

BEFORE THE CITY COUNCIL OF
THE CITY OF COLORADO SPRINGS

IN THE MATTER OF THE REVISION)
OF THE UTILITIES RULES AND) DECISION & ORDER 21-05 (URR)
REGULATIONS OF COLORADO)
SPRINGS UTILITIES)

1. Colorado Springs Utilities, an enterprise of the City of Colorado Springs (“City”), a Colorado home-rule city and municipal corporation, (“Utilities”), conducted a review of its Utilities Rules and Regulations (“URR”). During that review, Utilities identified needed changes. Utilities’ rate case filing contains all of these revisions and changes.
2. Utilities’ 2022 Rate Case filing does not include base rate changes, but proposes changes to the Electric, Natural Gas, Water, and Wastewater Services and URR.
3. Utilities’ URR is a part of the collective Tariffs that govern Utilities in accordance with the Colorado Springs City Code. The URR establishes terms and conditions for all Utilities Customers across all utility services and also provides service specific terms and conditions. Utilities proposes the following URR changes in its filing:
 - a) Electric Service Standards – Utilities provisions stipulate that Electric service will be metered except in limited circumstances. These exceptions are currently managed under separate contracts whereby energy estimates are mutually agreed upon by established procedures. The proposed introduction of the Commercial Service – Non-Metered (ENM) Rate Schedule offers commercial customers a service option intended to provide energy for small devices with low-level usage where metering infrastructure is not feasible or practical. Utilities proposes to clarify that provisions requiring the establishment of written agreements apply when service under the ENM Rate Schedule is not available.
 - b) Water Development Charge – A Water Development Charge (“WDC”) is a one-time assessment for capacity in the existing water system for new water connections and expansions of existing service. WDC revenues are used to reduce the total water revenue requirement utilized in cost of service studies and are not designed to recover the cost of growth and expansion. In determining WDCs, Utilities uses the Equity Buy-in method which is based on a value per unit of capacity of the existing water system. Utilities proposed a modification to the Equity Buy-in methodology. Currently, the formula for determining the value per unit of capacity is trended original cost less depreciation plus five years of forecasted capital expenditures divided by system capacity. The proposed modification removes the forecasted capital expenditures from system valuation and maintains the remainder of the existing formula.

Updating the WDCs based on current infrastructure and the proposed modification results in a decrease to most of the charges. Utilities proposes to phase in the change to the full charge over a two-year period. The first phase incorporates 50% of the change with an effective date of July 1, 2022. The second phase incorporates the remaining 50% with an effective date of July 1, 2023.

- c) Water Resource Fee – Similar to a WDC, which is a water connection charge for capacity based on the value of the existing system, Utilities proposes a new connection charge, the Water Resource Fee (“WRF”), for capacity based on the cost of projected capital expenditures for growth and expansion. Over a ten-year forecast period, Utilities identified that approximately 22% or \$272.9 million of total projected water capital costs are related to supporting growth and expansion. Although these capital costs could continue to be recovered through water rates, Utilities believes that the best option is the proposed WRF. If adopted, the WRF would be assessed on all new water connections, along with the WDC, and is designed to recover the projected growth and expansion related capital costs of the water system.

The proposed WRF is based on the capacity requirement of each new water connection and the associated projected water infrastructure needed to serve such new development. All revenue from the WRF will be restricted to fund growth and expansion related projects and any associated debt service. The WDC will continue to be based on the capacity requirement for each new connection associated with existing water infrastructure.

Utilities proposed to phase in the WRF over a two-year period. The first phase will incorporate 50% of the full WRF amount with an effective date of July 1, 2022. The full WRF amount will have an effective date of July 1, 2023.

- d) Water and Wastewater Extension Policy – Utilities proposed the establishment of an oversize participation fund to effectively manage how oversized water distribution mains and wastewater collection mains are funded. The fund will have an initial balance of \$10.0 million. Subject to availability, qualifying projects are limited to pipelines of 24-inch diameter or greater and minimum estimated cost of \$1.5 million. Funding for approved projects will be limited to \$4.0 million. Property owners or developers of approved projects will be required to pay 25% of their project obligation at the time of construction, and the remaining 75% will be paid in three equal payments, plus financing costs, over a three-year period. Payments from property owners or developers of approved projects and any recovery agreement charges will be credited to the fund for use by future approved projects.
- e) WDC and Wastewater Development Charge – Utilities proposed modifications to preclude new WDC and Wastewater Development Charges (“WWDC”) deferrals for affordable housing. Outside of the rate case process, Utilities anticipates replacing the deferral program with a payment program executed through an

agreement with the City. Deferrals granted prior to January 1, 2022, will remain subject to existing terms and conditions.

