber=32>;

(iii) The Code of Federal Regulations, Parts 1700 through 1794, in effect on July 30, 2015, of Title 7; Parts 101, in effect on August 6, 2015 and 292, in effect on February 21, 2012 of Title 18; Parts 4.5, in effect on June 16, 2015, 54.5, 54.1307, and 54.400, in effect on July 14, 2015 and 68, in effect on June 12, 2015, of Title 47; Parts 40,

in effect on April 13, 2015, 191, in effect on March 11, 2015, 192 and 193, in effect on August 6, 2015, 198, in effect on July 23, 2015, and 199, in effect on September 25, 2013, of Title 49 . Copies of these regulations can be obtained from the designated depository library: Wyoming State Library, 2800 Central Avenue, Cheyenne, WY 82002, or at:

<http://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR;>

(iv) Federal Bankruptcy Act of 1978, 11 U.S.C. §§ 101 through 1532, in effect on April 20, 2005; National Energy Act of 1978, 16 U.S.C. §§ 2601 through 2645, in effect on December 19, 2007; National Energy Conservation Policy Act, 42 U.S.C. §§ 8231 through 8236(b), in effect on November 13, 1998; and the Telecommunications Act of 1996, 47 U.S.C. §§ 214(e), in effect on December 1, 1997 and 254(f), in effect on October 10, 2008. Copies of the Act can be obtained from the following designated depository library: Wyoming State Library, 2800 Central Avenue, Cheyenne, WY 82002, or at: [http://uscode.house.gov/;](http://uscode.house.gov/)

(v) The Cellular Telecommunication and Internet Association (CTIA) Consumer Code, effective December 2013. Copies of the Consumer Code can be obtained from the CTIA at 1400 16th Street, NW Suite 600, Washington, DC 20036; or at: [http://www.ctia.org/;](http://www.ctia.org/)

(vi) American National Standards Institute (ANSI) Codes and Standards, in effect on May 19, 2015. Copies are maintained at the Commission's offices at 2515 Warren Avenue, Suite 300 in Cheyenne, WY and is available for public inspection and copying at cost at the same location, or at: [http://www.ansi.org/;](http://www.ansi.org/)

(vii) American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel Code, 2015 edition. Copies are maintained at the Commission's offices at 2515 Warren Avenue, Suite 300 in Cheyenne, WY and is available for public inspection and copying at cost at the same location, or is available for purchase at: [https://www.asme.org/;](https://www.asme.org/)

(viii) 2012 National Electrical Safety Code (NESC). Copies are maintained at the Commission's offices at 2515 Warren Avenue, Suite 300 in Cheyenne, WY and is available for public inspection and copying at cost at the same location, or is available for purchase at: [http://standards.ieee.org/index.html;](http://standards.ieee.org/index.html)

(ix) 2014 National Electric Code (NEC). Copies are maintained at the Commission's offices at 2515 Warren Avenue, Suite 300 in Cheyenne, WY and is available for public inspection and copying at cost at the same location, or is available for purchase at: [http://www.nfpa.org/;](http://www.nfpa.org/)

(x) Western Electric Coordinating Council (WECC) Standards, as in effect on July 22, 2015. Copies are maintained at the Commission's offices at 2515 Warren

Avenue, Suite 300 in Cheyenne, WY and is available for public inspection and copying at cost at the same location, or at: <https://www.wecc.biz/Pages/home.aspx>;

(xi) North American Electric Reliability Corporation (NERC) Standards, in effect on October 7, 2015. Copies are maintained at the Commission's offices at 2515 Warren Avenue, Suite 300 in Cheyenne, WY and is available for public inspection and copying at cost at the same location, or at: <http://www.nerc.com/Pages/default.aspx>;

(xii) National Association of Regulatory Utility Commissioners (NARUC) Uniform System of Accounts, in effect on December 31, 2007. Copies are maintained at the Commission's offices at 2515 Warren Avenue, Suite 300 in Cheyenne, WY and is available for public inspection and copying at cost at the same location, or is available for purchase at: <http://www.naruc.org/>;

(xiii) American Water Works Association (AWWA) Standards, in effect on November 1, 2015. Copies are maintained at the Commission's offices at 2515 Warren Avenue, Suite 300 in Cheyenne, WY and is available for public inspection and copying at cost at the same location, or is available for purchase at: <http://www.awwa.org/>;

(xiv) International Electrotechnical Commission (IEC) Standards, in effect on September 16, 2015. Copies are maintained at the Commission's offices at 2515 Warren Avenue, Suite 300 in Cheyenne, WY and is available for public inspection and copying at cost at the same location, or is available for purchase at: <http://www.iec.ch/>;

(xv) International Organization for Standardization (ISO) Standards, in effect on October 14, 2015. Copies are maintained at the Commission's offices at 2515 Warren Avenue, Suite 300 in Cheyenne, WY and is available for public inspection and copying at cost at the same location, or is available for purchase at: <http://www.iso.org/iso/home.html>.

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**PROPOSED  
CHAPTER 2  
UNIFORM RULES FOR CONTESTED CASE PRACTICE AND PROCEDURE**

**Section 1. Authority and Scope.**

(a) These Rules are promulgated by authority of Wyoming Statute § 16-3-102(d). These Rules shall govern all contested case proceedings before all agencies to the extent they are adopted, and shall be relied upon by hearing officers, adjudicative agencies and parties in all contested cases before any agency. Agencies may develop forms not inconsistent with these Rules.

(b) Except as specified below, the Uniform Rules for Contested Case Practice and Procedure have been adopted by the Commission and are re-stated here for ease of those appearing before the Commission.

(i) Sections not adopted:

(A) Section 4;

(B) Section 6; and

(C) Section 19.

(ii) Sections replaced:

(A) Section 11(b) has been replaced with Commission Rule 104(b) and (d) (repealed);

(B) Section 20 has been replaced with Commission Rule 118 (repealed);

(C) Section 22(a)(iii) has been replaced with Commission Rule 115(b)(v) (repealed); and

(D) Section 25 has been replaced with WPC Rule 119 (repealed).

(iii) Sections added:

(A) Section 30 is Commission Rule 120 (repealed); and

(B) Section 31 is a new provision.

## **Section 2. Definitions.**

The following definitions shall apply to this Chapter:

(a) “Adjudicative agency” means an agency authorized to conduct and preside over its own contested cases;

(b) “Agency” means any authority, bureau, board, commission, department, division of the state, or other entities that are statutorily authorized to refer cases to the Office;

(c) “Attorney” means an attorney licensed to practice law in the State of Wyoming or, an attorney who is licensed to practice law in another state and who is associated with an attorney licensed to practice law in the State of Wyoming;

(d) “Contested case” means a proceeding in which legal rights, duties, or privileges of a party are required by law to be determined by an agency after an opportunity for hearing;

(e) “Hearing officer” means a hearing examiner from the Office, a presiding officer of any agency, an attorney who has been retained by an agency to preside over a contested case, an officer of any agency who has been designated to preside over a contested case, or any other person who is statutorily authorized to preside over a contested case;

(f) “Hearing panel” means those members of an agency or adjudicative agency who are designated and authorized to make a final decision in a contested case;

(g) “Office” means the Office of Administrative Hearings;

(h) “Referring agency” means any agency which has referred a contested case for hearing before the Office or before another hearing officer;

(j) “Representative” means an individual other than an attorney who is authorized to function in a representative capacity on behalf of a party to a contested case; and

(k) “Wyoming Administrative Procedure Act” means Wyoming Statute §§ 16-3-101 through -115.

## **Section 3. Incorporation by Reference.**

(a) The code, standard, rule or regulation below is incorporated by reference and can be found at: <http://www.courts.state.wy.us/WSC/CourtRule?RuleNumber=48>

(i) Rule 12(b)(6), Wyoming Rules of Civil Procedure, adopted by the Wyoming Supreme Court and in effect on April 11, 1995;

(ii) Rule 24, Wyoming Rules of Civil Procedure, adopted by the Wyoming Supreme Court and in effect on February 11, 1971;

(iii) Rule 45, Wyoming Rules of Civil Procedure, adopted by the Wyoming Supreme Court and in effect on October 1, 2009;

(iv) Rule 52, Wyoming Rules of Civil Procedure, adopted by the Wyoming Supreme Court and in effect on July 1, 2000;

(v) Rule 56, Wyoming Rules of Civil Procedure, adopted by the Wyoming Supreme Court and in effect on October 11, 1964;

(vi) Rule 56.1, Wyoming Rules of Civil Procedure, adopted by the Wyoming Supreme Court and in effect on July 1, 2008;

(b) No later amendments to a code, standard, rule or regulation listed in subsection (a) of this section are incorporated by reference.

**Section 4. Informal Proceedings and Alternative Dispute Resolution.**

Not adopted.

**Section 5. Commencement of Contested Case Proceedings.**

(a) A contested case shall be commenced by filing a timely request for a hearing of any agency action or inaction, or the filing of an application, petition, complaint or other document which, as a matter of law, entitles the petitioner, applicant, complainant, or respondent an opportunity to be heard.

(b) At the commencement of every contested case, an agency or hearing officer shall issue a notice of hearing including a statement of:

- (i) the time, place and nature of the hearing;
- (ii) the legal authority and jurisdiction under which the hearing is to be held;
- (iii) the particular sections of the statutes and rules involved; and
- (iv) a short and plain statement of the matters asserted. If the agency or

hearing officer is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved and, thereafter, upon application, a more definite and detailed statement shall be furnished.

**Section 6. Referral to Office.**

Not adopted.

**Section 7. Referral to Hearing Officer Other Than the Office.**

When an agency refers a contested case to a hearing officer other than the Office or when an adjudicative agency retains a contested case, the agency shall comply with any referral requirements of that hearing officer or adjudicative agency.

**Section 8. Designation and Authority of Hearing Officer; Recusal.**

(a) Any agency may refer, assign, or designate a hearing officer to preside over any contested case, unless otherwise provided by law. When appropriate under applicable law or at the referring agency's request, the hearing officer may provide either a recommended or final decision.

(b) Upon referral for contested case by a referring agency that will not be present for the hearing, a hearing officer shall conduct a contested case and may enter proposed findings of fact and conclusions of law or may provide a complete record of the contested case to the referring agency for entry of a final decision.

(c) At any time while a contested case is pending, a hearing officer or hearing panel member may withdraw from a contested case by filing written notice of recusal. From and after the date the written notice of recusal is entered, the recused hearing officer or hearing panel member shall not participate in the contested case.

(d) Upon motion of any party, recusal of a hearing officer or hearing panel member shall be for cause. Whenever the grounds for such motion become known, any party may move for a recusal of a hearing officer or hearing panel member on the ground that the hearing officer or hearing panel member:

(i) has been engaged as counsel in the action prior to being appointed as hearing officer or hearing panel member;

(ii) has an interest in the outcome of the action;

(iii) is related by consanguinity to a party;

(iv) is a material witness in the action;



(v) is biased or prejudiced against the party or the party's attorney or representative; or

(vi) any other grounds provided by law.

(e) A motion for recusal shall be supported by an affidavit or affidavits of any person or persons, stating sufficient facts to show the existence of grounds for the motion. Prior to a hearing on the motion, any party may file counter-affidavits. The motion shall be heard by the hearing officer or, at the discretion of the hearing officer, by another hearing officer. If the motion is granted, the hearing officer shall immediately designate another hearing officer to preside over the contested case or shall excuse the hearing panel member(s).

(f) A hearing officer shall not be subject to a voir dire examination by any party.

(g) Subject to limitations imposed by the hearing officer, any party may be permitted to conduct a voir dire examination of a hearing panel.

### **Section 9. Appearances and Withdrawals.**

(a) A party, whether it be an individual, corporation, partnership, governmental organization or other entity may appear through an attorney or representative. An individual may represent himself/herself. An individual or entity seeking to intervene in a contested case under Rule 24 of the Wyoming Rules of Civil Procedure, may appear through an attorney or representative prior to a ruling on the motion to intervene.

(b) Prior to withdrawing from a contested case, an attorney shall file a motion to withdraw. The motion for an attorney's withdrawal shall include a statement indicating the manner in which notification was given to the client and setting forth the client's last known address and telephone number. The hearing officer shall not grant the motion to withdraw unless the attorney has made reasonable efforts to give actual notice to the client that:

(i) the attorney wishes to withdraw;

(ii) the client has the burden of keeping the hearing officer informed of the address where notices, pleadings or other papers may be served;

(iii) the client has the obligation to prepare, or to hire another attorney or representative to prepare, for the contested case and the dates of proceedings;

(iv) the client may suffer an adverse determination in the contested case

if the client fails or refuses to meet these burdens;

(v) the pleadings and papers in the case shall be served upon the client at the client's last known address; and

(vi) the client has the right to object within 15 days of the date of notice.

(c) Prior to withdrawing from a contested case, a representative shall provide written notice of withdrawal to the hearing officer and the agency.

### **Section 10. Ex Parte Communications.**

Except as authorized by law, a party or a party's attorney or representative shall not communicate with the hearing officer or hearing panel member in connection with any issue of fact or law concerning any pending contested case, except upon notice and opportunity for all parties to participate. Should ex parte communication occur, the hearing officer or hearing panel member shall advise all parties of the communication as soon as possible thereafter and, if requested, shall allow any party an opportunity to respond prior to ruling on the issue.

### **Section 11. Filing and Service of Papers.**

(a) In all contested cases, the parties shall file all original documents, pleadings and motions with the referring agency or adjudicative agency, as applicable, with true and correct copies of the particular document, pleading or motion properly served on all other parties and the hearing officer, accompanied by a certificate of service. The referring agency or adjudicative agency shall maintain the complete original file, and all parties and the hearing officer shall be provided copies of all contested case documents, pleadings and motions contained therein.

(b) Unless otherwise ordered, all filings with the Commission shall be made electronically as provided on the Commission's website. The signed original filing, plus four copies, are required to be filed within three days of electronic filing. All filings shall:

(i) Be addressed to the Commission;

(ii) Designate the Commission docket number if known;

(iii) State the name, address and telephone number of the party;

(iv) Be accompanied by required fees;

(v) Be typed, printed or otherwise legibly reproduced on 8 ½ by 11 inch paper with 1 inch margins; and

(vi) Be signed by either an authorized signatory of a party or an attorney licensed to practice law in the State of Wyoming.

(c) The Commission may reject the filing if the Commission determines it to be deficient.

(d) The date of filing is the earlier of the transmission of the electronic filing or the receipt of the paper original and copies by the Commission. Any filing received after 5 p.m. shall be deemed made on the next business day.

(e) Amendments that materially or substantially alter the initial filing may be re-noticed under W.A.P.A. The receipt of the renoticed amended filing will be considered the initial filing date.

### **Section 12. Computation of Time.**

(a) In computing any period of time prescribed or allowed by these Rules, by order or by any applicable statutes or regulations, the day of the act, event or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday or a legal holiday, or, when the act to be done is the filing of a paper, a day on which weather or other conditions have made agency offices inaccessible, in which event the period runs until the end of the following day which is not one of the aforementioned days. When the period of time prescribed or allowed is less than 11 days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation. As used in this Rule, "legal holiday" includes any day officially recognized as a legal holiday in this state by designation of the legislature or appointment as a holiday by the governor.

(b) Whenever a party has the right or is required to do some act within a prescribed period after the service of a notice or other paper upon the party, and the notice or paper is served upon the party by mail or by delivery to the agency for service, three days shall be added to the prescribed period.

### **Section 13. Motions and Motion Practice.**

(a) Unless these Rules or an order of the hearing officer establish time limitations other than those contained herein, all motions except motions for enlargement of time and motions made during hearing, shall be served at least 10 days before the hearing on the motion. A party affected by the motion may serve a response, together with affidavits, if any, at least three days prior to the hearing on the motion or within 20 days after service of the motion, whichever is earlier. Unless the hearing officer permits service at some other time, the moving party may serve a reply, if any, at least one day prior to the hearing on the motion or within 15 days after service of the response, whichever is earlier.

Unless the hearing officer otherwise orders, any party may serve supplemental memoranda or rebuttal affidavits at least one day prior to the hearing on the motion.

(b) A request for hearing may be served by the moving party or any party affected by the motion within 20 days after service of the motion. The hearing officer may determine such motion without a hearing.

#### **Section 14. Setting Hearings, Other Proceedings and Location of Hearings.**

(a) The hearing officer or adjudicative agency, as applicable, shall assign a docket number to each contested case. All papers, pleadings, motions and orders filed thereafter shall contain:

- (i) a conspicuous reference to the assigned docket number;
- (ii) a caption setting forth the title of the contested case and a brief designation describing the document filed; and
- (iii) the name, address, telephone number and signature of the person who prepared the document.

(b) The hearing officer shall set the course of proceedings, which may include, but is not limited to, scheduling informal conferences, confidentiality issues, summary disposition deadlines, motion practice, settlement conferences and the evidentiary hearing.

(c) Prehearing conferences may be held at the discretion of the hearing officer. Any party may request a prehearing conference to address issues such as discovery, motion deadlines, scheduling orders or status conferences.

(d) At the hearing officer's discretion, and unless otherwise provided by the referring agency, telephone or videoconference calls may be used to conduct any proceeding. At the discretion of the hearing officer, parties or their witnesses may be allowed to participate in any hearing by telephone or videoconference.

