

Charter

6-70. Utility Rates.

The Council shall by ordinance or resolution establish rates, rules and regulations, and extension policies for the services provided by Utilities.

City Code

12.1.104: DELEGATION OF AUTHORITY:

Except for the matters expressly provided herein, Council hereby delegates all of its authority over the management and operation of the Utilities to the Utilities Board with the intent that the Utilities Board be empowered to exercise authority, judgment and discretion over Utilities to the fullest extent legally possible. This delegation of authority does not include authority to pass ordinances, issue revenue bonds, institute eminent domain proceedings, appropriate funds or adopt annual budgets, approve intergovernmental agreements, adopt or change tariffs for regulated products and services, create advisory boards in accordance with the City Charter, approve the sale, conveyance or lease of a substantial part of Utilities systems and water rights with an affirmative vote of a supermajority of sixty percent (60%) of the electors of the City voting upon that question in accordance with the City Charter, or to take any action expressly required of the Council in its legislative capacity by the Colorado Constitution, the City Charter, or other controlling law. ...

12.1.108: REGULATION OF ELECTRIC, STREETLIGHT, NATURAL GAS, WATER AND WASTEWATER RATES, CHARGES AND REGULATIONS:

A. Determined By City Council: The rates, charges and regulations, including conditions, for all classes of regulated electric, streetlight, natural gas, water and wastewater services shall be determined by the City Council for customers and users inside and outside of the corporate limits of the City and shall be set forth in tariff sheets to be adopted by resolution as provided in this section.

B. Tariff Sheets On File: One copy of the currently effective tariff sheets for each regulated utility service shall be kept on file with the City Clerk and shall be open for public inspection during regular business hours. Copies hereof may be purchased by any person upon payment of the cost of reproduction.

C. Adopted By Resolution; Hearing: Base rates or regulations or any change shall be adopted by resolution, which shall adopt by reference the appropriate tariff sheet or sheets to be established or revised.

1. Preliminary Information For The City Auditor And City Attorney: When Utilities proposes to change base rates, and the proposed change will result in the determination of a new revenue requirement supported by a cost of service study, Utilities will provide a draft of the proposal and cost of service study to the City Auditor and the City Attorney at least thirty (30) days prior to filing the proposed resolution with City Council. When changes to base rates are proposed, but do not involve a cost of service study, a draft of the proposal will be provided to the City Auditor and the City Attorney seven (7) days prior to the filing of a proposed resolution. Any request for additional information by the City Auditor and any response by Utilities, will be in writing. Drafts of the proposed resolution and tariff sheets will be provided to the City Attorney seven (7) days prior to filing of the final proposed resolution with City Council. [The final proposed resolution regarding adoption or change in base rates or regulations shall be filed with the City Clerk for distribution to City Council at least seven \(7\) days prior to the City Council meeting at which the hearing on the rate case is set.](#)

2. Notice And Order For Hearing: [Upon presentation of a proposed resolution regarding adoption or change in base rates or regulations, the At a regular or special meeting of City Council.](#)

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City Council shall set a hearing [by resolution](#) not less than thirty (30) days nor more than sixty (60) days from the date of the [Council meeting at which the hearing is set](#) notice of the proposed resolution to receive evidence regarding the proposed adoption or change in base rates or regulations and shall order notice of the proposed resolution to be made as follows:

a. One copy of the proposed resolution, including the proposed change in the base rates or regulations, and one copy of any written documents which Utilities has provided to City Council to explain the proposed resolution, shall be filed and kept open for public inspection in the Office of the City Clerk.

b. Notice shall be given by publishing a summary of the proposed resolution at least once in at least one newspaper of general circulation within the City at least thirty (30) days and no more than sixty (60) days prior to the date set for the public hearing. The notice shall include: 1) an explanation of the proposed changes in rates or regulations, or new base rates or regulations; 2) the time when the same shall go into effect; and 3) a statement that one copy of the resolution and one copy of any written documents which the Utilities has provided to City Council to explain the proposed resolution are on file and open for public inspection in the Office of the City Clerk.

c. If it is impractical due to the size or bulk of the proposed resolution to publish the same in a newspaper, a summary thereof prepared by Utilities shall be published and notice shall be given of the availability of the proposed resolution for public inspection, including any new schedules stating plainly the changes to be made in the schedules then in force, at least once in at least one newspaper of general circulation in the authorized service area at least thirty (30) days and no more than sixty (60) days prior to the date set for public hearing.

d. Notice of any change in base rates or regulations for electric and/or natural gas service shall be mailed to affected customers served outside the City's corporate boundaries. The notice shall state the date and time of public hearing and that one copy of the proposed ordinance or resolution, including the proposed change in base rates or regulations, and one copy of any written documents which the Utilities has provided the City Council to explain the proposed resolution and changes are on file and open for public inspection in the Office of the City Clerk.

e. If a City Council Member discusses a proposed rate resolution with staff or members of the public outside a public hearing, the City Council Member shall place the substance of the discussions on the public record during the subsequent public hearing.

