CHAPTER 50-10
ELECTRICAL POWER DIVISION; ELECTRIC SERVICE REGULATIONS

Part 001 General Provisions
§ 50-10-001 Authority
§ 50-10-005 Definitions

Part 100 Right of Way; Right of Access
§ 50-10-101 Condition of Service
§ 50-10-105 Compensation Not Due
§ 50-10-110 Installations Are Property of CUC
§ 50-10-115 Works on Public and Private Property

Part 200 General Characteristics of Service
§ 50-10-201 Compliance with Codes
§ 50-10-205 Distributed Current
§ 50-10-210 Frequency
§ 50-10-215 Voltage
§ 50-10-220 Nominal Voltages Applicable in CNMI
§ 50-10-225 Voltage Subject to CUC Approval
§ 50-10-230 Actual Voltage Levels May Vary
§ 50-10-235 Electric Service Classifications

Part 300 Application for Service
§ 50-10-301 Application for Each Service Connection
§ 50-10-305 Requirements for Application
§ 50-10-310 Application Not Binding until Approved

§ 50-10-315 Cancellation of Application
§ 50-10-320 Increase in Demand
§ 50-10-325 Temporary Service
§ 50-10-330 Change from Temporary to Permanent
§ 50-10-335 Transfer of Accounts Prohibited
§ 50-10-340 Resale of Electric Power Prohibited

Part 400 Security Deposits
§ 50-10-401 Security Deposit Required
§ 50-10-405 Security Deposit Payable After Inspection
§ 50-10-410 Deposit Recalculated After One Year
§ 50-10-415 Annual Recalculation
§ 50-10-420 Calculation of Adjustments
§ 50-10-425 Adjustments on Monthly Bill
§ 50-10-430 Additional Security Deposit Owed
§ 50-10-435 Accountability of Security Deposits
§ 50-10-440 Refunding the Security Deposits

Part 500 Line Extensions and Extensions of Service
§ 50-10-501 General
§ 50-10-505 Moratorium
§ 50-10-510 Planned Extension
§ 50-10-515 Unplanned Extension
§ 50-10-520 Easement Requirements
§ 50-10-525 Advance Notice Required
§ 50-10-530 Amortization Payment Plan

Part 600 Service Connections
§ 50-10-601 Construction, Operation and Maintenance
§ 50-10-605 Delivery Point
§ 50-10-610 One Service Connection Per Structure
§ 50-10-615 Overhead Service Connections
§ 50-10-620 Underground Facilities Connected to CUC’s System
§ 50-10-625 Use of Transformer
§ 50-10-630 Transformer Site Requirements

Part 700 Customer’s Installation
§ 50-10-701 Substandard Customer Installations
§ 50-10-705 Customer Equipment Responsibilities
§ 50-40-710 CUC Installation Charged to Customer
§ 50-10-715 CUC Installed Equipment Responsibility of Customer
§ 50-10-720 Protective Devices; Equipment Requirements
§ 50-10-725 Neutral Conductor
§ 50-10-730 Defective Customer-installed Power Installations
§ 50-10-735 CUC Not Responsible for Electrical Equipment
§ 50-10-740 Customer Installations on CUC Utility Poles

Part 800 Metering
§ 50-10-801 Meter Accessibility
§ 50-10-805 Meters Sealed
§ 50-10-810 Meters Owned and Maintained by CUC
§ 50-10-815 Standards for Service Entrance Equipment
§ 50-10-820 Separate Meter for Each Connection on Premises
§ 50-10-825 Meter Required for New Service

Part 900 Meter Tests
§ 50-10-901 Frequency at CUC’s Discretion
§ 50-10-905 Test Prior to Installation Required
§ 50-10-910 Standards for Testing

Part 1000 Adjustment of Bills for Meter Error
§ 50-10-1001 Date of Meter Malfunction Established
§ 50-10-1005 Refund of Overcharge from Fast Meter
§ 50-10-1010 Bill for Undercharge from Slow Meter
§ 50-10-1015 Non-registering Meter

Part 1100 Temporary Suspension for Repairs or Maintenance
§ 50-10-1101 Right to Temporarily Suspend Electricity
§ 50-10-1105 Reasonable Notice of Planned Suspension
§ 50-10-1110 CUC Shall Minimize Inconvenience

Part 1200 Power Factor
§ 50-10-1201 Customer Increase of Power Factor
§ 50-10-1205 Penalties for Low Power Factors

Part 1300 Rendering of Bills
§ 50-10-1301 Monthly Bills
§ 50-10-1305 Meter Required
§ 50-10-1310 Bills Based on Meter Registrations
§ 50-10-1315 Prorated Bills

Part 1400 Separate Meters for Same Customer
§ 50-10-1401 One Meter Per Location
§ 50-10-1405 Each Meter Billed Separately
§ 50-10-1410 Commercial Rates Charged for Mixed Use
§ 50-10-1415 One Service Drop Per Structure
§ 50-10-1420 Commercial Sites

Part 1500 Payment and Non-payment of Bills
§ 50-10-1501 Bills Due upon Presentation
§ 50-10-1505 Customer Obligated without Bill
§ 50-10-1510 Late Charge
§ 50-10-1515 Disconnection
§ 50-10-1520  Delinquency Notice
§ 50-10-1525  Payment to Prevent Disconnection
§ 50-10-1530  Disconnection for Non-payment of Previous Service
§ 50-10-1535  Re-connection Charges
§ 50-10-1540  Payment Schedules

Part 1600  Disputes
§ 50-10-1601  CUC Bills Assumed Correct
§ 50-10-1605  Disputed Bills
§ 50-10-1610  Payment for Undisputed Portion Due

Part 1700  Fraud
§ 50-10-1701  Discontinuance of Service for Fraud
§ 50-10-1705  Illegal Connections

Part 1800  Non-compliance with Rate Schedules
§ 50-10-1801  Non-compliance with Rate Schedules

Part 1900  Customer’s Request for Discontinuance of Service
§ 50-10-1901  Notice Required
§ 50-10-1905  Customer Responsible Until Termination Date

Part 2000  Deposits in Lieu of Payments & Disconnections
§ 50-10-2001  Security Deposit Applied to Balance Due
§ 50-10-2005  Re-connection; Security Deposit
§ 50-10-2010  Re-connection Charge

Part 2100  Rate Schedules
§ 50-10-2101  Establishment of Rates and Charges
§ 50-10-2105  Applied According to Terms
§ 50-10-2110  Challenges to Rates
§ 50-10-2115  Change in Rate Schedules
§ 50-10-2120  Classifications of Apartments and Mixed Use Buildings
§ 50-10-2125  Fuel Surcharge Fee [Repealed]

Part 2200  Responsibility
§ 50-10-2201  Reasonable Care for CUC Facilities
§ 50-10-2205  Customer Responsibility from CUC Lines
§ 50-10-2210  Standards for Customer Installations
§ 50-10-2215  Responsibility Arises on Receiving Service

Part 2300  Interruption of Service and Liability
§ 50-10-2301  Reasonable Diligence
§ 50-10-2305  CUC Not Liable for Interruptions

Part 2400  Inspections
§ 50-10-2401  National Electric Code
§ 50-10-2405  New Electric Service Entrances
§ 50-10-2410  Inspection Order
§ 50-10-2415  Illegal Service Connection
§ 50-10-2420  Inspection Before Re-connection
§ 50-10-2425  Limit of Inspection Responsibility

Part 2500  Miscellaneous Provisions
§ 50-10-2501  Severability
§ 50-10-2505  Previous Regulations
Chapter Authority: 4 CMC § 8157; 4 CMC § 8143.


*A notice of adoption has not been published.

Commission Comment: Title 4, division 8 of the Commonwealth Code governs utilities. PL 4-47 (effective October 1, 1985), the “Commonwealth Utilities Corporation Act,” codified as amended at 4 CMC §§ 8111-8158, creates the Commonwealth Utilities Corporation (CUC) as a public corporation within the Commonwealth government. 4 CMC § 8121(a). 4 CMC § 8123 empowers CUC to implement the provisions of the act and regulate utilities in the Commonwealth. 4 CMC § 8157 authorizes the Board of CUC to issue regulations necessary to carry out the purposes of the act.

Executive Order 94-3 (effective Aug. 23, 1994) reorganized the Commonwealth government executive branch, changed agency names and official titles and effected numerous other revisions. According to Executive Order 94-3 § 304(b):

Section 304. Department of Public Works.

....
(b) Commonwealth Utilities Corporation. The Commonwealth Utilities Corporation is allocated to the Department of Public Works for purposes of administration and coordination.

The full text of Executive Order 94-3 is set forth in the commission comment to 1 CMC § 2001.


In 2006, Governor Benigno R. Fitial issued an emergency declaration and two executive orders regarding the Commonwealth Utilities Corporation (CUC) and the legislature passed two public laws regarding the regulatory authority of CUC.

Art. III § 15 of the CNMI Constitution authorizes the governor to “make changes in the allocation of offices, agencies and instrumentalities and in their functions and duties that are necessary for efficient administration.” Any executive order affecting existing law must be submitted to the legislature and “shall become effective sixty days after submission, unless specifically modified or disapproved by a majority of the members of each house of the legislature.” CNMI Constitution Art. III § 15.

On January 27, 2006, Governor Fitial issued Executive Order No. 2006-1 (Reorganization Plan No. 1 of 2006). In Executive Order No. 2006-1, Governor Fitial allocated CUC to the Department of Public Works (DPW), as a division of DPW; abolished the Board of Directors of CUC; and transferred the Board’s functions to DPW. 28 Com. Reg. 25520 (Feb. 28, 2006).

On January 27, 2006, Governor Fitial signed Emergency Declaration No. 2006-2 (28 Com. Reg. 25519 (Feb. 28, 2006)). In Emergency Declaration No. 2006-2, Governor Fitial assumed full control of the CUC; suspended “all regulatory statute provisions and regulations applicable to the CUC, including procurement regulations;” suspended the authority of the Board of Directors; and reprogrammed all necessary money to provide CUC with funds to address the imminent fuel shortage. 28 Com. Reg. 25519 (Feb. 28, 2006).

On March 29, 2006, Governor Fitial signed Executive Order No. 2006-03. Governor Fitial ordered that the utilities division of DPW (formerly CUC) be under a state of emergency. Executive Order No. 2006-03 (28 Com. Reg. 25527 (Mar. 30, 2006)).

as a public corporation and set forth its duties and powers. 28 Com. Reg. 25626 (May 19, 2006). Executive Order No. 2006-4 addressed corporate directors, officers and employees; general corporate operations and miscellaneous matters, including providing the executive director of CUC with the power to issue regulations necessary to carry out the purposes of the Commonwealth Utilities Corporation Reorganization Executive Order.

Executive Order No. 2006-4 specifically rescinded the fuel surcharge fee (§ 50-10-2125) “as of the effective date of a new utility rate schedule to be adopted by the CUC as provided in this Executive Order.” 28 Com. Reg. 25627 (May 19, 2006). In October of 2006, CUC adopted amendments to its electric service regulations (Chapter 50-10), including the repeal of § 50-10-2125.

Public Law 15-35 (effective Oct. 24, 2006) amended Executive Order No. 2006-4 and created the Public Utilities Commission (PUC) as the agency responsible for regulatory oversight of all public utilities, telecommunications companies and cable television companies. The definition of “public utilities” in PL 15-35 specifically includes CUC. See PL 15-35 § 2 (§ 8402(e)), codified at 4 CMC § 8402(e).

PL 15-35 § 3(b)(2) establishes PUC as the successor agency to CUC for “regulatory purposes, including the setting of rates, the approval of prices, fees, charges, terms and services and the resolution of disputes between a regulated utility and its customers.” See comment to 4 CMC § 8401 regarding conforming amendments found in PL 15-35 § 3.

CUC remained a public corporation and its regulations remained in effect. PL 15-35 § 3(b)(3), provides:

Except as otherwise provided herein, the regulations, standards, procedures, franchises and all other such aspects related to the regulation of the functions and operation of a regulated power, water, wastewater or cable television regulated utility that are in force when this Act becomes effective, shall continue to apply until amended or repealed by PUC.

Public Law 15-40 (effective Dec. 22, 2006) made several amendments to PL 15-35. PL 15-40 §3(h), codified at 4 CMC § 8122(f), provides:

For purposes of a deliberate and uninterrupted transition to regulation under the Public Utilities Commission and notwithstanding § 8425 [4 CMC § 8433], § 8429 [4 CMC § 8442] and any other provision of law, the Commonwealth Utilities Corporation’s power and authority to set rates, fees, charges and rents shall continue until such time as the Public Utilities Commission shall issue an order setting rates, fees, charges or rents for a utility service.

The Commission has found that, to date, PUC has not published any order setting rates, fees, charges or rents for a utility service. The Attorney General’s Office, and other agencies, interpret the Administrative Procedure Act to require notice of proposed regulations and an adoption notice before such regulations take effect. See 1 CMC §§ 9101, et seq.

Public Law 16-17, effective October 1, 2008, repealed and reenacted 4 CMC §§ 8111-8158 and specifically superseded Executive Order 2006-4. 4 CMC §§ 8123(l) and (m) authorizes CUC to regulate utility services and establish utility rates and other fees for electric, power and sewer. See part 2100 of this chapter for rate schedules. PL 16-17 is intended to be read consistently with PL 16-2.

Public Law 17-3 (effective May 12, 2010) amended 4 CMC § 8122(d) to the effect that the rate decisions made by CUC’s Executive Director are ratified.

**Part 001 - General Provisions**

**§ 50-10-001 Authority**

The regulations in this chapter are promulgated under the authority of 4 CMC § 8157 and in accordance with 1 CMC §§ 9104, et seq.

Modified, 1 CMC § 3806(d).


**§ 50-10-005 Definitions**

The following terms, wherever used in this chapter shall have the following meaning unless the context clearly indicates otherwise:

(a) Application: A written request by a customer to the CUC for electric service.

(b) Authorized agent: Any person or firm authorized in writing by the CUC to act as CUC’s agent or on CUC’s behalf.

(c) Billing period: The time interval between two consecutive billings.

(d) Business day: Mondays through Fridays, excluding legal holidays. All other references to “days” shall be calendar days.

(e) Conductors: Electrical wires used to conduct electrical current from the CUC power source to and within the customers building or other structure, or an otherwise defined area.
(f) Cost of line extension: The sum of the costs of labor materials, transportation, equipment, and road repair, if any, and other incidental charges necessary for the construction of line extensions, including, among others, overhead, design costs, and profits.

(g) Cost of service connection: The sum of the costs of labor, materials, transportation, equipment, and road repair, if any, and other incidental charges (such as overhead, design costs, profits, etc.) necessary for the complete installation of a service connection, excluding the cost of a meter, but including the installation costs of a meter.

(h) CUC: Commonwealth Utilities Corporation.

(i) Customer: Any person, partnership, firm, corporation, municipality, cooperative, governmental agency, or other entity who/which has made application for service and is responsible for payment of the bills resulting from electric service at the location identified in the application. The owner or operator of commercial premises is the customer rather than the tenants of the premises.

(j) Date of presentation: The date upon which a bill or notice is mailed or delivered to the customer, not the date upon which the bill is received by the customer or the date on the bill.

(k) Demand: The real power consumed, at any given time, measured in kilowatts (kW).

(l) Demand subscribed: The demand requested by the customer in the application form. This value is used in the design of the system for the customer.

(m) Electric service: The availability of electric energy at the point of delivery for use by the customer, even if no electric energy is consumed.

(n) Energy: Electric energy measured in kilowatt-hours (kW-h).

(o) Line extension: All power lines and components required to extend electric service from existing permanent facilities to the point of delivery of the customer, including transformers, meters, primary and secondary facilities, etc.

(p) Mailed: Any notice or other communication shall be considered “mailed” when it is properly addressed and deposited in any United States Post Office mail drop, postage paid.


(r) Past due bill: Bills are past due if not paid within fifteen days after presentation of date billed.

(s) Point of delivery: The point where conductors of the CUC are connected to the conductors of the customer, regardless of the location of the meters or transformers.
(t) Premises: Land, buildings or part of a building, or apparatus where electric service is to be rendered.

(u) Secondary service conductors: Electrical wires used to conduct electrical current from the secondary voltage side of the transformer to the customer’s main service disconnect.

(1) Service drop: The overhead service conductors from the last pole or other aerial support to and including the splices, if any, connecting to the service-entrance conductors at the customer’s building or other structures.

(2) Service entrance conductors, overhead system: The service conductors, provided by the customer, extending from the customer weather head.

(3) Service entrance conductors, underground system: The service conductors between the terminals of the service equipment and the point of connection to the service lateral.

(4) Service lateral: The underground service conductors between the street main, including any risers at a pole or other structure or from transformers, and the first point of connection to the service-entrance conductors in a terminal box, meter or other enclosure with adequate space, inside or outside the building wall. Where there is no terminal box, meter, or other enclosure with adequate space, the point of connection shall be considered to be the point of entrance of the service conductors into the building.

(v) Service connection: All secondary service connection conductors required to extend electric service from the existing permanent facilities to the point of delivery of the customer, including but not limited to, transformer, conductors, connectors, insulators, and accessories.

(w) Service entrance equipment: The equipment usually consisting of a weatherhead, dead-end insulator(s), mast conduit, meter socket, main disconnect and appurtenant wiring, or service lateral, intended to constitute the main supply, and means of cutoff of the main supply, to a building or structure.

(x) Temporary service: Service for enterprises or activities that are temporary in character or where it is known in advance such service is of limited duration. Service that in the opinion of CUC is for operations of a speculative nature, or the permanency of which has not been established, also shall be considered temporary service.

(y) Works: All power service equipment for both high and low voltage, construction and maintenance materials and operations, including but not limited to, poles, conductors, insulators, switches, anchors, guy wires, transformers, concrete pads, grounding equipment, conduits, hardware, right of ways, tree trimming, clearing, grading, excavation, backfill, metering and all other such operations required to conduct electrical power from the CUC power source to the customers service entrance conductors.

Modified, 1 CMC § 3806(e), (f).

Part 100 - Right of Way; Right of Access

§ 50-10-101 Condition of Service

As a condition for receiving electric service by customers, CUC and its authorized agents shall have the free right and authority to enter upon the roads, right of way, and other public or private property, for the purpose of constructing and installing its* therewith, and for repairing, operating, maintaining, removing, replacing, and conducting compliance surveys on all or any portion of its distribution system.

* So in original, see commission comment to this section.


Commission Comment: The Commission created the section titles in part 100.

A notice of adoption for the January 1990 proposed amendments was never published and, therefore, the Commission has not incorporated the proposed changes.

The 2004 amendments republished this section in its entirety. The phrase “power distribution system and all necessary facilities connected” was omitted after “its,” apparently in error.

§ 50-10-105 Compensation Not Due
No compensation shall be due to or from any customer, public or private, for clearance work around the electric distribution system that is performed on such customer’s premises (e.g. tree trimming, etc.).


§ 50-10-110 Installations Are Property of CUC

All facilities installed on a customer’s premises, including, but not limited to conductors, transformers, poles and meters, which are furnished by the CUC in order to rendered electric service shall remain the sole property of the CUC. CUC shall have the right of access to the customer’s premises without payment of any charge or rent therefore, at all reasonable hours for any purpose related to the furnishing of electric service, including, but not limited to, meter reading, testing, inspection, construction, maintenance, compliance surveying, and repair or upgrade of facilities. Upon termination of service, and for reasonable period thereafter, CUC shall have the right of access to the customer’s premises to remove its facilities installed thereon.

Modified, 1 CMC § 3806(g).


Commission Comment: The Commission inserted a comma after “meter reading” to correct a manifest error.

§ 50-10-115 Works on Public and Private Property

The appropriate governmental entities shall provide the CUC with the necessary areas of public property for the laying out of the works on public property. Special arrangements, where necessary, shall be made between the CUC and owners of private property for the laying out of the works on private property.


Part 200 - General Characteristics of Service

§ 50-10-201 Compliance with Codes

All power system facilities installed by CUC shall comply with all applicable codes and standards enforced in the CNMI.
Modified, 1 CMC § 3806(f).

Commission Comment: The Commission created the section titles in part 200.

§ 50-10-205 Distributed Current

The distributed current shall be either three-phase or single-phase, a.c.


§ 50-10-210 Frequency

The frequency shall be 60 Hertz.


§ 50-10-215 Voltage

Voltages supplied shall be designated by CUC according to availability and the customer’s needs.


§ 50-10-220 Nominal Voltages Applicable in CNMI

The following nominal voltages are applicable in the CNMI:

<table>
<thead>
<tr>
<th>Secondary single-phase</th>
<th>Secondary three-phase</th>
<th>Primary three-phase</th>
</tr>
</thead>
<tbody>
<tr>
<td>120 or 240 or 480 V (3W)</td>
<td>208Y/120 (4W)</td>
<td>13,800 (4W)</td>
</tr>
<tr>
<td>120/240 V (3W)</td>
<td>240/120 (4W)</td>
<td>4,160 (4W) (Tinian and Rota only)</td>
</tr>
<tr>
<td>240/480 V (3W)</td>
<td>480Y/277 (4W)</td>
<td></td>
</tr>
</tbody>
</table>
§ 50-10-225 Voltage Subject to CUC Approval

Service at any voltage is subject to the CUC’s approval.


§ 50-10-230 Actual Voltage Levels May Vary

Voltages referred to herein and in the rate schedules are cited at nominal levels as normally intended to be delivered. Actual levels may fall below these nominal values until such time as necessary improvements are made to the existing distribution system to bring voltage levels to within nominal values.


§ 50-10-235 Electric Service Classifications

There shall be three electric service classifications, commercial, governmental and residential.


Commission Comment:  A notice of adoption for the April 1990 proposed amendments was never published and, therefore, the Commission has not incorporated the proposed changes.

Part 300 - Application for Service
§ 50-10-301 Application for Each Service Connection

A separate application for electric service shall be made for each service connection unless otherwise authorized by CUC.


Commission Comment: The Commission created the section titles in part 300. The 1994 amendments republished and readopted former part 5 (now part 300) in its entirety. The Commission therefore cites the 1994 amendments in the history sections throughout this part.

§ 50-10-305 Requirements for Application

Each applicant for electric service shall be required to sign an application form provided by the CUC and to:

(a) Pay a deposit for electric service pursuant to part 400 of these regulations; and

(b) If necessary, execute an easement using standard CUC forms, such easement being at no cost to CUC.

Modified, 1 CMC § 3806(c), (f).


§ 50-10-310 Application Not Binding until Approved

The application is a request to provide electric service and, until approved, does not bind the CUC to provide such service, nor does it bind the customer to take service for a longer period than the minimum requirements of the rate. All customers of the CUC, whether they have signed an application for service or not, shall comply with the rules, regulations, policies and rate schedules of the CUC. Approved applications become contracts by which the customer becomes responsible to pay for all power consumed, as measured by the power meter, until the customer’s account is closed out.


§ 50-10-315 Cancellation of Application
If an application for service is canceled prior to the establishment of service, the deposit shall be applied to any charges applicable in accordance with the rate schedules and the excess portion of the deposit, if any, shall be returned. The customer shall be advised of the reason(s) for any deduction from the deposit. Upon discontinuance of service, the CUC shall refund the customer’s deposit by applying it to the customer’s account and/or issuing a check.


Commission Comment: The 1994 amendments deleted the original section 5.4 and redesignated the sections in this part accordingly. See 10 Com. Reg. 5676 (Sept. 15, 1988); see also proposed amendments to former section 5.4 at 12 Com. Reg. 6774 (Jan. 15, 1990).

§ 50-10-320 Increase in Demand

Customers shall give the CUC written notice of the extent and nature of any increase in demand of electric service resulting from the change in the size, character or extent of equipment or operations for which service was originally supplied. The notice shall be given before making any such change(s).


Commission Comment: A notice of adoption for the January 1990 proposed amendments was never published and, therefore, the Commission has not incorporated the proposed changes.

§ 50-10-325 Temporary Service

The CUC shall, if no undue hardship to its existing customers is likely to result therefrom, furnish temporary service under the following conditions:

(a) The applicant shall pay, in advance or otherwise as required by the CUC, the estimated cost of service connection. Commercial rates shall be applicable.

(b) The applicant shall pay a deposit, as described above, prior to installation of service connection, except that the amount of deposit shall not exceed the estimated bill for power consumption for the duration of service plus the cost of service connection.

Commission Comment: The 1990 amendments proposed to amend subsection (a). A notice of adoption for the January 1990 proposed amendments was never published and, therefore, the Commission has not incorporated the proposed changes.