(e) The hearing officer shall determine the location for proceedings.

#### **Section 15. Consolidation.**

A party may seek consolidation of two or more contested cases by filing a motion to consolidate in each case sought to be consolidated. If consolidation is ordered, and unless otherwise ordered by the hearing officer, all subsequent filings shall be in the case first filed, and all previous filings related to the consolidated cases shall be placed together under that case number. Consolidation may be ordered on a hearing officer's own motion.

**Section 16. Continuances, Extensions of Time and Duty to Confer.**

(a) A motion for a continuance of any scheduled hearing shall be in writing, state the reasons for the motion, and be filed and served on all parties and the hearing officer. A request for a continuance filed less than five days before a scheduled hearing shall be granted only upon a showing of good cause.

(b) A motion for an extension of time for performing any act prescribed or allowed by these Rules or by order of the hearing officer shall be filed and served on all parties and the hearing officer prior to the expiration of the applicable time period. A motion for extension of time shall be granted only upon a showing of good cause.

(c) A moving party shall make reasonable efforts to contact all parties, representatives, and attorneys before filing a motion for continuance or extension of time. A motion for continuance or extension of time shall include a statement concerning efforts made to confer with the other party(s) and position(s) on the motion.

(d) Continuances relating to mediation shall be made no later than 30 days prior to the date of the hearing.

**Section 17. Discovery.**

(a) The taking of depositions and discovery shall be in accordance with Wyoming Statute § 16-3-107(g).

(b) Unless the hearing officer or adjudicative agency orders otherwise, parties shall not file discovery requests, answers, and deposition notices with the hearing officer or adjudicative agency.

**Section 18. Subpoenas.**

Any party may request the hearing officer to issue a subpoena to compel the attendance of a witness or for the production of documents. Requests for the issuance of a subpoena shall be accompanied by a completed subpoena, which shall conform to Rule 45 of the Wyoming Rules of Civil Procedure.

**Section 19. Summary Disposition.**

Not adopted.

**Section 20. Prehearing Procedures.**

The Commission or presiding officer may direct the attorneys for the parties and any unrepresented parties to appear for a conference or conferences before a hearing in

accordance with W.R.C.P. Rule 16.

**Section 21. Burden of Proof.**

The hearing officer shall assign the burden of proof in accordance with applicable law.

**Section 22. Evidence.**

(a) The hearing officer shall rule on the admissibility of evidence in accordance with the following:

(i) Evidence of the type commonly relied upon by reasonably prudent persons in the conduct of their serious affairs shall be admissible. Irrelevant, immaterial, or unduly repetitious evidence shall be excluded.

(ii) Evidence may be offered through witness testimony or in documentary form;

(iii) Hearings shall generally be conducted as follows:

(A) The presiding officer may allow into evidence, after appropriate filing and service, the ~~direct~~-written testimony of a witness in question and answer form. The testimony shall have line numbers inserted at the left margin and shall be authenticated by affidavit of the witness. If admitted, the testimony shall be marked and incorporated into the record as existing without being read into the record. Parties shall have full opportunity to cross-examine the witness on the testimony. The presiding officer may require additional written testimony during the pendency of a case;

(iv) The rules of privilege recognized by Wyoming law shall be given effect; and

(v) A hearing officer may take administrative notice of judicially cognizable facts, provided the parties are properly notified of any material facts noticed.

(b) Each party shall have the opportunity to cross-examine witnesses. The hearing officer may allow cross-examination on matters not covered on direct examination.

(c) The hearing officer, the hearing panel, agency staff or other persons delegated to do so by the hearing officer or hearing panel, when applicable, may ask questions of any party or witness.

**Section 23. Contested Case Hearing Procedure.**

(a) The hearing officer shall conduct the contested case and shall have discretion to direct the order of the proceedings.

(b) Unless otherwise provided by law, and at the hearing officer's discretion, the party with the burden of proof shall be the first to present evidence. All other parties shall be allowed to cross-examine witnesses in an orderly fashion. When that party rests, other parties shall then be allowed to present their evidence. Rebuttal and surrebuttal evidence shall be allowed only at the discretion of the hearing officer.

(c) The hearing officer shall have discretion to allow opening statements and closing arguments.

#### **Section 24. Default.**

Unless otherwise provided by law, a hearing officer may enter an order of default or an order affirming agency action for a party's failure to appear at a lawfully noticed hearing.

#### **Section 25. Settlements.**

Any matter may be disposed of by stipulation, settlement or consent order upon approval of the Commission.

#### **Section 26. Expedited Hearing.**

(a) At the hearing officer's or hearing panel's discretion, a contested case may be heard as an expedited hearing upon the motion of any party. Expedited hearings may include summary suspensions under Wyoming Statute § 16-3-113(c) and other emergency proceedings authorized by law.

(b) An expedited hearing shall be decided on written arguments, evidence, and stipulations submitted by the parties. A hearing officer or hearing panel may permit oral arguments upon the request of any party.

(c) The hearing officer or hearing panel may require an evidentiary hearing in any case in which it appears that facts material to a decision in the case cannot be properly determined by an expedited hearing.

#### **Section 27. Recommended Decision.**

In those contested cases where the hearing officer makes a recommended decision, the hearing officer shall file the recommended decision with the referring agency and serve copies of the recommended decision on all parties to the contested case. Unless otherwise ordered, parties shall have ten days to file written exceptions to the hearing officer's

recommended decision. Written exceptions shall be filed with the referring agency and served on all parties.

**Section 28. Final Decision.**

(a) A final decision entered by a hearing officer or adjudicative agency shall be in writing, filed with the referring agency and served upon all parties to the contested case. A final decision entered by the referring agency or adjudicative agency shall be served upon all parties and the hearing officer.

(b) A final decision shall include findings of fact and conclusions of law, separately stated. When the hearing officer allows the parties to submit a proposed final order, the parties shall forward the original to the agency and serve copies of the proposed order on all other parties and the hearing officer.

(c) A hearing officer or adjudicative agency may at any time prior to judicial review, correct clerical errors in final decisions or other parts of the record. A party may move that clerical errors or other parts of the record be corrected. During the pendency of judicial review, such errors may be corrected only with leave of the court having jurisdiction.

**Section 29. Record of Proceeding.**

The referring agency or adjudicative agency shall make appropriate arrangements to assure that a record of the proceeding is kept pursuant to Wyoming Statute § 16-3-107(o) and (p). Copies of the transcript taken at any hearing may be obtained by any party, interested person, or entity from the court reporter taking the testimony at such fee as the reporter may charge.

**Section 30. Confidentiality of Information.**

(a) Upon petition, and for good cause shown, the Commission shall deem confidential any information filed with the Commission or in the custody of the Commission or staff which is shown to be of the nature described in Wyoming Statute §16-4-203(a), (b), (d) or (g). All information for which confidential treatment is requested shall be treated as confidential until the Commission rules whether, and to what extent, the information shall be given confidential treatment.

(b) Any person requesting confidential treatment of information (except as directed by the Commission in investigative and discovery matters) shall file a petition that includes the following information:

- (i) The assigned docket, if applicable.



(ii) Title the filing as: Petition for Confidential Treatment of \_\_\_\_\_.

(iii) Numbered listings and explanations in adequate detail to support why confidentiality should be authorized for each item, category, page, document or testimony. Each item, category or page of proposed confidential information shall be attached to the Petition and numbered in the right hand margin so that numbering corresponds with the numbering and detailed explanation(s) in the Petition. If only part of a page, or intermittent parts of pages, are requested to be kept confidential, these should be set off by brackets identified with an item number or numbers. Each page containing information for which confidential treatment is requested shall be printed on yellow paper and marked or stamped at the top in capital letters: CONFIDENTIAL INFORMATION.

(iv) A request for return or other final disposition of the information.

(c) All information deemed confidential under this Rule shall be retained in secure areas of the Commission's offices.

(d) If the person petitioning for confidential treatment of information intends that parties in a case have access thereto, upon signing a statement that the information shall be treated as confidential, the petitioner shall prepare a proposed protective order for the Commission's approval with an attached form to be signed by the parties and made part of the Commission's permanent case file.

(e) Information in the Commission's confidential files shall be retained for the period determined by the Commission. On an appeal of a Commission final order, any confidential information included in the record shall be sealed and delivered to the court pursuant to the W.A.P.A.

(f) The Commission may consider oral petitions for confidential treatment of information when the public interest requires.

### **Section 31. Deliberations and Order.**

(a) All deliberations of the Commission shall be held in public in accordance with Wyoming law.

(b) Upon reaching its decision, the Commission shall direct the drafting of an order, which upon signature of at least two Commissioners, shall become a final order. Dissenting or concurring opinions may be filed with the final order.

**PROPOSED  
CHAPTER 3  
ELECTRIC, GAS AND WATER UTILITIES**

**Section 1. Utility Service and Facilities; Quality and Adequacy.**

(a) Each utility shall furnish its customers with safe, adequate and reliable service in accordance with accepted good utility practice. It shall maintain its entire plant and system in a condition enabling it to furnish required service and inspect its system and facilities in a manner and at such frequency as necessary to obtain sufficient knowledge of its current condition and adequacy.

(b) Electric utilities shall:

(i) Design and operate the electric system to maintain its voltages within the limits of ANSI 84.1;

(ii) Use portable indicating voltmeters or electronic monitors capable of recording the continuous voltage in time for testing voltage regulation and portable graphic voltmeters or electronic monitors capable of recording the continuous voltage in time for testing power quality and reliable operation. These instruments shall be of a type and capacity suited to the voltage supplied and adequate to comply with section 18 of this Chapter;

(iii) Conduct a sufficient number of voltage surveys to adequately indicate the character of service furnished to its customers and to demonstrate compliance with voltage requirements. Voltage surveys shall include measurements at the point of delivery or nearest downstream device; and

(iv) Establish per tariff standard nominal voltages as required by the unique distribution system for the service area or for each district of a divided system.

(c) Gas utilities shall:

(i) Have access to or require use of a properly maintained calorimeter or chromatograph of a standard type with all necessary accessories for the determination of the Btu value of gas delivered;

(ii) Maintain in its tariff a standard to determine gas Btu value that equates a cubic foot of gas with the amount of gas that occupies one cubic foot, dry, at 60° F at 14.73 pounds per square inch absolute;

(iii) Maintain in its tariff a standard to measure gas provided to a

customer that equates a cubic foot of gas with the amount of gas that occupies one cubic foot under the conditions at the customer's meter. The real gas law shall be used to calculate any volume adjustment for the gas delivered;

(iv) Deliver gas that:

(A) Contains no more than 0.25 grains of hydrogen sulfide per 100 standard cubic feet;

(B) Contains no more than 2.5 mole percent of oxygen;

(C) Contains no more than seven pounds of water vapor per million standard cubic feet;

(D) Has a heating value of at least 950 Btu per standard cubic foot; and

(E) Has a hydrocarbon dew point compatible with normal system operating conditions.

(v) Monitor changes to tariff-established Wobbe Indices.

(A) The tariff sheets shall describe, and include a map illustrating, the distinguishable distribution area(s) in which each Wobbe Index applies, the effective dates of each Wobbe Index and each change in service with the date of its related customer notification.

(B) Unless otherwise authorized by the Commission, a Wobbe Index for a distinguishable distribution area that deviates more than 4% from the established Wobbe Index is considered a change in service. A cumulative change of 4% in the Wobbe Index or other service condition over a period of more than three consecutive calendar years may also be considered a change in service.

(C) A utility shall apply to the Commission when seeking to establish or change a Wobbe Index. The application shall include the proposed Wobbe Index for each distinguishable distribution area and shall use a calculation of the weighted mean Wobbe Index for the gas delivered to the distribution area during a representative historic 12-month period.

(d) Water utilities shall:

(i) Comply with the requirements of DEQ and/or EPA when furnishing any water for human consumption or domestic use;

(ii) Flush their system periodically, no less than semi-annually, to eliminate or minimize discoloration or other abnormal conditions. Records of the date, place and duration of all flushings shall be retained and used as a guide in determining the necessary frequency of subsequent flushings; and

(iii) Maintain a pressure gauge at a central point in the distribution system where continuous records shall be made of the pressure observed.

## **Section 2. Change in Service.**

A change in service is a substantial change made by a utility in the type of service rendered in a distinguishable distribution area that affects the efficiency of operation or requires adjustment of customer appliances. Upon a change in service, a utility ~~shall, per tariff:~~

(a) ~~Shall~~ Notify the Commission and affected customers, in advance, if possible; and

(b) ~~May be ordered to~~ Inspect and adjust the appliances of the affected customers in the distinguishable distribution area to the new conditions without charge, unless provided for contractually between the utility and an individual non-residential customer.

(i) The Commission may ~~defer/waive the~~ inspection and appliance adjustment ~~requirement if the circumstances warrant, or, pending upon the approval of~~ the utility's ~~application analysis of to analyze~~ gas quality and associated safety parameters in the distinguishable distribution area.

## **Section 3. Service Interruptions.**

(a) Each utility shall make all reasonable efforts to avoid interruptions of service and, when interruptions occur, shall re-establish service in a timely and safe manner.

(b) Utilities shall submit a written, confidential list of contact names and telephone numbers to be used when a service interruption occurs. The list shall:

(i) Be resubmitted each January and July, whether or not the contact person(s) have changed since the last submittal;

(ii) Be updated as soon as a contact changes;

(iii) Include contact information to communicate with individuals who are knowledgeable about service interruptions, the estimated duration and the possible causes of service interruptions; and

(iv) Include contact information to communicate with individual(s) who are available to confer with the Commission at all times.

(c) Utilities shall notify the Commission of all planned major service interruptions, defined per tariff, at least 48 hours in advance, except in emergencies.

(d) Utilities shall make reasonable efforts to provide affected customers two business days' notice of a planned service interruption.

(e) Utilities shall make reasonable efforts to establish mutual aid agreements with other entities to assist in the recovery of large scale service interruptions, natural disasters or other significant events.

**Section 4. Construction and Maintenance Standards; Safety; Responsibility for Customer Facilities; Coordination among Utilities, Facility Operators and Telecommunications Companies.**

(a) Each utility shall construct, install, operate and maintain its entire plant and system ("facilities"), including structures, equipment and lines, in accordance with accepted good utility practice and in a manner that prevents injury to persons or property, promotes the safety, health, comfort and convenience of its customers, employees and the general public and eliminates interference with the service furnished by other utilities, facility operators or telecommunication companies.

(i) Electric utilities shall construct, install, operate and maintain facilities in accordance with NEC, NESC, WECC and NERC standards along with RUS standards, if applicable.

(ii) Natural gas and pipeline utilities shall construct, install, operate and maintain facilities, including conducting leak surveys and cathodic protection of distribution and service lines, in accordance with PHMSA regulations (49 CFR §§ 40; 191-193; 199).

(iii) Water utilities shall construct, install, operate and maintain facilities in accordance with the requirements of DEQ and the State Engineer's Office.

(b) The furnishing of service by a utility to a customer shall not render the utility responsible for the customer's facilities, installation or practices on the customer side of the point of delivery.

(c) Each point of delivery shall be metered and located as near to the customer's utilization equipment as practicable per tariff.

(d) In determining good utility practice, the Commission may grant deviations to the standards listed in this section as well as in ANSI B31, the ASME Boiler and Pressure Vessel Code and all other applicable ANSI codes and standards.

(e) In the case of conflict between applicable codes and standards, the more stringent shall apply.

(f) Utilities and facility operators shall coordinate with telecommunication companies to avoid or eliminate any interference. The owner of new facilities interfering with existing facilities constructed in accordance with relevant and applicable standards shall bear the cost of correction and mitigation.

#### **Section 5. Information to Applicants and Customers.**

(a) Each utility shall, upon request, provide its customers such information and assistance as is reasonably possible and necessary in order that customers may secure safe, adequate and reliable service.

(b) The utility shall maintain a copy of its tariff at its local office for inspection by the public during normal business hours.

(c) When more than one rate is available, the utility shall advise an applicant, upon request, which rates are available to the applicant. If, at any time subsequent to the commencement of service, the customer requests assistance, the utility shall advise the customer which rates are available to the customer.

#### **Section 6. Service Connections and Line Extensions.**

Each utility shall establish per tariff terms and conditions applicable to service connections and line extensions.

(a) Line extension tariff sections shall provide for new service within the utility's certificated service territory for each rate class at no cost to the customer to the extent that prospective net revenue from the new service justifies the installation and maintenance costs of the extension.

(b) In the case of temporary service for short term use (as distinguished from seasonal use), a utility may require a customer to pay all costs of service connection and disconnection, line extension and line removal after service has been discontinued. The customer shall be credited with the reasonable salvage value.

(c) Special contracts for extension of the utility's distribution system to supply commercial service, industrial service or service of indeterminate character shall be filed with the Commission.

(d) The utility may allow the customer to construct service and line extensions if authorized by the Commission per tariff. Utilities shall inspect these extension projects regularly to ensure work is progressing and completed according to applicable standards, codes and these regulations.