- f) Backflow Test Entry Fee – Where required, backflow prevention assemblies prevent water from flowing back into Utilities’ Water distribution system. Assemblies are owned and operated by customers, who are required by the Colorado Department of Public Health and Environment to complete annual compliance test. Customers are responsible for hiring a backflow tester to perform the annual test and enter results into Utilities’ confidential online test entry system. Utilities proposed the addition of a \$50 test entry fee to be assessed when the tester or customer requests Utilities to enter the test results.

- g) Water Regional System Availability Fee – Utilities proposed a Water Regional System Availability Fee (“WRSFAF”) to be assessed for each new connection to Utilities’ water supply system for Contract Service – Regional Customers. Regional water service will be available outside the corporate limits of the City in areas where Utilities’ water system is available for institutions, plants, organized water districts, municipal corporations, or other similar organizations. Service is available by contract and only with prior approval by the City Council. The fee will be assessed on any regional customer being served on the proposed Contract Service – Regional water tariff and the customer can elect to pay the WRSFAF in full at the time of connection or make an annual payment for a contract period not to exceed 25 years. The fee is distinct from a WDC which is assessed on a new connection of a customer within the service territory. The WRSFAF is based on the capacity requirement for each new Contract Service – Regional connection associated with existing infrastructure and is designed to include only the components of the infrastructure that the regional customer will be using. WRSFAF revenues will be used to reduce the total water revenue requirement utilized in cost of service studies.

- h) Wastewater Regional System Availability Fee – Similar to the WRSFAF, Utilities is also proposing a Wastewater Regional System Availability Fee (“WWRSFAF”) to be assessed for each new connection to Utilities’ wastewater system, for Contract Service – Regional customers. Regional wastewater service will be available outside the corporate limits of the City in areas where Utilities’ treatment system is available for institutions, plants, organized sewer districts, municipal corporations or other similar organizations. Service is available by contract and only with prior approval by the City Council. The fee will be assessed on any regional customer being served on the existing Contract Service – Regional wastewater tariff. The fee is distinct from a Wastewater Development Charge assessed on a new connection of a customer within the service territory. The WWRSFAF is based on the capacity requirement for each new Contract Service – Regional connection associated with existing wastewater infrastructure and is designed to include only the components of the infrastructure that the regional customer will be using. WWRSFAF revenues will be used to reduce the total wastewater revenue requirement utilized in cost of service studies.

4. In addition to the proposed URR revisions, Utilities' 2022 Rate Case filing also proposes changes to the Electric, Natural Gas, Water, and Wastewater Rate Schedules.
5. The proposed effective date for Utilities' tariff changes is January 1, 2022, except where otherwise noted in Utilities' filing as July 1, 2022, and July 1, 2023.
6. Utilities filed its Tariff changes with the City Auditor, Mrs. Jacqueline Rowland, and with the City Attorney, Ms. Wynetta Massey, on September 21, 2021. Utilities then filed the enterprise's formal proposals on September 28, 2021, with the City Clerk, Ms. Sarah Johnson, and a complete copy of the proposals was placed in the City Clerk's Office for public inspection. Notice of the filing was published on-line at www.csu.org on September 28, 2021, and in *The Gazette* on October 1, 2021. These various notices and filings comply with the requirements of §12.1.108 of the City Code and the applicable provision of the Colorado Revised Statutes. Copies of the published and mailed notices are contained within the record. Additional public notice was provided through Utilities' website, www.csu.org, and a complete copy of the proposals was placed on that website for public inspection.
7. The information provided to the City Council and held open for public inspection at the City Clerk's Office was supplemented by Utilities on November 2, 2021. The supplemental materials contained:
 - a) Revised information addressing the impacts of Utilities' proposed November 15, 2021, Electric Cost Adjustment and Gas Cost Adjustment changes, clerical corrections related to the Contract Service – Military Interruptible natural gas rate, and additional information on planned Utilities Board policy changes;
 - b) The Office of the City Auditor's audit report;
 - c) The legal notice Affidavit of Publication; and
 - d) Public outreach information.
8. The City Auditor issued her findings on the proposed tariff changes prior to the rate hearing, dated October 2021, which found Utilities' modifications proposed in the Rate Case filing were prepared accurately and methodology changes were appropriately disclosed. A copy of that report is contained within the record.
9. On November 9, 2021, the City Council held a public hearing concerning the proposed changes to the Natural Gas, Electric, Water, and Wastewater Tariffs and URRs. This hearing was conducted in accordance with §12.1.108 of the City Code, the procedural rules adopted by City Council, and the applicable provisions of state law.
10. President of the Council Tom Strand commenced the rate hearing.