§ 50-10-330 Change from Temporary to Permanent

If at any time the character of a temporary load changes so that, in the opinion of the CUC, the customer may be classified as permanent, the amount of payment made in excess of that required for permanent service shall be refunded to the customer. The payment made in excess by the applicant shall be calculated on the basis of the extension rule in effect at the time of status change. Total refunds shall not exceed the amount deposited and no interest shall be paid on the amount advanced.


§ 50-10-335 Transfer of Accounts Prohibited

No transfer of accounts shall be permitted. When a customer moves from one location to another, the account for the first location shall be closed out and an application must be submitted for receiving service to the second location.


§ 50-10-340 Resale of Electric Power Prohibited

(a) Electric power sold by CUC to a customer shall not be resold by the customer to third parties. A commercial customer may allocate the cost of electric power among tenants.

(b) In instances involving the allocation of the cost of electric service to tenants where the tenants are metered, the meters must be ANSI (American National Standards Institute) rated C-12.1 with cyclometer dials.


Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) and (b).

The 1989 amendments amended subsection (b).
The April 1990 amendments proposed to amend subsection (a). A notice of adoption for the April 1990 proposed amendments was never published and, therefore, the Commission has not incorporated the proposed changes.

**Part 400 - Security Deposits**

**§ 50-10-401 Security Deposit Required**

The Commonwealth Utilities Corporation shall collect from every customer account a two month security deposit.

Modified, 1 CMC § 3806(e).


Commission Comment: The Commission created the section titles in part 400.

The 1994 amendments added this new part 400. The 1997 amendments republished and readopted part 400 in its entirety.

Public Law 15-80, effective August 17, 2007, codified at 4 CMC §§ 8143(b) through (c), requires that CUC collect a one month security deposit from residential customers to be held in an interest-earning trust fund, which “shall not be used for any other purpose.” 4 CMC § 8143(b). Public Law 16-2 (effective May 3, 2008) amended 4 CMC § 8143(b) to allow CUC to use up to 50 % of the security deposit funds to pay fuel expenses during fiscal year 2008. Public Law 16-17, effective October 1, 2008, repealed and reenacted 4 CMC § 8143. PL 16-17 again requires that a one month security deposit from residential customers be held in an interest-earning trust fund and shall not be used for any other purpose. 4 CMC § 8143(b). PL 15-80, PL 16-2 and PL 16-17 require that residential customers receive a refund of the security deposit with interest within 30 days after disconnection. 4 CMC §§ 8143(b). The provisions of PL 16-17 supersede this section to the extent that they conflict.

**§ 50-10-405 Security Deposit Payable After Inspection**

The CUC Engineering Division shall be responsible for calculating the actual cost of the customer’s deposit based on a sliding scale of estimated kilowatt usage. Customers may be required to provide blueprints, electrical load calculations or building code certificates.

(a) The security deposit shall be payable when the customer is notified by CUC that the application is complete and after the property has passed inspection. Customers shall not be required to pay the deposit before CUC is prepared to connect the customer. If CUC fails to connect the customer within two weeks of receipt of the deposit, the customer may request a refund. If the customer receives a refund, he shall be required to pay a new deposit prior to connection to the CUC system.
(b) CUC shall not expend funds (beyond administrative costs and the cost of inspection) in anticipation of connecting a customer until a security deposit has been paid.

Modified, 1 CMC § 3806(e).


§ 50-10-410 Deposit Recalculated After One Year

After a customer has utilized the CUC full time for a period of one year, the customer will have established a credit history with the corporation. At that time, the customer may request his deposit be recalculated based on actual kilowatt usage rather than the sliding scale.

Modified, 1 CMC § 3806(e), (f).


§ 50-10-415 Annual Recalculation

After one year of established use, and annually thereafter, the CUC may also recalculate the security deposit.


§ 50-10-420 Calculation of Adjustments

All adjustments to the original security deposit shall be calculated by averaging the two highest months of actual kilowatt hour usage during the one year period. In the event that the actual customer usage is fifteen percent higher or lower than the estimate used in § 50-10-405, then the corporation shall adjust, either higher or lower, the security deposit based on the new calculations.

Modified, 1 CMC § 3806(c), (e), (f).


§ 50-10-425 Adjustments on Monthly Bill
Adjustments in the customer’s security deposit shall appear on the regular monthly bill either in the form of a credit or in the form of an additional payment required by the customer.


§ 50-10-430 Additional Security Deposit Owed

Customers who are found to owe an additional security deposit are obligated to pay such amount or their services are subject to disconnection as with any past due bill.


§ 50-10-435 Accountability of Security Deposits

(a) The corporation shall be liable for all security deposits received. The Corporation shall maintain an account indicating customer name, date of security deposit and amount of deposit. Effective January 15 of each year, each account shall be credited an amount equal to the average “passbook” savings interest rate payable during the past year based on rates from at least three local FDIC insured banks.

(b) The corporation’s comptroller shall prepare for the Board of Directors an annual report in January of each year which explicitly details amounts of deposits received, interest rate to be paid for the previous year and total account liabilities.

Modified, 1 CMC § 3806(f).


Commission Comment: The 1997 amendments added former subsection (c). The 2005 amendments repealed and replaced this section in its entirety, deleted former subsections (b), (c) and (d), redesignated former subsection (e) and amended subsections (a) and (b).

Public Law 15-80, effective August 17, 2007, codified at 4 CMC §§ 8143(b) and (c), requires that CUC collect a one month security deposit from residential customers to be held in an interest-earning trust fund, which “shall not be used for any other purpose.” 4 CMC § 8143(b). Public Law 16-2 (effective May 3, 2008) amended 4 CMC § 8143(b) to allow CUC to use up to 50% of the security deposit funds to pay fuel expenses during fiscal year 2008. Public Law 16-
§ 50-10-440 Refunding the Security Deposits; Power, Water and Sewer

(a) Upon the termination of a utility account, the customer shall receive a full, cash refund of any deposit in excess of any remaining unpaid charges.

(b) Refund of security deposit is to be provided within thirty days of account closing, unless the amount of the charges or security account balance is in dispute.

Modified, 1 CMC § 3806(e).


Commission Comment: The 1997 amendments added former subsections (d) through (h) and redesignated former subsection (i). The 2005 amendments repealed and replaced this section in its entirety, deleted former subsections (b) through (i), added new subsection (b) and amended subsection (a).

Public Law 15-80, effective August 17, 2007, codified at 4 CMC §§ 8143(b) and (c), requires that CUC collect a one month security deposit from residential customers to be held in an interest-earning trust fund, which “shall not be used for any other purpose.” 4 CMC § 8143(b). Public Law 16-2 (effective May 3, 2008) amended 4 CMC § 8143(b) to allow CUC to use up to 50% of the security deposit funds to pay fuel expenses during fiscal year 2008. Public Law 16-17, effective October 1, 2008, repealed and reenacted 4 CMC § 8143. PL 16-17 again requires that a one month security deposit from residential customers be held in an interest-earning trust fund and shall not be used for any other purpose. 4 CMC § 8143(b). PL 15-80, PL 16-2 and PL 16-17 require that residential customers receive a refund of the security deposit with interest within 30 days after disconnection. 4 CMC §§ 8143(b). The provisions of PL 16-17 supersede this section to the extent that they conflict.

Part 500 - Line Extensions and Extensions of Service

§ 50-10-501 General
Extension of electrical distribution lines at standard voltages, described in part 200, to supply electric service to any applicant shall be designed, constructed, operated, maintained and owned by CUC. Non-CUC owned electric lines beyond CUC’s point of delivery must be constructed and maintained without expense to CUC and must conform to standards for electric line construction acceptable to CUC.

Modified, 1 CMC § 3806(c).


§ 50-10-505 Moratorium

CUC may impose a moratorium on providing new service to customers or upgrading service to existing customers, if CUC determines that such new service would overburden the existing distribution or generation capacity. If a customer violates the conditions of the moratorium by increasing its electric load, the customer shall be subject to disconnection.


§ 50-10-510 Planned Extension

CUC’s planned extension of electrical distribution lines is contingent upon the availability of funds identified by CUC for expansion purposes. CUC has discretion to determine where and when distribution lines shall be extended.


§ 50-10-515 Unplanned Extension

Any electrical distribution line extension to an area, not part of CUC’s planned expansion area, shall be primarily at the customer’s expense.

(a) CUC’s Base Cost. CUC shall be responsible for the cost of a service conductor connected to customer’s weatherhead, not to exceed 100 feet in length. Any excess conductor length will be the customer’s cost.

(b) CUC’s Free Extension Allowance. CUC shall also be responsible for the cost of the extension up to 30 times the monthly revenue from such extension, exclusive of all fuel expenses.
and fuel adjustments included in the CUC rate schedule, as estimated by CUC or as guaranteed by such customers, whichever amount of revenue is higher.

(c) Customer’s Free Length. The customer’s free length will be computed as follow:

Let:  
\[ T = \text{Total Line Extension Cost} \]
\[ A = \text{Free Line Extension Allowance (subsection (b))} \]
\[ L = \text{Total Line Extension Length in Feet} \]
\[ U = \text{Unit Cost per Feet} \]
\[ U = \frac{T}{L} \text{ in } \$/ft \]
\[ L_r = \text{Free Length} = \frac{A}{U} = \frac{(A/T)xL}{\text{in feet}} \]

(d) Customer’s Cost. The customer shall be responsible for all other expenses, in excess of CUC’s responsibility covered in subsections (a) and (b) above, associated with extending the electrical distribution lines to the customer’s premises.

(e) Advance Payment (AP) by Customer Required. All line extensions will be made only after the customer makes an advance payment to CUC of the estimated installed cost in excess of CUC’s base cost plus CUC’s free extension allowance as covered in subsections (a) and (b).

(f) Refund of Advance Payment. Advance payment by the customer for this line extension is subject to refund by CUC whenever connection of additional separately metered, permanent load or customer(s) are made to this extension. The amount of this refund shall be based on the footage that
(1) The allowable free length of the additional load or customer, as computed under subsection (c) exceed
(2) The length of line required to provide service to the additional load or customer, multiplied by
(3) The unit cost per foot applicable at the time of the original construction of this line extension.

(g) Unit Cost Used for Refund. The unit cost for refund will be based on the unit cost per foot at the time of original construction of the line extension.

(h) No Interest Refund. Refunds made hereunder will be without interest.

(i) When CUC Will Make Refund. CUC will make the refund to the customer within 90 days after the date of first service to such additional load or customers except that refunds may be accumulated to a $25.00 minimum, or to the total refundable balance if less than $25.00, before each refunding.

(j) No Refunds Will Be Made in Excess of the Amount Advanced by the Customer. CUC will only refund up to the amount advanced by the customer and not after a period of 5 years from the date CUC is first ready to render service from the line extension, and any un-refunded amount remaining at the end of the 5-year period will become the property of CUC.
(k) Ownership of Installed Components. All installed equipment and materials required for such extension of service shall be the property of CUC.

Modified, 1 CMC § 3806(c), (f).

Commission Comment: The 2004 amendments added subsections (a) through (k).

§ 50-10-520 Easement Requirements

All electrical distribution line extensions shall be constructed on public properties with dedicated utility easements or on private properties with an owner-signed utility easement dedicated for CUC’s use.


§ 50-10-525 Advance Notice Required

Any applicant for electrical distribution line extension will be required to provide CUC sufficient advance notice so that design and construction may be scheduled to meet the customer’s desired service time.


§ 50-10-530 Amortization Payment Plan

The customer may request from CUC for an amortization payment plan for the customer’s cost of the electrical distribution line extension. Upon approval by CUC, the cost may be amortized for up to five years and shall be included in the customer’s monthly electric bill along with the customer’s power consumption charges and other charges.

Modified, 1 CMC § 3806(e).


Commission Comment: On January 15, 1990, CUC published amendments that proposed to add a new section 6.6 to this part (then part 6). A notice of adoption was never published. See 12 Com. Reg. at 6775 (Jan. 15, 1990).
On March 20, 2000, CUC published amendments that proposed to add a new section 7.6 to this part (then part 7). A notice of adoption was never published. See 22 Com. Reg. at 17089 (Mar. 20, 2000).

**Part 600 - Service Connections**

§ 50-10-601 Construction, Operation and Maintenance

The CUC shall construct, operate, and maintain all service connections. The cost of service connection construction shall be paid by the customer before the connection is installed.


Commission Comment: The Commission created the section titles in part 600.

A notice of adoption for the January 1990 proposed amendments was never published and, therefore, the Commission has not incorporated the proposed changes.

§ 50-10-605 Delivery Point

The delivery point is the point where the CUC’s service drop attaches to a service mast. The delivery point must be in clear view of a power pole. The CUC shall not own or maintain any facilities beyond the point of delivery, except for the meter. The CUC shall provide only one delivery point per structure. Where there is multiple occupancy in a structure, one service drop must supply all meters. The meters shall be grouped or ganged at one central point.


§ 50-10-610 One Service Connection Per Structure

The CUC shall connect only one service connection to any one structure, except where such additional service is required by law for emergency lighting or where, in the CUC’s judgment, such service is warranted for technical reasons.


§ 50-10-615 Overhead Service Connections

Service connections shall be overhead unless the CUC desires, or the customer requests, an underground service connection. Any underground service desired by a customer, whether primary service feeders or secondary laterals, shall be installed, paid for, and maintained by the customer, and:
(a) CUC shall not finance underground facilities for customers in whole or in part, whether the service is primary or secondary;

(b) CUC shall not assist in financing underground facilities for customers either through direct contribution or through rebate on power bills;

(c) The CUC shall not maintain underground facilities for any customer or group of customers.


The April 1990 amendments proposed to amend the opening paragraph, delete subsection (c) and add new subsections (c) and (d). A notice of adoption for the April 1990 proposed amendments was never published and, therefore, the Commission has not incorporated the proposed changes.

§ 50-10-620 Underground Facilities Connected to CUC’s System

Only such underground service facilities as are properly installed and maintained shall be connected, or be permitted to remain connected, to CUC’s distribution system. Work on CUC’s utility poles shall only be performed by CUC or under CUC’s supervision. If at any time it becomes necessary for CUC to change the location of a utility pole upon which underground service is installed, the customer shall bear the expense required to change the service.


§ 50-10-625 Use of Transformer

Where, in CUC’s judgment, service to a single customer requires the exclusive use of a transformer bank and such bank cannot properly be accommodated on a CUC easement or right of way, such customer shall provide a site for a totally enclosed, pad-mounted transformer, or an outdoor transformer station enclosure, or an indoor transformer room or vault as required by this section. At its option, the CUC may elect to install the transformer bank on a pole structure. If such a structure cannot properly be accommodated on a CUC easement or right of way, the customer shall provide a location for the CUC for installation of facilities and access for maintenance purposes.

Modified, 1 CMC § 3806(d).


Commission Comment: A notice of adoption for the April 1990 proposed amendments was never published and, therefore, the Commission has not incorporated the proposed changes.
§ 50-10-630 Transformer Site Requirements

(a) If a site for either a totally enclosed, pad-mounted transformer or an outdoor transformer station enclosure is provided, the customer shall also

(1) Construct the necessary concrete pad for the transformer, and

(2) Request CUC to terminate the service facilities at the CUC’s transformer terminal at the customer’s expense.

(b) Such site and related improvements, including proper fencing, shall be according to specifications prescribed by the CUC. If a transformer room or underground vault is provided, it shall conform to the requirements of the CUC pertaining to safety, grounding, size, ventilation, security, and access.

Modified, 1 CMC § 3806(f).


Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) and (b).

The April 1990 amendments proposed to amend subsection (a). A notice of adoption for the April 1990 proposed amendments was never published and, therefore, the Commission has not incorporated the proposed changes.

Part 700 - Customer’s Installation

§ 50-10-701 Substandard Customer Installations

The CUC reserves the right to refuse new service and to disconnect existing service, where customer installations do not comply with this chapter or with any code or standard applicable in the CNMI, or where the customer operates equipment which may cause interference with service, or where there is or may be an unsafe condition.

Modified, 1 CMC § 3806(d).


Commission Comment: The Commission created the section titles in part 700.

§ 50-10-705 Customer Equipment Responsibilities

The customer shall be responsible for installation of all equipment and materials necessary to provide safe metering from the point of delivery into and through the customer’s building. Such equipment and materials include, but are not limited to, service mast, weatherheads, back guys,
dead-end insulators, meter bases, grounding, wire and cable, underground laterals, terminations, current transformers, potential transformers, overload protection devices, enclosures, and fittings.

Modified, 1 CMC § 3806(d).


§ 50-10-710 CUC Installation Charged to Customer

For existing customers, the CUC may elect to install standard electrical service equipment and/or metering systems in the event the customer does not correct a non-complying and unsafe entrance metering installation within sixty days and the customer agrees to such installation. The cost for such installation by the CUC shall be charged to the customer.

Modified, 1 CMC § 3806(e).


§ 50-10-715 CUC Installed Equipment Responsibility of Customer

At the time of power service connection to the point of delivery for the new CUC installed metering installation, all electrical equipment and material other than the meter itself shall become the property and responsibility of the customer.


§ 50-10-720 Protective Devices; Equipment Requirements

Protective devices (e.g. main current breakers, main fuses) shall be calibrated according to the customer’s power demand, approved by the CUC, and installed by and at the customer’s own expense.

(a) CUC shall require all commercial customers to provide design load calculations computed by a registered professional electrical engineer.

(b) All main service disconnects shall be located on the outside of the building in a readily accessible location. The service disconnect shall be located no more than six feet from the electric meter unless otherwise approved by CUC. All service feeders, meter sockets, CT enclosures, disconnects, gutters, and transfer switches shall be NEMA 3 rated and shall be surface mounted. None of the above mentioned equipment shall be enclosed within the wall of the building.
(c) When a fuse disconnect is used as a main service protection device the wire size, line side and load side, must be of the same amperage capacity as the amperage rate of the disconnect.

Modified, 1 CMC § 3806(f), (g).


Commission Comment: The 1989 amendments added new subsections (a) through (c).

The April 1990 amendments proposed to amend subsection (b) and add a new subsection (d). A notice of adoption for the April 1990 proposed amendments was never published and, therefore, the Commission has not incorporated the proposed changes.

In the opening paragraph, the Commission corrected the spelling of “calibrated.”

§ 50-10-725 Neutral Conductor

(a) In no case shall a neutral conductor be used as a ground conductor.

(b) The neutral conductor shall be the same size as existing phase wires, unless a design load has been professionally engineered and calculated by a registered professional electrical engineer.

Modified, 1 CMC § 3806(f).


Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) and (b).

The 1989 amendments added new subsection (b).

§ 50-10-730 Defective Customer-installed Power Installations

The CUC shall not be responsible for defective customer-installed electrical power installations.


§ 50-10-735 CUC Not Responsible for Electrical Equipment
The CUC shall not be responsible at any time for any installed electrical equipment and materials, or the condition thereof, or damage resulting therefrom.


§ 50-10-740 Customer Installations on CUC Utility Poles

Any customer-made installation on CUC utility poles shall be in accordance with CUC’s standards.


Part 800 - Metering

§ 50-10-801 Meter Accessibility

All meters shall be installed by the CUC upon the customer’s premises in a location approved by the CUC and such location shall at all times be kept accessible for meter inspection, reading, and testing. If such location becomes inaccessible, the CUC may require the customer to provide a new meter location at the customer’s expense or, in the alternative, have service disconnected upon thirty days written notice.

Modified, 1 CMC § 3806(e).


Commission Comment: The Commission created the section titles in part 800.

§ 50-10-805 Meters Sealed

All meters shall be sealed by the CUC and no such seal shall be broken or tampered with by the customer.


§ 50-10-810 Meters Owned and Maintained by CUC

All meters shall be owned, provided, installed, and maintained by the CUC. Meters shall be rented by the CUC to customers. All meter related equipment, such as CT’s (current transformers), PT’s (potential transformers), transducers, and CT cabinets shall be provided and installed by customers except when pole-mounted. When pole-mounted, CUC shall install customer-provided CT’s and PT’s.
§ 50-10-815 Standards for Service Entrance Equipment

All service entrance equipment installed by the customer to accommodate CUC metering shall be constructed and installed in accordance with the current edition of the NEC. Panel boxes and meter boxes must have equal ratings. Equipment must be UL or ANSI (American National Standards Institute) approved.


§ 50-10-820 Separate Meter for Each Connection on Premises

A separate meter shall be used for each service outlet/connection on a customer’s premises and any service to other premises by extension cord, weatherhead to weatherhead connections, or other means, shall be a cause for discontinuance of service and any other remedies allowed by law.


§ 50-10-825 Meter Required for New Service

All new service shall be metered.


Commission Comment: A notice of adoption for the April 1990 proposed amendments was never published and, therefore, the Commission has not incorporated the proposed changes.

Part 900 - Meter Tests

§ 50-10-901 Frequency at CUC’s Discretion

The CUC shall be entitled to test the meters as often as required.

Commission Comment: The Commission created the section titles in part 900.

§ 50-10-905 Test Prior to Installation Required

Meters shall be tested prior to installation, either individually or, in case of newly purchased meters, by valid sampling methods. No meter shall be placed in service or allowed to remain in service when found to have an error in registration in excess of three percent under conditions of normal operation.

Modified, 1 CMC § 3806(e).


Commission Comment: A notice of adoption for the April 1990 proposed amendments was never published and, therefore, the Commission has not incorporated the proposed changes.

§ 50-10-910 Standards for Testing

Meters and associated metering devices shall be tested and adjusted in conformity with the standards of the American National Standards Institute Code for Electricity Metering ANSI C12-1975, or the latest edition.


§ 50-10-915 Request for Testing; Deposit

Any customer may have CUC test his electric meter. Tests shall be scheduled as meter tests are received and depending upon work load. A deposit shall be required from the customer to cover the reasonable cost of the test.

Modified, 1 CMC § 3806(g).


Commission Comment: The notice of adoption for the 1989 amendments changed the proposed language of this section. See 11 Com. Reg. at 6268 (June 15, 1989).

A notice of adoption for the April 1990 proposed amendments was never published and, therefore, the Commission has not incorporated the proposed changes.

§ 50-10-920 Customer Deposit for Meter Test
The amount deposited shall be returned to the customer if the meter is found, upon testing, to register more than three percent fast or slow under conditions of normal operations. If the meter is determined to be within the three percent tolerance the deposit shall be forfeited to the CUC.

Modified, 1 CMC § 3806(e).


§ 50-10-925 Right to Witness Meter Test

A customer, or the customer’s representative, shall have the right to witness the test of the meter.


§ 50-10-930 Written Report on Request

If requested, a written report showing the result of the test shall be supplied to the customer within a reasonable time after completion of the test.


Part 1000 - Adjustment of Bills for Meter Error

§ 50-10-1001 Date of Meter Malfunction Established

When it is found that an error in a meter reading is due to device malfunction, the date of which can be reliably established, the overcharge or the undercharge shall be computed back to but not beyond such date.


Commission Comment: The Commission created the section titles in part 1000.

§ 50-10-1005 Refund of Overcharge from Fast Meter

When, upon testing, any meter is found to be registering more than three percent fast, the CUC shall refund to the customer the amount of the overcharge based upon corrected meter readings for the preceding three months, subject to the provisions of § 50-10-1001.

Modified, 1 CMC § 3806(c), (e).
§ 50-10-1010  Bill for Undercharge from Slow Meter

When, upon testing, any meter is found to be registering more than three percent slow, the CUC may bill the customer for the amount of the undercharge based on corrected meter readings for the preceding three months, subject to the provisions of § 50-10-1001.

Modified, 1 CMC § 3806(c), (e).


§ 50-10-1015  Non-registering Meter

When, upon testing, any meter is found to be non-registering, the CUC may bill the customer for the estimated amount of electricity consumed but not registered for a period of three months, subject to the provisions of § 50-10-1001. Billings for this purpose may be estimated based upon the customer’s prior use, the customer’s subsequent use correctly metered, or the CUC’s experience with other customers of the same class, and the general characteristics of the customer’s operation, depending on which source gives the most accurate results.

Modified, 1 CMC § 3806(c), (e).


Part 1100 - Temporary Suspension for Repairs or Maintenance

§ 50-10-1101  Right to Temporarily Suspend Electricity

The CUC shall have the right to temporarily suspend the delivery of electricity over whatever area is necessary, and whenever necessary, for the purpose of making repairs, improvements or maintenance to its system.


Commission Comment: The Commission created the section titles in part 1100.

§ 50-10-1105  Reasonable Notice of Planned Suspension

In cases of planned temporary suspension of service, as circumstances permit, the CUC shall give a minimum of three days notice to customers. Radio announcements regarding temporary suspension of service, shall be deemed reasonable notice for this purpose.
§ 50-10-1110  CUC Shall Minimize Inconvenience

The CUC shall perform such repairs, improvements or maintenance as rapidly as practicable and, if practicable, at such times as shall cause the least inconvenience to customers.