3. Public Hearing: The City Council shall conduct a public hearing to consider the proposed resolution. The procedures to be followed concerning the hearing shall include the following:

a. The City Council shall not delegate hearing on the proposed resolution to any other person, board or commission.

b. The City Council may question witnesses and may be assisted by legal, technical or other professional personnel or advice, as it deems necessary. All discussions and presentations by staff concerning the proposed resolution shall occur during a public hearing.

c. The Utilities shall make a presentation, including a presentation of exhibits to explain the proposed base rates or regulations, and the need therefor.

d. Any users or customers of the Utilities, their representatives or their attorneys, shall be allowed to present testimony and/or exhibits relevant to the proposed resolution during that portion of the public hearing when public comment is allowed.

e. Any users or customers may represent themselves, may select a representative or be represented by legal counsel.

f. Customers or users, their representatives or attorneys, who desire to present witnesses other than themselves concerning the proposed resolution may request an opportunity to present testimony and/or exhibits by filing with the City Clerk and Utilities' Chief Executive Officer a notice of intent to present witnesses, which shall contain a list of the names of witnesses which the user

Commented [RC1]: Utilities must provide a copy of resolution and rate case filing to City Clerk to be distributed to Council 7 days prior to meeting at which hearing will be set.

or customer proposes to present at the public hearing and a short summary of testimony of each witness, including a copy of all exhibits and other documentation that the user or customer proposes to present to City Council for its consideration, not less than seven (7) working days prior to the public hearing.

g. Testimony must be relevant to the issues being heard before the City Council, and not be repetitious. If the testimony or exhibits to be offered by a customer or user appear to be unduly repetitious, Council may require all similarly interested customers or users to designate a spokesman, or may appoint a spokesman for them, who alone shall be allowed to present testimony or exhibits.

h. City Council shall have discretion to limit the time for presentation by the Utilities and customers or users, their representatives or attorneys, desiring to present testimony or exhibits. The hearing shall be legislative in nature, but the City Council may allow the questioning, rebuttal or argument by Utilities, customers or users, their attorneys or representatives, as it considers appropriate.

4. Amendments And Revisions: The City Council may amend the proposed resolution and revise any proposed base rate or regulation as a result of information presented at the public hearing.

D. Procedure To Change Certain Rates Or Charges And Authorize Refunds By Resolution Without Notice And Public Hearing:

1. When Utilities proposes changes for electric cost adjustments or gas cost adjustments, the drafts of the proposal, the proposed resolution and tariffs will be provided to the City Auditor and City Attorney seven (7) days before filing the final proposed resolution with City Council.

2. The City Council, for good cause shown, may by resolution:

a. Authorize a refund of costs or charges to Utilities' customers; or

b. Change rates or charges of the electric utility to reflect electric cost adjustments (increased or decreased costs of fuel and/or purchased power) in the rates of the electric utility; or

c. Change rates or charges of the gas utility to reflect increased or decreased gas costs from the gas supplier; or

d. Change any other fees, rates or charges that are not within the control or discretion of the City or the Utilities; or

e. Change any other rates or charges of the water utility necessary to avoid a water shortage;

or

f. Change any other tariff provision which City Council, in its discretion, deems to be appropriate; provided, the change has no adverse impact on customers.

3. In the cases noted above, Council may authorize the changes without requiring notice and public hearing. The resolution adopting the changes will be considered an order of City Council and shall specify the changes to be made and shall state: a) the circumstances necessitating the change without notice and public hearing, b) the effective date of the changes, and c) the manner in which the changes shall be published. Furthermore, whenever City Council authorizes a refund of costs or charges to customers of the Utilities, the resolution authorizing the refund shall provide for the disposition of refunds due to customers which cannot be located.

E. Standards For Setting Electric, Streetlight And Natural Gas Rates: All rates, as established by City Council for electric, streetlight and natural gas service, shall be just, reasonable, sufficient and not unduly discriminatory. All rates and regulations shall be designated in tariff sheets as provided above and shall indicate an approval date and an effective date to be set by City Council.