### **Section 7. Customer Deposits.**

A utility may require a deposit to guarantee payment. This deposit shall not be considered advance payment of bills, but shall be held as security for payment of service rendered. The utility may refuse service to an applicant or ~~discontinue~~ terminate service to a customer for failure to comply with this section. Utility policies governing customer deposits shall be applied uniformly.

- (a) The utility may require a ~~customer~~ deposit if:
- (i) A prior service account with the utility remains unpaid and undisputed at the time of application for service;
  - (ii) Service from the utility has been terminated for:
    - (A) Nonpayment of any undisputed delinquent bill;
    - (B) Failure to reimburse the utility for damages due to the customer's negligent or intentional acts; or
    - (C) Acquisition, diversion or use of service without the authorization of or knowledge by the utility.
  - (iii) Information provided upon application for service is materially false or a misrepresentation;
  - (iv) The application is for initial service with the utility or the applicant did not have service with the utility for a period of at least 12 consecutive months during the past four years;
  - (v) The applicant or non-residential customer is unable to pass an objective credit screen per tariff;
  - (vi) The request is for service at an address where a former customer with an undisputed delinquent bill for service still resides or conducts business;

(vii) The applicant for service, or the customer, has been brought within the jurisdiction of the bankruptcy court or has had a receiver appointed in a state court proceeding, within the five-year period immediately preceding the request for service; or

(viii) A utility has determined that it has a significant financial risk in continuing to provide service to a specific load or non-residential customer. The utility shall file a confidential petition requesting expedited review and Commission approval prior to collecting the customer deposit. The petition shall contain the basis for the utility's determination, the amount of deposit sought and sufficient information for the Commission to contact the customer.

(b) A utility shall not require a deposit as a condition of new or continued utility service based upon any criterion not specifically authorized by these Rules.

(c) Unless otherwise ordered by the Commission, the required deposit shall not exceed the total amount of the customer's estimated bill for three months of highest use based on the premise's monthly bills during the immediate previous 12-month period.

(d) The utility shall retain records showing:

(i) The name and address of each customer making the deposit;

(ii) The date and amount of the deposit; and

(iii) Each accounting transaction concerning the deposit.

(e) The utility shall provide the customer a non-assignable receipt or other record of deposit, showing the date and amount received.

(f) The utility shall calculate simple interest on deposits at the Commission Authorized Interest Rate. Interest shall apply only to deposits held for at least six months, but shall accrue from the initial date of deposit through the date the deposit is returned to the customer.

(g) The utility may accept a written guarantee from an acceptable guarantor in lieu of a deposit to pay a customer's bill. After the utility has verified the customer's identity, the customer shall agree to permit the utility to provide the customer's account information to the guarantor upon the customer's default.

(h) Deposits and any unpaid interest earned on deposits shall be applied as a credit to the customer's bill, unless requested by the customer to be refunded, when:

(i) The accrued interest equals or exceeds \$10.00. The utility shall



apply the credit at least annually;

(ii) A residential customer has received 12 consecutive months of service, with no cause to disconnect and bills have been paid when due;

(iii) A commercial or industrial customer has received 12 consecutive months of service, with no cause to disconnect, bills have been paid when due and passes an objective credit screen; or

(iv) Service is discontinued. The utility shall not require the customer to provide the original receipt in order for the deposit to be returned. Any credit balance on the account after the deposit is applied shall be refunded to the customer. If the utility is unable to make the refund due to lack of knowledge of the customer's location, additional interest will not accrue after the service discontinuation date. The utility shall manage such deposits as unclaimed property as required by Wyoming law.

#### **Section 8. Refusal to Serve New Customers or Expand Existing Service.**

A utility may refuse to provide, expand or materially change service to a requesting customer when:

- (a) The utility does not have adequate facilities to render the service requested;
- (b) The requested service appears to be unsafe or likely to adversely affect service to another customer; or
- (c) The requesting customer is indebted to the utility for service previously rendered and satisfactory payment arrangements have not been made with the utility.
  - (i) If indebtedness for service rendered at a former location is in dispute, the requesting customer shall be provided service at the new location upon complying with the utility's deposit requirements and paying the amount in dispute. Upon settlement of the disputed amount, any balance due the customer shall be refunded with accrued interest at the Commission Authorized Interest Rate.
  - (ii) The utility shall not refuse service to a new customer because of debts of a previous customer at the same location.
  - (iii) The utility may refuse service due to unpaid line extension charges for facilities serving the location.

#### **Section 9. Discontinuation of Service to Customers.**

- (a) Unless otherwise ordered by the Commission, no utility shall terminate

service to any customer for violating the utility's rules and regulations or for nonpayment of bills for service until the utility has given at least seven calendar days' notice to residential customers or three calendar days' to commercial or industrial customers.

(b) Notice shall be effective when a copy is provided to the customer in person, by telephone after customer verification, or received by U.S. mail at the customer's last known mailing address. Additional notice may be provided electronically. The notice shall contain:

(i) The name of the person whose account is delinquent and the service address to be discontinued;

(ii) The rule or regulation that was violated or the amount of the delinquent bill;

(iii) The effective date of the notice and the date on or after which service is to be discontinued;

(iv) The utility's specific address and telephone number for information regarding how to avoid service discontinuation;

(v) The names of agencies or organizations that have notified the utility that they render assistance to eligible persons who are unable to pay their utility bills; and

(vi) A statement advising the customer how to contact the Commission if discontinuation is disputed.

(c) For residential customers, the notice shall inform the customer that, if prior to the initial date for the discontinuation, the customer provides the utility with written verification from a health care provider responsible for the care of a customer or his/her co-habitants stating that their health or safety would be seriously endangered if service were discontinued, the utility shall extend the date for discontinuation set forth in the notice by 15 days (22 days total) to allow for bill payment.

(d) The utility shall attempt to make actual contact with the customer either in person or by telephone after customer verification before discontinuing service during the cold weather period of November 1 through April 30.

(e) The utility shall also provide notice of discontinuation or account delinquency to a third party if a customer or person acting for the customer has requested that the utility do so after customer identification verification. The utility shall establish reasonable procedures to advise customers, particularly any incapacitated customer, that the right to request third-party notification does not create third-party liability for payment.

(f) If the customer defaults, the utility shall provide the discontinuation notice to any guarantor and customer simultaneously. The guarantor's service shall not be subject to discontinuation as a result of the customer's default.

(g) The utility shall remove a guarantor when:

(i) The customer has received 12 consecutive months of service with no cause for discontinuation, bills have been paid when due and the customer passes an objective credit screen;

(ii) The guarantor has paid all amounts due for service through the date the utility receives the request to terminate the guarantor agreement; or

(iii) An additional agreement with the utility is in place.

(h) The utility may discontinue service between 8:00 a.m. and 4:00 p.m., Monday through Thursday, without further notice when:

(i) The notification period has elapsed and the delinquent account has not been paid;

(ii) Acceptable payment arrangements have not been made with the utility; or

(iii) The utility is not satisfied the customer has ceased violating the utility's rules and regulations.

(j) The utility shall not discontinue service for bill nonpayment:

(i) On a legal holiday or the day before;

(ii) During the period from December 24 through January 2, inclusive;

(iii) On any day the utility cannot reconnect service;

(iv) If the customer enters into an agreement with the utility for payment of the delinquent billing over a reasonable time and the customer complies with the payment arrangements;

(v) If the customer owes the utility money due to a meter or other billing error and the customer complies with payment arrangements;

(vi) At a previous address for a different class of service;

(vii) Of non-utility service or merchandise;

(viii) If a customer is paying bills on time, even though a former customer with an undisputed delinquent bill for service resides or conducts business at the same address;

(ix) If a utility bill is in dispute and the customer duly pays the utility bill or bill portion that is not in dispute; or

(x) If the temperature is forecasted by the National Weather Service or other reputable source to be below 32° F in the impending 48 hours, or if conditions are otherwise especially dangerous to health, and the customer is:

(A) Unable to pay for service in accordance with the utility's billing requirements and is actively seeking government assistance or has exhausted such assistance; or

(B) Able to pay for service in installments only.

(k) The utility shall assist elderly and handicapped persons who are unable to pay their utility bills with determining available government assistance.

(l) A utility may discontinue service to a customer without advance notice for reasons of safety, health, cooperation with civil authorities, fraudulent use, tampering with or destroying utility service facilities or customer's failure to comply with utility curtailment procedures during supply shortage.

(m) Upon a customer's or legally authorized person's request, the utility shall make reasonable efforts to terminate the customer's service as requested. Before terminating service, the utility shall inform the customer of any additional charges per tariff for after-hours service discontinuation.

#### **Section 10. Reconnection of Discontinued Service.**

When service has been discontinued for violation of the utility's rules and regulations, nonpayment of bills or fraudulent use of service; and the customer desires the service to be reconnected, the utility may require the customer to pay in full all bills due for service rendered up to the date service was discontinued, plus any reconnection charge per tariff. Upon satisfaction of reconnection requirements, the utility shall restore service as soon as practicable. If a customer requests reconnection of service after hours, the utility shall inform the customer of any additional charge per tariff for after-hours expenses prior to the reconnection. No utility shall charge to reconnect service when discontinuation was improper.

### **Section 11. Complaints.**

- (a) Informal complaints may be resolved at the discretion of the Commission.
- (b) Formal complaints to the Commission:
  - (i) A formal complaint shall contain:
    - (A) A clear and concise statement of the relevant facts;
    - (B) Reference to the statutes, rules or orders that the complainant alleges have been violated;
    - (C) The name and contact information of the complainant;
    - (D) The name and address of attorneys involved, if any; and
    - (E) The name of the respondent against which the complaint is made and whether a hearing is requested. A formal complaint requesting a hearing must be in writing.
  - (ii) A respondent shall file an answer to a formal complaint within 20 days after the date of its receipt. The respondent may request a hearing, in writing, on any formal complaint.
  - (iii) The complainant and respondent may resolve any formal complaint by written agreement filed with and approved by the Commission.
- (c) Complaints to a utility:
  - (i) Each utility shall make a full and prompt investigation of all complaints and shall retain a record of all such complaints received for a period of three years; and
  - (ii) The record shall include the name and address of the complainant, the date and character of the complaint and its resolution.

### **Section 12. System of Accounts.**

Each utility shall maintain all accounting and statistical data necessary to provide complete and accurate information regarding the utility's properties and operations.

- (a) Pipeline utilities and privately owned gas and electric utilities shall maintain accounting records in accordance with FERC's Uniform System of Accounts.

(b) Water utilities shall maintain their accounting records in accordance with applicable NARUC Uniform System of Accounts for Class A, B, C and D water utilities.

(c) Any utility operating as a utility in any other state or engaged in non-utility operations shall separately maintain the accounting and statistical data that pertain to utility operation in the State of Wyoming.

### **Section 13. Advertising.**

No utility may recover from any person other than the shareholders (or other owners) of such utility any direct or indirect expenditure by such utility for promotional or political advertising.

(a) For purposes of this regulation, promotional and political advertising do not include advertising:

(i) That informs customers how to conserve or more efficiently use energy or water;

(ii) Required by law, regulation or Commission order, including advertising required pursuant to Part 1 of Title II of the National Energy Conservation Policy Act;

(iii) Regarding service interruptions, safety measures or emergency conditions;

(iv) Concerning employment opportunities with the utility;

(v) That explains or justifies existing or proposed rate schedules, including notice of any related hearings; or

(vi) The Commission determines to be in the public interest.

### **Section 14. Records.**

(a) A meter record for all utility meters shall be retained for the life of the meter and shall indicate for each meter owned or used by a utility the identifying number, name of manufacturer, type, capacity, date of purchase or other acquisition, installation date, its current location and all results of meter tests.

(i) All required meter tests shall be properly referenced to the meter record. The record of each test made shall show:

(A) The identifying number and constants of the meter (the standard meter and other measuring devices used);

(B) The date and kind of test made;

(C) The reason for the test;

(D) The reading of the meter before the test;

(E) The error or percent accuracy at each tested load; and

(F) The test results and sufficient data to permit calculation verification.

(b) Utilities shall retain for at least three years the names and addresses of all customers with the identifying number of related meter(s).

(c) Each electric utility shall retain these records:

(i) The daily record of the load and a monthly record of the output of its plants. For stations not having operators in continuous attendance, only monthly records are required. Each utility purchasing electrical energy shall provide to the Commission, upon request, information as to the monthly purchases, including demand where measured. For stations having operators in continuous attendance, regular readings of all station instruments and meters shall be made and recorded in such detail as to indicate the character of service being rendered. These records shall be retained for a minimum of three years;

(ii) Maps and records showing the location, voltage and conductor size of transmission and primary distribution facilities, substations and switching facilities. These records shall be retained for the life of the facility.

(d) Each natural gas utility shall retain:

(i) Monthly record of the heating value (Btu) of gas provided to customers in the Wyoming jurisdiction. These records shall be retained for a minimum of three years;

(ii) Records of delivery pressure to:

(A) Distribution systems served by more than one district regulator or plant; or

(B) Distribution systems served by a single district regulator

station or plant where the operator demonstrates a need for recording of pressures.

These records shall bear the date and show the place where the pressure reading was taken and be retained for a minimum of three years.

(iii) Maps or other records showing the size, pipe material and location of each main, regulator, valve and customer service. These records shall be retained for the life of the facility.

#### **Section 15. Use of Meter.**

(a) Each utility shall adequately meter and measure the commodity delivered into its distribution systems to determine demand capacity, losses, capacity constraints and, if applicable, voltage levels.

(b) Each utility shall measure customer commodity use by industry-recognized and approved certified meters.

(c) Each utility shall install and maintain at its own expense all equipment necessary to regulate and measure the commodity delivered per tariff.

(d) Upon a customer's request, a utility may install and maintain an additional meter at the customer's expense.

(e) No pre-payment meter shall be used by the utility except when a utility's tariff permits, it is voluntarily chosen by the customer and the utility's tariff ~~describes~~ ~~complies with the~~ discontinuation of service procedures ~~in section 9(h)~~. The customer retains the option to request regular metered service at any time, which may be subject to deposit. Customer accounts where service is provided to persons whose physical health or safety would be endangered if the utility service were discontinued are not eligible for pre-payment meter service. If a pre-payment meter is in use, the utility shall:

(i) Provide continuous customer access to account information and payment options to enable continued service; and

(ii) Inform the customer of all payment options and provide a telephone number or other electronic communication options in case of emergencies and/or service problems.

(f) Any non-metered utility service shall be governed by tariff.

#### **Section 16. Meter Location.**

(a) Meters and associated devices shall be installed in a reasonable location



accessible for reading, testing, inspection, removal and where such activities will minimize interference and inconvenience to the customer and utility per tariff.

(b) No meter shall be installed in any location where the meter or associated service lines may be unnecessarily exposed to damage.

(c) The customer shall provide, without cost to the utility, a suitable location accessible for metering and installation of equipment required to receive service.

(d) Meters located inside buildings are discouraged. If so located, meters shall be as near as practicable to where the service conductor or pipe enters the building.

(e) All electric meters shall be located and installed in accordance with NEC and NESC, as applicable.

(f) Gas utilities shall:

(i) Locate all meters and service regulators in accordance with 49 CFR §192;

(ii) Provide for the shortest safe distance to the customer's building entrance or point of utilization equipment;

(iii) Submit a plan to the Commission, upon request, to address existing residential service meters not in compliance with this section.

(g) Water meters shall be located to protect from freezing, excessive heat, temperature variations, vehicular damage and inflow of surface water.

#### **Section 17. Meter Accuracy, Measurement and Standards.**

(a) Inaccurate, improper or non-certified meters, including those for which accuracy has not been established, shall not be placed in service or allowed to remain in service. Meters that register upon zero load are considered inaccurate. New meters and serviced meters shall be in good repair and adjusted as closely as practicable to zero error. All meters shall conform to ANSI, IEC, AWWA and ISO, as applicable.

(b) All service meters shall clearly indicate the units of measurement for which the customer is charged. If the utility invoices customers in a different unit of measurement than the service meter indicates, the conversion factor shall be stated on the customer bill. Metering in the following units is required:

(i) Electric: kWh, kW or kVar depending upon service requirements;

- (ii) Gas: cubic feet, dekatherms or therms;
- (iii) Water: cubic feet or U.S. gallons.

**Section 18. Meter Testing Program.**

(a) Each utility shall develop a meter testing program for the calibration, recertification, care and maintenance of meters, recording devices, field testing equipment and meter calibration equipment (hereinafter referred to in this section as “equipment”) in order to keep the equipment in proper working condition. The utility shall have access to a meter laboratory, standard meters, instruments, meter calibration equipment and facilities necessary to carry out its meter testing program. The facilities and equipment shall be available at reasonable times for inspection by any authorized representative of the Commission.

(b) Each utility shall submit its meter testing program to the Commission for approval.