Part 1200 - Power Factor

§ 50-10-1201  Customer Increase of Power Factor

The CUC may require the customer to provide, at the customer’s own expense, equipment to increase the operating power factor of the customer’s electrical load to not less than 95% lagging or leading.


Commission Comment: The Commission created the section titles in part 1200.

§ 50-10-1205  Penalties for Low Power Factors

When the applicable rate schedule allows, the CUC may apply penalties for low power factors.


Part 1300 - Rendering of Bills

§ 50-10-1301  Monthly Bills

Bills for electrical service shall be rendered monthly as provided in the rate schedules.


Commission Comment: The Commission created the section titles in part 1300.

§ 50-10-1305  Meter Required

All customers shall be metered.
§ 50-10-1310  Bills Based on Meter Registrations

Bills for metered service shall be based on meter registrations. Meters shall be read as required for the preparation of regular bills, opening bills, and closing bills.


§ 50-10-1315  Prorated Bills

It may not always be possible to read meters on the same day of the month, and if a monthly billing period contains less than 27 days or more than 34 days, a prorated computation shall be made in the bill.


Commission Comment: The January 1990 proposed amendments proposed to delete this section in its entirety. A notice of adoption for the January 1990 proposed amendments was never published and, therefore, the Commission has not incorporated the proposed changes.

Part 1400 - Separate Meters for Same Customer

§ 50-10-1401  One Meter Per Location

When a single customer requires electric service on separate premises, the customer shall have as many meters as there are different locations for service, and each meter shall be considered as a different customer.


Commission Comment: The Commission created the section titles in part 1400.

§ 50-10-1405  Each Meter Billed Separately

For the purposes of billing, each meter upon a customer’s premises shall be considered separately, and the readings of two or more meters shall not be combined except as follows:

(a) Where combinations of meter readings are specifically provided for in the rate schedule;

(b) Where the CUC’s operating convenience requires the use of more than one meter.
§ 50-10-1410 Commercial Rates Charged for Mixed Use

Where premises are used for both residential and commercial purposes, the service shall be billed as commercial service. If the area of residential use and commercial use is clearly defined, then the residential area may be served under the residential rate if a separate meter is installed.


§ 50-10-1415 One Service Drop Per Structure

There shall be only one service drop or lateral for any building or structure.


§ 50-10-1420 Commercial Sites

At its option, CUC may require only one meter to be installed at any commercial development site or apartment complex.


Part 1500 - Payment and Non-payment of Bills

§ 50-10-1501 Bills Due upon Presentation

All bills shall be due and payable upon presentation, and are past due if unpaid fifteen days after presentation. Payment shall be at the CUC’s office or to an authorized representative or agent.

Modified, 1 CMC § 3806(e).


Commission Comment: The Commission created the section titles in part 1500. Part 1500 combines former parts 16 and 17, as amended. See 10 Com. Reg. at 5683-84 (Sept. 15, 1988); 16 Com. Reg. at 12477 (Oct. 15, 1994).

§ 50-10-1505 Customer Obligated without Bill
If a customer does not receive a bill for electric service the customer continues to be obligated to pay for electric service received.


§ 50-10-1510 Late Charge

All bills that remain unpaid for thirty calendar days after the billing date will incur a one percent late charge. This charge becomes part of the balance due. Thereafter, late charges on the past due balance accrue at the rate of one percent per month, compounded monthly.

Modified, 1 CMC § 3806(e).


Commission Comment: The 1994 amendments republished and readopted former part 17 (now §§ 50-10-1510 through 50-10-1540) in its entirety.

§ 50-10-1515 Disconnection

All customers with past due bills are subject to disconnection for non-payment.


Commission Comment: PL 15-122 (effective December 5, 2007), codified at 4 CMC §§ 8144-8145, sets forth requirements for the disconnection and reconnection of utility services. Public Law 16-17, effective October 1, 2008, repealed and reenacted 4 CMC § 8144-45. PL 16-17 requires: using security deposits to offset past due amounts; CUC may not disconnect before the disconnection date; disconnections may not occur during disputes regarding billing statements; and CUC may not disconnect utility services when a delinquent payment involves only one utility service. 4 CMC § 8144. The provisions of PL 16-17 supersede this section to the extent that they conflict.

§ 50-10-1520 Delinquency Notice

Before it may disconnect a customer for non-payment of bill, the CUC must serve a delinquency notice on a customer at any time after any account becomes past due.

(a) CUC may serve delinquency notices by mail to any customer to whom it regularly sends bills by mail. Where the customer is not regularly billed by mail, CUC must serve the
delinquency notice personally upon an adult at the service location, and obtain an acknowledgment of receipt. Refusal to acknowledge receipt waives service.

(b) Service is considered to have been accomplished upon deposit of the properly addressed delinquency notice into the U.S. Mail, with proper postage.


Commission Comment: The 1994 amendments added new subsections (a) and (b).

§ 50-10-1525 Payment to Prevent Disconnection

(a) Any amount past due shall be paid within fourteen calendar days after the date of service of a disconnect notice to prevent disconnection.

(b) The delinquency notice shall be valid for 45 days from the date of service. If the customer remains delinquent, but has not been disconnected after 45 days, a new delinquency notice must be served and 14 additional days must pass before the customer may be disconnected.

Modified, 1 CMC § 3806(e).


Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) and (b).

The January 1990 amendments proposed to amend subsection (a). A notice of adoption for the January 1990 proposed amendments was never published and, therefore, the Commission has not incorporated the proposed changes.

The 1994 amendments added new subsection (b).

§ 50-10-1530 Disconnection for Non-payment of Previous Service

Subject to the provisions of this part, a customer’s service may be discontinued for non-payment of a bill for service rendered previously at any location served by the CUC.

§ 50-10-1535  Re-connection Charges

Upon payment of a past due bill after disconnection of service, the customer shall be responsible for payment of any re-connection charge prior to resumption of service.


§ 50-10-1540  Payment Schedules

If a customer makes an agreement with CUC establishing a payment schedule in return for CUC’s agreement not to disconnect or to reconnect that customer’s service, and the customer breaches that agreement, CUC shall serve the customer with notice not less than five days before disconnecting the customer’s service. Service shall be pursuant to § 50-10-1520(a) and (b).

Modified, 1 CMC § 3806(c), (e).


Commission Comment: The January 1990 amendments proposed to add a new section 17.6 to this part (then part 17). See 12 Com. Reg. at 6775 (Jan. 15, 1990). A notice of adoption for the January 1990 proposed amendments was never published and, therefore, the Commission has not incorporated the proposed changes.

Public Law 15-97 (effective October 4, 2007) amended 4 CMC § 8141 to provide residential customers “up to one year to pay in full any outstanding balance on their accounts.” 4 CMC § 8141(h). Public Law 16-17, effective October 1, 2008, repealed and reenacted 4 CMC § 8141(h) using the same language. The provisions of PL 16-17 supersede this section to the extent that they conflict.

Part 1600 - Disputes

§ 50-10-1601  CUC Bills Assumed Correct

All bills rendered by the CUC are assumed correct unless a request for an investigation of a bill is initiated by the customer within fifteen days of presentation.

Modified, 1 CMC § 3806(e).


Commission Comment: The Commission created the section titles in part 1600.
§ 50-10-1605 Disputed Bills

When a customer and the CUC fail to agree on the amount of a bill for electric service, the dispute between the parties shall be adjudicated in accordance with the CUC Regulations Regarding Customer Billing and Disputes [NMIAC, title 50, chapter 40]. Should it be necessary to bring an action in court to collect any amount due or to appear in court to defend or enforce any order issued pursuant to this chapter, CUC shall if it prevails receive its reasonable costs and attorney’s fees.

Modified, 1 CMC § 3806(d).


Commission Comment: This section was revoked and replaced by CUC’s Customer Billing and Disputes Regulations § 6(A), codified at NMIAC § 50-40-205. See 24 Com. Reg. at 19023 (Feb. 28, 2002).

§ 50-10-1610 Payment for Undisputed Portion Due

In the event of disagreement and/or adjudication of a bill, the customer shall pay the undisputed portion of a challenged billing and any unchallenged additional billings received before agreement is reached or the adjudication process is completed. Failure by a customer to pay such amount shall constitute a basis for discontinuance of electric service by the CUC.


Part 1700 - Fraud

§ 50-10-1701 Discontinuance of Service for Fraud

(a) The CUC may refuse to provide service, or may discontinue existing service if the acts of the customer or the condition upon the customer’s premises are such as to reasonably indicate an intent to defraud the CUC (e.g. meter tampering, connection without a meter, broken seals, etc.).

(b) Except where the condition constitutes a health or safety hazard, CUC shall give a customer not less than five days written notice of the illegal condition prior to disconnection. Notice shall be pursuant to § 50-10-1520(a) and (b).

Modified, 1 CMC § 3806(c), (e).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) and (b).

The 1994 amendments added new subsection (b).

The Commission created the section titles in part 1700.

§ 50-10-1705 Illegal Connections

Persons who have connected illegally to CUC electric lines shall be subject to immediate disconnection. Before re-connection, the person must pay the estimated cost of electric service over the length of time the illegal connection was active plus other penalties which may be assessed. The person must file an application with CUC before being considered for re-connection of electric service.


Part 1800 - Non-compliance with Rate Schedules

§ 50-10-1801 Non-compliance with Rate Schedules

Except as otherwise specifically provided in this chapter, the CUC may discontinue service to a customer for non-compliance with rate schedules.

Modified, 1 CMC § 3806(d).


Part 1900 - Customer’s Request for Discontinuance of Service

§ 50-10-1901 Notice Required

When a customer desires to terminate responsibility for service, the customer shall give the CUC not less than five days notice and state the date on which termination of service is to become effective.

Modified, 1 CMC § 3806(e).
§ 50-10-1905 Customer Responsible Until Termination Date

A customer shall be responsible for all service furnished at the customer’s premises until five days after receipt of such notice by the CUC or until the date of termination specified in the notice, whichever date is later in time.

Modified, 1 CMC § 3806(e).

§ 50-10-2001 Security Deposit Applied to Balance Due

Should any customer be disconnected, the customer’s security deposit shall automatically be applied toward the balance due on the account.


Commission Comment: The Commission created the section titles in part 2000.

Public Law 15-122 (effective December 5, 2007) set forth requirements for the disconnection and reconnection of utility services. 4 CMC § 8144. Public Law 16-17, effective October 1, 2008, repealed and reenacted 4 CMC § 8144. Both PL 15-122 and PL 16-17 require that CUC use security deposits to offset past due amounts prior to disconnection. 4 CMC § 8144(a). The provisions of PL 16-17 supersede this section to the extent that they conflict.

§ 50-10-2005 Re-connection; Security Deposit

Should a customer who has been disconnected desire to have utility services re-connected, the customer must re-establish a two month security deposit pursuant to § 50-10-405 or § 50-10-410, whichever applies. Customers who have been disconnected must pay in full all deposits before services are restored.

Modified, 1 CMC § 3806(c), (e).

Commission Comment: Public Law 15-80, effective August 17, 2007, codified at 4 CMC §§ 8143(b) and (c), required that CUC collect a one month security deposit from residential customers to be held in an interest-earning trust fund, which “shall not be used for any other purpose.” 4 CMC § 8143(b). Public Law 16-2 (effective May 3, 2008) amended 4 CMC § 8143(b) to allow CUC to use up to 50% of the security deposit funds to pay fuel expenses during fiscal year 2008. Public Law 16-17, effective October 1, 2008, repealed and reenacted 4 CMC § 8143. Public Laws 15-80, 16-2 and 16-17 require that residential customers receive a refund of the security deposit with interest within 30 days after disconnection. 4 CMC §§ 8143(b). The provisions of PL 16-17 supersede this section to the extent that they conflict.

§ 50-10-2010 Re-connection Charge

The CUC shall require payment in full of a re-connection charge before restoring service which has been disconnected for any of the reasons stated in parts 700 and 1500 through 1900 of this chapter.

(a) Commercial re-connection fees shall be the greater of $150 or ten percent of the monthly utility bill. This amount will be calculated by averaging the two highest months during the last 12 month period times point ten percent.

(b) Residential re-connection fees shall be $75.

Modified, 1 CMC § 3806(c), (d), (e), (g).


Commission Comment: The cross-references in this section were not updated from the original 1988 regulations. The Commission updated the references based on the addition of new parts since 1988.

The 1994 amendments added new subsections (a) and (b). The 1997 amendments amended subsection (b).

Part 2100 - Rate Schedules

§ 50-10-2101 Establishment of Rates and Charges

CUC shall establish rates and charges for electric service in a fair and rational manner for all consumers of electricity so that CUC will be financially independent of all appropriations by the Commonwealth Legislature as required by 4 CMC § 8140, as amended by Executive Order 2006-4. Electric rates and charges established by CUC shall be sufficient to recover all costs associated with the administration, operation, maintenance, transmission, generation, and delivery of electric service as required by 4 CMC § 8141(c), as amended by Executive Order
2006-4. The term “costs” shall include adequate financial reserves for any debt associated with electric service and for the replacement of obsolete, worn-out, or damaged equipment as required by 4 CMC § 8141, as amended by Executive Order 2006-4. These electric rates and charges shall take effect immediately upon compliance with the Administrative Procedures Act, 1 CMC §§ 9101 et. seq.

Modified, 1 CMC § 3806(g).


* A notice of adoption has not been published.

Commission Comment: The 2006 amendments repealed and replaced this section in its entirety. The Commission changed the 2004 section title of “Rates Schedules for Customer Categories” to “Establishment of Rates and Charges” based on the content of the 2006 amendments to this section.

The Commission created the section titles for Part 2100. The Commission added the word “by” before “4 CMC § 8141” in the second and third sentences to correct manifest errors.

Public Law 15-94 (effective October 4, 2007), codified at 4 CMC § 8146-8148, established a specific schedule of electric rates and charges for the purpose of superseding the electric rates and charges set forth in this part. 4 CMC § 8146. In November 2007, CUC made emergency and proposed amendments repealing and replacing this section. The emergency amendments took effect for 120 days on November 2, 2007. On January 31, 2008, CUC proposed to repeal and replace this section. A notice of adoption has not been published.

Public Law 16-2 (effective May 3, 2008) suspended the electric rates and charges set forth in PL 15-94 from May 3, 2008 to December 31, 2008. PL 16-2 § 2. PL 16-2 temporarily reinstated CUC’s regulatory rates as set forth in this part until such rates may be superseded by rates adopted by the Commonwealth Public Utilities Commission (PUC). PL 16-2 § 3. Section 3 of PL 16-2 provides that the rates set forth in PL 15-94 shall become effective again and “supersede temporary electric charges and rates established pursuant to this Act upon the failure of the Commonwealth Utilities Corporation and the Commonwealth Public Utilities Commission to adopt an electrical rate structure on or before December 31, 2008.” PL 16-2 § 3. PUC and/or CUC did not publish any regulations between May 3, 2008 and December 31, 2008. Consequently, the electrical charges and rates in this part are superseded by the rates in PL 15-94 as of January 1, 2009 until such time as CUC establishes rates consistent with the provisions of Public Law 16-17, effective October 1, 2008. PL 16-17 requires that CUC “comply with any requirement regarding the holding of public hearings within the Commonwealth required by the PUC” before proposing any schedule affecting rates. 4 CMC § 8142.
§ 50-10-2105  Applied According to Terms

The CUC’s rate schedules shall be interpreted and applied by the CUC for each customer’s service requirements in accordance with the terms and conditions of such rate schedules and the size and characteristic of such service requirements, as these are determined from time to time.


Commission Comment: In 2006, this section was repromulgated in its entirety without modification.

§ 50-10-2110  Challenges to Rates

A customer who is adversely affected by the application of any rate or charge for electric service may challenge the rate or charge, and if the customer and the CUC do not reach agreement, the matter shall be adjudicated in accordance with Administrative Procedures Act (1 CMC §§ 9108 et. seq.).


Commission Comment: In 2006, this section was repromulgated in its entirety without modification.

§ 50-10-2115  Change in Rate Schedules

If a customer elects to change to another appropriate customer classification and applicable rate schedule, the change shall be allowed provided:

(a) A change has not been allowed within the past twelve month period; or

(b) A change is made to a new or revised rate schedule, for purposes of Part 2100, monthly changes in the “electric fuel rate,” as set forth in § 50-10-2135(d), shall not constitute a “new or revised rate schedule”; or

(c) A change has occurred in the customer’s principal activities and or functions for that service, which, in the opinion of the CUC, justifies a change in the customer classification, if such a change has not been allowed within the past twelve months.
(d) All requests for change must be by written notice to the CUC. The change shall become effective for the billing period during which the customer requested the change.

(e) No changes will be made retroactively unless it can be ascertained that the CUC did not promptly act on a written notice for change.

Modified, 1 CMC § 3806(c), (e).


Commission Comment: The 2006 amendments made several changes throughout this section and added subsection (e).

§ 50-10-2120 Classifications of Apartments and Mixed Use Buildings

(a) Residential customers are those who purchase power for use in a single-family house or an apartment. An apartment building used solely for residential purposes, which has only one meter for the entire building, the customer shall be classified as residential.

(b) An apartment building, which has separately metered apartments, those customers shall be classified as residential. If a part of the building is for commercial purposes, which is separately metered, those customers shall be classified as commercial.

(c) An apartment building, which has only one meter serving the entire building, where there is a commercial business located in the building, the customer shall be classified as commercial.

(d) Buildings, which are used for housing workers (barracks, houses, or apartments), where the power is purchased and paid for by a commercial business for profit, shall be classified as commercial.

(e) A residence which includes a commercial business shall be classified as commercial.

(f) A commercial customer is defined as such if a business license is required for the business operation.

(g) A non-profit organization is defined as such if it provides CUC with written determination of tax exempt status from the Commonwealth Division of Revenue and Taxation that it qualifies as a charitable organization under Sections 501 and 503(c) of the Northern Marianas Territorial Income Tax or proof that it is not required to file for such a determination. A non-profit organization has the option to be billed as either residential or commercial for each service location as allowed under § 50-10-2130(c). However, non-profit organizations that operate a for profit business, that business shall be classified as commercial.
Modified, 1 CMC § 3806(c), (d).


*A notice of adoption has not been published.

Commission Comment: The June 1989 amendments added subsections (a) through (f). The August 1996 amendments added new subsection (g) and amended subsection (d). The 1999 amendments added subsection (h).


The August 1996 amendment proposed to add a new section 24.6 to this part stating the proposed increased Electric Service Rates. A notice of adoption for the August 1996 proposed amendments was never published and, therefore, the Commission has not incorporated the proposed changes.

The 1999 amendments amended the Electric Service Rates and incorporated the separate Electric Service Rates into the Electric Service Regulations as subsection (h) of this section.

The February 2005 amendments amended subsection (h) to provide for a fuel surcharge fee in base electric rates. The Commission codified this amendment as § 50-10-2125.

The 2006 amendments made several changes throughout this section and repealed § 50-10-2125.

In November 2007, CUC made emergency and proposed amendments to subsection (g) of this section. The emergency amendments took effect for 120 days on November 2, 2007. On January 31, 2008, CUC again proposed to amend subsection (g). A notice of adoption has not been published.
§ 50-10-2125 Fuel Surcharge Fee [Repealed]*

* The Commission retains this section and the exhibit thereto for informational purposes only.

(a) CUC fuel costs shall be recovered through the base electric rates and through the methodology provided in this section for the initial and subsequent years’ annual fuel surcharge fee (FSF) and a monthly fuel surcharge adjustment (MFSA). The FSF shall take effect immediately upon compliance with the Administrative Procedure Act, 1 CMC §§ 9101, et seq.

(b) The purpose of the FSF is to pass through to all consumers of CUC electricity, increases and decreases in fuel costs for the production of electricity, which are above or below the base rate allocation for fuel.

(c) Notwithstanding other provisions of the regulations in this chapter, the Comptroller and the Board may provide for discounts or reductions in the rates below the annual FSF ceiling, provided that such discounts or reductions:
   (1) Shall be provided to all customers equally; or
   (2) Shall be provided on a customer class basis
      (i) Supported by documentation of economic or financial distinctions showing that each rate is just and reasonable, and
      (ii) Shall not unduly discriminate.
   (3) The basis for such discounts or reductions shall be set out in writing.

(d) The initial FSF shall take effect for the remainder of the current calendar year in which this section becomes effective. The initial FSF is computed as follows (see exhibit, formula no. 1 [reproduced in the commission comment to this section]) and shall not exceed $0.03500 per kilowatt-hour (kW-h):
   (1) Actual year-to-date and any projected remaining year fuel costs for the current calendar year,
   (2) Divided by actual year-to-date and any projected remaining year electric sales, in kW-h,
   (3) Minus the base rate allocation for fuel costs.

(e) The FSF for subsequent years is computed as follows (see exhibit, formula no. 2 [reproduced in the commission comment to this section]) and shall not exceed the previous year’s FSF by more than $0.02000 per kilowatt-hour (kW-h) for those consumers using less than 2,001 kW-h per month:
   (1) Projected fuel costs for the target year,
   (2) Plus an adjustment for the preceding year’s under-/over-recovery of fuel costs,
   (3) Divided by estimated electric sales, in kW-h, for the target year,
   (4) Minus the base rate allocation for fuel costs.

(f) The MFSA is computed as follows (see exhibit, formula no. 3 [reproduced in the commission comment to this section]):
   (1) Projected fuel cost for the target month,
   (2) Plus an adjustment for any prior months’ under-/over-recoveries,
(3) Divided by estimated electric sales, in kW-h, for the target month,
(4) Minus the base rate allocation for fuel costs,
(5) Limited by the annual FSF ceiling.

(g) Base rate allocation for fuel costs. The rates per kW-h for electrical service effective as of
the date of this section include a base rate allocation for fuel cost of $0.05493.

(h) The Comptroller shall calculate the initial and subsequent years’ annual FSF and each
MFSA and prescribe the accounts, the forms, and the details of the calculations required to
implement the computations required in this section.

(i) The fuel costs, which are subject to cost recovery, include only production fuel for the
generation of electricity.

(j) Any difference between the actual fuel costs and FSF revenues shall be accumulated in a
defered account(s) and shall be subject to an annual reconciliation. Any over- or under-
recovery of fuel costs will be included in the next annual FSF.

(k) No interest shall be paid on the balance in the deferred account(s).

(l) Each customer’s monthly bill shall show separately the base electric rate charge and the
fuel charge adjustment.

(m) Public notice and hearings or workshops. The Comptroller shall provide public notice of
the monthly and annual calculations, present the methodology, take comments, and arrange for
workshops that may be attended by the customers and other members of the public.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 28 Com. Reg. 26256 (Oct. 30, 2006) (repealed); Amdts Proposed 28
Com. Reg. 26156 (Sept. 27, 2006); Emergency and Proposed 28 Com. Reg. 25937 (July 21,
2006) (effective for 120 days from July 20, 2006); Amdts Adopted 27 Com. Reg. 24088 (Feb.

Commission Comment: The February 2005 amendments amended § 50-10-2120(h) with the
provisions in this section. For clarity, the Commission codified this amendment as § 50-10-2125
with the exhibit to the section noted in the Commission comment. This section was repealed by
the 2006 amendments. Therefore, this section and the exhibit are left here for informational
purposes only.

The Commonwealth Utilities Corporation published the following exhibit with the regulation
codified in this section (repealed in 2006). See 27 Com. Reg. at 24091 (Feb. 17, 2005) for the
original exhibit.

FORMULAE FOR THE COMPUTATION OF
FUEL SURCHARGE FEE (FSF) AND MONTHLY FUEL SURCHARGE ADJUSTMENT (MFSA)

Formula No.1:
The initial Fuel Surcharge Fee (FSF) will be computed as follows:

\[
\text{Initial FSF } (1) = \frac{A}{B} - C
\]

\(A\) = CUC’s actual year-to-date and any projected remaining year fuel costs for the current calendar year.
\(B\) = CUC’s actual year-to-date and any projected remaining year kW-h hour sales for the current calendar year.
\(C\) = Base rate allocation for fuel ($0.05493 per kW-h) calculated by DTT, CPAs. See note (2) below.

Formula No. 2:
The FSF for subsequent calendar years, will be computed as follows:

\[
\text{FSF } (3) = D +/ - \frac{E}{F} - C
\]

\(D\) = CUC’s projected fuel costs for calendar (target) year.
\(E\) = CUC’s over/(under) recovery of fuel costs for the preceding FSF period.
\(F\) = CUC’s projected kW-h sales for calendar (target) year.
\(C\) = Base rate allocation for fuel ($0.05493 per kW-h) calculated by DTT, CPAs. See note (2) below.