11. The presentations started with Mr. Christopher Bidlack of the City Attorney's Office. Mr. Bidlack first presented the rate hearing agenda.
12. Mr. Bidlack then briefed the City Council on its power to establish rates, charges, and regulations for Utilities' services. In setting rates, charges, and regulations for Utilities' services, the City Council is sitting as a legislative body because the setting of rates, charges, and regulations is necessary to carry out existing legislative policy of operating the various utility systems. However, unlike other legislative processes, the establishment of rates, charges, and regulations is analogous to a quasi-judicial proceeding and requires a decision based upon evidence in the record and the process is not subject to referendum or initiative. Mr. Bidlack provided information on the statutory and regulatory requirements on rate changes. Rates for Water and Wastewater service must be reasonable and appropriate in light of all circumstances, City Code § 12.1.108(F). Rates for Natural Gas and Electric service must be just, reasonable, sufficient, and not unduly discriminatory, City Code § 12.1.108(E).
13. At the conclusion of his presentation, Mr. Bidlack polled the City Council Members concerning any *ex parte* communication that they may have had during the pendency of this proceeding. Councilmember Wayne Williams noted that several emails with comments on the proposed rate changes have been sent to City Council's general email address.
14. Mr. Tristan Gearhart, Utilities' Chief Planning and Finance Officer, provided the enterprise's proposals. He also noted Utilities' procedural compliance in preparing and filing Utilities' proposals.
15. Mr. Gearhart started with the 2022 Rate Case Overview, noting proposed changes to the Electric, Natural Gas, Water, and Wastewater services and the URR.
16. Mr. Gearhart then presented Utilities proposed changes to the Electric service. He explained the proposed change to Commercial Service – Non-Metered, with the proposed addition of a non-metered electric rate schedule and associated contracting requirements.
17. Councilmember Williams asked for clarification on the meaning of non-metered electric service. Mr. Gearhart explained that Utilities can make a reasonable and accurate assumption of the electric use of non-metered equipment based on the manufacturer's specifications and then bill the customer for the actual energy used.
18. Mr. Gearhart also addressed Utilities' proposed elimination of optional prescheduling and load forecasting services within the Contract Service – Military Wheeling rate.
19. Next, Mr. Gearhart addressed Utilities proposed changes to the Natural Gas rate schedules as follows:
 - a) Industrial Service – Interruptible and Contract Service – Military Interruptible – The proposed changes establish the requirement that customers have backup

equipment and fuel, the conditions for removal from the service, the fee for restoration of service due to customer caused power interruptions, and a modification to the Unauthorized Over Run Charge from \$40, to the higher of \$40, the first of the month index price, and the daily price for the date of delivery.

- i. President Strand requested clarification on the meaning of “interruptible.” Mr. Gearhart explained that customers on an interruptible rate can have their service temporarily restricted and that the methodology benefits both the customer, because of the reduced rate they pay, and Utilities, because of the ability to reduce gas system loads during periods of high use.

- b) Industrial Service – Prescheduled Interruptible – Utilities’ proposal adds a new rate schedule to leverage the natural gas system without impacting existing interruptible customers. The service characteristics include: (1) the availability requirements and limitations, (2) curtailment and direct intervention by Utilities, (3) day ahead natural gas scheduling, (4) billing of actual usage at the Daily Index gas price and the Access and Facilities Charge per Mcf, (5) imbalancing charges, and (6) an Unauthorized Overrun Charge at the higher of \$40, the first of the month index price, and the daily price for the date of delivery.

- i. Councilmember Nancy Henjum asked how many customers would utilize this service. Mr. Gearhart explained that the potential customers for this rate option are limited based on the specific use profile required through the rate to be most beneficial to Utilities’ natural gas system. He also noted that Utilities itself would be a customer on this rate in relation to the natural gas generators being placed at Utilities’ Drake location. President Strand noted that this rate would not be applicable to residential or small business customers.

- c) Industrial Transportation Service – Firm – The proposal modifies the rate standards to: (1) clarify the requirement to demonstrate capacity on the Colorado Interstate Gas Company system, (2) add a fee for restoration of service due to customer caused power interruptions, (3) facilitate intraday gas nominations, (4) reduce the threshold of a restricted delivery day event daily balancing requirement from 20% to 10% of nominated volumes, and (5) modify the daily balancing commodity charge from \$40, to the higher of \$40, the first of the month index price, and the daily price for the date of delivery.