(c) At a minimum, the meter testing program shall include:

(i) Identification of all equipment requiring calibration or recertification;

(ii) Identification of the nationally recognized standards for the proposed testing and calibration, testing intervals and degree of accuracy for all equipment;

(iii) A plan for proper care and maintenance of equipment;

(iv) A requirement that equipment used as a reference or transfer standard shall have a higher degree of accuracy than the item being calibrated and the calibration is traceable to NIST;

(v) A requirement that equipment used as a reference or transfer standard to certify other equipment shall be kept in temperature-stable environments and calibrated annually;

(vi) A requirement that equipment used as a reference or transfer standard shall only be used for calibration purposes and shall not be used for trouble shooting, corrective maintenance or any other activity that might jeopardize the instrument’s calibration accuracy;

(vii) For natural gas utilities, a requirement that bell provers, transfer provers or sonic nozzles shall be recertified at not more than five-year intervals and after being moved or dimensionally altered. Recertification shall be accomplished by use of

standard-cubic foot bottles, by strapping or by optical measurement techniques, the latter being the preferable method;

(viii) For natural gas utilities, a requirement that calibrating meters equate a cubic foot of gas with the amount of gas that occupies one cubic foot, dry, at 60° F at 14.73 pounds per square inch absolute; and

(ix) For electric utilities, a requirement that instrument transformers shall have its installation verified and be tested for ratio and burden performance at the same intervals as the associated meter.

(d) All meter calibration equipment shall bear the last calibration date.

(e) Each electric utility furnishing metered electric service shall provide or have available portable indicating electrical testing instruments of suitable range and type for testing and confirming equipment installations are performing properly.

(f) Each water utility furnishing metered water service using portable test meters to determine the accuracy of meters in service shall recalibrate the portable test meters at sufficiently frequent intervals to ensure correct registration at the specified rates of flow.

### **Section 19. Meter Reading and Billing.**

(a) Each service meter shall clearly indicate the units of measurement. If the utility invoices customers in a different unit of measurement than the service meter indicates, the conversion factor shall be stated on the customer bill. In cases where special types of meters are used or where the readings of a meter must be multiplied by a constant to obtain the units consumed, that information shall be placed on the customer bill.

(b) Bills shall be rendered periodically and shall show the meter readings at the beginning and end of the billing period, the date of the meter readings, the units consumed, the class of service and other information necessary to enable the customer to readily re-compute the amount of the bill. Each bill shall bear upon its face the date of the bill and the latest date it may be paid without penalty. Estimated meter readings or budget billing shall be clearly identified on the bill.

(i) Electric and gas service meters shall be read monthly as nearly as possible on the same day within a billing cycle;

(ii) Water service meters shall be read at intervals authorized per tariff.

~~(e) Excess charges resulting from a non-conforming meter or other continuing problem under the utility's control shall be refunded pursuant to Wyoming Statute § 37-2-~~

~~218. Undercharges resulting from a non-conforming meter or other continuing problem under the utility's control may be collected pursuant to Wyoming Statute § 37-2-222.~~

## **Section 20. Customer Requests for Tests of Meter Accuracy.**

(a) If a customer requests a test of the accuracy of the utility's meter on the customer's premises ~~or requests the replacement of such meter~~, the following provisions shall apply:

(i) If the meter has not been tested within 12 months, the utility shall perform the test within a reasonable time without charge to the customer. The utility shall notify the customer of the time when the utility will conduct the test so the customer or the customer's representative may be present;

(ii) If the meter has been tested within 12 months, the utility shall notify the customer of the cost to perform the test. Upon receipt of payment, the utility shall notify the customer of the time when the utility will conduct the test so the customer or the customer's representative may be present;

(iii) The utility shall promptly advise the customer of the test results.

(b) If a meter is found to be in non-compliance with the utility's meter testing program, the utility shall refund the payment the customer advanced for the meter test and shall repair or replace the meter per tariff.

## **Section 21. Notices and Applications.**

(a) No utility may commence new construction or an expansion of facilities or projects for which notification is required pursuant to section 21(a) until the Commission:

(i) Grants the utility a certificate of public convenience and necessity;  
or-

(ii) Informs the utility in writing that the proposed facilities or projects do not require a certificate of public convenience and necessity, following the utility's notification that explains in detail why a proposed facility or project is in the ordinary course of business or otherwise exempt. The Commission shall inform the utility within 10 business days following receipt of the utility's notice.;~~or~~

~~(b)~~ Utilities shall notify the Commission of the following proposed facilities or projects:

(i) For electric utilities, a summary of the proposed modification, construction or re-route for any project associated with any generation plant, substations

or switching station 69kV and above or transmission lines 69kV and above that are greater than three miles in length;

(ii) For gas utilities, a summary of the proposed modification, construction or re-route for any project above 125 pounds per square inch gauge and greater than three miles in length in Class 1 Locations not designated as High Consequence Areas or one mile in length in all other locations;

(iii) For water utilities, a summary of the proposed modification, construction, diversion or re-route for any project associated with transmission lines, pumping stations, storage facilities or diversion facilities; or

(iv) For pipeline utilities, a summary of the proposed modification, construction or re-route for any project above 125 pounds per square inch gauge associated with:

(A) liquid transmission pipelines greater than three miles in length unless they could impact High Consequence Areas, or one mile in length in all other locations; or

(B) gas transmission pipelines greater than ~~three~~ miles in length in Class 1 Locations not designated as High Consequences Areas; or one mile in length in all other locations.

~~(b) — No utility may commence new construction or an expansion of facilities or projects for which notification is required pursuant to section 21(a) until the Commission:~~

~~(i) — Informs the utility in writing that the proposed facilities or projects do not require a certificate of public convenience and necessity, following the utility's notification that explains in detail why a proposed facility or project is in the ordinary course of business or otherwise exempt. The Commission shall inform the utility within 10 business days following receipt of the utility's notice; or.~~

~~(ii) — Grants the utility a certificate of public convenience and necessity; or~~

~~(ii) — Informs the utility in writing that the proposed facilities or projects do not require a certificate of public convenience and necessity, following the utility's notification that explains in detail why a proposed facility or project is in the ordinary course of business or otherwise exempt. The Commission shall inform the utility within 10 business days following receipt of the utility's notice.~~

(c) When a utility is required to file an application for a certificate of public convenience and necessity:

- (i) The application shall include:
  - (A) The name and address of the applicant;
  - (B) The type of plant, property or facility proposed to be constructed or acquired;
  - (C) A description of the facilities proposed to be constructed or acquired, including preliminary engineering specifications in sufficient detail to properly describe the principal systems and components, and final and complete engineering specifications when they become available;
  - (D) The rates, if any, proposed to be charged for the service that will be rendered because of the proposed construction or acquisition;
  - (E) The estimated total cost of the proposed construction or acquisition;
  - (F) The manner by which the proposed construction or acquisition will be financed;
  - (G) Documentation of the financial condition of the applicant;
  - (H) The estimated annual operating revenues and expenses that are expected to accrue from the proposed construction or acquisition, including a comparison of the overall effect on the applicant's revenues and expenses; and
  - (J) The estimated start and completion dates of the proposed construction or date of acquisition.
- (ii) To operate or construct a major utility facility, the application shall include the following information in addition to the requirements of section (21)(c):
  - (A) A description of the proposed site, including the county or counties in which the facility will be located, with a metes and bounds description, and a description of the terrain where the facility will be constructed;
  - (B) A geological report of the proposed site, including foundation conditions, groundwater conditions, operating mineral deposits within a one-mile radius and a topographical map showing the area within a five-mile radius;
  - (C) A description of and plans for protecting the surrounding scenic, historical, archeological and recreational locations; natural resources; plant and animal life; and land reclamation, including:

(I) A general description of the devices to be installed at the major utility facility to protect air, water, chemical, biological and thermal qualities;

(II) The designed and tested effectiveness of such devices; and

(III) The operational conditions for which the devices were designed and tested.

(D) A description of any potential safety hazards;

(E) A description of the real property, fuel and water requirements, including any source of water along which the major utility facility will be constructed or from which it will obtain or return water;

(F) The acquisition status, source and location of real property, right-of-way, fuel and water requirements;

(G) The proposed means of transporting fuel and water requirements;

(H) A description of all mineral rights associated with the facility and plans for addressing any split-estate issues;

(J) A statement setting forth the need for the facility in meeting present and future demands for service in Wyoming or other states;

(K) A description of the commodity or service the facility will make available;

(L) A statement of the facility's effect on the applicant's and other systems' stability and reliability;

(M) The status of satisfying local, state, Tribal or federal governmental agency requirements. The applicant shall immediately file all agencies' final orders.

(d) When a utility extends service to a contiguous, unserved area as defined in Wyoming Statute § 37-2-205, the utility shall notify the Commission in writing and, if so directed, shall apply for an order conforming the certificated area to the area actually served. At a minimum, the notification shall include:

(i) A map of the extension area;

- (ii) A metes and bounds description;
- (iii) The number and type of customers served; and
- (iv) A description of the facilities deployed.

(e) A utility shall file an application prior to discontinuing, abandoning or otherwise disposing of any utility facility or service currently offered to the public. The application shall provide all studies of past, present and prospective customer use of the utility facility or service.

- (i) An application shall not be required:

(A) To remove individual facilities where a customer has requested service discontinuance; or

(B) For *de minimis* sales and dispositions of utility plant or facilities that do not affect a utility's ability to provide safe, adequate and reliable service. *De minimis* sales and disposition do not include the sale or disposition of distribution facilities, major utility facilities or facilities valued at more than 1% of a utility's Wyoming gross plant in service; or

(C) For easements and rights-of-way and leases or sale of real property that do not affect a utility's ability to provide safe, adequate and reliable service, provided that such transactions shall be reported to the Commission on the 15<sup>th</sup> day of January and July each year. The reports shall include an itemized list of all transactions, their value and a description of the disposition of all funds received.

(f) A utility shall file an application prior to selling, transferring by lease or otherwise disposing of a controlling interest in the utility. The application shall include:

- (i) The name and address of the utility;
- (ii) Ownership;
- (iii) The utility's financial condition;
- (iv) The name and financial condition of the purchaser, lessee or assignee;
- (v) A copy of any draft or final agreement detailing the transaction;
- (vi) The effect of the proposed transaction on the ability of the utility to



provide service; and

(vii) The effect the proposed transaction will have on any other utility.

(g) A gas or electric utility shall file an application signed by an authorized person prior to issuing securities or creating liens.

(i) The application shall include:

(A) Documentation of authorization to issue securities or create debt, including the total amount of securities or debt;

(B) The purpose of the security issuance or debt;

(C) Copies of proposed securities or debt document, including any related terms and conditions;

(D) Copies of financial statements, work papers and financial forms showing the aggregate of the existing and proposed securities or debt and the fair value of the gas or electric utility; and

(E) Presentation of the utility's debt-to-equity ratio before and after the proposed transaction.

(I) Cooperative utilities shall provide their debt-to-asset ratio, operating TIER, debt service coverage ratio, the minimum debt coverage ratios and the amount of long-term debt held by the utility before and after the proposed transaction. If issuing the securities would violate any minimum ratio requirement, the cooperative utility shall provide a letter from the lender acknowledging the cooperative utility will not be in violation of loan covenants with the new securities.

(ii) Once securities are issued, compliance documents shall be filed with the Commission that detail the final terms and conditions, including a copy of the final executed documents.

(h) Applications for tariff changes:

(i) The proposed tariff sheets shall be posted on the utility's website and in offices and places of business in the territory affected when the proposed change is filed with the Commission. Approved tariff sheets shall be similarly posted for 30 days after their effective date;

(ii) Proposed tariff sheets shall be filed in clean and legislative formats. Legislative format shall indicate deleted material in strikeout and added material in

underline. The version in legislative format shall not be part of the utility's tariff.

## **Section 22. Construction Reports.**

Each utility issued a certificate of public convenience and necessity for a specific ~~construction~~ project or extension shall:

(a) Report the date construction will commence as soon as it is known, but no later than five business days prior to commencement;

(b) Submit monthly construction progress reports;

(c) Report the date construction was completed within 20 business days of completion; and

(d) Submit a report no later than 180 days following completion of construction that includes:

(i) Name of project;

(ii) Date in service;

(iii) Labor costs;

(iv) Material costs by general category;

(v) Administrative and general expenses;

(vi) Engineering costs;

(vii) Right-of-way costs;

(viii) Costs and rates used to calculate Allowance for Funds Used During Construction;

(ix) Other costs for which the utility will seek recovery for in rates and how items (iii) through (vii) were accounted for in its books and records;

(x) Proposed depreciation rates;

(xi) Journal entries transferring the completed project from Construction Work in Progress to Utility Plant in Service by account number;

(xii) For facility modifications, journal entries recording any plant retired

and appropriate account numbers for utility plant and reserve for depreciation;

(xiii) For facility modifications, journal entries recording any plant salvage values and decommissioning costs or sale of any plant retired;

(xiv) Contact information for contractors that performed work;

(xv) Conditions (terrain, location, weather, etc.) under which construction was performed;

(xvi) Any non-standard facility feature; and

(xvii) Completed project maps and engineering drawings, if changed from those previously submitted.

**Section 23. Tariffs.**

(a) All tariffs shall:

(i) Be accompanied by a cover page stating the utility's name and the location of the utility's principal office;

(ii) Include a table of contents;

(iii) Describe the territory the utility serves;

(iv) Include the applicable rate schedules, showing all rates and charges for the various separate classes of service and the utility's rules and regulations. All rates shall be clearly and explicitly stated in cents or dollars and cents per defined unit;

(v) Separately identify each rate schedule where more than one rate schedule is available for various classes of service;

(vi) State the area, city or other district in which the rate schedules and charges apply;

(vii) Be available for public inspection during regular office hours;

(viii) Identify the P.S.C. Wyo. Number of the tariff for electric, gas and water utilities. Subsequent tariffs filed shall continue such designation in consecutive numerical order. Utilities shall file an entire set of tariff sheets that includes rates, rules and regulations, designating a subsequent P.S.C. Wyo. Number with each general rate case. Further designation, such as "Original Sheet No. 1," "Original Sheet No. 2," "First Revision of Original Sheet No. 1, canceling Original Sheet No. 1" etc., shall also be

included when applicable. At the bottom of the page shall be shown the date of issue, the effective date of each page, the name and title of the issuing officer, agent or employee; and

(ix) Include a summary sheet of all authorized rates for each class of service for electric, gas and water utilities. The summary sheet shall provide references to each rate's detail sheet.

(b) Intrastate pipelines shall also:

(i) Identify the P.S.C. Wyo. Number of the tariff;

(ii) File a cover page that:

(A) Includes the name of the intrastate pipeline;

(B) Describes the territory, points and routes covered by the tariff;

(C) Specifies the commodities to which the rates apply; and

(D) Specifies whether the rates are:

(I) Local;

(II) Joint;

(III) Proportional; or

(IV) Class, commodity or both.

(iii) Identify any expiration date;

(iv) Describe the method of determining mileage if the tariff contains rates based on mileage;

(v) Be arranged in a systematic manner to show clearly whether the rates apply from, to or between named points;

(vi) Include an explanation of any symbols, reference marks and abbreviations used in the tariff. The following shall be used for the purpose indicated and shall not be used for any other purpose:

(A) [I] to denote increases;

- (B) [D] to denote decreases;
- (C) [N] to denote new items;
- (D) [C] to denote cancel;
- (E) [U] to denote unchanged rate; and
- (F) [W] to denote new rate or wording.

(vii) Show the amount of free time allowed for demurrage or storage and the rates for time beyond free time; and

(viii) Include a reference with explanation that it is intrastate only if the tariff is also filed with the FERC or other federal agency and contains rates, charges or other provisions that apply only to intrastate.

#### **Section 24. Transfer of Utility Control; Adoption of Tariffs.**

(a) Any entity, including receivers or trustees, proposing to acquire all or partial ownership or control of a utility, must adopt the tariff of the predecessor utility on file with the Commission and effective at the time of transfer. The transferee shall issue and file an adoption notice within 10 days of the transfer, ratifying the former utility's tariff.

(b) All adoption notices shall be filed in consecutive numerical order, beginning with P.S.C. Wyo. Adoption Notice No. 1.

(c) Within 10 days after filing an adoption notice, the transferee utility, including receivers or trustees, shall issue and file in its own name the tariff of its predecessor or its proposed revised tariff.

#### **Section 25. Conformance with Revised Commission Rules and Regulations.**

If a change to the Commission's Rules and Regulations renders a utility's tariff non-conforming, the utility shall file a conforming tariff within 90 days of the effective date of the change to the Commission's Rules and Regulations unless otherwise ordered by the Commission.

#### **Section 26. Pass-On Applications and Commodity Balancing Accounts (CBA) for Rate-Regulated Utilities.**

(a) Utilities may file an application to pass on known or projected commodity or commodity-related cost increases or decreases per tariff.

(i) Pass-on applications may be approved, subject to public notice, opportunity for hearing and refund, if the evidence shows recovery of the costs is in the public interest and the pass-on includes only prudent commodity or commodity-related cost increases or decreases not under the Commission's jurisdiction.

(ii) Pass-on applications shall:

(A) Be filed at least annually and shall at least annually include documentation comparing the utility's actual and normalized annual earnings to those last authorized by the Commission. The appropriate form and level of detail of the required supporting documentation shall be determined by the Commission on a case-by-case basis in consideration of the utility's size, complexity, nature of operations, corporate structure and other relevant factors;

(B) Provide documentation demonstrating that costs included in the application are the most reasonable option available to the utility for safe, adequate and reliable service. Utilities may file integrated resource plans or commodity acquisition plans for Commission review. After Commission acknowledgement, these plans may satisfy this requirement for pass-on applications; and

(C) Include all information necessary to support the requested rates.