Formula No. 3:
The Monthly Fuel Surcharge Adjustment (MFSA) will be computed as follows:

\[
\text{MFSA } (4) = \frac{G}{I} +/- \frac{H}{C}
\]

\(G\) = CUC’s projected fuel costs for the next succeeding (target) month.
\(H\) = CUC’s over/(under) recovery of fuel costs for any preceding month(s).
\(I\) = CUC’s projected kW-h sales for the next succeeding (target) month.
\(C\) = Base rate allocation for fuel ($0.05493 per kW-h) calculated by DTT, CPAs. See note (2) below.

NOTES:
(1) Initial FSF cannot exceed $0.03500 per kW-h pursuant to 4 CMC § 8143(b).
(2) The base rate allocation for fuel ($0.05493 per kW-h) is based on fuel consumption and kW-h sales for the first quarter (Oct - Dec 1992) of fiscal year 1993. The base rate allocation for fuel was estimated to approximate the fuel charge embedded in the current electric rates because the rates did not reflect the ratio between non-fuel and fuel charges.
(3) Any subsequent annual FSF cannot exceed the previous year’s FSF by more than $0.02000 per kW-h for those consumers using less than 2,001 kW-h per month.
(4) The MFSA for any month during the current annual FSF period cannot increase by more than the $0.02000 per kW-h limit for those customers using less than 2,001 kW-h per month.

Modified, 1 CMC § 3806(f).

§ 50-10-2130 Customer Classifications

(a) The regulations in this part develop and implement rate and charge schedules segregated into the following customer classifications:
(1) Residential;
(2) Commercial;
(3) Government;
(4) Non-Conforming Load.

(b) The non-conforming load classification is defined as any customer with a maximum demand of at least 3,000 kilowatts (kW) in the preceding twelve calendar months and daily operations where the ratio of the maximum demand to the minimum demand exceeded three, three times in any 30-day period during the preceding 12 calendar months.

(c) Non-profit organizations, as defined by 50-10-2120(g), shall have the option to consult with CUC and elect to be billed at either the residential or commercial rates for each service location, whichever is more beneficial to the organization. Changes between customer classification rate schedules shall be made in accordance with CUC Electric Service Regulations [Chapter 50-10], Part 2100, Rate Schedules.

Modified, 1 CMC § 3806(c), (d), (e), (f).


*A notice of adoption has not been published.

Commission Comment: This section was added in the 2006 amendments. The Commission codified a subsection of this section regarding rates and charges as § 50-10-2135.

Public Law 15-94 (effective October 4, 2007), codified at 4 CMC § 8146-8148, established a specific schedule of electric rates and charges for the purpose of superseding the electric rates and charges set forth in this part. 4 CMC § 8146. In November 2007, CUC made emergency and proposed amendments repealing and replacing this section. The emergency amendments took effect for 120 days on November 2, 2007. On January 31, 2008, CUC proposed to repeal and replace this section. A notice of adoption has not been published.
Public Law 16-2 (effective May 3, 2008) suspended the electric rates and charges set forth in PL 15-94 from May 3, 2008 to December 31, 2008. PL 16-2 § 2. PL 16-2 temporarily reinstated CUC’s regulatory rates as set forth in this part until such rates may be superseded by rates adopted by the Commonwealth Public Utilities Commission (PUC). PL 16-2 § 3. Section 3 of PL 16-17 provides that the rates set forth in PL 15-94 shall become effective again and “supersede temporary electric charges and rates established pursuant to this Act upon the failure of the Commonwealth Utilities Corporation and the Commonwealth Public Utilities Commission to adopt an electrical rate structure on or before December 31, 2008.” PL 16-2 § 3. PUC and/or CUC did not publish any regulations between May 3, 2008 and December 31, 2008. Consequently, the electrical charges and rates in this part are superseded by the rates in PL 15-94 as of January 1, 2009.

§ 50-10-2135 Rates and Charges

(a) CUC costs shall be recovered through the following rates and charges:

(1) Monthly Customer Charges;
(2) Electric Non-Fuel Rates; and
(3) Electric Fuel Rates.

(b) Monthly Customer Charges.

(1) CUC shall institute a monthly customer charge schedule for each customer classification as a minimum monthly flat-rate charge, with no credit for usage. The monthly customer charge was determined by the electric rate study conducted by Economists.com (see exhibit 1 “Schedule of Electric Charges and Rates,” page 1 of 2).

(2) The monthly customer charge shall recover a portion of the costs directly associated with serving customers, irrespective of the amount of electric usage. Such costs are for meter reading, billing, accounting, and collecting and for maintaining and providing capital costs related to meters, equipment, and associated services.

(c) Electric Non-Fuel Rates.

(1) CUC shall institute an electric non-fuel rate schedule for each customer classification, under which consumers shall be billed, based on the number of kilowatt-hours (kW-h) of electricity consumed during a billing period. The electric non-fuel rates were determined by the electric rate study conducted by Economists.com (see exhibit 1 “Schedule of Electric Charges and Rates,” page 1 of 2). So as not to create a financial hardship or adversely affect the amount billed, a billing period shall contain not less than 28 days nor more than 32 days. If the billing period is outside these parameters, CUC shall compute a prorated bill based on a 30-day billing period. This provision shall supersede those in § 50-10-1315 pertaining to billing period.

(2) The electric non-fuel rates shall pass through monthly, to all consumers of CUC electricity, approximately one-twelfth of all CUC annual operating costs associated with electric service; excluding the cost of production fuel and lubricating oils and those costs that are recovered through the monthly customer charge.

(3) For residential customers, an inverted block rate schedule, with four rate levels, shall be established. Each successive rate level shall have a higher rate per kW-h than the previous level, as distinguished by ascending levels of consumption. Total usage will be applied first to the lowest level of the block rate (001 to 500 kW-h). For any usage that is above 500 kW-h and up
to 1,000 kW-h shall be billed at the second rate level. Any usage that is above 1,000 kW-h and up to 2,000 kW-h shall be billed at the third rate level. Any and all usage above 2,000 kW-h shall be billed at the fourth level. The inverted block method provides an effective means of promoting conservation when CUC lacks sufficient generating capacity to provide constant reliable electric service to all of its customers. Further, the first (lowest) rate level within the schedule provides a lifeline rate for consumers that use 500 kW-h or less of electricity during a billing period. Refer to exhibit 1, pages 2 of 2, for examples of how CUC would compute the monthly non-fuel charges for residential customers.

(4) For commercial, government, and non-conforming load customers, separate rate schedules shall be established having only one rate level for each customer classification. Customers within these three classifications shall be charged at the respective rates per kW-h. Refer to exhibit 1, page 2 of 2, for examples of how CUC would compute the monthly non-fuel charges for commercial customers.

(5) The charges based on electric non-fuel rate(s) and the monthly customer charge shall be combined and appear as a separate item, “electric non-fuel charges,” on the monthly customer billing statement.

(6) The non-fuel rates and monthly customer charges shall remain in effect for approximately one year from the date of this section, unless unanticipated circumstances warrant the need to adjust the rates and charges sooner. Prior to the expiration of the one year period, and each year thereafter, CUC shall commission a review to determine if the non-fuel rates and monthly customer charges should increase or decrease or remain the same.

(7) The CUC chief financial officer shall provide public notice of any adjustments to the electric non-fuel rates and the monthly customer charges, maintain on file the methodology used to determine the rates and charges, take comments, and arrange for public hearings and workshops, as needed, which may be attended by the customers and other members of the public.

(d) Electric Fuel Rate: CUC shall institute an electric fuel rate schedule, under which all consumers shall be billed, based on the number of kilowatt-hours (kW-h) of electricity consumed during the billing period (see exhibit 1, page 1 of 2). The charge per kW-h will be the same for all customer classifications, regardless of the level of consumption.

(1) The electric fuel rate shall pass through to all consumers of CUC electricity, the monthly fuel costs for generating electricity. Fuel costs subject to cost recovery shall include only production fuel and lubricating oils. Accordingly, the electric fuel rate may increase or decrease or remain the same from month-to-month.

(2) The electric fuel rate shall take effect on the date that this section becomes effective and shall remain in effect through August 31, 2006. The interim electric fuel rate shall be $0.215 per kW-h, as determined by the electric rate study conducted by Economists.Com (see exhibit 1 “Schedule of Electric Charges and Rates,” page 1 of 2). Thereafter, the CUC chief financial officer shall calculate an initial electric fuel rate for September 2006 and for each month thereafter, compute the subsequent month’s electric fuel rate.

(3) On the first day of each month, CUC shall announce the electric fuel rate that will be in effect for that month. If the first day of the month falls on a Saturday, Sunday, or holiday, the new fuel rate will be announced on the first business day thereafter. Regardless of when announced, the rate shall be in effect from the first day through the last day of each month.

(4) Because CUC monthly billing periods generally overlap portions of two months, e.g. September 12 through October 13, the fuel rate shall be applied on a pro rata basis according to
the number of days each month’s usage (September and October) is to the total number of days in the billing period. In the example above, the billing period consists of 31 days, of which 18 days (rounded to 58 percent or .58) are in September and 13 days (rounded to 42 percent or .42) are in October. For illustration purposes, assume that electric consumption for the 31-day period is 2,345 kW-h and electric fuel rates were $0.222 per kW-h for September and $0.216 for October. Thus, the electric fuel charges for the billing period would be $514.68, which is computed as follows:

(i) For September, multiply 2,345 kW-h times .58 times $0.222, which equals $301.94. For October, multiply 2,345 kW-h times .42 times $0.216, which equals $212.74. Next, add the two amounts ($301.94 plus $212.74) for the total charges, which equals to $514.68 (see EXHIBIT 2).

(ii) Computations:

\[
\begin{align*}
2345 \times .58 \times .222 &= 301.94 \\
2345 \times .42 \times .216 &= 212.74 \\
301.94 + 212.74 &= 514.68
\end{align*}
\]

(5) The charges based on the electric fuel rate shall appear as a separate item, “electric fuel charges,” on the monthly customer billing statement.

(6) The methodology in this section provides for the computation of the initial and all subsequent target months’ electric fuel rates (see EXHIBIT 3).

(7) The initial, and the first subsequent, target month’s electric fuel rate shall be computed as follows (see Formula No. 1 (EXHIBIT 3, page 1 of 2) and Example of Computation of Initial and First Subsequent Target Months’ Fuel Rate (EXHIBIT 3, page 2 of 2)):

(i) Projected fuel costs for the target month.
(ii) Divided by projected sales, in kW-h, for the target month.
For purposes of Part 2100, the initial target month shall be September 2006 and the first subsequent target month shall be October 2006.

(8) Because CUC billing periods generally overlap portions of two months, e.g. September 12 through October 13, the second, and each successive, subsequent target month’s electric fuel rate shall be computed as follows (see Formula No. 2 (exhibit 3, page 1 of 2) and Example of Computation for Second, and Each Successive, Subsequent Target Month’s Fuel Rate (exhibit 3, page 2 of 2)):

(i) Projected fuel costs for the target month.
(ii) Plus or minus any adjustment for the third preceding month’s under- or over-recovery of fuel costs.
(iii) Divided by projected sales, in kW-h, for the target month.
For purposes of Part 2100, the second subsequent target month shall be November 2006; each successive subsequent target month shall be the consecutive months that follow.

(9) Computation of the under- or over-recovery of fuel costs shall be as follows:

(i) Third preceding month’s actual fuel costs.
(ii) Minus total of third preceding month’s actual sales, in kW-h, multiplied by the third month’s fuel rate per kW-h.
See Formula No. 2 (exhibit 3, Page 1 of 2) and Example of Computation for Second, and Each Successive, Subsequent Target Month’s Fuel Rate (exhibit 3, page 2 of 2).
For purposes of Part 2100, the third preceding month shall be the third month prior to the target month. For example, if the target month is November 2006, the third preceding month is August 2006.
(10) Any difference between the actual fuel costs and the electric fuel rate revenues shall be accumulated in a deferred account and shall be subject to annual reconciliation. No interest shall be charged or paid on any under- or over-recovery balance in the deferred account.

(11) The CUC chief financial officer shall be responsible for calculating the initial and subsequent months’ electric fuel rates; maintaining on file the methodology used to determine the fuel rates; prescribing the accounts, forms, and details of the calculations; and providing public notice of the monthly electric fuel rates.

(12) The CUC executive director or designated representative shall approve the initial and all subsequent months’ electric fuel rates before they are published and implemented.

Modified, 1 CMC § 3806(d), (e), (f), (g).


* A notice of adoption has not been published.

Commission Comment: This section was originally a subsection of § 50-10-2130, Customer Classifications. For clarity, the Commission codified this subsection separately as § 50-10-2135.

The Commission inserted a period at the end of the first sentence in subsection (c)(1). Towards the end of subsection (c)(3), the Commission changed the “and” in “page 2 and 2” to “of” to correct a manifest error. The Commission inserted the comma after “billed” in the first sentences of subsections (c) and (d).

In subsection (c)(11), the Commission changed the following: “maintain” to “maintaining;” “prescribe” to “prescribing;” and “provide” to “providing” for consistency.

The Commission changed “months”” to “month’s” in subsection (d)(2). In subsection (d)(4)(i), the Commission removed the period after “514.68” and placed it after the final parenthesis. The Commission inserted the second comma in section (d)(5). In subsection (d)(7), the Commission removed the comma after “(exhibit 3, page 1 of 2)” and changed “month’s” to “months””.

Public Law 15-94 (effective October 4, 2007), codified at 4 CMC § 8146-8148, established a specific schedule of electric rates and charges for the purpose of superseding the electric rates and charges set forth in this part. 4 CMC § 8146. In November 2007, CUC made emergency and proposed amendments repealing and replacing this section and the exhibits to this section. The emergency amendments took effect for 120 days on November 2, 2007. On January 31, 2008, CUC proposed to repeal and replace this section and the exhibits to this section. A notice of adoption has not been published.

CUC’s regulatory rates as set forth in this part until such rates may be superseded by rates adopted by the Commonwealth Public Utilities Commission (PUC). PL 16-2 § 3. The rates set forth in PL 15-94 shall become effective again and “supersede temporary electric charges and rates established pursuant to this Act upon the failure of the Commonwealth Utilities Corporation and the Commonwealth Public Utilities Commission to adopt an electrical rate structure on or before December 31, 2008.” PL 16-2 § 3. PUC and/or CUC did not publish any regulations between May 3, 2008 and December 31, 2008. Consequently, the electrical charges and rates in this part are superseded by the rates in PL 15-94 as of January 1, 2009 until such time as CUC establishes rates consistent with the provisions of Public Law 16-17, effective October 1, 2008. PL 16-17 requires that CUC “comply with any requirement regarding the holding of public hearings within the Commonwealth required by the PUC” before proposing any schedule affecting rates. 4 CMC § 8142.

The Commonwealth Utilities Corporation published the following exhibits with the regulation codified in this section. For the original exhibits, see 28 Com. Reg. 26277-26281 (Oct. 30, 2006). In November 2007, CUC made emergency and proposed amendments repealing and replacing the exhibits to this section. The emergency amendments took effect for 120 days on November 2, 2007. On January 31, 2008, CUC proposed to repeal and replace the exhibits to this section. A notice of adoption has not been published.
# COMMONWEALTH UTILITIES CORPORATION
## SCHEDULE OF ELECTRIC CHARGES AND RATES

<table>
<thead>
<tr>
<th>CUSTOMER CLASSIFICATIONS</th>
<th>MONTHLY CUSTOMER CHARGES (FIXED)</th>
<th>RATES PER KILOWATT-HOUR (kWh)</th>
<th>ELECTRIC</th>
<th>NON-FUEL RATES (FIXED)</th>
<th>FUEL RATES (FLUCTUATES)</th>
<th>TOTAL RATES PER kWh</th>
</tr>
</thead>
<tbody>
<tr>
<td>RESIDENTIAL</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1) First 500 kWh (1 To 500)</td>
<td>$5.60</td>
<td></td>
<td></td>
<td>0.016</td>
<td>0.215</td>
<td>0.231</td>
</tr>
<tr>
<td>2) Second 500 kWh (501 To 1,000)</td>
<td></td>
<td></td>
<td></td>
<td>0.066</td>
<td>0.215</td>
<td>0.281</td>
</tr>
<tr>
<td>3) Next 1,000 kWh (1,001 To 2,000)</td>
<td></td>
<td></td>
<td></td>
<td>0.086</td>
<td>0.215</td>
<td>0.301</td>
</tr>
<tr>
<td>4) All kWh Over 2,000</td>
<td></td>
<td></td>
<td></td>
<td>0.127</td>
<td>0.215</td>
<td>0.342</td>
</tr>
<tr>
<td>COMMERCIAL</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(All kWh Billed)</td>
<td>7.67</td>
<td></td>
<td></td>
<td>0.086</td>
<td>0.215</td>
<td>0.301</td>
</tr>
<tr>
<td>GOVERNMENT</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(All kWh Billed)</td>
<td>7.67</td>
<td></td>
<td></td>
<td>0.091</td>
<td>0.215</td>
<td>0.306</td>
</tr>
<tr>
<td>NON-CONFORMING LOAD</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(All kWh Billed)</td>
<td>$56.00</td>
<td></td>
<td></td>
<td>0.222</td>
<td>0.215</td>
<td>0.437</td>
</tr>
</tbody>
</table>
### COMPUTATIONS OF MONTHLY BILLINGS FOR RESIDENTIAL AND COMMERCIAL CUSTOMERS:

#### Assume RESIDENTIAL CUSTOMER consumed 2,345 kWh during a billing period.

**Electric Non-Fuel (Monthly Customer Charge and Electric Non-Fuel):**

<table>
<thead>
<tr>
<th>Non-Fuel Rate Charges:</th>
<th>Rate per kWh</th>
<th>Usage</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) First 500 kWh (1 To 500)</td>
<td>$0.016</td>
<td>500</td>
<td>8.00</td>
</tr>
<tr>
<td>2) Second 500 kWh (501 To 1,000)</td>
<td>0.066</td>
<td>500</td>
<td>33.00</td>
</tr>
<tr>
<td>3) Next 1,000 kWh (1,001 To 2,000)</td>
<td>0.086</td>
<td>1,000</td>
<td>86.00</td>
</tr>
<tr>
<td>4) All kWh Over 2,000</td>
<td>0.127</td>
<td>345</td>
<td>43.82</td>
</tr>
</tbody>
</table>

**Electric Non-Fuel Charges (as shown on billing)**: $176.42

**Electric Fuel Charges (prorated, EXHIBIT 2):**

| (as shown on billing) | $0.222 / $0.216 | 2,345 | 514.68 |

**TOTAL ELECTRIC CHARGES (NON-FUEL CHARGES & FUEL CHARGES)**: $691.10

#### Assume COMMERCIAL CUSTOMER consumed 2,345 kWh during a billing period.

**Electric Non-Fuel (Monthly Customer Charge and Electric Non-Fuel):**

<table>
<thead>
<tr>
<th>Non-Fuel Rate Charges:</th>
<th>Rate per kWh</th>
<th>Usage</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>All kWh used during a billing period</td>
<td>$0.086</td>
<td>2,345</td>
<td>201.67</td>
</tr>
</tbody>
</table>

**Electric Non-Fuel Charges (as shown on billing)**: $209.34

**Electric Fuel Charges (prorated, EXHIBIT 2):**

| (as shown on billing) | $0.222 / $0.216 | 2,345 | 514.69 |

**TOTAL ELECTRIC CHARGES (NON-FUEL CHARGES & FUEL CHARGES)**: $724.03
### COMPUTATION OF MONTHLY ELECTRIC FUEL CHARGES

**PRORATING CHARGES BETWEEN MONTHS**

**REFERENCE REGULATIONS, PART 24.6.3.3.4**

#### EXAMPLE FOR A THEORETICAL BILLING PERIOD AND ELECTRIC FUEL RATES FOR THE PERIOD OF SEPTEMBER 12 TO OCTOBER 13.

<table>
<thead>
<tr>
<th>Reading Dates</th>
<th>Billing Period No. Days</th>
<th>Monthly Percent (Rounded)</th>
<th>Meter Reading</th>
</tr>
</thead>
<tbody>
<tr>
<td>Previous Reading</td>
<td>12-Sep</td>
<td>18 days</td>
<td>58</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>(September)</td>
</tr>
<tr>
<td>Current Reading</td>
<td>13-Oct</td>
<td>13 days</td>
<td>42</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>(October)</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td>31</td>
<td>100</td>
</tr>
</tbody>
</table>

**TOTAL MONTHLY USAGE (Current minus Previous Reading)** 2,345 kWh

**TOTAL MONTHLY USAGE (Current minus Previous Reading)** 2,345 kWh

<table>
<thead>
<tr>
<th>Month</th>
<th>Monthly Electric Fuel Rate (per kWh)</th>
<th>Monthly Percent (Rounded)</th>
<th>Monthly Pro Rata Usage (kWh)</th>
<th>Monthly Electric Fuel Charges</th>
</tr>
</thead>
<tbody>
<tr>
<td>September</td>
<td>$0.222</td>
<td>58</td>
<td>1,360</td>
<td>$301.94</td>
</tr>
<tr>
<td>October</td>
<td>$0.216</td>
<td>42</td>
<td>985</td>
<td>212.74</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td>100</td>
<td>2,345</td>
<td><strong>$514.68</strong></td>
</tr>
</tbody>
</table>

**Electric Fuel Charges (as shown on billing)** $514.68
## FORMULAE FOR THE COMPUTATION OF MONTHLY ELECTRIC FUEL RATE

**REFERENCE REGULATIONS, PART 24.6.3.3.7 THROUGH 24.6.3.3.9**

### Formula No. 1:

The initial, and first subsequent, target month's Electric Fuel Rate shall be computed as follows:

\[
\text{Electric Fuel Rate} = \frac{A}{B}
\]

- **A**: Projected fuel costs for the target month.
- **B**: Projected sales, in kilowatt-hours (kWh), for the target month.

For purposes of Formula No. 1, the initial target month shall be September 2006 and the first subsequent target month shall be October 2006 (see Part 24.6.3.3.7 of these Regulations).

### Formula No. 2:

The second, and each successive, subsequent target month's Electric Fuel Rate shall be computed as follows:

\[
\text{Electric Fuel Rate} = \frac{C \pm D}{E}
\]

- **C**: Projected fuel costs for the target month.
- **D**: Under- or over-recovery of fuel costs for the third preceding month. (Calculation: The third preceding month's actual fuel costs minus the third preceding month's actual sales, in kWh, multiplied by the third preceding month's electric fuel rate per kWh.)
- **E**: Projected sales, in kWh, for target month.

For purposes of Formula No. 2:

- the second subsequent target month shall be November 2006 and, each successive subsequent target month shall be the consecutive months that follow (see Part 24.6.3.3.8 of these Regulations).
- the third preceding month shall be the third month prior to the target month. For example, if the target month is November 2006, the third preceding month is August 2006 (see Part 24.6.3.3.9 of these Regulations).
### COMPUTATION OF MONTHLY ELECTRIC FUEL RATE
INITIAL AND SECOND SUBSEQUENT TARGET MONTHS
REFERENCE REGULATIONS, PART 24.6.3.3.7 THROUGH 24.6.3.3.9

Example of how the initial and the first subsequent, target month's Electric Fuel Rate would be computed based on the following assumptions:

**Assume:** September 2006 projected fuel costs of $7,100,000 and projected electric sales of 32,000,000 kWh.

<table>
<thead>
<tr>
<th>Electric Fuel Rate =</th>
<th>$7,100,000</th>
<th>or</th>
<th>$0.222 per kWh</th>
</tr>
</thead>
<tbody>
<tr>
<td>(Initial &amp; 1st Subsequent Target Month)</td>
<td>32,000,000 kWh</td>
<td>(rounded to nearest 1/10 cent)</td>
<td></td>
</tr>
</tbody>
</table>

Example of how a second, and each successive, subsequent target month's Electric Fuel Rate would be computed for any subsequent (target) month after October 2006:

**Assume:** Subsequent target month (November 2006) projected fuel costs of $7,200,000 and electric sales of 32,500,000 million kWh.

**Assume:** The third preceding month's (August 2006) actual fuel costs of $7,040,000, actual electric sales of 32,500,000 kWh, and fuel recovery charge $0.222 per kWh.

<table>
<thead>
<tr>
<th>Electric Fuel Rate =</th>
<th>$7,200,000 - $175,000(^\ast)</th>
<th>or</th>
<th>$0.216 per kWh</th>
</tr>
</thead>
<tbody>
<tr>
<td>(2nd &amp; Successive Subsequent Months)</td>
<td>32,500,000 kWh</td>
<td>(rounded to nearest 1/10 cent)</td>
<td></td>
</tr>
</tbody>
</table>

\(^\ast\)For August 2006, actual fuel costs of $7,040,000 minus (actual sales of 32,500,000 kWh multiplied by Electric Fuel Rate of $0.222 per kWh). This results in an over-recovery of fuel costs in the amount of $175,000, which then must be subtracted from the projected fuel costs for the target month (November 2006). Conversely, had an under-recovery of fuel costs occurred, this amount would be added to the projected fuel costs for the target month.
Public Law 17-3 (effective May 12, 2010) amended 4 CMC § 8122(d) to the effect that the rate decisions made by CUC’s Executive Director are ratified.