- d) Contract Service – Military – Utilities’ proposal seeks to modify the billing unit conversion to adjust metered volumes at the United States Air Force Academy to a pressure base of 12.01 PSIA under Firm and Interruptible Rate Schedules.

20. In addressing the Water Rate schedule, Mr. Gearhart explained the proposal to increase the commodity charge for Augmentation service by 3.7% as part of an ongoing phase in process.

21. Mr. Gearhart next summarized the proposed changes to the URR. The proposed changes are as follows:

- a) Water Development Charge – The proposed changes remove the 5-year forecasted capital costs in recognition of the addition of the Water Resource Fee. The resulting Water Development Charge reduction is proposed to be phased in with the first 50% effective July 1, 2022, and the second 50% effective July 1, 2023.
 - b) Water Resource Fee – The Water Resource Fee is a proposed, new connection fee designed to recover capital expenditures related to growth and expansion. It has a phase in approach aligned with the Water Development Charge.
 - c) Water and Wastewater Line Extension Policy – Utilities proposed the establishment of an oversize participation fund to effectively manage how oversized water distribution mains and wastewater collection mains are funded. The fund will have an initial balance of \$10.0 million. Subject to availability, qualifying projects are limited to pipelines of 24-inch diameter or greater and minimum estimated cost of \$1.5 million. Funding for approved projects will be limited to \$4.0 million. Property owners or developers of approved projects will be required to pay 25% of their project obligation at the time of construction, and the remaining 75% will be paid in three equal payments, plus financing costs, over a three-year period. Payments from property owners or developers of approved projects and any recovery agreement charges will be credited to the fund for use by future approved projects.
 - d) Water Development Charge and Wastewater Development Charge Deferral for Affordable Housing – Utilities proposed modifications to preclude new Water Development Charge and Wastewater Development Charges deferrals for affordable housing. Outside of the rate case process, Utilities anticipates replacing the deferral program with a payment program executed through an agreement with the City. Deferrals granted prior to January 1, 2022, will remain subject to existing terms and conditions.
 - e) Water Backflow Test Entry Fee – Where required, backflow prevention assemblies prevent water from flowing back into Utilities’ Water distribution system. Assemblies are owned and operated by customers, who are required by the Colorado Department of Public Health and Environment to complete annual compliance test. Customers are responsible for hiring a backflow tester to perform the annual test and enter results into Utilities’ confidential online test entry system. Utilities proposed the addition of a \$50 test entry fee to be assessed when the tester or customer requests Utilities to enter the test results.
22. Mr. Gearhart concluded the substantive portion of his presentation by explaining the proposed regional service changes, which included changes within the Water and Wastewater schedules, as well as, the URR. The regional service changes include:

- a) Wastewater Rate Schedule – The proposal modifies the title of the existing regional service rate to align with the proposed title of the water regional service rate and implements the third and final phase in of the increased to the regional service rate.
 - b) Water Rate Schedule – The proposal establishes a Water rate for Contract Service – Regional while maintaining the requirement that regional service contracts be approved by City Council.
 - c) URR Changes – Utilities’ proposal establishes a Water Regional System Availability Fee and a Wastewater Regional System Availability Fee for those regional entities receiving service under a regional water or wastewater rate.
23. Next, Mr. Gearhart addressed the customer outreach Utilities performed in relation to the 2022 Rate Case filing. The customer outreach included electronic communications, social media channel communications, newsletter information about the proposal and hearing dates, required public notice, and meetings with commercial and industrial customers. He then noted Utilities’ programs that are in place to assist customers: (1) bill assistance through Project COPE and the Low Income Energy Assistance Program, (2) high bill counseling through conservation education and the Home Energy Assistance Program, and (3) payment plans through Utilities’ Budget Billing program.
24. Subsequently, Mrs. Rowland, addressed her audit report and explained that her office was provided the filing and documents and concluded that they were accurate and consistent with applicable methodologies.
25. After Utilities’ presentation, President Strand opened the floor for public comment. The only public comment requested: (1) an example of the equipment that would be used for non-metered electric service; and (2) clarification on the potential customers eligible for regional water and wastewater service.
26. Mr. Gearhart explained that: (1) potential non-metered electric equipment includes technology such as traffic cameras and cellular devices; and (2) that the potential customers for regional water and wastewater service are entities outside of the City limits such as water districts and metro districts, with the relevant system availability fees being tied to wastewater flow or the water meter size required to serve the potential customer.
27. Following the opportunity for public comment, President Strand opened the floor to questions from the City Council. No Councilmembers provided comments and President Strand noted that the topics involved in the rate case have been reviewed by the Councilmembers extensively through their role as the Colorado Springs Utilities Board of Directors.
28. Following input from Mr. Bidlack, President Strand determined that neither a break nor executive session were necessary.