(iii) Pass-on increases or decreases shall be allocated to all retail rate classes and contract customers on an equal or proportionate basis. The Commission may consider special proportionate class allocation if requested.

(iv) Pass-on rates may be consolidated with base rates in general rate case proceedings or as otherwise ordered by the Commission.

(b) A utility may file an application to establish a CBA tariff mechanism to account for the difference between commodity or commodity-related revenues collected, based on projected wholesale costs, and the actual, prudent commodity or commodity-related expenditures the utility incurred. The utility may apply to the Commission for approval to include other costs and revenues in the CBA. Records related to the CBA shall be available for audit by the Commission at any time.

(i) Interest shall be paid on over-collected balances. Interest may be collected on under-collected balances upon a showing that it is in the public interest. Interest shall be computed at the Commission Authorized Interest Rate.

(ii) The CBA tariff shall describe in detail how the utility accounts for the components of the CBA, including:

- (A) The frequency of rate adjustments to reflect cost changes;
- (B) The planned method, supporting basis and time period for projecting commodity or commodity-related costs;
- (C) The procedure and recordkeeping measures for tracking the difference between commodity-related revenues and expenditures;
- (D) The time period for amortizing the balance of any over- or under-collection;
- (E) The procedure for calculating increases or decreases in commodity or commodity-related purchases, using a measurement unit consistent with the utility's billing practices and tariff provisions;
- (F) The procedure for calculating and paying interest on over-collected balances and, if authorized, the procedure for calculating and collecting interest on under-collected balances; and
- (G) The procedure and recordkeeping measures for tracking other expenditures authorized by the Commission to be included in the CBA.

(c) Utilities may apply for out-of-period adjustments.

**Section 27. SIRT; Reportable Incidents.**

(a) Reportable incidents that will or are likely to produce significant detrimental effects to customers, facilities or public safety shall be reported to the Commission within two hours of the incident by contacting the Commission's Service Interruption Reporting Telephone (SIRT) number.

(b) A reportable incident is:

(i) An event that causes loss to the operator or others and results in:

(A) Estimated property damage of at least \$20,000 for water utilities; or

(B) Estimated property damage of at least \$50,000 for all other utilities.

(ii) An event that results in death, in-patient hospitalization, damage to the property of the utility which substantially affects service to the public or is otherwise

significant in the judgment of the operator or utility. ~~such as, but not limited to, an outage to any known emergency response facility.~~

(c) Additional reportable incidents for electric utilities:

(i) Sustained single feeder outages of two hours or longer to 500 or 50% of customers, whichever is fewer or as modified in the utility's Service Interruption Reporting Plan;

(ii) Single feeder outages to 25 or more customers for a period estimated to last eight hours or more.

(d) Additional reportable incidents for natural gas utilities:

(i) Any incident reportable to the National Response Center:

(A) An event that involves a release of gas from a pipeline, or of liquefied natural gas, liquefied petroleum gas, refrigerant gas or gas from an LNG facility, and that results in one or more of the following:

(I) A death, or personal injury necessitating in-patient hospitalization;

(II) Estimated property damage of \$50,000 or more, including loss to the operator and others, or both, but excluding cost of gas lost; or

(III) Unintentional estimated gas loss of three million cubic feet or more.

(B) An event that results in an emergency shutdown of an LNG facility. Activation of an emergency shutdown system for reasons other than an actual emergency does not constitute an incident.

(ii) Any service interruption, planned or otherwise occurring, that results in:

(A) Loss of service to 25 gas meters or customers, whichever is greater;

(B) An evacuation that displaces 25 people or more.

(e) Additional reportable incidents for water utilities:

(i) An interruption of water service to the utility's entire system;



(ii) A loss of service to 10% or more of the taps for eight hours or more.

(f) A utility shall follow up any reportable incident or incident reported to the SIRT with an email report within 24 hours of the initial SIRT notification or as otherwise directed by the Commission. Reports to the Commission shall include, but not be limited to:

(i) Location and geographic extent;

(ii) Damage assessment, explaining the risks and likely effects on the public, the utility's customers, other utilities and telecommunication services;

(iii) Date and time the service interruption began;

(iv) Number of customers or individuals affected;

(v) Cause, if known;

(vi) Estimated time of service restoration and basis for estimate;

(vii) Any deaths or injuries;

(viii) Efforts being undertaken to restore service;

(ix) Efforts being undertaken to assist affected individuals;

(x) Other governmental agencies notified;

(xi) Contact information for reporting individual(s);

(xii) If the event is ongoing, the time interval until the Commission will be updated; and

(xiii) Any other information that may be necessary to assess threats or damage.

### **Section 28. Service Interruption Reporting.**

(a) Each utility shall report within 30 days after the end of each calendar quarter the following service interruptions, planned or otherwise:

(i) Electric utilities: all service interruptions greater than five minutes, other than meter testing or change outs;

(ii) Natural gas utilities: all service interruptions, other than meter testing or change outs;

(iii) Water utilities: all service interruptions that result in the loss of service to five or more customers or water meters, whichever is greater.

These records shall be retained by the utility for a minimum of six years.

(b) Each electric utility shall annually review its Service Interruption Reporting Plan. If there are proposed modifications and definitions of major and minor service interruptions specific to the utility's system, the revised Service Interruption Reporting Plan shall be filed with the Commission by May 1. If, after the utility's review, there is no change to the Service Interruption Reporting Plan, the utility shall so notify the Commission by letter by May 1.

### **Section 29. Filing of Standard Forms.**

Each utility shall provide the Commission with copies of its billing and collection forms, including statements, past due notices, disconnect notices, door hangers, payment agreements, guarantor agreements and non-assignable certificates of deposit or receipts. When the utility prepares new forms or makes significant changes to existing forms, the utility shall provide the Commission with a copy of the new or updated forms upon completion.

### **Section 30. Gas Utility Quarterly Reports.**

Gas utilities shall quarterly report, using forms provided by the Commission:

(a) The weighted mean monthly heating value of gas supplied to each distinguishable distribution ~~are~~~~system or zone~~ during the quarter, including the Wobbe Index. ~~A deviation of more than 4% from a utility's established Wobbe Index is a change in service.~~

(b) Gas leaks, ~~using forms prescribed or approved by the Commission.~~

### **Section 31. Filing Special Contracts.**

Each utility shall file all special contracts governing the utility's sale of utility service or purchase of the commodity for resale. If a utility has numerous similar sale or purchase contracts, it may request to file one or a few representative special contracts in lieu of filing all such contracts.

### **Section 32. Annual Reports.**

Each utility shall file on or before May 1<sup>st</sup> of each year an annual report for the preceding calendar year in the form prescribed by the Commission. All annual reports shall be signed by the officer, manager or agent of the utility under whose direction the annual report is prepared.

**Section 33. Integrated Resource Plan (IRP).**

Each utility serving in Wyoming that files an IRP in another jurisdiction shall file that IRP with the Commission. The Commission may require any utility to file an IRP.

**Section 34. Succession Plans.**

The Commission may require a utility to file a Succession Plan.

**Section 35. Arrangements between Electric Utilities and Qualifying Cogeneration and Small Power Production Facilities.**

All electric utilities shall fully comply with this section; sections 201 and 210 of the Public Utilities Regulatory Policies Act of 1978, PL 95-617 (PURPA) and Part 292, 18 CFR Ch. I (4-1-13 edition).

(a) Filing of purchase, sale rates and contracts.

(i) All regulations, tariffs and contracts governing sales and purchases between qualifying facilities and utilities shall be filed with the Commission.

(ii) Nothing in these Rules:

(A) Limits any utility and qualifying facility from entering into a contract relating to any purchase or sale; or

(B) Affects the validity of any existing contract between any utility and qualifying facility for any purchase or sale.

(b) Any utility with sales other than resale greater than 500 million kilowatt-hours during any calendar year and legally obligated to obtain all its energy and capacity requirements from another entity shall provide, upon request, system cost data of the utility's supplying entity, including the rates at which the utility currently purchases such energy and capacity. If any utility fails to provide such information on request, the qualifying facility may apply to the Commission for an order requiring that the information be provided.

(c) Each electric utility shall file for approval by the Commission a method for

determination of avoided costs, after public notice and opportunity for hearing.

(i) System cost data from which avoided costs may be derived shall be filed with the Commission not less than every two years or as otherwise ordered. The filing shall contain:

(A) The estimated avoided energy cost stated in blocks of not more than 100 megawatts for systems with peak demand of 1,000 megawatts or more, and in blocks equivalent to not more than 10% of the system peak demand for systems of less than 1000 megawatts. The avoided costs shall be stated on a cents per kilowatt-hour basis, during daily and seasonal peak and off-peak periods for each of the next five years;

(B) The utility's plan for the additions, acquisitions and retirements of capacity and energy by amount and source, for each of the next 10 years; and

(C) The estimated capacity costs at completion of the planned capacity additions and planned capacity firm purchases, expressed in dollars per kilowatt, and the associated energy costs of each unit, expressed in cents per kilowatt-hour. These costs shall be itemized by generating units and planned firm purchases.

(ii) The following factors shall be considered when determining avoided costs:

(A) The utility's resource needs, as set forth in its long range planning process;

(B) The availability of capacity or energy from a qualifying facility during the system daily and seasonal peak periods, including:

(I) The ability of the utility to dispatch the qualifying facility;

(II) The expected or demonstrated reliability of the qualifying facility;

(III) The terms of any legally enforceable obligation, including the duration of the obligation, termination notice requirement and sanctions for non-compliance;

(IV) The extent to which scheduled outages of the qualifying facility can be coordinated with scheduled outages of the utility's facilities;

(V) The usefulness of energy and capacity supplied from a qualifying facility during system emergencies, including its ability to separate its load

from its generation;

(VI) The individual and aggregate value of energy and capacity from qualifying facilities on the utility's system;

(VII) The capacity increments and the lead times available with addition of capacity from qualifying facilities;

(VIII) The ability of the utility to avoid costs; and

(IX) The costs or savings resulting from variations in line losses, if measurable, from those that would exist in the absence of purchases from a qualifying facility.

(d) Utility purchase and sale obligations.

(i) Each utility shall sell to any qualifying facility any energy and capacity requested by the qualifying facility at the applicable tariff rates.

(ii) Each utility shall make interconnections with any qualifying facility as necessary to accomplish purchases or sales under these Rules. The obligation to pay for any interconnection costs shall be determined in accordance with subsection (l) below.

(e) Rates for purchases. For purposes of this subsection, "new capacity" means any purchase of capacity from a qualifying facility for which construction was commenced on or after November 9, 1978.

(i) Purchase rates shall be just and reasonable to the electric consumer and in the public interest. A purchase rate for purchases of new capacity satisfies the requirements if the rate equals the avoided costs determined after consideration of the factors set forth in subsection (c)(ii) above.

(ii) Nothing in this subsection requires any electric utility to pay more than the avoided costs for purchases.

(iii) The relationship to avoided costs shall be:

(A) A purchase rate (other than from new capacity) may be less than the avoided cost if the Commission determines that a lower rate is consistent with this subsection and is sufficient to encourage cogeneration and small power production.

(B) If rates for purchases are based upon estimates of avoided costs over a specific term of a contract or other legally enforceable obligation, the rates do not violate this subsection if the rates differ from avoided costs at the time of delivery.

- (f) Standard rates for purchases.
  - (i) Each utility shall have standard rates for purchases from qualifying facilities with a design capacity of 100 kilowatts or less.
  - (ii) There may be standard rates for purchases from qualifying facilities with a design capacity of more than 100 kilowatts.
  - (iii) The standard rates for purchases under this subsection:
    - (A) Shall be consistent with subsections (e) and (c)(ii); and
    - (B) May differentiate among qualifying facilities using various technologies on the basis of the supply characteristics.
- (g) Each qualifying facility shall provide:
  - (i) Energy as the qualifying facility determines it to be available for purchase, in which case the rates for the purchases shall be based on the purchasing utility's avoided costs calculated at the time of delivery; or
  - (ii) Energy only or energy and capacity pursuant to a legally enforceable obligation for the delivery of energy or capacity over a specified term, in which case the rates for such purchases shall, at the option of the qualifying facility exercised prior to the beginning of the specified term, be based on either:
    - (A) The avoided costs calculated at the time of delivery; or
    - (B) The projected avoided costs calculated at the time the obligation is incurred.
- (h) Procedures for periods during which purchases are not required.
  - (i) Any utility which gives notice pursuant to subsection (h)(ii) will not be required to purchase energy or capacity during any period in which, due to operational circumstances, purchases from qualifying facilities will result in costs greater than those the utility would incur if it generated an equivalent amount of energy itself.
  - (ii) Any utility seeking to invoke subsection (h)(i) shall provide adequate notice to cogenerators and qualifying facilities in order to allow time for their operational response. Any utility failing to do so will be required to pay the equivalent purchase of energy or capacity as would have been required had the period described in subsection (h)(i) not occurred.

(iii) The utility shall advise the Commission in advance or as soon thereafter as practicable after the event occurred.

(iv) The utility shall file with the Commission a power cost financial impact analysis within 60 days of the end of the event.

(j) Additional services shall be provided to qualifying facilities pursuant to the electric utility's applicable tariffs:

(i) Upon request of a qualifying facility, each utility shall provide:

- (A) Supplementary power;
- (B) Back-up power;
- (C) Maintenance power; and
- (D) Interruptible power.

(ii) The Commission may waive any requirement of subsection (j)(i) if, after notice and opportunity for hearing, the Commission finds that compliance with such requirement will:

(A) Impair the utility's ability to render adequate service to its customers; or

(B) Place an undue burden on the utility.

(k) The rate for sales of back-up power or maintenance power shall:

(i) Not be based upon an assumption (unless supported by factual data) that forced outages or other reductions in electric output by all qualifying facilities on a utility's system will occur simultaneously and/or during the system peak; and

(ii) Take into account the extent to which scheduled outages of the qualifying facilities can be usefully coordinated with scheduled outages of the utility's facilities.

(l) Interconnection costs.

(i) Each qualifying facility shall be obligated to pay any interconnection costs which the Commission authorizes the utility to collect from the facility, under the utility's interconnection tariff, on a nondiscriminatory basis; and

(ii) Any reimbursement by the utility to the qualifying facility will be made in accordance with the utility's interconnection tariff.

(m) A qualifying facility shall be required to provide energy or capacity to a utility during a system emergency only to the extent:

- (i) Provided by agreement between such qualifying facility and utility;
- (ii) Ordered by the Commission; or
- (iii) Ordered under section 202(c) of the Federal Power Act.

(n) During any system emergency, a utility may discontinue purchases and sales when:

- (i) Purchases from a qualifying facility would contribute to such emergency; and
- (ii) Sales to a qualifying facility are on a nondiscriminatory basis.

(o) Each utility shall promulgate rules and regulations for the interconnection of qualified facilities that address:

(i) Avoidance of unintentional continued energization of a circuit when the utility source of energy to the circuit has been disconnected, when a fault occurs on the utility circuit and when one phase of a three-phase line is lost to the interconnection;

(ii) Instantaneous (flicker) and long-term voltage regulation;

(iii) Frequency stability, harmonic suppression (wave form) and synchronization of units to the utility system;

(iv) The number, individual size and total capacity of units connected to a given circuit and the upgrading of circuits to accommodate more units;

(v) Reactive power requirements at each interconnection to a required to be supplied to such units;

(vi) Circulating currents in delta-connected transformers;

(vii) Duplication of interconnection equipment;

(viii) Liability for damages to the utility system and equipment, to the



facilities and equipment of the customers and to any other person who may be affected by the presence and operation of such units; and

(ix) The manner in which cost for accommodating such generation will be recovered.

**Section 36. Direct Sales.**

(a) The direct sale of a utility commodity by a person without a certificate of public convenience and necessity is prohibited.

(b) A direct sale of a utility commodity takes place if a person separately charges tenants or other persons for a utility commodity.

(c) This Rule does not apply to:

(i) The provision of utility commodities in connection with the leasing or rental of facilities for less than 15 days' occupancy; or

(ii) Otherwise exempt pursuant to Wyoming Statute § 37-1-101(a)(vi)(H).

**Section 37. Cooperative Utilities.**

(a) A rate-regulated cooperative utility may file an expedited rate change application on an emergency basis to maintain minimum cash flow requirements.

(i) The application shall demonstrate that cash flow requirements are not being met under current authorized rates. The requested revenue increase may be no greater than that necessary to meet its minimum cash flow requirements on a normalized basis.

(ii) The application shall, at a minimum, include:

(A) Board of Directors' resolution authorizing the change in rates;

(B) A copy of RUS Form 7 for the previous 12-month period;

(C) Comparison of existing and proposed rates;

(D) Proposed rates and tariff sheets;

(E) Proof of revenue exhibit showing adjusted sales;

(F) Proposed revenues;

(G) An exhibit illustrating the current financial condition, normalizing adjustments, the additional revenues anticipated as a result of the proposed rate increase and the resulting normalized revenue requirement calculation;

(H) Exhibits which clearly illustrate the calculation of applicable financial parameters under both the existing and proposed rates and a demonstration of the minimum cash flow requirements; and

(J) An exhibit illustrating the proposed allocation of rate changes to each customer class.