Part 2200 - Responsibility

§ 50-10-2201 Reasonable Care for CUC Facilities

The customer shall exercise reasonable care to prevent facilities of the CUC installed on the customer’s premises from being damaged or destroyed and shall refrain from tampering or interfering with such facilities, and if any defect therein is discovered by the customer, the customer shall promptly notify the CUC thereof.


Commission Comment: The Commission created the section titles in part 2200.

§ 50-10-2205 Customer Responsibility from CUC Lines

It shall be the customer’s sole risk and expense to furnish, install, inspect, and keep in good and safe condition all electrical facilities required for receiving electric energy from the lines of the CUC, regardless of the location of the transformers, meters or other equipment of the CUC, and for utilizing such energy, including all necessary protective devices and suitable housing there for, and the customer shall be solely responsible for transmission and delivery of all electric energy over or through his wires and equipment, and the CUC shall not be responsible for loss or damage occasioned by the failure of the customer to comply with the requirement to this section.

Modified, 1 CMC § 3806(d).


§ 50-10-2210 Standards for Customer Installations

All service switches, fuses, breakers, and similar devices required in connection with service and meter installation on the customer’s premises shall be furnished, installed, and maintained by the customer in accordance with CUC’s specifications and the NEC.


§ 50-10-2215 Responsibility Arises on Receiving Service

By receiving electric service the customer assumes responsibility for the reasonable care and protection of CUC metering equipment and appurtenant apparatus.
Part 2300 - Interruption of Service and Liability

§ 50-10-2301 Reasonable Diligence

The CUC shall exercise reasonable diligence to furnish a continuous and sufficient supply of electricity to its customers. The CUC cannot, however, guarantee complete freedom from interruption.

Modified, 1 CMC § 3806(d).


Commission Comment: The Commission created the section titles in part 2300.

§ 50-10-2305 CUC Not Liable for Interruptions

The CUC shall not be liable for interruptions of service or shortage of supply, nor for loss or damage occasioned thereby, unless occasioned by the negligence or wrongful act of the CUC.


Part 2400 - Inspections

§ 50-10-2401 National Electric Code

The American National Electric Code as amended or revised, is hereby adopted and made the applicable standard in the CNMI.


Commission Comment: The Commission created the section titles in part 2400.

§ 50-10-2405 New Electric Service Entrances

All new electric service entrances must pass an inspection by CUC before connection to the utility lines. The first two inspections of the customer’s service entrance are provided to the customer at no expense. All subsequent inspections shall be charged to the customer based on a standard inspection fee.
§ 50-10-2410 Inspection Order

Inspections shall be made in the order in which requests for inspections are received.


§ 50-10-2415 Illegal Service Connection

Discovery of an illegal service connection shall result in an immediate failure to pass an inspection with no further examination of the service entrance equipment.


§ 50-10-2420 Inspection Before Re-connection

(a) A customer whose service is disconnected for any reason shall have the service entrance inspected before it shall be reconnected.

(b) Service connections made by CUC during disaster conditions (such as typhoons) may be made without inspections. CUC reserves the right to reinspect after the emergency to enforce code compliance. CUC shall not be held liable for damages for service connections made during disaster conditions.


Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) and (b).

The April 1990 amendments proposed to delete subsection (a). A notice of adoption for the April 1990 proposed amendments was never published and, therefore, the Commission has not incorporated the proposed changes.

§ 50-10-2425 Limit of Inspection Responsibility

CUC’s responsibility for inspection includes the service entrance equipment but shall not extend beyond the main service disconnect switch or switches.

Commission Comment: A notice of adoption for the April 1990 proposed amendments was never published and, therefore, the Commission has not incorporated the proposed changes.

CUC published amendments on November 15, 1996 that proposed to add a new part 28, entitled “NEC Clearances.” See 18 Com. Reg. at 14480 (Nov. 15, 1996). A notice of adoption for the November 1996 proposed amendments was never published and, therefore, the Commission has not incorporated the proposed changes.

**Part 2500 - Miscellaneous Provisions**

§ 50-10-2501 Severability

If any provision or provisions of the regulations in this chapter, or the application of any such provision or provisions to any person or circumstance, shall be held invalid by a court of competent jurisdiction, the remainder of this chapter, or the application of such provision or provisions to persons or circumstances other to those to which it is held invalid, shall not be affected thereby.

Modified, 1 CMC § 3806(d).


Commission Comment: The sections in this part were originally parts 27 and 28 of the 1988 regulations. See 10 Com. Reg. at 5687 (Sept. 15, 1988).

§ 50-10-2505 Previous Regulations

The regulations in this chapter supersede all previous regulations.

Modified, 1 CMC § 3806(d).


**CHAPTER 50-20**

**SEWER DIVISION; PUBLIC SEWER USE REGULATIONS**

**Part 001 General Provisions**

<table>
<thead>
<tr>
<th>§ 50-20-001 Authority</th>
<th>Prohibited</th>
</tr>
</thead>
<tbody>
<tr>
<td>§ 50-20-005 Purpose</td>
<td>§ 50-20-102 Permit Application</td>
</tr>
<tr>
<td>§ 50-20-010 Applicability</td>
<td>§ 50-20-104 Installation Costs Paid by Applicant</td>
</tr>
<tr>
<td>§ 50-20-015 Definitions</td>
<td>§ 50-20-106 Separate Sewers for Each Building</td>
</tr>
<tr>
<td></td>
<td>§ 50-20-108 Use of Existing Building Sewers</td>
</tr>
</tbody>
</table>

**Part 100 Building Sewers and Connections**

| § 50-20-101 Unauthorized Connections | § 50-20-110 Standards Applicable to Building Sewers |
§ 50-20-112 Elevation of Building Sewer
§ 50-20-114 Connection to Surface or Groundwater Runoff Prohibited
§ 50-20-116 Standards for Connection into Public Sewer
§ 50-20-118 Connection Supervised
§ 50-20-120 Excavations
§ 50-20-122 Public Sewer Availability
§ 50-20-124 When Connection to Public Sewer Required
§ 50-20-126 Information Required Prior to Connection
§ 50-20-128 Existing Outlets Used for Connection
§ 50-20-130 Procedure for Cutting Sewer Line
§ 50-20-132 Sewer Connections to Manholes
§ 50-20-134 Location of House Connections
§ 50-20-136 Cover of House Sewer
§ 50-20-138 Size of House Connections
§ 50-20-140 Slope of House Connections
§ 50-20-142 Type, Class of House Connections
§ 50-20-144 Location of Building Sewers
§ 50-20-146 Cover of Building Sewers
§ 50-20-148 Size of Building Sewers
§ 50-20-150 Slope of Building Sewers
§ 50-20-152 Connections of Building Sewers

Part 200 Discharge of Liquid Wastes into Public Sewers
§ 50-20-201 Discharge of Certain Substances Prohibited
§ 50-20-205 Control of Discharge of Certain Wastes
§ 50-20-210 Food Preparation Businesses
§ 50-20-215 Preliminary Treatment for Wastes
§ 50-20-220 Industrial Wastes
§ 50-20-225 Measurements, Tests and Analyses
§ 50-20-230 No Agreement to Accept Industrial Waste Intended

Part 300 Sewer Standards
§ 50-20-301 Location
§ 50-20-305 Cover
§ 50-20-310 Size
§ 50-20-315 Slope
§ 50-20-320 Type; Class
§ 50-20-325 Concrete Cradle or Encasement
§ 50-20-330 Water Crossings
§ 50-20-335 Stream Crossings
§ 50-20-340 Stubs
§ 50-20-345 Corrosion Protection
§ 50-20-350 Curved Sewers
§ 50-20-355 Location of Cleanouts
§ 50-20-360 Type of Cleanouts

Part 400 Sewer Service Charges
§ 50-20-401 All Customers Pay Charge
§ 50-20-405 Customer Classes
§ 50-20-410 Rates and Charges
§ 50-20-415 Measurement of Wastewater Quantity
§ 50-20-420 Discharge of Septic Tank or Seepage Pit Wastes
§ 50-20-425 Bills Due upon Mailing; Late Charge
§ 50-20-430 Payments to CUC Sewer Services Account
§ 50-20-435 Fees for Dishonored Checks

Part 500 Enforcement Authority
§ 50-20-501 Termination of Service; Disputes
§ 50-20-505 Enforcement Orders
§ 50-20-510 Civil Penalties
§ 50-20-515 Hearing before the CUC Board

Part 600 Miscellaneous Provisions
§ 50-20-601 Conflict with Septic Tank Regulations
§ 50-20-605 Severability
§ 50-20-610 Effective Date

Chapter Authority: 4 CMC § 8143; 4 CMC § 8157.

Title 50 Commonwealth Utilities Corporation


*A notice of adoption for the January 1990 proposed amendments was never published.

**As of December 2005, a notice of adoption for the July and August 2005 emergency and proposed amendments had not been published.

Commission Comment: For the history of the regulatory authority of the Commonwealth Utilities Corporation in the Commonwealth, see the general comment to chapter 50-10.

Public Law 15-123 (effective December 3, 2007) amended 4 CMC § 8143 to require CUC to bill water, power and sewer separately. PL 15-123 prohibits CUC from disconnecting “a consumer’s water service for failure to pay for the electrical power portion of their bill.” 4 CMC § 8143. PL 15-122 (effective December 5, 2007), codified at 4 CMC §§ 8144-8145, sets forth requirements for the disconnection and reconnection of utility services. Public Law 16-17, effective October 1, 2008, repealed and reenacted 4 CMC §§ 8143-8144 in addition to other code sections.

PL 16-17 contains similar requirements as PL 15-122 and PL 15-123. These requirements include: using security deposits to offset past due amounts; CUC may not disconnect before the disconnection date; disconnections may not occur during disputes regarding billing statements; CUC may not disconnect all services (power, water and sewer) when a delinquent payment involves only one utility service; and disconnection may not occur for consumers receiving utility assistance for failure of Department of Community and Cultural Affairs to pay the bill. 4 CMC § 8144.

Part 001 - General Provisions

§ 50-20-001 Authority

The regulations in this chapter have been adopted by the Commonwealth Utilities Corporation (CUC) pursuant to Public Law 4-47 [4 CMC §§ 8111, et seq.] of the Commonwealth of the Northern Mariana Islands. This chapter and technical provisions and specifications which may be adopted by the CUC from time to time, have the force and effect of law and shall be binding on all persons and entities subject to the jurisdiction of the Commonwealth of the Northern Mariana Islands.

Modified, 1 CMC § 3806(d).


§ 50-20-005 Purpose

The purpose of this chapter is to establish requirements for connection of public sewers where and when public sewers are available and to establish fees for the use of and connection to public sewers. This chapter includes the following subject areas:
(a) When residential and non-residential building must be connected to available public sewers.

(b) When a public sewer will be considered as being available for connection.

(c) Design standards and requirements for the building wastewater line and its connection to the public sewer line.

(d) Establishment of fees for sewer use and connection to the public sewer. There is no connection fee for single family residences and duplexes.

(e) Sanctions and penalties for failure to connect to a public sewer when required, for failure to pay sewer charge and for any other violation of these regulations.

Modified, 1 CMC § 3806(d).


§ 50-20-010 Applicability

This chapter is only applicable where public sewers exist in the Commonwealth of the Northern Mariana Islands.

Modified, 1 CMC § 3806(d).


§ 50-20-015 Definitions

(a) “Abutting property” is defined as that property, which lies next to any road, street or easement in which a public sewer is located. The boundary of the private property abutting the sewer need not physically touch the sewer easement so long as that piece of land separating the sewer easement from the abutting property consists of a public right way, easement, road, or street not owned or controlled by another private owner, so that the abutting property owner would be required to obtain a private easement in order to connect this property with that of the sewer.

(b) “BOD” (denoting biochemical oxygen demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20E C, expressed in milligrams per liter.

(c) “Building sewer” shall mean that portion of a sewer, normally privately owned and installed, five feet from a building’s foundation and its connection with the public sewer at the street right of way line, easement boundary, or other designated point.
(d) “Chief Engineer” shall mean the Assistant Director of the Sewer and Refuse Collection Division of the Commonwealth Utilities Corporation and/or any other engineer so designated by the Executive Director of the Commonwealth Utilities Corporation.

(e) “CNMI” is the Commonwealth of the Northern Mariana Islands.

(f) “CUC” shall mean the Commonwealth Utilities Corporation, established by Public Law 4-47 [4 CMC §§ 8111, et seq.].

(g) “DEQ” is the Division of Environmental Quality of the CNMI Department of Public Health and Environmental Services.

(h) “Garbage” shall mean solid and semi solid (i.e. grease) wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage, and sale of produce.

(i) “Hook-up” refers to the physical connection of a sewer pipe to a sewer main or lateral line of the public sewer. In general terms it is synonymous with the word “connection.”

(j) “House connection” means the sewer saddle tap to which a house service line connects to either the lateral or main sewer pipe.

(k) “House sewer” means that part of the lowest piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer pipe beginning 5 feet outside the building walls.

(l) “Industrial user” means any user that discharges industrial wastewater to a public sewer or treatment works.

(m) “Industrial wastewater” means all water-carried wastes and wastewaters of the community excluding residential wastewater and uncontaminated water. It includes all wastewater from any producing, manufacturing, processing, institutional, commercial, agricultural, or other operation where the wastewater discharged includes significant quantities of wastes of non-human origin.

(n) “Lateral/trunkline” means the larger diameter sewer pipe connected to the sewer main.

(o) “Privy” is a structure and excavation for the disposal of human excreta for non-water carriage methods and includes the term “pit privy,” “trench latrine,” and “bored-hole latrine.”

(p) “pH” shall mean the logarithm of the reciprocal of the concentration hydrogen ions in gram equivalents per liter of solution.

(q) “Properly ground garbage” shall mean the wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch in any dimensions.
(r) “Public sewer” shall mean the sewerage system which is owned and/or operated by the Saipan Wastewater Division, CUC, CNMI.

(s) “Sanitary sewer” shall mean a sewer which carries sewage and to which storm, surface, and ground waters are not intentionally admitted.

(t) “Seepage pit” is a covered pit with open jointed lining through which treated or partially treated sewage effluent may seep or leach into the surrounding porous soil.

(u) “Septic tank” is a water tight receptacle which receives the discharge of untreated sewage and is designed and constructed so as to retain solids, digest organic matter through a period of detention, and allows the treated liquids to discharge into an external leaching field.

(v) “Sewage treatment plant” or “sewerage system” shall mean any arrangement of devices and structures used for treating or conveying sewage.

(w) “Sewers” shall mean a pipe or conduit for carrying sewage.

(x) “Slug” shall mean any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than five minutes more than 5 times the average twenty-four hour concentration of flows during normal operation.

(y) “Standard methods” shall mean the examination and analytical procedures set forth in the latest edition at the time of analysis of Standard Methods for the Examination of Water and Sewers as prepared, approved and published jointly by the American Public Health Association, the American Water Works Association, and the Water Pollution Control Federation.

(z) “Suspended solids” shall mean solids that either float on the surface or, are in suspension in water, sewage, or other liquids, and which are removable by laboratory filtering techniques.

(aa) “U.S. EPA” is the United States Environmental Protection Agency.

(bb) “Waste, sewage or wastewater” shall mean a combination of the water carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and storm waters as may be present.

Modified, 1 CMC § 3806(e), (f), (g).


Commission Comment: In subsection (o), the Commission moved the commas after “privy” and “latrine” inside of the closing quotation marks to correct manifest errors.
The 1990 amendments proposed to add new definitions of “discharge conditions” and “pro-rata marginal cost.” A notice of adoption for the 1990 proposed amendments was never published, and, therefore, the Commission has not incorporated the proposed changes.

**Part 100 - Building Sewers and Connections**

§ 50-20-101 Unauthorized Connections Prohibited

No unauthorized person shall uncover, make any connections with or opening into, use, alter, disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Chief Engineer.


Commission Comment: The Commission created the section titles in part 100.

Commission Comment: The 1990 amendments proposed to amend § 50-20-101 and add two new sections to this part. See 12 Com. Reg. at 6778 (Jan. 15, 1990). A notice of adoption for the 1990 proposed amendments was never published and, therefore, the Commission has not incorporated the proposed changes.

§ 50-20-102 Permit Application

The owner of a residential building or commercial establishment or his authorized agent shall make application for a sewer connection permit on a form furnished by the CUC. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the Chief Engineer. A permit and inspection fee for a residential or commercial building sewer permit shall be paid to the CUC after the time of the application. The permit fee shall be initially set at $15.00 and the inspection fee at $50.00/hour. Inspections may be charged at portions of the hourly rate.


§ 50-20-104 Installation Costs Paid by Applicant

All costs and expenses incident to the installation and connection of the building sewer to the public sewer shall be born by the permit applicant. The applicant shall indemnify the CUC for and hold harmless from any loss or damage that may directly or indirectly be caused by the installation and connection of the building sewer.

Title 50 Commonwealth Utilities Corporation

Commission Comment: A notice of adoption for the 1990 proposed amendments was never published and, therefore, the Commission has not incorporated the proposed changes.

§ 50-20-106 Separate Sewers for Each Building

A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered* as one building sewer.

*So in original; probably should be “considered.”


§ 50-20-108 Use of Existing Building Sewers

Existing building sewers may be used in connection with new buildings only when they are found, on examination and tested by the Chief Engineer or his designated representative, to meet all requirements of this chapter.

Modified, 1 CMC § 3806(d).


§ 50-20-110 Standards Applicable to Building Sewers

The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench, shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the CNMI. In the absence of the code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the American Society for Testing Materials (ASTM) shall apply.


§ 50-20-112 Elevation of Building Sewer

Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.
§ 50-20-114  Connection to Surface or Groundwater Runoff Prohibited

No person shall make connection of roof downspouts, exterior foundation drains, or any drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.


§ 50-20-116  Standards for Connection into Public Sewer

The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the CNMI. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the Chief Engineer before installation.


§ 50-20-118  Connection Supervised

The applicant for the sewer connection permit shall notify the CUC when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the Chief Engineer or his designated representative. The Chief Engineer’s time is not to be considered as part of the inspection, except in those instances when he is specifically requested by the Executive Director of the CUC to make an inspection.


§ 50-20-120  Excavations

All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored to the previous condition in a manner satisfactory to the CUC.


§ 50-20-122  Public Sewer Availability
The public sewer shall be considered available for hook-up to a particular building when the public sewer has been constructed in a roadway, street or easement abutting the lot on which the building is located. A single family residence or duplex shall not be required to connect to the public sewer if the horizontal distance from the available sewer to the nearest point of the residence is equal to or greater than 200 linear feet. The vertical alignment for hookup to the available sewer shall not be more than twenty feet above the lowest floor level of a single family residence or duplex of more than fifty feet above the lowest floor level of any other structure.

Modified, 1 CMC § 3806(e).


§ 50-20-124 When Connection to Public Sewer Required

Connection to an available public sewer is required in the following situations:

(a) All new construction.

(b) Existing buildings which are remodeled or extended when;
   (1) An increase in sewage flow is anticipated as a result of the construction, or;
   (2) Whenever improvements to the structure will increase the enclosed-floor area by more than 20%.

(c) Any building served with piped water and existing at the time a public sewer first becomes available and being served only by seepage pits or privy facilities. Any such buildings must be provided with such installation and connection within six months after the public sewer becomes available.

(d) Any building existing at the time a public sewer first becomes available and being served by a septic tank and leaching field, provided however, if the septic tank and leaching field are entirely adequate and without defect any such buildings may continue to be served by such existing facilities for a maximum period of three years upon the following conditions:
   (1) No repairs, replacements or additions of or to such facilities will be permitted.
   (2) Whenever any such facility becomes defective or inadequate, connection to the public sewer must be made within thirty days after notice given by the Chief Engineer, who may, however, upon application, extend the time to not more than six months if he finds that the defect or inadequacy is not hazardous to health.
   (3) Whenever a public sewer becomes available, the Chief Engineer, as soon as possible, shall make or cause to be made an inspection of all septic tank facilities on lands abutting the road, street, or other way or easement in which such public sewer is located and shall promptly notify the persons concerned of his determination as to which such facilities may continue to be used pursuant to the provisions of this section.
   (4) Not withstanding any other provision of this section in situations within the areas desired for groundwater protection and where the density of septic tank facilities exceeds four septic tank and leaching systems per acre and public sewer is available, in order to protect the groundwater,
the Chief Engineer may in his discretion require building owners to connect to public sewer within six months of being served proper notice.

Modified, 1 CMC § 3806(d), (e), (f).


§ 50-20-126  Information Required Prior to Connection

Prior to connection to a public sewer the applicant must provide information concerning lot location, proposed sewer connection point and method of connection. If there is a question concerning ability to connect by gravity a profile of the proposed sewer is required.


§ 50-20-128  Existing Outlets Used for Connection

During construction of the public sewage collection system, stubouts, or wye branches, shall have been installed so as to serve most existing buildings. Whenever possible, these outlets shall be used when connecting to the public sewer. The location of the sewer line and stubout shall be included in the civil engineering drawings for the project. Where no outlet has been provided, or where the outlet location is such that it cannot be utilized, permission shall be obtained from the CUC to cut the line and make the necessary connection. All connections to the public sewer must be inspected by the Chief Engineer or his delegated representative, prior to backfilling, to assure compliance with this chapter.

Modified, 1 CMC § 3806(d).


§ 50-20-130  Procedure for Cutting Sewer Line

When it becomes necessary to cut the sewer line to make a connection, one of the following procedures shall be used:

(a) A short section of the sewer line shall be removed and a wye branch fitting installed with a repair coupling and rubber gasket couplings or clamps.

(b) A hole, equal in size to the service line, shall be carefully cut in the upper portion of the sewer line and the service line installed therein. Some means, such as a tapping saddle or other approved device, shall be used to prevent the service line extending into the main sewer where it will interfere with flow or prevent the use of sewer cleaning tools. After installation of the service connection, the entire joint shall be encased with a minimum of six inches thickness of
concrete for a distance of twelve inches on each side of the connection. Concrete encasement shall extend completely around the main sewer line.

Modified, 1 CMC § 3806(e).


§ 50-20-132 Sewer Connections to Manholes

Service connections shall not be made to manholes unless no other method of connection is feasible. Prior to making connection of a service line to a sewer manhole, construction drawings shall be submitted and the approval of the Chief Engineer must be obtained.


§ 50-20-134 Location of House Connections

(a) House connections shall be provided in the number and location so as to provide a single service line to each developable lot in a subdivision or recognized village area.

(b) Unless otherwise approved or directed, house connections shall be installed at the time of construction of the lateral, branch or trunk sewer.

(c) House connections passing over water mains shall be reviewed and approved by the Chief Engineer.

(d) Final locations shall be adjusted in the field as necessary to best serve existing and future houses.

(e) Ends of all house connections shall have approved plugs until the building sewers are installed and accepted by the Chief Engineer.


§ 50-20-136 Cover of House Sewer

House connections shall have a minimum cover of 3 feet within street rights of way. Within the boundaries of the owners property it is recommended that a minimum cover of one foot six inches be maintained.

§ 50-20-138  Size of House Connections

House connections shall be 6 inches minimum diameter pipe.


§ 50-20-140  Slope of House Connections

(a)  House sewer shall have a minimum slope to the main sewer of 1/4 inch per foot, except that slope may be reduced to an extreme minimum of 1/8 inch per foot where house elevations necessitate such flatter grades only with a written approval from the Chief Engineer. Slopes greater than the minimums shall be used in so far as practicable.

(b)  When connected to deep sewers, house connections shall terminate not more than 4 feet below the existing ground surface unless the future building sewer will require a greater depth.

Modified, 1 CMC § 3806(g).


Commission Comment: In subsection (a), the Commission changed “only an written” to “only with a written” to correct a manifest error.

§ 50-20-142  Type, Class of House Connections

House connections shall be of a material approved by the Chief Engineer. Standard engineering practices shall be followed in selecting the material of choice for a particular application.

Modified, 1 CMC § 3806(g).


Commission Comment: The Commission inserted the word “in” before “selecting” to correct a manifest error.

§ 50-20-144  Location of Building Sewers

(a)  Building sewers normally are privately installed and connect the waste plumbing of a building to its respective house connection.

(b)  Connections shall be inspected and approved by the Chief Engineer before backfilling.