F. Authority For Water And Wastewater Setting Rates: City Council shall set water and wastewater rates for customers inside and outside the corporate limits of the City and for all classes of water service at the amount as Council, in its discretion, determines to be reasonable

and appropriate in light of all circumstances. All water rates and regulations shall be designated in tariff sheets as provided above and shall indicate an approval date and an effective date to be set by the City Council. (Ord. 98-173; Ord. 01-42; Ord. 02-60; Ord. 03-50; Ord. 04-198; Ord. 18-42

Council Rules of Procedure

PART 4 - UTILITIES PRICING AND TARIFF HEARING PROCEDURE

The following rules shall govern Council hearings concerning the adoption of resolutions which change the pricing or tariff for any regulated utility service of Colorado Springs Utilities (Utilities):

4-1. HEARING PROCESS

A. Pre-Hearing Procedures

1) The process to change pricing or tariffs for any regulated utility service shall commence with the filing by Utilities of a resolution identifying the proposed changes, accompanied by the proposed tariffs, with the City Clerk for distribution to City Council at least seven (7) days prior to a regular or special meeting of Council: at which meeting Council shall establish a date for a public hearing by resolution at that meeting, which hearing shall be no less than thirty (30) calendar days nor more than sixty (60) calendar days from the date of the notice to customers of the proposed resolution Council meeting at which the hearing is set.

Commented [RC2]: Utilities will provide the proposed resolution and proposed tariff changes to the City Clerk to be distributed to Council no less than 7 days prior to the meeting at which Council will set a hearing on the proposed tariff changes.

2) Utilities shall be responsible for notifying customers of proposed changes in pricing or tariffs for any regulated utility service as required by the City Code and Colorado law. Utilities shall place one copy of the Utilities filing and any written documents provided to Council to explain the proposed resolution on file in the office of the City Clerk. These documents shall be available for public inspection.

3) Before or during any public hearing, Council may be assisted by legal, technical or other professional personnel as it deems necessary. If Council retains a professional consultant or advisor, the consultant or advisor shall provide a written report to Council, Utilities and any customer who has filed a notice of intent under subsection A.8 below at least ten (10) working days prior to the public hearing. A copy shall also be filed with the City Clerk and shall be available for public inspection.

4) If the change in pricing is supported by a cost of service study, Utilities shall provide a draft copy of the proposal and cost of service study to the City Auditor at least thirty (30) calendar days prior to the filing. If the proposed changes do not require a supporting cost of service study, Utilities shall provide a draft of the proposal to the City Auditor seven (7) calendar days prior to the filing of the proposed resolution. If the City Auditor chooses to file a report on the proposal, such report shall be filed with the City Clerk and Utilities at least five (5) calendar days prior to the public hearing.

5) Drafts of the proposed resolution and tariff sheets will be provided to the City Attorney seven (7) calendar days prior to filing with Council.

6) Subsequent to the Utilities filing and before any time prior to the public hearing, Utilities may make the following changes to its filed proposal provided that copies of any changes are filed with the City Clerk and sent to customers who have notified the City Clerk of their intention to present witnesses: a) minor corrections or administrative clarifications to the Utilities' filing; and b) supplements containing additional information necessary or appropriate to substantiate the filing; - Subsequent to the Utilities filing and at least seven (7) days prior to the public hearing. Utilities may make the following changes to its filed proposal provided that copies of any changes are filed with the City Clerk and sent to customers who have notified the City Clerk of their intention to present

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witnesses and such changes are published at least once in a newspaper of general circulation within the City; e) modifications which increase or reduce the amount of the change requested; (ii) substantive change to the regulations; and (iii) structural and/or substantive changes to the pricing.-

7) Prior to the public hearing, no increase in the prices as noticed may be proposed without notification to all customers who notified the City Clerk of their intention to present witnesses at the hearing and without publication of such changes at least once in a newspaper of general circulation within the City. Material supporting any proposal to increase change the prices as previously noticed must be filed with the City Clerk and held open for public inspection.

8) The representative or attorney of a customer who wishes to present testimony by witnesses other than the customer must file a notice of intent with the City Clerk disclosing the names of witnesses, a short summary of testimony and a copy of all exhibits and other documentation to be presented to Council no less than seven (7) working days prior to the public hearing. A copy of all such material must be filed at the same time with the Utilities' Pricing Department Manager.

9) There is no formal right to discovery, but parties are urged to share information in order to expedite the proceeding. Parties are also encouraged to meet in advance of the hearing to narrow or resolve the disputed issues between them. Nothing shall prohibit the Utilities from meeting with customers outside of the hearing process to discuss proposed changes in pricing or tariffs and to solicit their input. (2011)

Commented [RC3]: Clarifies what can be included in a supplemental and what the notice provisions are.

B. Hearing Procedures

1) Council shall hear the matter in its legislative capacity. The Colorado Court Rules of Civil Procedure and the Rules of the Public Utilities Commission of the State of Colorado shall not apply to the proceedings. Council is not bound by the rules of evidence. Council may take notice of general, technical or scientific facts, or of laws, regulations or court decisions without the necessity of presentation of evidence.

2) At the public hearing Utilities shall make a presentation to explain the filing and the need for changes in pricing or tariffs. Any customer shall be allowed to present testimony and/or exhibits relevant to the proposed changes during that portion of the public hearing when public comment is allowed.