(b) Each cooperative utility shall maintain accounting records in accordance with the requirements of the RUS.

**PROPOSED  
CHAPTER 4  
TELECOMMUNICATIONS COMPANIES**

**Section 1. Definitions.**

(a) All definitions contained within Wyoming Statute §§ 37-15-103 through 105 apply to Chapters 4 and 5. In addition:

(i) **ANSI:** American National Standards Institute.

(ii) **Application for telecommunication service:** Where a construction agreement is not required, an application for telecommunications service shall be considered made when the customer either verbally or in writing requests service utilizing the Company's designated service request procedures. Where a construction agreement is required, an application shall be considered as made when the customer accepts the Company's cost estimate as evidenced by the Company's receipt of the applicable construction agreement signed by the customer, and the customer makes any required advance payment to the Company and complies with any other requirements in the Company's approved price schedules;

(iii) **Central office:** the inside plant of the provider Company as an operating unit, including the switch or remote switching terminal or module, or other central offices within the same or at other local exchange areas providing telecommunications services to the general public for terminating and interconnecting lines and trunks, for both local and long distance;

(iv) **CFR:** The Code of Federal Regulations is the codification of the general and permanent rules published in the Federal Register by the departments and agencies of the Federal Government.

(v) **Channel:** a transmission path for telecommunications between two points. Channel may refer to a one-way path or, when paths in the two directions are always associated, a two-way path. A channel is the smallest subdivision of a transmission system by means of which a single type of telecommunications service is provided;

(vi) **Class of service:** a subgrouping of customers for the purpose of rate distinctions, such as nature of use (business or residence) or type of rate (flat or measured);

(vii) **Community of interest:** an area consisting of one or more local exchange areas in which the general population has similar governmental, health, public safety, business or educational interests, or a geographic area determined by the Commission;

(viii) **Company or companies:** means "telecommunications company"

as defined in Wyoming Statute § 37-15-103(a)(xi);

(ix) **Customer:** any person, firm, partnership, corporation, municipality, cooperative, organization, governmental agency or other legal entity which has applied for, been accepted and is currently receiving telecommunications service. This definition does not apply to those telecommunications services provided pursuant to an interconnection and/or wholesale agreement;

(x) **Customer trouble report:** Any customer report to a Company's repair telephone number or written report to the Company relating to physical defects or operational deficiencies in the Company's facilities. All reports received about a specific physical defect or operational deficiency shall be counted as one trouble report until the defect or deficiency is corrected;

(xi) **Eligible Telecommunications Carrier (ETC):** a common carrier that is authorized by the Commission to receive federal universal service support as required by 47 U.S.C. 214(e)(2).

(xii) **Facility or facilities:** equipment, other than customer premises equipment, used by a carrier to provide telecommunications services, and includes software integral to such equipment (including upgrades). Also referred to as "telecommunications equipment";

(xiii) **FCC:** The Federal Communications Commission is the federal agency that regulates interstate and international communications by radio, television, wire, satellite and cable in all 50 states, the District of Columbia and U.S. territories;

(xiv) **Interconnection:** the linking of two networks for the mutual exchange of traffic;

(xv) **Local access line:** the transmission telecommunications service and facilities necessary for the connection between the customer's premises and local network switching facility, including the necessary signaling service used by customers to access essential telecommunications services;

(xvi) **Local calling area:** The geographic area approved by the Commission as a community of interest in which customers may make calls without payment of a toll charge. The local calling area may include other local exchange areas in addition to the serving local exchange area;

(xvii) **Local exchange area:** a designated geographical area established by a Company for telecommunications services approved by the Commission;

(xviii) **NESC:** The National Electrical Safety Code is published by the Institute of Electrical and Electronics Engineers. The NESC sets ground rules for

installation, operation or maintenance of electric supply and communication lines and associated equipment;

(xix) **Out-of-service:** when the customer's telecommunications ~~phone~~ service quality is such that the customer cannot effectively originate or receive calls, or otherwise use the telecommunication service;

(xx) **Price schedule or tariff:** the schedule of prices, tolls, rentals, policies, charges, classifications, practices and rules and regulations which a Company files with the Commission or maintains on its website;

(xxi) **Service interruption:** the inability of an end user to establish or maintain a channel of telecommunications service as a result of failure or degradation of a Company's network;

(xxii) **Single party service:** a grade of local exchange area telecommunication service which provides that only one customer shall be served by a single channel connecting the customer's telecommunication service location with the serving central office;

(xxiii) **Station equipment:** a device and any other necessary equipment at the customer's premises which allows the customer to establish and continue telecommunications service and which conforms to and does not exceed the requirements and specifications for the specific telecommunications service ordered as described by price schedule, contract or tariff;

(xxiv) Telecommunications Services: telecommunications services as defined by W.S. §§ 37-15-103(a)(xii), 37-15-104 and 37-15-105;

(xxiv) **USAC:** The Universal Service Administrative Company is an independent, not-for-profit corporation designated by the FCC as the administrator of the universal service fund. USAC collects contributions from telecommunications carriers and administers support programs designed to help communities across the country secure access to affordable telecommunications services.

## **Section 2. Quality and Adequacy of Service.**

(a) The Company shall employ prudent management, engineering and maintenance practices, including budgeting and prioritizing resources, to assure that sufficient equipment and personnel are available to provide safe, adequate and continuous telecommunications service.

(b) Acceptable standards for the basic elements of telecommunications service, which are technically feasible and economically reasonable to provide safe, adequate and

continuous service, include at a minimum, the following:

(i) The Company shall construct, operate and maintain all local access lines used for individual line telecommunications service so that the transmission loss does not exceed 8.5 dB measured at a frequency within 2% of 1,000 Hz (1,000+/-20). Loss is measured at the interface with the Company's network at the customer's network interface device and must account for all losses between the central office and the customer's premises;

(ii) All local access lines shall receive a minimum of 20 milliamperes of line current into an assumed station resistance of 430 ohms. Total line resistance, excluding station equipment, shall not exceed the basic operational limits of the central office. Range extension equipment shall be applied to customer lines which are longer than the basic working limits of the central office;

(iii) Local access lines shall be capable of transmission of a bandwidth of 2,700 Hz with a frequency range of 300 Hz to 3,000 Hz;

(iv) Dual tone multi-frequency signaling (DTMF), or its functional equivalent, shall be supported for all access lines;

(v) Single party telecommunications service shall permit the user to have exclusive use of a wireline subscriber loop or local access line channel for each call placed or, in the case of wireless telecommunications, a dedicated message path for the duration of a user's particular transmission; and

(vi) Local access lines shall be capable of accessing operator, directory assistance, toll services and emergency (911 and E911 where implemented) telecommunications services.

(c) The Company shall maintain its network so as to minimize customer trouble reports for telecommunications services and shall not exceed five reports per 100 access lines, per month per specific local exchange area for any consecutive three-month period.

(d) This section does not establish a level of telecommunications service quality to be achieved during periods of emergency, catastrophe and natural disaster affecting large numbers of customers, nor shall it apply to extraordinary or abnormal conditions of operation, such as those resulting from work stoppage, civil unrest or force majeure.

### **Section 3. Provision of Service During Emergencies.**

(a) Companies shall make reasonable provisions to meet emergencies, including the ability to reroute traffic around damaged facilities and manage traffic spikes.

(b) For any central office, toll switching facility, tandem switching facility or

any facility critical to network integrity, permanent auxiliary power generation capable of sustaining functionality for a minimum of eight hours shall be installed and operable. Quarterly functional tests shall be conducted to assure auxiliary power sources correctly activate and continue uninterrupted facility operation.

#### **Section 4. Service Interruptions.**

(a) Companies shall make all reasonable efforts to avoid interruptions of telecommunications service and, when interruptions occur, shall re-establish service in a timely and safe manner.

(b) Companies shall notify the Commission of all planned major telecommunications service interruptions, defined per tariff, at least 48 hours in advance, except in emergencies. Companies shall make reasonable efforts to provide affected customers two business days' notice of a planned service interruption.

(c) Local access line telecommunications service interruptions affecting public safety or which apparently will result in prolonged and serious loss of service to a significant number of a Company's customers shall be reported to the Commission by contacting, within two hours of onset of the event, the Commission's Service Interruption Reporting Telephone number (SIRT). A Company shall follow up any incident reported to the SIRT with an email report within 24 hours of the initial SIRT notification or as otherwise directed by the Commission. Reports to the Commission shall include, but not be limited to:

- (i) Location and geographic extent;
- (ii) Damage assessment;
- (iii) Date and time the telecommunications service interruption began;
- (iv) Number of customers or individuals affected;
- (v) Cause;
- (vi) Estimated time of telecommunications service restoration and basis for estimate;
- (vii) Efforts being undertaken to restore telecommunications service;
- (viii) Efforts being undertaken to assist affected individuals;
- (ix) Other governmental agencies notified;
- (x) Contact information for reporting individual(s);

(xi) If the event is ongoing, the time interval until the Commission will be updated; and

(xii) Any other information that may be necessary to assess threats or damage.

(d) Any outage report filed with the FCC shall be simultaneously provided to the Commission.

(e) Companies shall submit a written, confidential list of contact names and telephone numbers to be used when a telecommunications service interruption occurs. The list shall:

(i) Be resubmitted each January and July, whether or not the contact person(s) have changed since the last submittal;

(ii) Be updated as soon as a contact changes;

(iii) Include contact information with individuals who are knowledgeable about telecommunications service interruptions, the estimated duration and the possible causes of service interruptions; and

(iv) Include contact information to communicate with the individual(s) who are available to confer with the Commission at all times.

## **Section 5. Construction and Maintenance Standards.**

(a) Construction standards.

(i) Companies shall use the following safety standards for construction of new facilities:

(A) NESC approved by ANSI, Standard C2; and

(B) Current accepted engineering standards for the construction of telecommunication plant.

(ii) All telecommunications cables, both direct and in conduit, shall be installed at least 12 inches below the final surface grade. This requirement is not waived if a Company opts to install buried cable before the final grade is established.

(iii) Companies shall use Part 68, Title 47 of the CFR for the connection of its new or existing telecommunications plant with terminal equipment of a customer;



(iv) Companies shall coordinate with utilities and other Ceompanies to avoid or eliminate any interference. The owner of new facilities interfering with existing facilities constructed in accordance with relevant and applicable standards shall bear the cost of correction and mitigation.

(b) Maintenance standards.

(i) Companies shall use the following safety standards for maintenance and operation of facilities:

(A) The NESC approved by the ANSI, Standard C2; and

(B) Practices standard in the industry.

(ii) Each Company shall adopt and comply with maintenance programs, including periodic testing, inspections and prevention, to ensure efficient operation of its system for the rendering of safe, adequate and continuous telecommunications service.

#### **Section 6. Information to Applicants and Customers.**

(a) The Company shall provide access to information relating to its telecommunications services and prices, accept and process applications for service, explain charges on customers' bills, adjust charges made in error and generally provide assistance to its customers.

(b) The Company shall provide customers the following information:

(i) Price schedules and terms and conditions of telecommunications service applicable to the service being requested;

(ii) Maps for each local exchange area's price zones and boundaries in sufficient size and detail to determine customers' mileage and zone charges;

(iii) Information about the availability of telecommunications services at customer-specified locations and public information concerning plans for major service changes in the area; and

(iv) Information pertaining to telecommunications services and prices as proposed in pending price schedule filings.

(c) Companies posting prices, telecommunications services and information online through a website shall provide the Commission with a current Uniform Resource Locator (URL) for each location where such information is posted.

#### **Section 7. Requests for Telecommunications Service.**

(a) The Company shall employ prudent management, engineering, planning and design practices to assure that adequate facilities are in place to meet customer requests for essential telecommunications service within a reasonable time. All Companies shall file or post approved price schedules, standard construction agreements or other documents describing the conditions and costs under which telecommunications service extensions are available.

(b) Where adequate facilities to and on the customer's premises exist, local exchange telecommunications service shall be provided 95% of the time within five working days from the customer's application date. Companies shall maintain records to demonstrate compliance with this section.

(c) Where construction is necessary and charges apply, the Company shall provide a written good faith cost estimate of the construction charge to the customer within 30 days of a request. The estimate shall inform the customer that receipt of a signed construction agreement is required before the customer's request will be considered an application for telecommunications service. The customer shall have no fewer than 30 days to accept and return the signed construction agreement. A signed construction agreement and customer payment of any required construction advances shall be notice to the Company that the customer desires service. The date of receipt by the Company of the signed construction agreement, any advance payment and compliance with any other advance requirements in the Company's approved price schedules shall be considered the application date, unless a later date is mutually agreed upon by the customer and the Company.

(d) Applicants for local exchange telecommunications service shall be given written or verbal notice documenting the expected date of service. The applicant shall be notified immediately if the expected date of service changes. The notice shall state the reason for the change, the expected date of service and, in case of delay, all remedies available to the applicant.

#### **Section 8. Held Service Orders.**

(a) An application to the Company for local exchange telecommunications service shall be considered a held service order if not completed within 30 days after the application date or a later date mutually agreed upon by the customer and the Company.

(b) If the Company can reasonably provide initial local exchange telecommunications service without major construction and fails to provide it within 30 days of the customer's application date, the Company shall provide the customer an alternative form of local exchange service or payment for an alternative form of service, at the Company's option.

#### **Section 9. Customer Deposits.**

(a) A Company may require a deposit to guarantee payment. This deposit shall not be considered advance payment of bills, but shall be held as security for payment for telecommunications service rendered. The Company may refuse service to an applicant or terminate service to a customer for failure to comply with this section. Company policies governing deposits shall be applied uniformly.

(b) The Company may require a customer deposit if:

(i) A prior telecommunications service account with the Company remains unpaid and undisputed at the time of application for telecommunications service;

(ii) Telecommunications sService from the Company has been terminated for:

(A) Nonpayment of any undisputed delinquent bill;

(B) Failure to reimburse the Company for damages due to the customer's negligent or intentional acts; or

(C) Acquisition, diversion or use of service without the authorization or knowledge of the Company.

(iii) Information provided upon application for telecommunications service is materially false or misrepresentative;

(iv) The application is for initial telecommunications service with the Company or the applicant did not have service with the Company for a period of at least 12 consecutive months during the past four years;

(v) The applicant or customer is unable to pass an objective credit screen;

(vi) The request is for telecommunications service at an address where a former customer with an undisputed delinquent bill for service still resides or conducts business; or

(vii) The applicant for telecommunications service, or the customer, has been brought within the jurisdiction of the bankruptcy court or has had a receiver appointed in a state court proceeding, within the five-year period immediately preceding the request for service.

(c) A Company shall not require a deposit as a condition of new or continued telecommunications service based upon any criterion not specifically authorized by these Rules.

(d) Unless otherwise ordered by the Commission, the required deposit shall not exceed the amount of the average estimated bill for 60 days of telecommunications service.

(e) The Company shall retain records showing:

(i) The name and address of each customer making the deposit;

(ii) The date and amount of the deposit; and

(iii) Each accounting transaction concerning the deposit.

(f) The Company shall provide the customer a non-assignable receipt or other record of deposit, showing the date and amount received.

(g) The Company shall calculate simple interest on deposits at the Commission's Authorized Interest Rate. Interest shall apply only to deposits held for at least six months, but will accrue from the initial date of deposit through the date the deposit is returned to the customer.

(h) Deposits and any unpaid interest earned on deposits shall be applied as a credit to customer's bill, unless requested by the customer to be refunded, when:

(i) The accrued interest equals or exceeds \$10.00. The Company shall apply the credit at least annually;

(ii) A customer has received 12 consecutive months of telecommunications service, with no cause to disconnect and bills have been paid when due; or

(iii) Telecommunications service is discontinued. The Company shall not require the customer to provide the original receipt in order for the deposit to be returned. Any credit balance on the account after the deposit is applied shall be refunded to the customer. If the Company is unable to make the refund due to lack of knowledge of the customer's location, additional interest will not accrue after the service discontinuation date. The Company shall manage such deposits as unclaimed property as required by Wyoming law.

**Section 10. Advance Payment for Telecommunications Service, Billing, and Refunds to Customers.**

(a) A Company may require an applicant for telecommunications service to pay, in advance, the monthly service charge and fixed charges applicable for the first month of service.

(b) All bills shall be rendered periodically to customers and shall reflect all call details and other factors upon which the bill is based. Each bill shall bear upon its face the date of the bill and the latest date on which it may be paid without penalty.

(c) Refunds shall be provided to customers when:

(i) A customer's telephone remains out of service in excess of 48 consecutive hours after report thereof by the customer to the Company. The Company shall refund or credit to the customer the prorated portion of that month's charges for the period the telephone was out of service. Out-of-service credits shall not be available when the service interruption is due to conditions identified in section 2(d) of these Rules;

(ii) The amount due to the customer is greater than the amount due the Company for telecommunications services rendered; or

(iii) Telecommunications sService is discontinued after payment in advance, either upon request of a customer or by the Company for violation of its rules and regulations. The Company shall refund to the customer that portion of the month's charges for the time the telephone was not used, except where:

(A) Charges for a minimum term of service, as provided by the Company's price schedule, are applicable; or

(B) The customer, at the time service is discontinued, is indebted to the Company in an amount sufficient to offset the amount of refund.