§ 50-20-146 Cover of Building Sewers

Unless otherwise approved minimum cover shall be 18 inches on the owners property.


§ 50-20-148 Size of Building Sewers

Building sewers shall be 4 inches minimum diameter with a maximum diameter to be determined from accepted design guidelines by the Chief Engineer as necessary.


§ 50-20-150 Slope of Building Sewers

Slopes shall be as specified under § 50-20-140 for house connections.

Modified, 1 CMC § 3806(c).


§ 50-20-152 Connections of Building Sewers

Connections to house connections or mains shall conform to the detail drawings of these standards.

NOTE: IF SEWER SERVICE IS STUBBED OUT FROM HOUSE, CONNECTION THERETO SHALL BE MADE BY CONTRACTOR.
NOTE: IF SEWER SERVICE IS STUBBED OUT FROM HOUSE, CONNECTION THERETO SHALL BE MADE BY CONTRACTOR.


Part 200 - Discharge of Liquid Wastes into Public Sewers

§ 50-20-201 Discharge of Certain Substances Prohibited

No persons shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely in the opinion of the Chief Engineer that such wastes can harm either the sewer, sewage treatment process, or equipment, would increase the operating costs substantially, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming his opinion as to the acceptability of these wastes, the Chief Engineer will give consideration to such factors as the quantities of subject wastes in relation to flow and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The substances prohibited are:

(a) Any stormwater, surface water, ground water, roof runoff, subsurface drainage.

(b) Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.

(c) Any waters or waste containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance or create any hazard in the receiving waters of the sewage treatment plant. This includes, but is not limited to, phenols, cyanides, iron, chromium, copper, zinc, heavy metals, and any objectionable or toxic substances.

(d) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, improperly ground and unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, grease, etc. either whole or ground by garbage grinders.

(e) Any noxious or malodorous gas, which singly, or in combination with other substances, may create a nuisance or hazard to life or interfere with the operation of the sewer or which may cause a violation to any discharge permit after treatment of the composite sewage, to meet the requirements of the U.S. Environmental Protection Agency for effluent discharge to the receiving waters.
(f) Any radioactive wastes or isotopes of such half life or concentration as may exceed limits established by the DEQ or by other local or federal agencies with appropriate authority.

(g) Any liquid or vapor having a temperature higher than 140°F.

(h) Any liquid or waste containing more than 100 parts per million by weight, of fat, oil or grease or containing any fat, oil, grease or other substances that will become solidified or visibly viscous at temperatures between 50°F and 140°F.

(i) Any liquid or waste containing emulsified fat, oil or grease exceeding 50 parts per million of ether-soluble matter.

(j) Any waters or wastes having a pH lower than 5.5 or having any other corrosive properties capable of causing damage or hazards to structures, equipment, and personnel in sewage works.

(k) Any wastes or waters having a pH in excess of 9.5.

(l) Any liquid or wastes containing more than 350 parts per million, by weight, of suspended solids and/or more than 350 parts per million, by weight, of biochemical oxygen demand.

(m) Materials or equipment which exert or cause:
  (1) Excessive discoloration
  (2) Unusual volume of flow or concentration of wastes constituting “slugs.”

(n) Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or any amenable to treatment only to such degree that the sewage treatment effluent cannot meet the requirements imposed by any Commonwealth or federal regulations.

Modified, 1 CMC § 3806(f).


Commission Comment: The Commission created the section titles in part 200.

The 1990 amendments proposed to add two new sections to this part. See 12 Com. Reg. at 6779 (Jan. 15, 1990). A notice of adoption for the 1990 proposed amendments was never published and, therefore, the Commission has not incorporated the proposed changes.

§ 50-20-205 Control of Discharge of Certain Wastes

(a) If any waters or wastes are discharged, or any proposed to be discharged to the public sewers, which contain the substances or possess the characteristics enumerated in § 50-20-201, and which in the judgment of the Chief Engineer, may have a deleterious effect upon the sewage
works, processes, equipment, costs, or on receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Chief Engineer may:

(1) Reject the wastes,
(2) Require pretreatment to an acceptable condition for discharge to the public sewers,
(3) Require control over the quantities and rates of discharge, and/or,
(4) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges.

(b) If the CUC permits the pretreatment or equalization of waste flows, the costs of the design and installation of the plants and equipment shall be borne by the owner and subject to the review and approval of the CUC, and subject to the requirements of all applicable codes, ordinances, and laws. If wastes are discharged to the public sewers by pumping, the maximum capacity of the pumping station shall be not greater than five times the average twenty four hour flow during normal operation.

Modified, 1 CMC § 3806(c), (e).


Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) and (b).

§ 50-20-210 Food Preparation Businesses

Grease, oil, and sand interceptors shall be provided for all food preparation businesses when, in the opinion of the Chief Engineer, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Chief Engineer, and shall be located as to be readily and easily accessible for cleaning and inspection.


§ 50-20-215 Preliminary Treatment for Wastes

Where preliminary treatment of flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

Modified, 1 CMC § 3806(g).

Commission Comment: The Commission corrected the spelling of “continuously.”

§ 50-20-220  Industrial Wastes

The owner of a facility disposing of industrial wastes must have an industrial wastewater discharge permit from the CNMI, Division of Environmental Quality or other appropriate agencies as required. When required by the CUC, the owner of any facility serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the CUC. The manhole shall be maintained by the owner so as to be safe and accessible at all times.


§ 50-20-225  Measurements, Tests and Analyses

All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of “Standard Methods for Examination of Water and Wastewater” and shall be determined at the control manhole. Sampling and analysis shall be carried out by any U.S. EPA certified laboratory, by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb and property. Sampling and analysis for the benefit or information of the owner shall be paid by the owner to the laboratory according to laboratory’s fee schedule for the services rendered.

Modified, 1 CMC § 3806(d).


§ 50-20-230  No Agreement to Accept Industrial Waste Intended

No statement contained in this part shall be construed as preventing any special agreement or arrangement between the CUC and any industrial concern whereby and industrial waste of unusual strength or character may be accepted by the CUC for treatment, subject to payment therefore, by the industrial concern.

Modified, 1 CMC § 3806(d).


Part 300 - Sewer Standards
§ 50-20-301 Location

(a) Sewers constructed along major highways shall be constructed along the street shoulders, in the public right-of-way so far as practicable. Where the choice exists they shall be located on the opposite side from the water lines.

(b) The practice of constructing sewers along rear lot lines in narrow utility easements is not encouraged because of future restrictions on access for inspection, maintenance, and repair.

(c) Sewers shall be constructed only with straight alignment and grade unless otherwise approved in writing by the Chief Engineer. In no case will the use of curved sewers be considered for approval unless the minimum requirements set forth in § 50-20-350 are satisfied.

(d) Sewers constructed in easements shall be provided with continuous coral access roads unless otherwise approved by the Chief Engineer.

(e) Where sewers cross storm drains, waterlines, telephone and electric ducts, or similar installations, a minimum of 6 inches of clearance shall be provided between the sewer and other installation. Further requirements for water crossings are set forth under § 50-20-330.

(f) Where sewers are laid parallel to and above or less than 12 inches below water mains a minimum horizontal separation of not less than 10 feet shall be maintained unless otherwise approved by the Chief Engineer.

(g) Depressed sewers or inverted siphons shall be prohibited unless in the judgement of the Chief Engineer no feasible alternative exists.

Modified, 1 CMC § 3806(c), (g).


§ 50-20-305 Cover

(a) Invert grades of sewers shall
   (1) Provide for a minimum cover of 3 feet over the top of the pipe;
   (2) Provide adequate protection from construction activities of properties on either side of the street; and
   (3) Provide adequate depth for future extension maintaining compliance with subsections (a)(1) and (2) above.

(b) Warning tape shall be installed at least 18 inches directly above all sewers. The tape shall be plastic embossed sewer tape stating “Caution-Sewer Line Below,” made by a company regularly engaged in making such warning tape.

Modified, 1 CMC § 3806(d), (g).
§ 50-20-310 Size

(a) Sewers shall be sized for the ultimate development of the project area. A design life of 20 years shall be standard unless otherwise approved.

(b) Per capita allowance for average sewage flows for sewer design purposes shall be not less than 80 gallons per capita per day. In addition appropriate allowances shall be made for commercial and industrial flows based upon existing and proposed land use (not less than 4000 gallons per acre per day, average). In low coastal and wet areas an additional allowance of 2000 gallons per acre per day, peak, shall be made for unavoidable infiltration.

(c) Sewers greater than minimum size shall be designed at flowing full for peak rates of flow. For populations of 1000 persons or less the design peak flow shall be not less than 2.5 times the average sewage flow computed above plus the peak infiltration flow. As the design population increases downstream sections of sewer may be designed using reduced peaking factors in accordance with the following table:

<table>
<thead>
<tr>
<th>U-stream Design Population</th>
<th>Peaking Factor</th>
</tr>
</thead>
<tbody>
<tr>
<td>1,000 or less</td>
<td>2.5</td>
</tr>
<tr>
<td>2,000</td>
<td>2.5</td>
</tr>
<tr>
<td>3,000</td>
<td>2.4</td>
</tr>
<tr>
<td>4,000</td>
<td>2.3</td>
</tr>
<tr>
<td>5,000</td>
<td>2.2</td>
</tr>
<tr>
<td>10,000</td>
<td>2.0</td>
</tr>
<tr>
<td>25,000</td>
<td>1.5</td>
</tr>
</tbody>
</table>

(d) A minimum sewer size of 6 inches diameter may be use in the upper reaches of lateral sewers providing the following conditions are met:
(1) The line will not be extended in the future.
(2) The use of 6 inch pipe is limited to connections between the upper 3 manholes, that is the connections between the third and fourth and succeeding manholes proceeding downstream will have a minimum size of 8 inches diameter.

(e) Sewers, 18 inches diameter and smaller, shall be designed using a Manning’s roughness factor supplied by the manufacturer of the pipe.

Modified, 1 CMC § 3806(g).
§ 50-20-315 Slope

Minimum sewer invert slopes used for design shall be determined by proper engineering design and approved by the Chief Engineer.


§ 50-20-320 Type; Class

(a) Unless otherwise specified or approved by the Chief Engineer, sewers 18 inches diameter and smaller shall be PVC pipe. Materials approved shall conform to proper ASTM specification and as approved by Chief Engineer.

(b) Sewers of larger diameter shall be as approved by the Chief Engineer.


§ 50-20-325 Concrete Cradle or Encasement

(a) When required, concrete cradles or encasements shall be provided to strengthen pipe beddings and/or reduce probability of pipe failure and/or when drinking water contamination or other serious pollution is possible.

(b) Minimum concrete cover on pipe shall be not less than 6 inches. Concrete shall be 2500 psi minimum strength.

(c) Concrete cradles or encasements design shall be of a design approved by the Chief Engineer.


§ 50-20-330 Water Crossings

Sewers crossing over water pipes or less than 12 inches below water pipe (clear separation) shall be encased in a manner approved by the Chief Engineer.


§ 50-20-335 Stream Crossings
(a) Sewers crossing under a stream bed constituting a potential hazard to the sewer shall be encased and necessary measures shall be taken to protect the stream embankment at the points of crossing.

(b) Sewer pipe designed to remain exposed shall be protected from the elements and sufficiently strong to withstand design loads.


§ 50-20-340 Stubs

Stubs, suitably capped or plugged, shall be provided in manholes where future extensions or connections are anticipated.


§ 50-20-345 Corrosion Protection

All asbestos cement sewers 10 inches diameter and larger shall have an approved epoxy lining, shall be highly resistant to acids, salts and alkali.


§ 50-20-350 Curved Sewers

Under most circumstances curved sewers will not be allowed; however, when, in the opinion of the Chief Engineer, it is not feasible to maintain sewers in straight alignment curved sewers may be approved in accordance in current Water Pollution Control Federation, (WPCF) recommendations.


§ 50-20-355 Location of Cleanouts

Cleanouts may be used in place of manholes for temporary sewers, on house connections for changes in direction, at ends of building sewers, force mains and elsewhere as required by the Chief Engineer.


§ 50-20-360 Type of Cleanouts
(a) Unless otherwise approved, cleanouts shall be constructed of cast iron, or PVC pipe with a removable threaded plug conforming to details set forth in these standards.

(b) Pipe diameter shall be equal in size to the sewer.
DETAIL OF CONCRETE JACKET

FOR PIPES 12" AND SMALLER

Scale: 3/4" = 1'-0"

NOTE:
Permission is to be secured from property owner before construction at property line is started.

DETAIL AT PROPERTY LINE
AND AT MAIN LINE

CUC STANDARD DETAILS
SEWER LATERALS

S-3
STANDARD MANHOLE DETAIL

<table>
<thead>
<tr>
<th>CUC STANDARD DETAILS</th>
<th>STANDARD MANHOLE</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>S-5</td>
</tr>
</tbody>
</table>
SHALLOW MANHOLE DETAIL

CUC STANDARD DETAILS  SHALLOW MANHOLE  S-6
THE LOWER 90° ARC OF THE BRACKET OF THE PIPE SHOULD BE IN FIRM CONTACT WITH UNDISTURBED EARTH AND SMALL EXCAVATIONS SHOULD BE MADE FOR THE BELLS.

ALL TRENCH BACKFILL SHALL BE COMPACTED AS STATED IN SPECIFICATIONS.

CONCRETE ENCASEMENT # 2000 TEST
Part 400 - Sewer Service Charges

§ 50-20-401 All Customers Pay Charge

All customers who are connected directly or indirectly to the public sewer system as defined in § 50-20-015(r), shall pay a sewer service charge in accordance with the category of their rate schedule as adopted by the CUC.

Modified, 1 CMC § 3806(c), (g).


Commission Comment: The Commission created the section titles in part 400.

This section originally cross-referenced “Article 1, Section 15” in error. See 8 Com. Reg. at 4793 (Nov. 17, 1986). Article 1, section 15, codified at § 50-20-015(o), defines the term “privy.” The Commission corrected the citation so that it cross-references the definition of “public sewer.”

§ 50-20-405 Customer Classes

Separate sewer service charge schedules have been adopted for “residential” and “non-residential” customers because of differences in strength characteristics and the differences in relationship between water usage and wastewater discharge quantity for each class of customer.

(a) “Residential” customers have been defined to include only the following:
   (1) Single family dwellings
   (2) Duplexes
   (3) Apartment buildings.

(b) “Non-residential” customers have been defined to include all industrial, commercial, agricultural, governmental and miscellaneous services, plus the following which have been specifically excluded from the above definition (a) “residential” customers:
   (1) Barracks used for housing laborers
   (2) Hotels
   (3) Restaurants with attached living quarters
   (4) These structures are used primarily for nonresidential purposes, although containing residential dwelling units.

Modified, 1 CMC § 3806(c), (f), (g).

Commission Comment: The notice of adoption for the 1987 Public Sewer Use Regulations stated:

Some minor changes were made on the proposed regulations. They are:

1. Use Changes

The classification of “Residential” customers and “Non-residential” customers was eliminated. The minimum charge of $5.00 per month was reduced to $3.00 per billing cycle.


In subsection (a)(3), the Commission inserted the final period.

§ 50-20-410 Rates and Charges

(a) Use Charges
(1) Residential customers shall be charged:
   (i) A sewer service charge of $3.00 per billing cycle/per unit for the first 5,000 gallons of metered or estimated water consumed.
   (ii) When the metered or estimated water consumption is in excess of 5,000 gallons per month, the excess amount shall be charged at $0.50 per each additional 1,000 gallons of part thereof.
(2) Non-residential customers shall be charged $0.50 per 1,000 gallons of metered water consumed for the first 10,000 gallons of metered water consumed. Consumption in excess of 10,000 gallons per month shall be charged $0.50 per 1,000 gallons of metered water consumed.

(b) Connection Fees
(1) There shall be no connection fee for single family dwelling and duplexes.
(2) All other customers shall pay a one time connection fee prior to connecting to a public sewer, in any case prior to the time of notification required under § 50-20-118. The fee will be calculated according to the following rates based on sewer discharge estimates for each customer as determined by the Chief Engineer:
   (i) Customers with estimated flows of 5,000 gallons per month or less - $200.00.
   (ii) Customers with estimated flows greater than 5,000 gallon per month - $.04 per gallon for the first 25,000 gallons per month; and - $.06 per gallon over and above the first 25,000 gallons per month.
(3) The connection fees set forth in this section shall apply to all connections made after the effective date of these regulations.

(c) Deposit for Monthly Service Charge
(1) All customers shall pay a deposit, equal to two months estimated monthly service charges prior to the time of notification by the applicant to the CUC that the building sewer is ready for inspection and connection as called for in § 50-20-118.
(2) The current customers as of the effective date of this chapter, shall be billed each month 20% of the estimated deposit, in addition to the regular monthly billing for five months.
(3) The deposited amount will be credited to the customer in his final bill.

Modified, 1 CMC § 3806(c), (d), (e), (f).


Commission Comment: The notice of adoption for the 1987 Public Sewer Use Regulations stated:

Some minor changes were made on the proposed regulations. They are:

1. Use Changes
   The classification of “Residential” customers and “Non-residential” customers was eliminated. The minimum charge of $5.00 per month was reduced to $3.00 per billing cycle.

2. Deposits for Monthly Service Charges
   The mandatory requirement that all customers should pay a deposit was modified to a discretionary requirement.

9 Com. Reg. at 4908 (Feb. 17, 1987). In subsection (a)(1)(i), the Commission changed $5.00 to $3.00 to conform with the notice of adoption. Because the intent of the other changes is unclear, the Commission otherwise left the provisions of this section as proposed.

The 1990 amendments proposed to amend subsections (a), (b)(1) and (b)(2). A notice of adoption for the 1990 proposed amendments was never published and, therefore, the Commission has not incorporated the proposed changes.

The 1993 amendments proposed new sewer rates for residential, commercial and government consumer classes. See 14 Com. Reg. at 9385 (July 15, 1992). The notice of the adoption published on February 15, 1993 stated:

After considering the comments received, the following sewer rates are adopted:

<table>
<thead>
<tr>
<th>Consumer Class</th>
<th>Cost of Total Gallons Consumed</th>
</tr>
</thead>
</table>

Government $0.0300

The above rate increase shall be effective retroactively to October 1, 1992.


The 2005 emergency and proposed amendments proposed to repeal and replace subsection (c)(3) in its entirety. As of December 2005, a notice of adoption had not been published and therefore the Commission has not incorporated the proposed changes.

§ 50-20-415 Measurement of Wastewater Quantity

(a) Dischargers into the public sewer which use in whole or in part private wells or other private water sources will be required to install, at their own expense, water meters approved by the CUC for measuring the supplemental water quantity or, alternatively, they will be required to install, at their own expense and at the appropriation location, a calibrated flume, weir, flow meter or similar device approved by the CUC for measuring wastewater quantity. A flow recording and totalizing register will also be required, and measurements to verify the quantities of waste flows will be performed on a random basis by the Chief Engineer.

(b) Because of landscape irrigation or consumptive usage, some non-residential users may discharge substantially less than 80 percent of their metered water usage to the sanitary sewer system. Those users may, upon request to the CUC by permitted to have the amount of water being discharged to the sewer determined by one of the methods listed below. The specific method to be used will be selected by the CUC or based on considerations of cost of installation and anticipated accuracy of the method.

(1) Method 1. The user shall install and maintain at the user’s expense a calibrated flume, weir, flow meter or similar device approved by the Chief Engineer as to type and location to measure the user’s wastewater discharge. In the latter case, a flow meter and totalizing register will be required and measurements to verify the quantity of wastewater flow will be performed on a random basis by the CUC. The facility owner shall install at his expense a suitable vault for installing the flow meter. The vault shall be located on the user’s sewer lateral or building sewer at a location approved by the Chief Engineer, and the CNMI shall be granted access rights.

(2) Method 2. The user shall install and maintain at the user’s expense a water meter for submetering the water discharging to the public sewer. The property owner shall at his expense do any necessary plumbing subject to CUC inspection to separate the types of water use and provide for the meter to be located adjacent to the primary water meter and within the public right-of-way.

(3) Method 3. If the Chief Engineer determines that it is impractical for a user to employ method 1 or 2 as a result of physical difficulty or excessive cost, he may permit the user to estimate the amount of wastewater reasonably anticipated to be discharged to the public sewer. The user’s estimate may be based upon average historical water use during wet weather periods or upon any other reasonable basis, and may be based upon flow meter tests if practical. The Chief Engineer shall review the data submitted by the user and may modify the user’s estimate, where appropriate. The decision of the CUC shall be final if method 3 is utilized. If a user is not satisfied with the determination under method 3, he shall have the right to require at his expense
utilization of method 1 or 2 for determination of the amount of wastewater discharged to the public sewer.

Modified, 1 CMC § 3806(f).


§ 50-20-420 Discharge of Septic Tank or Seepage Pit Wastes

(a) Discharging of septic tank or seepage pit liquid wastes into the public sewerage system by a private citizen or business or public institutions including the government agencies shall be assessed a fee according to the following rate:
$25.00 per thousand gallons of waste.

(b) Payment shall be made before the discharging occurs in the case of a private citizen or on a monthly basis in the cases of businesses engaged in this service or the public institutions, who will be required to pay in advance an estimated amount for one month. The Chief Engineer or his designee shall verify the dumping by examination of the customer receipts and periodic spot check in.

Modified, 1 CMC § 3806(f).


Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) and (b).

The 1992 amendments amended subsection (a).

§ 50-20-425 Bills Due upon Mailing; Late Charge

All bills shall be due and payable upon deposit in the United States mail or upon other presentation to the consumer. Payment shall be made to collectors duly authorized by the CUC any bill which is not paid within fifteen days after presentation or deposit in the United States mail shall be deemed past due, and incur a one percent charge. This charge becomes part of the balance due. Thereafter, interest on the past due balance accrues at the rate of one percent per month, compounded yearly.

Modified, 1 CMC § 3806(e).

Commission Comment: This section was revoked and replaced by CUC’s Customer Billing and Disputes Regulations § 6(C)(1), codified at NMIAC § 50-40-215(a). See 24 Com. Reg. at 19023-24 (Feb. 28, 2002).

§ 50-20-430 Payments to CUC Sewer Services Account

All the payments including the permit fee inspection fee, connection fee, deposit and sewer service charges should be made into the sewer services account of CUC.


§ 50-20-435 Fees for Dishonored Checks

A service fee for handling a dishonored check may be made in accordance with fees established by the CUC.


Part 500 - Enforcement Authority

§ 50-20-501 Termination of Service; Disputes

(a) CUC shall have the power to terminate water service to any customer who is past due in making payment of sewer service charges. The procedures for notice and governing termination shall be those set forth in the Electric Service Regulations of the CUC at NMIAC § 50-10-1520 to § 50-10-1540.

(b) When a customer and the CUC fail to agree on the amount of a bill for sewer service, the dispute between the parties shall be adjudicated in accordance with the Customer Billing and Disputes Regulations [NMIAC, title 50, chapter 40].

(c) Should it be necessary to bring an action in court to collect any amount due or to appear in court to defend or enforce any order issued pursuant to this chapter, CUC shall if it prevails receive its reasonable costs and attorney’s fees.

Modified, 1 CMC § 3806(c), (d), (f), (g).


Commission Comment: The Commission created the section titles in part 500.
This section was revoked and replaced by CUC’s Customer Billing and Disputes Regulations § 6(C)(2), codified at NMIAC § 50-40-215(b). See 24 Com. Reg. at 19024 (Feb. 28, 2002).

In subsection (c), the Commission changed “fee’s” to “fees” to correct a manifest error.

§ 50-20-505 Enforcement Orders

The Chief Engineer shall have the power to issue any necessary order to enforce this chapter and any terms of a permit granted pursuant to this chapter.

Modified, 1 CMC § 3806(d).


§ 50-20-510 Civil Penalties

Any person who fails to comply with any prohibition of this chapter or any orders issued under this chapter, after notice of the failure and the expiration of a reasonable period for corrective action, shall be liable for a civil penalty of not more than $1,000 for each day of the continuance of such failure.

Modified, 1 CMC § 3806(d).


§ 50-20-515 Hearing Before the CUC Board

No penalty shall be assessed pursuant to § 50-20-510 until the person charged with a violation has been given an opportunity for a hearing before the CUC Board for that purpose.

Modified, 1 CMC § 3806(c).


Part 600 - Miscellaneous Provisions

§ 50-20-601 Conflict with Septic Tank Regulations

If a conflict arises between the application of this chapter and the Individual Wastewater Disposal System Rules and Regulations [NMIAC, title 65, chapter 120] promulgated by the Department of Public Health and Environmental Services, the Chief Engineer shall meet with the Chief of the Division of Environmental Quality (“DEQ”) to resolve the conflict. If the Chief of
DEQ determines that the public health and safety may be endangered, the decision of the Chief of DEQ as to the application of the regulations shall prevail.