29. Mr. Bidlack then polled the Council Members regarding the issues central to the Natural Gas, Electric, Water, and Wastewater Tariffs and the URR. Upon request from Councilmember Williams, Mr. Bidlack noted each service and requested that Councilmembers indicated if they had any objection to any of the proposed changes to each service.

30. The following are the proposed changes and the votes by City Council addressing the Utilities Rules and Regulations:

- a) Should Utilities modify the Water Development Charges as proposed, in light of the proposed addition of the Water Resource Fee, through a two-phase phase-in with one-half effective July 1, 2022, and the second half effective July 1, 2023?

The City Council held that Utilities shall modify the Water Development Charges as proposed, in light of the proposed addition of the Water Resource Fee, through a two-phase phase-in with one-half effective July 1, 2022, and the second half effective July 1, 2023.

- b) Should Utilities establish a new connection fee, the Water Resource Fee, to be assessed with each new retail Customer connection, designed to recover growth and expansion related capital costs, which is based on the capacity requirement of each new connection associated with facilities needed to serve new Customers as proposed, with a two-phase phase-in with one-half effective July 1, 2022, and the second half effective July 1, 2023?

The City Council held that Utilities shall establish a new connection fee, the Water Resource Fee, to be assessed with each new retail Customer connection, designed to recover growth and expansion related capital costs, which is based on the capacity requirement of each new connection associated with facilities needed to serve new Customers as proposed, with a two-phase phase-in with one-half effective July 1, 2022, and the second half effective July 1, 2023.

- c) Should Utilities establish a new connection fee, the Water Regional System Availability Fee, to be assessed with each new connection of a Regional water Customer outside of the City Limits which is based on the capacity requirement of each new connection associated with facilities needed to serve the new Regional Customer as proposed?

The City Council held that Utilities shall establish a new connection fee, the Water Regional System Availability Fee, to be assessed with each new connection of a Regional water Customer outside of the City Limits which is based on the capacity requirement of each new connection associated with facilities needed to serve the new Regional Customer as proposed.

- d) Should Utilities establish a new connection fee, the Wastewater Regional System Availability Fee, to be assessed with each new connection of a Regional wastewater Customer outside of the City Limits which is based on the capacity requirement of each new connection associated with facilities need to serve the new Regional Customer as proposed?

The City Council held that Utilities shall establish a new connection fee, the Wastewater Regional System Availability Fee, to be assessed with each new connection of a Regional wastewater Customer outside of the City Limits which is based on the capacity requirement of each new connection associated with facilities need to serve the new Regional Customer as proposed.

- e) Should Utilities clarify the requirements of establishing separate written agreement in limited circumstances where unmetered electric service is permitted as proposed?

The City Council held that Utilities shall clarify the requirements of establishing separate written agreement in limited circumstances where unmetered electric service is permitted as proposed.

- f) Should Utilities establish a new Oversize Main Extension Fund to assist in the financing of qualifying large, offsite water and wastewater facilities as proposed?

The City Council held that Utilities shall establish a new Oversize Main Extension Fund to assist in the financing of qualifying large, offsite water and wastewater facilities as proposed.

- g) Should Utilities prohibit new WDC and Wastewater Development Charge (WWDC) deferrals for Affordable Housing effective January 1, 2022, while noting that WDC and WWDC deferrals granted prior to January 1, 2022, will remain subject to existing terms and conditions as proposed?

The City Council held that Utilities shall prohibit new WDC and WWDC deferrals for Affordable Housing effective January 1, 2022, while noting that WDC and WWDC deferrals granted prior to January 1, 2022, will remain subject to existing terms and conditions as proposed.

- h) Should Utilities establish a backflow test entry fee to be assessed when Customers or testers request Utilities to enter annual test results into Utilities' system to ensure compliance with requirements as proposed?

The City Council held that Utilities shall establish a backflow test entry fee to be assessed when Customers or testers request Utilities to enter annual test results into Utilities' system to ensure compliance with requirements as proposed.

31. President Strand then concluded the 2022 Rate Case Hearing.

ORDER

THEREFORE, IT IS HEREBY ORDERED that:

The Utilities Rules and Regulations sheets as attached to the Resolution are adopted and will be effective on and after January 1, 2022, July 1, 2022, or July 1, 2023, as noted. Such tariff sheets shall be published and held open for public review and shall remain effective until changed by subsequent Resolution duly adopted by the City Council.

Dated this 23rd day of November, 2021.

CITY OF COLORADO SPRINGS

Council President

ATTEST:

City Clerk