**Section 11. Discontinuation of Telecommunications Service to Customers and Reconnection After Service Discontinuation.**

(a) Unless otherwise ordered by the Commission, no Company shall terminate service to any customer for violating its rules and regulations or for nonpayment of bills for service until the Company has given at least seven calendar days' notice to the customer.

(b) Notice shall be effective when a copy is provided to the customer in person, by telephone after customer verification, or received by U.S. mail at the customer's last known mailing address. Additional notice may be provided electronically. The notice shall contain:

(i) The name of the person whose account is delinquent and the service address to be discontinued;

(ii) The rule or regulation that was violated or the amount of the unpaid delinquent bill;

(iii) The effective date of the notice and the date on or after which service is to be discontinued;

(iv) The Company's specific address and phone number for information regarding how to avoid service discontinuation; and

(v) A statement advising the customer how to contact the Commission if discontinuation is disputed.

(c) The notice shall inform the customer that, if prior to the initial date for the discontinuation, the customer provides the Company with written verification from a health care provider responsible for the care of a customer or his/her co-habitants stating that their health or safety would be seriously endangered if telecommunications services were discontinued, the Company shall extend the date for discontinuation set forth in the notice by 15 days (22 days total) to allow for bill payment.

(d) The Company may discontinue service between 8:00 a.m. and 4:00 p.m., Monday through Thursday, without further notice when:

(i) The notification period has elapsed and the delinquent account has not been paid;

(ii) Acceptable payment arrangements have not been made with the Company; or

(iii) The Company is not satisfied the customer has ceased violating the Company's rules and regulations.

(e) Any Company may discontinue service to a customer without advance notice for reasons of safety, health, cooperation with civil authorities, fraudulent use, or tampering with or destroying Company service facilities.

(f) If a telecommunications bill, or portion of a bill, is in dispute and, if the customer pays the portions not in dispute, the Company may not disconnect service for nonpayment of the disputed bill while the dispute is unresolved.

(g) When telecommunications service has been disconnected for violation of the Company's rules and regulations, nonpayment of bills or fraudulent use of service, and the customer desires the service to be reconnected, the Company may require the customer to pay in full all bills due for service rendered up to the date service was discontinued, plus such reasonable reconnection charge as is stated in the Company's tariffs, prices, price schedules, rules and regulations. The Company shall not be required to restore service in such cases until the customer has complied with all of the Company's rules and regulations on service reconnections.

## **Section 12. Complaints.**

- (a) Informal complaints may be resolved at the discretion of the Commission.
- (b) Formal complaints to the Commission:
  - (i) A formal complaint to the Commission shall contain:
    - (A) A clear and concise statement of the relevant facts;
    - (B) Reference to the statutes, rules or orders that the complainant alleges have been violated;
    - (C) The name and contact information of the complainant;
    - (D) The name and address of attorneys involved, if any; and
    - (E) The name of the respondent against which the complaint is made and whether a hearing is requested. A formal complaint requesting a hearing must be in writing.
  - (ii) A respondent shall file an answer to a formal complaint within 20 days after the date of its receipt. The respondent may request a hearing, in writing, on any formal complaint.
  - (iii) The complainant and respondent may resolve any formal complaint by written agreement filed with and approved by the Commission.
- (c) Complaints to a Company:
  - (i) Each Company shall make a full and prompt investigation of all complaints and shall retain a record of all such complaints received for a period of three years; and
  - (ii) The record shall include the name and address of the complainant, the date and character of the complaint and its resolution.

## **Section 13. Requirements for Commission Designation of ETCs Pursuant to the Annual Certification Guidelines and Standards Set Forth in Part 54 of Title 47 of the CFR.**

- (a) The Commission shall review the carrier's application for ETC designation for compliance with 47 U.S.C. §§ 214(e) and 254(f). The Commission shall determine whether any such designation serves the public interest, convenience and necessity. The Commission's public interest analysis shall consider the carrier's application; the carrier's

response to the provisions set forth below; any cost-benefit analysis prepared by the carrier relating to customer choice; any advantages of the carrier's service offering; and evidence produced at hearing, if any hearing is held. The Commission shall consider the fundamental goals of preserving and advancing universal service to ensure the availability of quality telecommunications at just, reasonable, and affordable rates; and to promote the deployment of advanced telecommunications and information services to all regions of the state, including rural and high-cost areas.

(b) Each carrier seeking designation by the Commission as an ETC throughout a specified service area in order to receive "high cost support" as defined at 47 CFR § 54.5 shall satisfy the following subsections *except* (b)(xi). Each carrier seeking limited designation by the Commission as an ETC throughout a specified service area in order to receive Lifeline "low income" support as defined at 47 CFR § 54.400 *et seq.* shall satisfy the following subsections *except* (b)(v) and (viii).

(i) Demonstrate the carrier's technical, financial and managerial ability to provide to all customers making a reasonable request for service, and to advertise using media of general distribution, the following supported services throughout the service area for which it is requesting ETC designation:

(A) Voice grade access to the public switched network or its functional equivalent;

(B) Minutes of use for local service provided at no additional charge to end users;

(C) Access to the emergency services provided by local government or other public safety organizations, such as 911 and enhanced 911 to the extent these systems have been implemented; and

(D) Toll limitation services to qualifying low income consumers.

(ii) Demonstrate the carrier will offer and advertise the prices and availability of the Lifeline and Tribal Linkup programs in a manner designed to reach those likely to qualify for these programs, throughout the service area for which the carrier is seeking ETC designation;

(iii) Demonstrate the carrier's commitment and technical, financial and managerial ability to provide service on a timely basis to requesting customers within the carrier's service area where the carrier's network already passes the requesting customer's premises;

(iv) Demonstrate the carrier's commitment and technical, financial and managerial ability to provide   service within a reasonable period of time, if a requesting customer is within the carrier's licensed or certificated service area, but outside its existing



network coverage, if service can be provided at reasonable cost;

(v) Submit a five-year plan detailing on a local exchange area basis proposed improvements or upgrades to the carrier's network throughout the carrier's proposed designated service area. Each carrier shall demonstrate: how service quality, coverage, capacity, call completion and access, including broadband access, will improve due to the receipt of federal support; the projected start and completion dates and costs for each improvement; the specific geographic area where the improvements will be made; and the estimated population to be served as a result of the improvements;

(vi) Demonstrate the carrier's commitment and technical, financial and managerial ability to remain functional in emergency situations, including a demonstration that it has a reasonable amount of back-up power to ensure functionality without an external power source, is able to reroute traffic around damaged facilities and is capable of managing traffic spikes resulting from emergency situations;

(vii) Demonstrate the carrier will satisfy applicable consumer protection and service quality standards. A commitment by wireless applicants to comply with the Cellular Telecommunications and Internet Association's (CTIA) Consumer Code will satisfy this requirement. Other commitments will be considered on a case-by-case basis;

(viii) Demonstrate the carrier will offer a plan or plans, including minutes, price and coverage area, comparable to those offered where the carrier is seeking ETC designation;

(ix) Provide a detailed map of the service area for which the carrier is seeking ETC designation, including the location and the effective coverage area of each cellular tower, if applicable. The Commission may require such maps be submitted in a designated electronic format;

(x) Demonstrate the carrier will offer the supported\_ services using either entirely its own facilities or a combination of its own facilities and resale of another carrier's services or provide documentation from the FCC demonstrating approval of the carrier's "Compliance Plan" and receipt of forbearance from the "own facilities" provisions of federal law;

(xi) Provide documentation describing the terms and conditions of any voice telephony service plans offered to Lifeline subscribers, including details on the number of minutes provided as part of the plan, additional charges, if any, for toll calls, and rates for each such plan; and

(xii) Provide a copy of the carrier's application to the affected Tribal government and Tribal regulatory authority, as applicable, at the time the carrier files with the Commission for any Tribal lands included as part of the carrier's request for ETC designation.

**Section 14. Annual Reporting Requirements for All Previously Designated ETCs Pursuant to the Annual Certification Guidelines and Standards Set Forth in Part 54 of Title 47 of the CFR.**

(a) For an ETC previously designated by the Commission, or previously designated by the FCC, to be certified to receive support for the following calendar year, or to retain its ETC designation, each ETC shall submit to the Commission the annual reporting information listed below on or before July 15.

(b) Each ETC receiving any “high cost support” as defined at 47 CFR § 54.5, or any Lifeline “low income support” as defined at 47 CFR § 54.400 *et seq.*, shall file an unredacted copy of the federal annual ETC report with supporting documentation. To the extent the following requirements are not fully satisfied by the report, include additional supplemental information.

(i) For high cost support recipients only, a five-year service quality improvement plan report on a local exchange area basis, which includes: maps detailing its progress toward meeting its annually revised plan targets; an explanation of how much federal universal service support was received and how it was used to improve service quality, coverage, capacity and access, including broadband access; and an explanation regarding any unfulfilled network improvement targets;

(ii) Detailed information on a local exchange area basis of any outage, as that term is defined in 47 CFR § 4.5, of at least 30 minutes in duration for each service area in which an ETC is designated for any facilities it owns, operates, leases or otherwise utilizes that potentially affect: at least 10% of the end users served in a designated service area; or, a 911 special facility, as defined in 47 CFR § 4.5(e). Specifically, the ETC’s annual report must include information detailing:

- (A) The date and time of onset of the outage;
- (B) A brief description of the outage and its resolution;
- (C) The particular services affected;
- (D) The geographic areas affected by the outage;
- (E) Steps taken to prevent a similar situation in the future; and
- (F) The number of customers affected.

(iii) For high cost support recipients only, documentation detailing the number of requests for service from potential customers within the ETC’s service areas that were unfulfilled, including how it attempted to provide service to those potential

customers, as set forth in Rules ~~513(b)(iii) and (iv)~~; 13(b)(iii) and (iv);

(iv) Documentation detailing the number of complaints per 1,000 connections (fixed or mobile);

(v) Documentation detailing how the carrier is complying with applicable consumer protection and service quality standards, or for wireless carriers, the CTIA Consumer Code;

(vi) Documentation detailing how the carrier is able to function in emergency situations as set forth in Rule 13(b)(vi).

(vii) Documentation detailing the carrier's holding Company, operating Companies, affiliates that are designated ETC's and/or provide retail broadband service, and any branding (a "d/b/a" or brand designation), as well as universal service identifiers. "Affiliates" is defined as "a person that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with, another person." "Own" means to own an equity interest (or the equivalent thereof) of more than 10%;

(viii) For high cost support recipients only, to the extent the carrier serves federally recognized Tribal lands, documentation demonstrating the ETC had discussions with Tribal governments that, at a minimum, included:

(A) A needs assessment and deployment planning with a focus on Tribal community anchor institutions;

(B) Feasibility and sustainability planning;

(C) Marketing services in a culturally sensitive manner;

(D) Rights of way processes, land use permitting, facilities siting, environmental and cultural preservation review processes; and

(E) Compliance with Tribal business and licensing requirements. Tribal business and licensing requirements include business practice licenses that Tribal and Non-Tribal business entities, whether located on or off Tribal lands, must obtain upon application to the relevant Tribal government office or division to conduct any business or trade, or deliver any goods or services to the tribes, Tribal members or Tribal lands.

(ix) For low income only recipients, documentation describing the terms and conditions of any voice telephony service plans offered to Lifeline subscribers, including details on the number of minutes provided as part of the plan, any additional charges for toll calls and rates for each such plan; and

(x) Documentation detailing how the carrier offers and advertises the prices and availability of the Lifeline and Tribal Linkup programs in a manner designed to reach those likely to qualify for these programs, throughout the service areas for which the carrier has been designated an ETC.

(c) Each ETC shall submit the following additional documentation:

(i) If not already on file, a current detailed map of the service areas for which the carrier has been designated an ETC, including the location and the effective coverage area of each cellular tower, if applicable. The Commission may require such maps be submitted in a designated electronic format;

(ii) Documentation detailing the total amount of all federal “high cost” and “low income” support received in the previous calendar year and in the current year to date, categorized by “support mechanism;”

(iii) For high cost support recipients only, documentation detailing on a local exchange area basis, if available, expenditures for the previous calendar year and the current year to date, for the provision, maintenance and upgrading of facilities and services for which the support is intended where the carrier has been designated an ETC;

(iv) Documentation, or reference to approved price schedule, detailing how the carrier offers the supported services, listed below, throughout the service areas in Wyoming where the carrier has been designated an ETC:

(A) Voice grade access to the public switched network or its functional equivalent;

(B) Minutes of use for local service provided at no additional charge to end users;

(C) Access to the emergency services provided by local government or other public safety organizations, such as 911 and enhanced 911 to the extent these systems have been implemented; and

(D) Toll limitation services to qualifying low income consumers.

(v) If not already on file, a copy of the current service agreement the carrier offers to its universal service customers, including all terms and conditions.

(d) Each ETC receiving less than \$5,000 in the aggregate of either “high cost” or “low income” support, may apply to the Commission for a waiver of all or part of these annual filings. Waivers will be considered on a case-by-case basis.

## **Section 15. Records and Reports.**

(a) Each Company shall file on or before May 1<sup>st</sup> of each year an annual report for the preceding calendar year in the form prescribed by the Commission. All annual reports shall be signed by the officer, manager or agent of the Company under whose direction the annual report is prepared.

(b) Companies and CPCN holders shall preserve the following records for at least three years after the date of entry of the record:

(i) Held service orders.

(A) The Company shall keep records, by local exchange area, of each instance of a held service order. The record shall indicate the name and address of each applicant for telecommunications service, the date of application, the class of service applied for, whether the held service is for a first line or an additional line, the reason for the delay, the expected date of service and whether a construction agreement was executed.

(B) The Company shall maintain by local exchange area the total number of held service orders categorized by reason for delay and by dates of application without regard to the length of time the application has been held or the estimated cost of fulfilling the order.

(ii) Maintenance and operations records. Records of the tests and inspections, necessary for the Company to fulfill the requirements of these Rules, shall be maintained. Corrective maintenance records shall identify the line or facility tested or inspected. The records shall include sufficient detail to show that adequate testing conditions existed and that timely and effective corrective action was undertaken;

(iii) Customer trouble reports. The Company shall maintain customer trouble reports by local exchange area through which patterns and trends indicating the need for plant improvement may be identified;

(iv) Record of construction charge estimates. The Company shall maintain a record of each issuance of a construction charge estimate, as set forth in section 7(c) of these Rules. The record shall include the name and address of each applicant for telecommunications service, the date the construction charge estimate was sent to the applicant, the class of service applied for, if the request was for a first line or an additional line, the dollar amount of the estimate, a listing of materials needed and whether the estimate involved a group of applicants.

## **Section 16. Notices and Applications.**

(a) When ~~a Company is required, to file~~ an application for a certificate of public convenience and necessity, ~~the application~~ shall include, if applicable:

- (i) The name and address of the applicant;
- (ii) The type of plant, property or facility proposed to be constructed or acquired;
- (iii) A description of the facilities proposed to be constructed or acquired, including preliminary engineering specifications in sufficient detail to properly describe the principal systems and components, and final and complete engineering specifications when they become available;
- (iv) The rates, if any, proposed to be charged for the telecommunications service that will be rendered because of the proposed construction or acquisition;
- (v) The estimated total cost of the proposed construction or acquisition;
- (vi) The manner by which the proposed construction or acquisition will be financed;
- (vii) Documentation of the financial condition of the applicant;
- (viii) The estimated annual operating revenues and expenses that are expected to accrue from the proposed construction or acquisition, including a comparison of the overall effect on the applicant's revenues and expenses; and
- (ix) The estimated start and completion dates of the proposed construction or date of acquisition.

(b) A Company providing non-competitive essential local exchange telecommunications services shall file an application prior to discontinuing, abandoning or otherwise disposing of any utility facility or telecommunications service currently offered to the public. The application shall provide all studies of past, present and prospective customer use of the utility facility or telecommunications service.

- (i) An application shall not be required:
  - (A) To remove individual facilities where a customer has requested telecommunications service discontinuance; or
  - (B) For *de minimis* sales and dispositions of utility plant or facilities that do not affect a Company's ability to provide safe, adequate and reliable telecommunications service. *De minimis* sales and disposition do not include the sale or disposition of distribution facilities, major utility facilities or facilities valued at more than 1% of a utility's Wyoming gross plant in service; or
  - (C) For easements and rights-of-way and leases or sale of real

property that do not affect a Company's ability to provide safe, adequate and reliable telecommunications service, provided that such transactions shall be reported to the Commission on the 15<sup>th</sup> day of January and July each year. The reports shall include an itemized list of all transactions, their value and a description of the disposition of all funds received.