Modified, 1 CMC § 3806(d), (f).


§ 50-20-605 Severability

Should any section, paragraph, sentence, clause, phrase, or application of the rules and regulations in this chapter be declared unconstitutional or invalid for any reason by competent authority, the remainder or any other application of these rules and regulations shall not be affected in any way thereby.

Modified, 1 CMC § 3806(d).


§ 50-20-610 Effective Date

The effective date shall be immediately upon compliance with the applicable provisions of 1 CMC § 9105.


CHAPTER 50-30
WATER SERVICES DIVISION; WATER SERVICES REGULATIONS

Part 001 General Provisions
§ 50-30-001 Authority
§ 50-30-005 Purpose
§ 50-30-010 Applicability
§ 50-30-015 Definitions
§ 50-30-020 Existing Rules and Regulations

Part 100 General Conditions
§ 50-30-101 Prospective Customers
§ 50-30-105 Main Extension or Substantial Investment Required
§ 50-30-110 Meters; Rates
§ 50-30-115 Service Connections Are Property of CUC
§ 50-30-120 CUC Not Liable for Interruption
§ 50-30-125 Special Conservation Measures

Part 200 Application for Water Service and Service Connection
§ 50-30-201 Application Required for Service
§ 50-30-205 Payment Required for Water Service
§ 50-30-210 Outstanding CUC Bills
§ 50-30-215 Use of Existing Service at Property
§ 50-30-220 Guarantee Deposit
§ 50-30-225  Amount of Deposit
§ 50-30-230  Refund upon Discontinuance of Service

Part 300  Installation of Water Service Connections
§ 50-30-301  Installation
§ 50-30-305  Installation Charge
§ 50-30-310  Customer’s Pipe
§ 50-30-315  Connection to Main
§ 50-30-320  Location of Service Connection or Main
§ 50-30-325  Location of Meters
§ 50-30-330  Change in Location or Size of Service Connection
§ 50-30-335  Alteration to CUC Water System
§ 50-30-340  Contours or Elevation
§ 50-30-345  Size of Meter and Service Connection
§ 50-30-350  One Water Service Supplying Multiple Structures
§ 50-30-355  Water Service to Undeveloped Areas
§ 50-30-360  Damage to CUC’s Property

Part 400  Meter Reading and Rending of Bills
§ 50-30-401  Meter Readings
§ 50-30-405  Closing Bills
§ 50-30-410  Each Metered Read Separately
§ 50-30-415  Estimated Bills

Part 500  Payment of Bills
§ 50-30-501  Bills Due upon Mailing
§ 50-30-505  Past Due Bills
§ 50-30-510  Joint Applicants Liability for Bills
§ 50-30-515  Failure to Receive Bill; Account Due

Part 600  Meter Tests and Adjustment of Bills
§ 50-30-601  Meter Tests
§ 50-30-605  Adjustment of Bills for Meter Inaccuracy
§ 50-30-610  Failure to Register
§ 50-30-615  Allowances

Part 700  Discontinuation of Water Service
§ 50-30-701  Discontinuation of Water Service
§ 50-30-705  Non-payment of Bills
§ 50-30-710  Non-compliance with CUC’s Regulations

§ 50-30-715  Customer about to Vacate Premises
§ 50-30-720  Unauthorized Use of Water
§ 50-30-725  Wasteful Use of Water
§ 50-30-730  Service Detrimental to Others
§ 50-30-735  Fraud
§ 50-30-740  Restoration of Service

Part 800  Schedule of Rates and Charges
§ 50-30-801  Current Rates and Charges
§ 50-30-805  Guarantee Deposit
§ 50-30-810  Installation Charge
§ 50-30-815  Water Rates
§ 50-30-820  Procedure for Establishing New Rate Structures

Part 900  CUC Equipment on Customer’s Premises
§ 50-30-901  Equipment Belongs to CUC
§ 50-30-905  Persons Liable for Damage
§ 50-30-910  Customer Liable for Damage on Property
§ 50-30-915  Obstructions
§ 50-30-920  CUC’s Right of Access

Part 1000  Responsibility for Customer’s Equipment
§ 50-30-1001  CUC Not Liable for Damage
§ 50-30-1005  Objectionable Fixtures
§ 50-30-1010  Damage Caused by Open Equipment
§ 50-30-1015  Pressure Relief Valves
§ 50-30-1020  Noises from Pipes

Part 1100  Electrical Grounding
§ 50-30-1101  Protective Grounding of Alternating Current
§ 50-30-1105  No Grounding of Direct Current Systems
§ 50-30-1110  Use of Non-conductive Material

Part 1200  Customer’s Pumping Installation
§ 50-30-1201  Pumps to Main Not Permitted
§ 50-30-1205  Pumping System from Storage Tanks
§ 50-30-1210  Existing Customer Pumps
§ 50-30-1215  Approval for Storage Tank Construction

Part 1300  Cross-connection and Backflow Prevention
<table>
<thead>
<tr>
<th>Title of Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>§ 50-30-1301</td>
<td>Cross-connections Prohibited</td>
</tr>
<tr>
<td>§ 50-30-1305</td>
<td>Separate Pressure System</td>
</tr>
<tr>
<td>§ 50-30-1310</td>
<td>Location and Inspection of Protective Devices</td>
</tr>
<tr>
<td>§ 50-30-1315</td>
<td>Affidavit of Compliance</td>
</tr>
<tr>
<td>§ 50-30-1320</td>
<td>Discontinuance of Water Service for Non-compliance</td>
</tr>
<tr>
<td><strong>Part 1400</strong></td>
<td><strong>Use of and Damage to Fire Hydrants, Change in Hydrant Location</strong></td>
</tr>
<tr>
<td>§ 50-30-1401</td>
<td>Purpose of Fire Hydrants</td>
</tr>
<tr>
<td>§ 50-30-1405</td>
<td>Use of Fire Hydrant</td>
</tr>
<tr>
<td>§ 50-30-1410</td>
<td>Application for Permit</td>
</tr>
<tr>
<td>§ 50-30-1415</td>
<td>Hydrant Wrenches</td>
</tr>
<tr>
<td>§ 50-30-1420</td>
<td>Damage to Hydrant or Property</td>
</tr>
<tr>
<td>§ 50-30-1425</td>
<td>Change in Hydrant Location</td>
</tr>
<tr>
<td><strong>Part 1500</strong></td>
<td><strong>Subdivision Water System Regulations</strong></td>
</tr>
<tr>
<td>§ 50-30-1501</td>
<td>Availability of Water and Approval of Subdivision Map</td>
</tr>
<tr>
<td>§ 50-30-1505</td>
<td>Extension to Subdivision</td>
</tr>
<tr>
<td>§ 50-30-1510</td>
<td>Installations Within Subdivision</td>
</tr>
<tr>
<td>§ 50-30-1515</td>
<td>Mains, Hydrants in Subdivisions</td>
</tr>
<tr>
<td>§ 50-30-1520</td>
<td>Preparation and Approval of Plans, Elevation Agreement, Delays in Construction</td>
</tr>
<tr>
<td>§ 50-30-1525</td>
<td>Materials and Construction Standards; Installation of Water Service</td>
</tr>
<tr>
<td>§ 50-30-1530</td>
<td>Ownership of Installed Water System</td>
</tr>
<tr>
<td><strong>Part 1600</strong></td>
<td><strong>Miscellaneous Provisions</strong></td>
</tr>
<tr>
<td>§ 50-30-1601</td>
<td>Water Resources Conservation and Water Pollution</td>
</tr>
<tr>
<td>§ 50-30-1605</td>
<td>Severability</td>
</tr>
<tr>
<td>§ 50-30-1610</td>
<td>Effective Date</td>
</tr>
</tbody>
</table>

Chapter Authority: 4 CMC § 8157; 4 CMC § 8143.


*A notice of adoption for the January 1990 proposed amendments was never published.

**As of December 2005, a notice of adoption for the July and August 2005 emergency and proposed amendments had not been published.

Commission Comment: For the history of the regulatory authority of the Commonwealth Utilities Corporation in the Commonwealth, see the general comment to chapter 50-10.

Public Law 15-123 (effective December 3, 2007) amended 4 CMC § 8143 to require CUC to bill water, power and sewer separately. PL 15-123 prohibits CUC from disconnecting “a consumer’s water service for failure to pay for the electrical power portion of their bill.” 4 CMC § 8143. PL 15-122 (effective December 5, 2007), codified at 4 CMC §§ 8144-8145, sets forth requirements for the disconnection and reconnection of utility services. Public Law 16-17, effective October 1, 2008, repealed and reenacted 4 CMC §§ 8143 -8144 in addition to other code sections.
PL 16-17 contains similar requirements as PL 15-122 and PL 15-123. These requirements include: using security deposits to offset past due amounts; CUC may not disconnect before the disconnection date; disconnections may not occur during disputes regarding billing statements; CUC may not disconnect all services (power, water and sewer) when a delinquent payment involves only one utility service; and disconnection may not occur for consumers receiving utility assistance for failure of Department of Community and Cultural Affairs to pay the bill. 4 CMC § 8144.

Part 001 - General Provisions

§ 50-30-001 Authority

The regulations in this chapter have been adopted by the Commonwealth Utilities Corporation (CUC) pursuant to Public Law 4-47 [4 CMC §§ 8111, et seq.] of the Commonwealth of the Northern Mariana Islands. The regulations in this chapter and technical provisions and specifications which may be adopted by CUC from time to time, shall have the force and effect of law and shall be binding on persons and entities subject to the jurisdiction of the Commonwealth of the Northern Mariana Islands.

Modified, 1 CMC § 3806(d), (f).


§ 50-30-005 Purpose

(a) The purpose of this chapter is to establish requirements for connection to CUC water system where and when CUC water system are available and to establish fees for the use of and connection to CUC water system.

(b) The adopted regulations include the following subject areas:
(1) When residential and non-residential building must be connected to available CUC water system.
(2) When a CUC water system will be considered as being available for connection.
(3) Design standards and requirements for water service connection to CUC waterline.
(4) Establishment of fees for water use and connection to CUC water lines.
(5) Sanctions and penalties for failure to pay water charge and for any other violation to this chapter.

Modified, 1 CMC § 3806(d), (f), (g).


Commission Comment: In subsection (b)(1), the Commission deleted the repeated word “CUC.”
§ 50-30-010 Applicability

This chapter is only applicable where CUC water systems exist in the Commonwealth of the Northern Mariana Islands.

Modified, 1 CMC § 3806(d).


§ 50-30-015 Definitions

For the purpose of this chapter, unless it is evident from the context that a different meaning is intended, certain words and phrases used herein are defined as follows:

(a) “Appurtenances” shall mean valves, stops, bends, elbows, reducers, bushings, plugs, caps, blocks, jackets, manholes, and all other objects, fittings, or installations required to make a complete installation.

(b) “Chief Engineer” shall mean the person holding the position of Assistant Director, Water Division CUC, CNMI.

(c) “Cost of service connection” shall mean the sum of the cost of the labor, materials, transportation, equipment, excavation and road repair, if any, and other incidental charges necessary for the complete installation of a service connection, but excluding the cost of the meter and meter box.

(d) “Construction plans” shall mean engineering drawings representing the design of a specific project.

(e) “Customer” shall mean the person, firm, partnership, corporation or association, regardless of government- connected status, governmental department, or other legal entity whose name appears on the record of CUC as the party responsible and liable for receiving water service.

(f) “Customer’s pipe” shall mean the pipe extending from three feet outside the customer’s foundation, across his property to the service connection defined in § 50-30-015(r) at the main top property line.

(g) “CUC” shall mean the Commonwealth Utilities Corporation of the Commonwealth of the Northern Marianas.

(h) “CUC water system” shall mean the water system owned and operated by the Commonwealth of the Northern Marianas.
(i) “Executive Director” shall mean the person holding the position of Executive Director of the Commonwealth Utilities Corporation, CNMI.

(j) “Governmental department” shall mean any department, and/or agency of the CNMI government, including autonomous agency.

(k) “Main” shall mean CUC water system supply pipe to which service connections are made.

(l) “Or approved equal” shall mean a substitute brand or article which may be installed in place of the one named where such substitute has been approved in writing by the Chief Engineer prior to the actual construction of the project.

(m) In the matter of “ownership by CUC” and “conveyance of property and improvements to CUC” it shall be understood that the property and improvements are owned by, and that conveyance is made to, CUC.

(n) “Project” shall mean the structure, undertaking, or improvement to be constructed in whole or in part through the performance of the work covered by this chapter and all other special provisions.

(o) “Standards” shall mean CUC standards and/or water system planning, materials, and construction of the water division.

(p) “Subdivision water system” shall mean the water system, within any subdivision, including mains, valves, hydrants, laterals, pumps, tanks, reservoirs, and all appurtenances necessary to provide water and fire protection for such subdivision, and where necessary, sources of supply.

(q) “Subdivider” shall mean a person, firm, corporation partnership, association, governmental department, trust or other legal entity, or a combination of any thereof who, or which causes land to be divided into two or more lots, parcels, sites, or other divisions of land for the purpose, whether immediate or future, of sale, lease, rental, transfer of title to or interest in, any or all of such parcels, and shall include resubdivision, and when appropriate to the context shall relate to the process of subdividing or the land or territory subdivided.

(r) “Service connection” shall mean the main tap, pipe, fittings, and valves, from the water main to and including the meter and shut-off valve.

(s) “Service limits” shall mean the maximum elevation to which adequate water service is available. The service unit shall be that elevation which is 100 feet below the spillway elevation of the supplying reservoir for the area.

(t) “Subdivision” shall mean improved or unimproved land or lands divided or proposed to be divided into two or more lots, parcels, sites, or other divisions of land including designation of easements, for the purpose, whether immediate or future, of sale, lease, rental, transfer of title to
or interest in, any or all of such parcels, and shall include resubdivision, and when appropriate to the context shall relate to the process of subdividing the land or territory subdivided.

(u) “Water authority” shall mean the Commonwealth Utilities Corporation, CNMI.

(v) “Water service” shall mean service connection as defined in § 50-30-015(r). This term also refers to the delivery of water to customer.

(w) “Work” shall be understood to mean all equipment, materials, operations and incidental activities necessary for the completion of any part or all of the project covered by this chapter.

Modified, 1 CMC § 3806(c), (d), (f), (g).


Commission Comment: Subsections (f) and (b) originally cross-referenced “item 17” in error. See 10 Com. Reg. at 5480-81 (Mar. 15, 1988). Item 17, codified at § 50-20-015(q), defines the term “subdivider.” The Commission corrected the citations so that they cross-reference the definition of “service connection.”

The 1990 amendments proposed to amend subsection (c) and add a new definition of “pro-rata marginal cost.” A notice of adoption for the 1990 proposed amendments was never published and, therefore, the Commission has not incorporated the proposed changes.

§ 50-30-020 Existing Rules and Regulations

Any regulations, concerning the provision of water services, in existence on the date of adoption of this chapter, are herewith repealed.

Modified, 1 CMC § 3806(d).


Part 100 - General Conditions

§ 50-30-101 Prospective Customers

Any prospective consumer whose premises are within service limits established by CUC, and adjacent to distributing main, may obtain water service where pressure conditions permits, provided that CUC has a sufficient water supply developed for that use and for the fire protection to take on new or additional service without detriment to those already served and the customer agrees to abide by the regulations in this chapter, and other CUC rules.

Modified, 1 CMC § 3806(d), (f).
§ 50-30-105  **Main Extension or Substantial Investment Required**

Where an extension of mains is necessary, or where large quantities of water are required, or a substantial investment is necessary to provide service the customer will be informed by CUC as to the conditions and charges to be made for the particular area and situation in question before water service will be approved.


§ 50-30-110  **Meters; Rates**

All water supplied by CUC will be measured by the means of suitable meters registering in U.S. gallons. The amounts to be paid for water and water service shall be in accordance with the rates established by CUC Board of Directors and shall be as indicated hereinafter. Rates shown are current rates and are subject to change upon proper processing of the rate changes in accordance with applicable laws.


§ 50-30-115  **Service Connections Are Property of CUC**

CUC will determine the location and size and brand of manufacturer of all meters and service connections to its system. All service connections including the meter box assembly shall become the property of the CUC for operation and maintenance after installation and new connections or disconnections may be made thereto by CUC at any time.


§ 50-30-120  **CUC Not Liable for Interruption**

CUC will exercise reasonable diligence and care to deliver an adequate supply of safe, potable water to the customer and to avoid shortages or interruptions in water service, but will not be liable for any interruption, shortage, insufficiency of supply, or any loss or damage occasioned thereby.

§ 50-30-125 Special Conservation Measures

Whenever, in the opinion of CUC special conservation measures are advisable in order to forestall water shortages and a consequent emergency, CUC will restrict the use of water until the water shortage no longer exists.


§ 50-30-130 Repairs; Alterations

CUC reserves the right at any and all times to shut-off water from the mains with proper notice considering the circumstances for the purpose of making repairs, extensions, alterations, or for other reasons. Customers depending upon a continuous supply of water shall provide emergency water storage and any check valves or other devices necessary for the protection of plumbing fixtures against failure to the pressure or supply of water in CUC mains. Repairs of improvements will be performed as rapidly as practicable and, insofar as practicable, at such times as will cause the least inconvenience to the customer.


§ 50-30-135 Pressure

CUC will make every effort to maintain proper pressure but will not accept responsibility for unforeseen loss of pressure in its water mains.

Modified, 1 CMC § 3806(g).


Commission Comment: The Commission corrected the spelling of “unforeseen.”

§ 50-30-140 Properties Above Certain Elevations

Where property is situated at such an elevation that it cannot be assured of a dependable supply or of adequate pressure from the CUC distribution system, the customer, in consideration of connection with the CUC system must agree to accept such water service as is available. When required by CUC, the customer shall install an air gap check valve, or other protective devices between the customer’s supply pipe and the service connection. The customer shall execute a written release in favor of CUC for all claims on account of any inadequacy in CUC system or inadequacy of water supply to the customer.

§ 50-30-145 Pressure Reducing Relief Valves
When the pressure of CUC supply is higher than that for which individual fixtures are designed, the customer shall protect such fixtures by installing and maintaining pressure reducing and relief valves. CUC will not be liable for damage due to pressure conditions caused by or arising from the failure or defective condition of such pressure regulators and relief valves or for damage that may occur through the installation, maintenance, or use of such equipment.


§ 50-30-150 Resale
The resale of water by the customer is not permitted unless approved in writing by the Executive Director of CUC.


§ 50-30-155 Permission Required
No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any CUC water system without first obtaining a written permit from the Chief Engineer.

Modified, 1 CMC § 3806(f).


Part 200 - Application for Water Service and Service Connection

§ 50-30-201 Application Required for Service
Each prospective customer upon requesting water service is required to make an application in order to be considered for service.


Commission Comment: The Commission created the section titles in part 200.

§ 50-30-205 Payment Required for Water Service
The customer shall be responsible for the payment of all charges for water service at the designated location. Charges, including construction and connection costs before service will
begin when the water service is established and will continue until due notification from the customer or until discontinued by CUC for failure of the customer to comply with this chapter.

Modified, 1 CMC § 3806(d).


§ 50-30-210 Outstanding CUC Bills

When an application for water service is made by a customer who was responsible for and failed to pay all bills previously rendered, regardless of location or time incurred, CUC will refuse to furnish water service to such applicant until his outstanding CUC bills are paid.


§ 50-30-215 Use of Existing Service at Property

Taking possession of a property and using water without having made application to CUC for water service to such property, shall be held liable for the water delivered. If proper application for water service is not made upon notification to do so by CUC and if accumulated bills for water service are not paid upon presentation the water service shall be subject to discontinuance without further notice.


§ 50-30-220 Guarantee Deposit

Any new applicants for service or any existing customers shall be required to make a guarantee deposit to cover charges for utility services.


§ 50-30-225 Amount of Deposit

The amount of the deposit to establish credit required of any customer shall be an amount established by CUC approximately equal to two month’s charges for the service or services involved, and as hereinafter indicated.


§ 50-30-230 Refund upon Discontinuance of Service
Upon discontinuance of services, CUC will refund the customer’s deposit or the balance in excess of the unpaid bills for the services.


Commission Comment: The 2005 emergency and proposed amendments proposed to repeal and replace this section in its entirety. As of December 2005, a notice of adoption had not been published and therefore the Commission has not incorporated the proposed changes.

Part 300 - Installation of Water Service Connections

§ 50-30-301 Installation

When the application for water service has been approved, a service connection will be installed by CUC at the expense of the applicant. There shall be one meter for each service connection, unless CUC because of operating necessity, installs two or more meters in parallel. All meters will be sealed by CUC before installation and no seal shall be altered or broken except by one of its authorized employees.


§ 50-30-305 Installation Charge

The cost of the service connection shall be paid by the applicant before the connection is installed. Installation charges shall be based on the cost of such installation as established by CUC and shall be as initially set at the rates indicated in § 50-10-810(a) which would be revised from time to time.*

*So in original; probably should be “will be revised from time to time.”

Modified, 1 CMC § 3806(c).


Commission Comment: A notice of adoption for the 1990 proposed amendments was never published and, therefore, the Commission has not incorporated the proposed changes.

§ 50-30-310 Customer’s Pipe

The customer shall install and connect at his expense his supply pipe to the shut-off valve or outlet installed by CUC. The customer’s pipe shall at all times remain the sole property of the
customer, who shall be responsible for its maintenance and repair. If the customer’s pipe is
installed before the service connection is set, CUC will make the connection to it provided,
however, it is requested, in writing, by the customer prior to the installation of the service
connection.

History: Adopted 10 Com. Reg. 5602 (Aug. 15, 1988); Proposed 10 Com. Reg. 5474 (Mar. 15,
1988).

§ 50-30-315 Connection to Main

Only employees of CUC or persons authorized by the Chief Engineer will be allowed to connect
or disconnect the service connection to or from CUC main.

History: Adopted 10 Com. Reg. 5602 (Aug. 15, 1988); Proposed 10 Com. Reg. 5474 (Mar. 15,
1988).

§ 50-30-320 Location of Service Connection or Main

No service connection or water main will be installed by CUC in any private road, lane, street,
alley, court or place, until such private streets are open to the public and brought, to proper grade
and CUC is given proper easements for the main or service connection. Otherwise, an applicant
desiring water service to property fronting on such private roads, lanes, etc., must extend, his
supply pipe to the nearest public street on which a main exists.

History: Adopted 10 Com. Reg. 5602 (Aug. 15, 1988); Proposed 10 Com. Reg. 5474 (Mar. 15,
1988).

§ 50-30-325 Location of Meters

All meters shall be installed in locations determined by CUC.

History: Adopted 10 Com. Reg. 5602 (Aug. 15, 1988); Proposed 10 Com. Reg. 5474 (Mar. 15,
1988).

§ 50-30-330 Change in Location or Size of Service Connection

When the proper size of service connection for any premise has been determined and the
installation has been made, CUC has fulfilled its obligations as the size of the service and the
location thereof are concerned. If thereafter the consumer desires a change in size of the service
connection or a change in the location thereof, he shall bear all costs of such changes.

History: Adopted 10 Com. Reg. 5602 (Aug. 15, 1988); Proposed 10 Com. Reg. 5474 (Mar. 15,
1988).

§ 50-30-335 Alteration to CUC Water System
All work and materials in connection with the change in location and size or elevation of any part of the existing public water system made necessary by the new service connection shall be at the expense of the applicant.


§ 50-30-340 Contours or Elevation

When required by CUC, contours or elevations shall be furnished by the applicant, based on the Coast and Geodetic Survey Vertical Control System for the Commonwealth of the Northern Marianas.


§ 50-30-345 Size of Meter and Service Connection

CUC will determine the location and size of all meters and service connections to its system.


§ 50-30-350 One Water Service Supplying Multiple Structures

CUC reserves the right to limit the number of houses or buildings and the area of land to be supplied by one service connection.


§ 50-30-355 Water Service to Undeveloped Areas

(a) Any prospective consumer requesting water service for an undeveloped area or tract of land in which a distribution system has not been installed may be required to furnish CUC with plans and specifications for the proposed distribution system for such area or tract which shall conform to the standards and requirements of CUC. Such distribution system will be installed at the expense of the customer in accordance with the plans and specifications and reviewed and approved by CUC.

(b) In the case of water main replacement or extensions of new main funded by the CNMI the customer will only be charged for the service line connection and initial deposit as referred to previously.

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) and (b).

§ 50-30-360 Damage to CUC’s Property

Any damage to water mains, service connection, valves, fire hydrants, or other property of CUC shall be paid for by the person, persons, or legal entity responsible for the damage. Cost of damage will include cost of repairs and the amount of water loss as estimated by CUC based on accepted engineering practices.