3) At the public hearing, Council may question witnesses and may allow such questioning, rebuttal or argument by Utilities, and by customers, their attorneys or representatives, as Council deems appropriate. Council may limit the time for presentation by Utilities, customers and their attorneys or representatives, as it deems appropriate. Testimony must be relevant to the issues being heard and shall not be repetitious. If the testimony or exhibits are repetitious, Council may require all similarly interested customers to designate a spokesperson or may appoint one for them.

4) No party shall have a right to present written briefs during or at the conclusion of the public hearing, unless requested by Council.

5) Pursuant to the legal requirement that pricing and tariff decisions must be based on information contained "on the record", once the proposed resolution has been filed if Councilmembers have communications about matters subject to decision outside of the public hearing such communications are considered to be "ex parte communications". When an ex parte communication occurs, the pertinent details of the communication should be noted during the public hearing. In recognition of the fact that Councilmembers also serve on the Utilities Board, and that Councilmembers/Board members and members of Utilities staff frequently communicate on a number of issues, if an ex parte communication occurs between a Councilmember and a staff member of Utilities, the staff member will reduce the pertinent elements of the communication to writing. The writing will be distributed to all Councilmembers and customers who have filed notices

of intent, and shall be placed on file with the City Clerk as part of the record of the proceeding. If a City Council Member discusses a proposed rate resolution with staff or members of the public outside a public hearing, the City Council Member shall disclose the substance of the discussions at the beginning of the public hearing to be included as part of the record of the proceeding.

Commented [RC4]: Copied directly from City Code.

C. Post-Hearing Procedures

- 1) At the conclusion of the public hearing, Council shall identify issues for deliberation and decision. Council may adjourn to another time to complete its deliberation and make a decision on the issues. Council may revise any proposed pricing or tariff as a result of the information presented at the public hearing. All decisions made by Council shall be based on the record.
- 2) After its deliberations, Council shall instruct the City Attorney to draft a proposed Decision and Order. The Decision and Order shall incorporate a description of the history of the proceeding, the issues identified by Council for deliberation, and Council's findings on the issues.
- 3) The written Decision and Order of Council shall be incorporated in a Resolution of Council revising pricing or tariffs. The Decision and Order shall be adopted in open public session and shall be placed on file with the City Clerk. It shall identify the date on which changes in pricing or tariffs were approved and the date on which they shall become effective.
- 4) All prices, as established by Council in these proceedings, shall meet the requirements of the City Code. All prices shall be designated in tariff sheets and shall remain on file in the City Clerk's Office and the Utilities Pricing Department.
- 5) No party shall have the right to request rehearing, reargument or reconsideration of the decision of Council.
- 6) The Utilities filing and supporting documentation, all subsequent documents submitted to Council or the City Clerk by Utilities, customers or their representatives, the report of the City Auditor, the presentations to Council by any party, all Council deliberations, its Decision and Order, and the Resolution adopted, shall constitute the record of these proceedings.

4-2. EXPEDITED HEARING PROCESS FOR INSTANCES OF GOOD CAUSE

A. Instances for Which Good Cause Exists (2011)

- 1) Certain pricing and tariff changes may be made, or refunds authorized, without meeting the notice and public hearing requirements imposed by Section I of this Part 4, provided that good cause exists. In the following instances, good cause exists:
 - a. Changes to the gas cost adjustment to reflect increased or decreased gas costs.
 - b. Changes to the electric cost adjustment to reflect increased or decreased costs of the fuel used for electric generation or purchased power costs.
 - c. Refunds to customers.
 - d. Changes to other fees, rates or charges that are not within the control or discretion of the City or the Utilities.
 - e. Changes to the pricing of water necessary to avoid a water shortage.
 - f. Tariff changes which have no adverse impact on customers.
- 2) Council may find that good cause exists in other instances, and must state the nature and circumstances of the good cause in the resolution resulting from its action.

B. Process for Expedited Hearing

- 1) Proceedings for consideration of matters for which good cause exists shall be conducted in a legislative manner as a Council item.
- 2) When Utilities proposes changes to the gas cost adjustment or the electric cost adjustment, drafts of the proposal including the proposed resolution and tariffs will be provided to the City Auditor and the City Attorney seven (7) calendar days prior to filing the proposal with Council. If the City Auditor finds that the proposed adjustment is adequately supported and conforms to the

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requirements of the cost adjustment tariffs, the City Auditor will provide such findings in a letter to the Council that will be included in the filing by Utilities. If the proposed changes to the gas cost adjustment or the electric cost adjustment are supported by a letter from the City Auditor, the resolution effecting the change will be placed on the Council's Consent Calendar.

3) The resolution adopting changes shall be considered an Order of Council, shall specify the changes to be made and shall state: a) the circumstances which establish good cause and necessitate the change being made under these procedures, b) the effective date of the changes, and c) the manner in which the changes shall be published.

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