~~(e) — A Company shall file an application prior to selling, transferring by lease or otherwise disposing of a controlling interest in the Company. The application shall include:~~

~~\_\_\_\_\_ (i) — The name and address of the Company;~~

~~\_\_\_\_\_ (ii) — Ownership;~~

~~\_\_\_\_\_ (iii) — The Company's financial condition;~~

~~\_\_\_\_\_ (iv) — The name and financial condition of the purchaser, lessee or assignee;~~

~~\_\_\_\_\_ (v) — A copy of any draft or final agreement detailing the transaction;~~

~~\_\_\_\_\_ (vi) — The effect of the proposed transaction on the ability of the Company to provide service; and~~

~~\_\_\_\_\_ (vii) — The effect the proposed transaction will have on any other Company.~~

~~(c)~~ Applications for price schedule changes:

(i) The proposed price schedule~~tariff sheets~~ shall be posted on the Company's website and in offices and places of business in the territory affected when the proposed change is filed with the Commission. Approved tariff sheets shall be similarly posted for 30 days after their effective date;

(ii) Proposed price schedule~~tariff sheets~~ shall be filed in clean and legislative formats. Legislative format shall indicate deleted material in strikeout and added material in underline. The version in legislative format shall not be part of the Company's price schedule.

## **Section 17. Price Schedules.**

(a) All price schedules shall:

(i) Be accompanied by a cover page stating the Company's name and the location of the Company's principal office;

- (ii) Include a table of contents;
- (iii) Describe the territory the Company serves;
- (iv) Include the applicable price schedules, showing all prices and charges for the various separate classes of telecommunications service and the Company's rules and regulations. All prices shall be clearly and explicitly stated in cents or dollars and cents per defined unit;
- (v) Separately identify each price schedule where more than one price schedule is available for various classes of telecommunications service;
- (vi) State the area, city or other district in which the price schedules and charges apply;
- (vii) Be available for public inspection during the regular office hours;
- (viii) Identify the P.S.C. Wyo. Number of the price schedule. Subsequent price schedules filed shall continue such designation in consecutive numerical order. Companies shall file an entire set of price schedules that includes prices, rules and regulations, designating a subsequent P.S.C. Wyo. Number with each general price increase case. Further designation, such as "Original Sheet No. 1," "Original Sheet No. 2," "First Revision of Original Sheet No. 1, canceling Original Sheet No. 1" etc., shall also be included when applicable. At the bottom of the page shall be shown the date of issue, the effective date of each page, the name and title of the issuing officer, agent or employee; and
- (ix) Include a summary sheet of all authorized rates for each class of telecommunications service. The summary sheet shall provide references to each detail sheet.
- (x) Include an explanation of any symbols, reference marks and abbreviations used in the price schedule. The following shall be used for the purpose indicated and shall not be used for any other purpose:
  - (A) [I] to denote increases;
  - (B) [D] to denote decreases;
  - (C) [N] to denote new items;
  - (D) [C] to denote cancel;
  - (E) [U] to denote unchanged price; and



(F) [W] to denote new price or wording.

**PROPOSED  
CHAPTER 5**

**WYOMING UNIVERSAL SERVICE FUND**

**Section 1. Authority, Scope and Definitions.**

(a) These Rules are promulgated by authority of Wyoming Statute § 37-15-501 et seq.;

(b) All telecommunications companies ~~as defined by Wyoming Statute § 37-15-103(a)(xi) and companies~~ which provide telecommunications services, ~~as defined by Wyoming Statute § 37-15-103(a)(xii) and providers of~~, including VoIP and internet protocol enabled services as defined by Wyoming Statute § 37-15-105501(a), ~~(Companies)~~ are subject to this Chapter. ~~This includes, but is not limited to: local exchange companies; competitive access companies; interexchange companies; cable companies providing telephony; cellular companies; wireless companies; commercial radio common carriers; personal communications service companies; paging service companies; and pay telephone companies;~~

(c) All definitions contained within Wyoming Statute §§ 37-15-103 through 105, and Chapter 4 of these Rules apply to Chapter 5. In addition:

(i) **Contributions from the Federal Universal Service Fund (FUSF Contributions):** funds received from the FUSF as reported to the Commission for high cost support mechanisms that will assist customers located in areas with relatively high rates for noncompetitive essential local exchange service;

(ii) **Embedded Support Price:** the Commission-approved price paid for telecommunications service that includes a FUSF credit without explicitly stating the amount of the credit on the customer's bill;

(iii) **Essential local exchange service line:** a line providing essential local exchange services as defined by Wyoming Statute § 37-15-103(a)(iv);

(iv) **Essential local exchange service price:** those prices charged for the provision of essential local exchange services as defined by Wyoming Statute § 37-15-103(a)(iv), including when bundled with unregulated services;

(v) **Fund:** Wyoming Universal Service Fund;

(vi) **Incremental Federal High Cost Support Adjustment:** the difference between the amounts of Federal High Cost Support received in the most recent

calendar year and the amount of Federal High Cost Support in the Embedded Support Price;

(vii) **Most recent annual filing of unseparated loop costs filed with USAC:** those costs found in a company's annual October 1 submittal made by NECA pursuant to 47 CFR § 54.1307;

(viii) **Most recent annual FUSF receipts:** the total of all high cost receipts disbursed to a company during the last completed calendar year, including all high cost support mechanisms except intercarrier compensation (ICC);

(ix) **Most recent annual local revenues:** local revenues as calculated using the statutory \$30 imputed price benchmark and all subscriber line charge revenue; and

(x) **Non-Embedded Support Price:** the Commission-approved price paid for telecommunications service that includes a FUSF credit that is explicitly stated on the customer's bill.

## **Section 2. General Administration of the Fund.**

(a) In administering the Fund pursuant to Wyoming Statute § 37-15-501 et seq., the Commission may arrange for the services of a Fund Manager who shall perform routine collection, distribution and other activities related to the Fund, subject to the oversight and direction of the Commission. The Fund Manager's compensation and expenses directly related to the administration of the Fund shall be incorporated into the required Fund contributions and paid from the Fund;

(b) The Fund shall be audited by an independent accountant not affiliated with the Fund Manager at least once every three years. Expenses related to audits shall be included in the administrative cost of the Fund and shall be incorporated in the required contributions and paid from the Fund. The independent accountant shall be selected by the Commission under all applicable procurement rules. No accountant shall be eligible to perform more than three consecutive audits;

(c) No later than October 1<sup>st</sup> of each year, the Commission shall issue a public report that summarizes the preceding year's activity and includes:

(i) A statement of collected assessments and distributions from the Fund;

(ii) A record of total cost of Fund administration; and

(iii) Non-confidential audit reports and recommendations provided by the independent accountant referenced in subsection (b).

### Section 3. Assessment Reporting, Payments and Annual Assessment Rate.

(a) For assessment purposes, all companies realizing any retail intrastate revenue from telecommunication services in Wyoming are required to quarterly report such gross revenues to the Commission. The report of revenue, whatever the amount, is required by the last day of the first month after the end of any calendar quarter in which a company realizes any intrastate revenue from its operations in Wyoming;

(b) By April 15 of each year, the Fund Manager shall issue a report that details the \$30 imputed price benchmark described in Wyoming Statute § 37-15-501(h), including a comparison to the weighted statewide average 130% price benchmark, the calculated proposed support distributions from the Fund and the proposed assessment rate that shall be applied to gross intrastate retail revenues. This proposed assessment rate shall be based on the computed amounts needed for support distributions, the statutory cap described in Wyoming Statute § 37-15-501(e)(ii), the prior year gross intrastate retail revenues and any over-or under-collection in the Fund from the previous year;

(c) By May 15 of each year, the Commission shall by order set the Fund assessment rate for the 12 month period beginning July 1<sup>st</sup> of each year;

(d) The Fund assessment rate shall apply only to intrastate retail telecommunications service revenues and shall not apply to revenues associated with wholesale services. For purposes of the section, wholesale services include any service which is resold, with or without additional value-added features, to end users by the purchaser of the service, except lines purchased and resold by internet service providers;

(e) Fund assessment charges shall appear as a separate line item on each customer's bill unless ~~the~~ Ccompany requests a ~~specific~~ waiver and the Commission grants the request;

(f) All Ccompanies realizing intrastate retail revenue from telecommunication services in Wyoming are required to report such gross revenues to the Commission as described in (a) and contemporaneously pay into the fund the assessment amount calculated by multiplying the Ccompany's gross revenue, less any wholesale transactions described in paragraph (d), by the assessment rate. Administrative costs incurred by Companies making payments into the Fund shall not be used as an offset to the required payments of assessment;

(g) For assessments of \$500 per month or less, payment is required quarterly. For assessments greater than \$500 per month, payment is required monthly. Payment is due on or before the last day of the first month following the assessment month or quarter;

(h) Assessments not timely paid shall be subject to a late payment charge equal to 1.5% on the balance each month until the assessment is paid.

#### **Section 4. Annual Reports and Record Keeping.**

(a) By February 15<sup>th</sup> of each year, all Ceompanies shall provide the information required by the Commission to perform the computations necessary for collection and distribution of the Fund;

(b) Each Ceompany shall report its number of essential local exchange service lines and calendar year-end essential local exchange service price(s) separately for each distinct geographic area, zone, mileage or other customer grouping to which different essential local exchange service prices apply;

(i) The price reported shall include all standard charges associated with each Ceompany's essential local exchange service or each wireless Ceompany's supported wireless service. Such charges include: the essential local exchange service price, whether flat or measured, zone and mileage charges;

(ii) The price reported shall exclude: bill credits related to prior period Fund receipts; federally mandated customer service line charges; mandatory extended area service charges; surcharges for 911; franchise taxes; and other similar charges or taxes.

(c) Each Company electing distribution pursuant to Wyoming Statute § 37-15-501(g) shall also submit:

(i) Its most recent annual filing of unseparated loop costs filed with USAC pursuant to 47 CFR § 54.1307, if applicable, or its equivalent. If the Ceompany reports to USAC in a manner inconsistent with its distribution from the Fund, such as aggregated with another Ceompany, or in conjunction with another jurisdiction, then it must conform its Commission submittal to enable individualized Fund distribution;

(ii) Its most recent annual FUSF receipts;

(iii) Its most recent annual local revenues and total local service exchange line counts; and

(iv) Companies shall preserve Fund-related records for at least three years after the date of entry of the record.

#### **Section 5. Determining the Weighted Statewide Average Price and 130% Price Benchmark.**

(a) The Fund Manager shall compute the weighted statewide average essential local exchange service price in a consistent manner based on end of calendar year essential local exchange service line counts and on prices authorized by Wyoming Statute §§ 37-15-203 and 204, taking into account the customer grouping options used by the Ceompanies

described in section 4(b) of this Chapter. The Fund Manager's computation of the weighted statewide average essential local exchange service price shall also include the reported prices for supported wireless services;

(b) The weighted statewide average essential local exchange service price shall be calculated as follows:

(i) Multiply the number of ~~lines providing~~ essential local exchange telecommunications-services lines by the price(s) applicable to each line reported pursuant to section 4(b) to determine the total revenue for each Ceompany;

(ii) Add all reporting Ceompanies' revenues to determine the statewide total revenues;

(iii) Add all reporting Ceompanies' essential local exchange -service lines to determine the statewide total number of service lines;

(iv) For those reporting Ceompanies with Embedded Support Prices, determine the total embedded Federal High Cost Support as follows:

(A) Multiply each Ceompany's Embedded Support Price by the number of its essential local exchange service lines reported in section 4(b) and multiply by 12 to annualize;

(B) Subtract the total embedded FUSF support from the Ceompany's reported FUSF Contributions to determine its Incremental Federal High Cost Support Adjustment; and

(C) Add all reporting Ceompanies' annual Incremental Federal High Cost Support Adjustments and divide by 12 to determine a statewide monthly Incremental Federal High Cost Support Adjustment.

(v) Subtract the statewide monthly Incremental Federal High Cost Support Adjustment from the statewide total revenues to determine the adjusted statewide total revenues; and

(vi) Divide the adjusted statewide total revenues by the statewide total number of essential local exchange service lines to determine the weighted statewide average price.

(c) The 130% price benchmark shall be calculated by multiplying the weighted statewide average price by 130%.

## **Section 6. Distributions from the Fund.**

(a) The Fund Manager shall use the imputed price benchmark of \$30 to determine required Fund distributions pursuant to Wyoming Statute § 37-15-501(d), unless the Commission determines it does not approximate 130% of the weighted statewide average essential local exchange service price and that it should be adjusted by 10% or more pursuant to Wyoming Statute § 37-15-501(h);

(b) Companies providing non-competitive essential local exchange services that elect to receive distributions pursuant to Wyoming Statute § 37-15-501(d) shall receive funds only to the extent that their essential local exchange service prices or supported wireless service price(s), after consideration of FUSF Contributions, exceed the \$30 imputed price benchmark, or if determined by the Commission, the 130% price benchmark as calculated above. FUSF Contributions shall be credited monthly on a per-line basis. Each Ceompany's incremental FUSF receipts resulting from changes in the Ceompany's FUSF Contribution shall also be credited monthly to the bills of the customers on a per-line basis. The amount of the credit for each of the customers shall be computed and authorized by the Commission in a manner consistent with federal receipt of such funds and must be greater than zero to qualify for distribution from the Fund;

(c) Monthly total distributions to Ceompanies that elect to receive distributions pursuant to Wyoming Statute § 37-15-501(d) shall be calculated as follows:

(i) For those reporting Ceompanies with Embedded Support Prices:

(A) Divide each Ceompany's Incremental Federal High Cost Support Adjustment as calculated in section 5(b)(iv)(B) by its total number of essential local exchange service access-lines and divide by 12 to determine its monthly per-line Incremental Federal High Cost Support Adjustment;

(B) Subtract the per-line Incremental Federal High Cost Support Adjustment from the net price(s) reported in section 4(b) to determine the total per line incremental adjusted net price.

(ii) If the Ceompany's reported net price(s), whether incrementally adjusted or otherwise, exceed the imputed price benchmark of \$30, or if applicable, the 130% price benchmark, then the difference is the Ceompany's eligible per-line distributions(s);

(iii) Multiply the Ceompany's eligible per-line distribution(s) by the number of essential local exchange service access-lines applicable to each net price; and

(iv) Total these results to determine the Ceompany's total monthly distribution.

(d) A Ceompany providing non-competitive essential local exchange service that elects to receive distributions pursuant to Wyoming Statute § 37-15-501(g) shall

receive funds only to the extent that its costs, as reflected in the Ceompany's most recent annual filing of unseparated loop costs filed with USAC, exceeds its most recent annual FUSF receipts and annual local revenues;

(e) Monthly total distributions to Ceompanies that elect to receive distributions pursuant to Wyoming Statute § 37-15-501(g) shall be calculated as follows:

(i) To determine whether each Ceompany's most recent annual filing of unseparated loop costs exceeds its most recent annual FUSF receipts and annual local revenue:

(A) Multiply each Ceompany's reported total number of local service lines by the \$30 imputed price benchmark and multiply by 12 to annualize;

(B) Add all reported subscriber line charge revenues to determine total most recent annual local revenues;

(C) Add to each Ceompany's most recent annual FUSF receipts to determine each Ceompany's total most recent annual FUSF receipts and annual local revenue; and

(D) Subtract each Ceompany's most recent unseparated loop costs from the Ceompany's total most recent annual FUSF receipts and annual local revenue to determine the Ceompany's excess loop costs and eligibility for distribution.

(ii) For each Company with excess unseparated loop costs, divide by 12 to determine the Company's eligible total monthly distribution.

(f) If calculated distributions for the upcoming Fund year will exceed the statutory cap described in Wyoming Statute § 37-15-501(e)(ii), then distributions to all Ceompanies that elect to receive distributions pursuant to Wyoming Statute § 37-15-501(g) shall be subject to pro-rata distribution reductions calculated as follows:

(i) For those Ceompanies eligible for monthly distributions as calculated in section 5(e) above:

(A) Add all Ceompanies' eligible annual distributions to determine a statewide total of annual distributions;

(B) Divide each Ceompany's total annual distribution by the statewide total of annual distributions to determine each Ceompany's percentage of distributions;

(C) Multiply the statutory cap amount available for all Ceompanies that elect distributions pursuant to Wyoming Statute § 37-15-501(g) by each



| Ceompany's percentage of distributions to determine each Ceompany's eligible reduced total pro-rata annual distribution; and

| (D) Divide each Ceompany's eligible reduced total pro-rata distribution by 12 to determine its reduced monthly pro-rata distribution.

| (ii) If an eligible Ceompany elects to receive distributions pursuant to Wyoming Statute § 37-15-501(g) after distributions have begun for the Fund year, then recalculate the pro-rata distribution reductions as described in subsection (f)(i)(A-C) above, adding the new elector. Then divide each Ceompany's eligible reduced total pro-rata distribution by the number of months remaining in the Fund year to determine its reduced monthly pro-rata distribution.

(g) Distributions from the Fund shall be made monthly. Distributions from the Fund for a supported wireless service shall not exceed the amount of per-line support available to wireline telecommunications customers in the geographic service area in which the supported wireless service is offered. Unlimited use of local exchange service shall be provided without any additional charge to end users as part of the supported wireless service;

(h) Mid-period revisions to a Company's essential local exchange service price or to a supported wireless service for purposes of receiving distributions from the Fund shall only be permitted upon application and approval by the Commission; and

| (j) Companies receiving support from the Fund shall display the amount of such support as a separate line item credit on each affected customer's bill unless a ~~specific~~ waiver is requested by ~~a~~ the Ceompany and granted by the Commission.