Commission Comment: The Commission changed the title of this section from “Drainage to CUC’s Property” to “Damage to CUC’s Property” to correct a manifest error.

Part 400 - Meter Reading and Rending of Bills

§ 50-30-401 Meter Readings

Meters will be read and bills rendered monthly or at other intervals as determined by CUC. Special readings may be made when necessary for closing of accounts or for other reasons.


Commission Comment: The Commission created the section titles in part 400.

§ 50-30-405 Closing Bills

Closing bills for short periods of time since the last meter reading date will ordinarily be determined by the amount of water actually used, as indicated by the meter reading.


§ 50-30-410 Each Metered Read Separately

Readings of separate meters not combined. For the purpose of computing charges, all meters serving the customer’s premises shall be considered separately, and the readings thereof shall not be combined except in cases where CUC, because of operating necessity, installs two or more meters in parallel to serve the same consumer’s supply pipe.

§ 50-30-415 Estimated Bills

The customer will receive estimated bills when the meters cannot be read by the meter reader for reasons beyond his control.


Part 500 - Payment of Bills

§ 50-30-501 Bills Due upon Mailing

All bills shall be due and payable upon deposit in the United States mail by CUC or upon other presentation to the customer. Payment shall be made at the office of CUC or to duly authorized collectors of CUC.

Modified, 1 CMC § 3806(f).


Commission Comment: The Commission created the section titles in part 500.

§ 50-30-505 Past Due Bills

(a) Any bill which is not paid within fifteen days after presentation or deposit in the United States mail shall be deemed past due, and incur a one percent late charge.

(b) This charge becomes part of the balance due. Thereafter, interest on the past due balance accrues at the rate of one percent per month, compounded yearly.

(c) CUC shall have the power to terminate water service to any customer who is past due in making payment of water service charges. The procedures for notice and governing termination shall be those set forth in the Electric Service Regulations of the CUC at NMIAC § 50-10-1520 to § 50-10-1540.

(d) When a customer and the CUC fail to agree on the amount of a bill for water service, the dispute between the parties shall be adjudicated in accordance with the Customer Billing and Disputes Regulations [NMIAC, title 50, chapter 40].

(e) Should it be necessary to bring an action in court to collect any amount due or to appear in court to defend or enforce any order issued pursuant to this chapter, CUC shall if it prevails receive its reasonable costs and attorney’s fees.

Modified, 1 CMC § 3806(c), (d), (e).
§ 50-30-510 Joint Applicants Liability for Bills

Two or more persons who join in one application for service shall be jointly and severally liable thereunder and shall be billed by means of single periodic bills.


§ 50-30-515 Failure to Receive Bill; Account Due

Failure of a customer to receive a bill does not prevent the account from becoming payable when due.


Part 600 - Meter Tests and Adjustment of Bills

§ 50-30-601 Meter Tests

All meters shall be tested by CUC prior to installation. Any customer who, within reason, doubts the accuracy of the meter serving his premises may request a test of the meter. The customer, if he so requests, will be notified as to the time of the test and may witness the test if he so desires. No charge will be made for the first meter test.


§ 50-30-605 Adjustment of Bills for Meter Inaccuracy

If, as the result of the test, the meter is found to register more than two percent fast under conditions of normal operation. CUC will refund to the customer the overcharge, based on past consumption, for a period not exceeding four months, unless it can be proved that the error was due to some cause, the date of which can be fixed. In this latter case, the overcharge shall be computed back to, but not beyond, such date.

§ 50-30-610  Failure to Register

If a meter fails to register due to any cause except the non-use of water, an average bill will be rendered. Such average bill will be subject to equitable adjustment taking into account all factors before, during and after the period of said bill.


§ 50-30-615  Allowances

The customer has the responsibility for the control of the water delivered beyond CUC’s service connection and CUC is not responsible for maintenance and repairs to pipes and fixtures beyond the service connection.


Part 700 - Discontinuation of Water Service

§ 50-30-701  Discontinuation of Water Service

Water service may be discontinued for any of the reasons listed in this part.

Modified, 1 CMC § 3806(d), (g).


Commission Comment: This section was originally the introductory sentence to Article IX (now part 700). The Commission designated it § 50-30-701 and changed the language slightly to accommodate the change. See 10 Com. Reg. at 5491 (Mar. 15, 1988).

§ 50-30-705  Non-payment of Bills

Water service may be discontinued for the non-payment of a bill within 30 days after the mailing or presentation thereof to the customer. If a customer is receiving service at more than one location, service at any or all locations may be discontinued if works for and service at any one or more locations are not paid within the period specified herein.


§ 50-30-710  Non-compliance with CUC’s Regulations
If the customer fails to comply with any of the regulations in this chapter CUC will have the right to discontinue the service.

Modified, 1 CMC § 3806(d), (f).


§ 50-30-715 Customer about to Vacate Premises

Each customer about to vacate any premises supplied with water by CUC shall give 10 working days notice of his intention to vacate prior thereto specifying the date service is desired to be discontinued. Before buildings are demolished, CUC should be notified so the service connection can be closed.


§ 50-30-720 Unauthorized Use of Water

CUC will refuse or discontinue water service to any premises if necessary, without giving notice, to protect itself against fraud, abuse, or unauthorized use of water.


§ 50-30-725 Wasteful Use of Water

Where negligent or wasteful use of water exists on any premises, CUC may discontinue the service if such conditions are not corrected within five days after giving the consumer written notice of its intent to do so.


§ 50-30-730 Service Detrimental to Others

CUC will refuse to furnish water to any premises where the demands of the customer will result in inadequate service to the rest of the existing system.


§ 50-30-735 Fraud
CUC shall have the right to refuse service or discontinue service if the acts of the consumer or
the conditions upon his premises are such as to indicate intention to defraud CUC.

History: Adopted 10 Com. Reg. 5602 (Aug. 15, 1988); Proposed 10 Com. Reg. 5474 (Mar. 15,
1988).

§ 50-30-740 Restoration of Service

If water service is turned off because of failure to pay a bill, for violation of any of the
regulations of CUC, or for other reasons, all outstanding accounts against the customer must be
paid before water service will be restored. In addition, the re-connection charge, must be paid
before water service will be restored.

History: Adopted 10 Com. Reg. 5602 (Aug. 15, 1988); Proposed 10 Com. Reg. 5474 (Mar. 15,
1988).

Part 800 - Schedule of Rates and Charges

§ 50-30-801 Current Rates and Charges

The following rates and charges are current for water services and shall be effective until such
time as the CUC establishes new rates and charges.

History: Adopted 10 Com. Reg. 5602 (Aug. 15, 1988); Proposed 10 Com. Reg. 5474 (Mar. 15,
1988).

Commission Comment: The Commission created the section titles in part 800.

§ 50-30-805 Guarantee Deposit

Guarantee deposit is based on an average month’s charges for the type of service and size of
meter connected.

<table>
<thead>
<tr>
<th>Size of Meters</th>
<th>Deposit</th>
</tr>
</thead>
<tbody>
<tr>
<td>5/8”, 3/4”</td>
<td>$30.00</td>
</tr>
<tr>
<td>1”</td>
<td>90.00</td>
</tr>
<tr>
<td>1-1/2”</td>
<td>150.00</td>
</tr>
<tr>
<td>2”</td>
<td>350.00</td>
</tr>
<tr>
<td>3”</td>
<td>900.00</td>
</tr>
<tr>
<td>4”</td>
<td>2000.00</td>
</tr>
<tr>
<td>6”</td>
<td>4000.00</td>
</tr>
<tr>
<td>8”</td>
<td>12,000.00</td>
</tr>
<tr>
<td>10”</td>
<td>18,000.00</td>
</tr>
</tbody>
</table>

History: Adopted 10 Com. Reg. 5602 (Aug. 15, 1988); Proposed 10 Com. Reg. 5474 (Mar. 15,
1988).
§ 50-30-810 Installation Charge

Installation charge is based on the cost of service installation.

(a) Service installation charges and distances from main.

<table>
<thead>
<tr>
<th>Meter Size</th>
<th>0-20 Feet</th>
<th>20-40 Feet</th>
<th>40-60 Feet</th>
<th>60-80 Feet</th>
<th>80-100 Feet</th>
<th>Over 100 Feet</th>
</tr>
</thead>
<tbody>
<tr>
<td>3/4”</td>
<td>$135</td>
<td>$155</td>
<td>$175</td>
<td>$195</td>
<td>$215</td>
<td>$ +</td>
</tr>
<tr>
<td>1”</td>
<td>145</td>
<td>165</td>
<td>185</td>
<td>205</td>
<td>225</td>
<td>+</td>
</tr>
<tr>
<td>1-1/4”</td>
<td>145</td>
<td>165</td>
<td>185</td>
<td>205</td>
<td>225</td>
<td>+</td>
</tr>
<tr>
<td>1-1/2”</td>
<td>145</td>
<td>165</td>
<td>185</td>
<td>205</td>
<td>225</td>
<td>+</td>
</tr>
<tr>
<td>2”</td>
<td>145</td>
<td>165</td>
<td>185</td>
<td>205</td>
<td>225</td>
<td>+</td>
</tr>
<tr>
<td>&gt;2”</td>
<td>+</td>
<td>+</td>
<td>+</td>
<td>+</td>
<td>+</td>
<td>+</td>
</tr>
</tbody>
</table>

+ Charge will be based on case by case cost to be paid prior to installation.

(b)(1) Where it is necessary to cross streets or highways in making service installations, the extra costs for such crossings including paving repairs will be added to the charges under subsection (a) above.

(2) This charge will be collected in advance on an estimated basis subject to refund or additional charge when each job is completed. Service installation charges are collected from customers and are not refundable.

Modified, 1 CMC § 3806(c).


Commission Comment: The original paragraphs of subsection (b) were not designated. The Commission designated subsections (b)(1) and (b)(2).

The 1990 amendments proposed to add a new subsection (c). A notice of adoption for the 1990 proposed amendments was never published and, therefore, the Commission has not incorporated the proposed changes.

§ 50-30-815 Water Rates

All water service shall be charged as follows:
(a) All customers shall pay a monthly service charge based on the size of the service connection, as set forth in the service charge chart in subsection (f) below.

(b) Customers who receive metered water service, as determined by the corporation, will also pay for the number of gallons of water consumed as registered on a water meter. The consumption charge shall be pursuant to the rate schedule in subsection (d) below.

(c) Customers who do not receive metered water service, as determined by the corporation, will also pay for the number of gallons of water consumed. Residential customers who do not receive metered water are deemed to consume 6,000 gallons per month. Commercial customers who do not receive metered water are deemed to consume 18,000 per month. The consumption charge shall be pursuant to the rate schedule in subsection (e) below.

(d) Rate schedule for residential and commercial customers receiving metered service:

<table>
<thead>
<tr>
<th>Usage</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 to 3,000 gallons</td>
<td>$1.00 per 1,000 gallons</td>
</tr>
<tr>
<td>3,001 to 15,000 gallons</td>
<td>$2.40 per 1,000 gallons</td>
</tr>
<tr>
<td>15,001 to 30,000 gallons</td>
<td>$3.00 per 1,000 gallons</td>
</tr>
<tr>
<td>30,001 to 60,000 gallons</td>
<td>$3.50 per 1,000 gallons</td>
</tr>
<tr>
<td>Above 60,000</td>
<td>$4.00 per 1,000 gallons</td>
</tr>
</tbody>
</table>

(e) Rate schedule for residential and commercial customers receiving other than metered service:

<table>
<thead>
<tr>
<th>Usage</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 to 3,000 gallons</td>
<td>$0.50 per 1,000 gallons</td>
</tr>
<tr>
<td>3,001 to 15,000 gallons</td>
<td>$1.20 per 1,000 gallons</td>
</tr>
<tr>
<td>15,001 to 30,000 gallons</td>
<td>$1.50 per 1,000 gallons</td>
</tr>
<tr>
<td>30,001 to 60,000 gallons</td>
<td>$1.75 per 1,000 gallons</td>
</tr>
<tr>
<td>Above 60,000</td>
<td>$2.00 per 1,000 gallons</td>
</tr>
</tbody>
</table>

(f) Monthly service charge:

<table>
<thead>
<tr>
<th>Meter Size</th>
<th>Monthly Charge</th>
</tr>
</thead>
<tbody>
<tr>
<td>5/8 inch, 3/4 inch</td>
<td>$6.00 per month</td>
</tr>
<tr>
<td>1 inch</td>
<td>$7.00 per month</td>
</tr>
<tr>
<td>1½ inch</td>
<td>$11.00 per month</td>
</tr>
<tr>
<td>2 inch</td>
<td>$14.00 per month</td>
</tr>
<tr>
<td>3 inch</td>
<td>$35.00 per month</td>
</tr>
<tr>
<td>4 inch</td>
<td>$55.00 per month</td>
</tr>
<tr>
<td>6 inch</td>
<td>$75.00 per month</td>
</tr>
<tr>
<td>8 inch</td>
<td>$110.00 per month</td>
</tr>
<tr>
<td>10 inch</td>
<td>$155.00 per month</td>
</tr>
<tr>
<td>12 inch</td>
<td>$200.00 per month</td>
</tr>
</tbody>
</table>

Modified, 1 CMC § 3806(d), (f).
§ 50-30-820 Procedure for Establishing New Rate Structures

When new rates are deemed necessary, a public hearing will be given and after receiving comments CUC Board will establish new rates considering those comments.

Modified, 1 CMC § 3806(f).


Part 900 - CUC Equipment on Customer’s Premises

§ 50-30-901 Equipment Belongs to CUC

All equipment belonging to CUC and installed upon the customer’s premises for measurement, test, check or any other purpose, shall continue to be the property of CUC, and may be repaired,
replaced or removed by CUC at any time by notifying the customers. The customer shall exercise reasonable care to prevent damage to meters and other equipment of CUC upon said premises and shall in no way interfere with the operation of same.


Commission Comment: The Commission created the section titles in part 900.

§ 50-30-905 Persons Liable for Damage

Any damage to water mains, service connections, valves, fire hydrants, or other property of CUC shall be paid for by the person or organization responsible for the damage.


§ 50-30-910 Customer Liable for Damage on Property

The customer shall be liable for any damage to a meter or other equipment or property of CUC caused by the customer or his tenants, agents, employees, contractors, licensees or permittees, on the customer’s premises and CUC shall be promptly reimbursed by the customer for any such damage upon presentation of a bill therefore. In the event settlement for such damage is not promptly made, CUC reserves the right to discontinue water service to such premises.


§ 50-30-915 Obstructions

No obstruction nor guard dogs or any other hindrances shall be placed on or around any water meter, fire hydrant, or valve so as to render it inaccessible.

Modified, 1 CMC § 3806(g).


Commission Comment: The Commission corrected the spelling of “hindrances.”

§ 50-30-920 CUC’s Right of Access

Any officer or employee of CUC shall have the right of ingress to and egress from the consumer’s premises at all reasonable hours for any purpose reasonably connected with the furnishing of water or other service to said premises and the exercise of any and all rights secured to it by law. In case any such officer or employee is refused admittance to any premises,
or being admitted shall be hindered or prevented from making such inspection, CUC may cause
the water to be turned off from said premises after giving 24 hours notice to the owner or
occupant of said premises of its intention to do so.

History: Adopted 10 Com. Reg. 5602 (Aug. 15, 1988); Proposed 10 Com. Reg. 5474 (Mar. 15,
1988).

Part 1000 - Responsibility for Customer’s Equipment

§ 50-30-1001  CUC Not Liable for Damage

The customer shall at his own risk and expense furnish, install and keep in good and safe
condition all equipment that may be required for receiving, controlling, applying and utilizing
water, and CUC will not be responsible for any loss or damage caused by the improper
installation of such equipment, or the negligence, want of proper care or wrongful act of the
customer or any of his tenants, agents, employees, contractors, licensees or permittees in
installing, maintaining, using, operating or interfering with any such equipment.

History: Adopted 10 Com. Reg. 5602 (Aug. 15, 1988); Proposed 10 Com. Reg. 5474 (Mar. 15,
1988).

Commission Comment: The Commission created the section titles in part 1000.

§ 50-30-1005  Objectionable Fixtures

Water service may be discontinued to any customer whose water system includes plumbing
fixtures, or water containers in any form, or any use, which in the opinion of CUC may endanger
CUC’s water supply from a public health standpoint. Any such discontinuation of service shall
continue until objectionable installations have been corrected and CUC has been assured that the
objectionable uses and practices will not be resumed.

History: Adopted 10 Com. Reg. 5602 (Aug. 15, 1988); Proposed 10 Com. Reg. 5474 (Mar. 15,
1988).

§ 50-30-1010  Damage Caused by Open Equipment

CUC will not be responsible for damage to property caused by spigots, faucets, valves and other
equipment that may be open when water is turned on after a temporary shutdown.

History: Adopted 10 Com. Reg. 5602 (Aug. 15, 1988); Proposed 10 Com. Reg. 5474 (Mar. 15,
1988).

§ 50-30-1015  Pressure Relief Valves
Wherever a check valve or pressure reducing valve is installed on the customer’s cold water supply line between the main and a hot water storage tank and/or heater, there shall be installed on the customer’s hot water distributing system a suitable pressure relief valve.


§ 50-30-1020  Noises from Pipes

Where it has been determined that noises emanating from a customer’s premises are caused by plumbing fixtures or other equipment attached to water pipes and such noises are being transmitted through the water pipes and causing annoyance to other customers, CUC may issue a notice in writing to the offending customer or to the owner of such premises or to his agency, giving reasonable time within which to correct or to remove the cause of the complaint. Failure on the part of such customer, owner, or person responsible to correct or remove the cause of the noise will be sufficient reason for discontinuance of water service to the customer until such time as the condition complained of has been remedied.


Part 1100 - Electrical Grounding

§ 50-30-1101  Protective Grounding of Alternating Current

Protective grounding of alternating current secondary distribution circuits made to the water system shall be subject to written approval by CUC.


Commission Comment:  The Commission created the section titles in part 1100.

§ 50-30-1105  No Grounding of Direct Current Systems

No grounding of direct current system to any portion of the water system shall be permitted.


§ 50-30-1110  Use of Non-conductive Material

CUC will not be responsible for the maintaining of a continuous metallic water piping system and reserves the right, without liability to public utility electric companies, electric customers, or any other agency or individual to create a physical break in its service connections and mains, or to incorporate non-metallic pipes and appurtenances in its system and to make joints of any
materials, without regard to their efficiency as conductors of electricity and without giving notice.


**Part 1200 - Customer’s Pumping Installation**

§ 50-30-1201 Pumps to Main Not Permitted

Customers shall not be permitted to install or operate pumps that pump water directly from or into the mains of CUC system.


Commission Comment: The Commission created the section titles in part 1200.

§ 50-30-1205 Pumping System from Storage Tanks

If a customer would like to have a pumping system in his own premises, such pumping should be done from his own storage tanks. Such storage tanks should be constructed after the meter and there should be a 6” air gap between the inlet pipe to the tank and the maximum water level of the tank.


§ 50-30-1210 Existing Customer Pumps

All existing customer pumps after the effective date of this chapter shall cease to operate until approval is given by CUC. Failure on the part of the customer to comply with this chapter shall be subject* to disconnection of water services until requirements have been made.

*So in original.

Modified, 1 CMC § 3806(d).


§ 50-30-1215 Approval for Storage Tank Construction

A written approval from the Chief Engineer should be obtained for construction of such storage tanks.
Part 1300 - Cross-connection and Backflow Prevention

§ 50-30-1301 Cross-connections Prohibited

(a) In order to provide proper sanitary protection to CUC’s water supply and to comply with the applicable regulations under the Federal Safe Drinking Water Act, CUC will require that following the effective date of this chapter no cross-connections with other water supplies, or other physical connections, shall exist, or be installed, located, maintained or operated which could permit backflow of contaminated water or any other dangerous, impure, unsanitary, or unpotable substance from the customer’s premises into CUC’s water supply system, except as provided below.

(b) Cross-connections with other water supplies. Owners (or operators) of presently existing water supplies which are in active use and cross-connected to CUC’s system will be required to install check valves, air gaps or other devices to minimize the hazards of such cross-connections. Permits will be granted on a provisional basis, renewable yearly, under the following conditions:

(1) Where such water supplies are regularly examined by CUC and DEQ are approved by CUC and DEQ as acceptable, safe and sanitary supplies and continue as such at all times while the connections are in existence.

(2) Where such water supplies do not meet the requirements of subsection (a)(1) above, are not normally under pressure and are maintained solely for fire fighting purposes, and where adequate protection against backflow to CUC water system is provided by mechanical, or other methods or devices satisfactory to CUC.

Modified, 1 CMC § 3806(c), (d), (g).


Commission Comment: In subsection (a), the Commission replaced the final colon with a period.

§ 50-30-1305 Separate Pressure System

CUC will require the installation of mechanical, or other, methods or devices on the customer’s side of the meter to prevent backflow whenever the customer maintains a separate pressure system or a separate storage facility, or in any way increases the pressure of the water within his premises above the pressure furnished by CUC or has such equipment devices or arrangement of piping, storage or industrial methods or processes that might, under certain conditions, raise the pressure of the water within his premises above the pressure of the water in the mains of CUC. Plans and specifications for such installations must be approved by CUC.
§ 50-30-1310 Location and Inspection of Protective Devices

Any device installed for the prevention of backflow as may be required under this chapter, shall, unless CUC approves otherwise in writing, be located above ground and in such a manner as to be safe from flooding or submergence in water or other liquids, properly protected from external damage, freely accessible and with adequate working room for inspection, testing and repairing. All such devices shall be tested and inspected internally not less than once annually or more often in those instances where successive inspections indicate repeated failure. Repairs, replacement of parts, etc., shall be made whenever necessary at the expense of the customer. Making tests and annual inspections shall be the responsibility of the customer and shall be furnished to CUC. Failure of the customer to make the proper tests and submission of records may result in CUC’s making the tests, needed repairs and replacements and charging the costs thereof to the customer.

Modified, 1 CMC § 3806(d).


§ 50-30-1315 Affidavit of Compliance

Upon request of CUC, the customer shall present an affidavit either certifying to the fact that there are no connections or other installations of the type prohibited in § 50-30-1301 on his premises or describing in detail nonconforming connections or installation.

Modified, 1 CMC § 3806(c).


§ 50-30-1320 Discontinuance of Water Service for Non-compliance

Failure on the part of the customer to comply with CUC’s requirements relative to cross-connections and backflow prevention will be sufficient reason for discontinuing water service until such time as the requirements have been met.


Part 1400 - Use of and Damage to Fire Hydrants, Change in Hydrant Location

§ 50-30-1401 Purpose of Fire Hydrants
The primary purpose of the provision of fire hydrants in CUC water systems is to assist the Department of Public Safety to carry out their responsibility of protecting the public from fire hazards. CUC and Department of Public Safety will enter into a Memorandum of Understanding delineating each others obligations. CUC will provide specified services for agreed upon costs borne by the Department of Public Safety.


§ 50-30-1405 Use of Fire Hydrant

Any use of a fire hydrant or tampering therewith or the taking of water there from for purposes other than fire protection by persons other than authorized employees of the Department of Public Safety or of the CUC is prohibited, except upon prior application to and written permit by CUC. The Department of Public Safety shall have the prior right to use any hydrant at any time and shall have the authority to remove temporarily, if necessary in case of fire, any connection that may be made to a hydrant under a permit issued by CUC. The use of any hydrant under a permit and the connections thereto shall be subject to the direction and approval of the CUC, including the payment of appropriate charges.


§ 50-30-1410 Application for Permit

Application for a permit for the use of a fire hydrant for purposes other than fire protection shall be made in writing to CUC and when required, shall be accompanied by payment of the applicable connection charges. It shall be non-transferable and shall be shown, by the permittee, its agents or employees upon demand. CUC reserves the right to reject any application, to refuse to issue any permit and to revoke any permit at any time. No permit will be issued unless the permittee agrees to notify CUC as soon as the use of the hydrant is finished. In the event that a permit shall be revoked, the use of the hydrant thereunder shall cease immediately and all connections thereto shall be properly removed forthwith. CUC will inspect each hydrant which has been used under a permit, and all costs of repairs which the CUC may adjudge to be due to such use and the cost of inspection shall be paid for by the permittee. All water drawn from a hydrant under permit shall be metered or estimated by CUC and shall be paid for by the permittee at the current water rates. A traveling portable meter will be issued the permittee by CUC for this purpose. The permittee shall make the meter available to CUC for reading upon request. Any damage caused to the meter during the time of use by the permittee shall be paid for by the permittee. The permittee shall pay all of the costs of connecting to and disconnecting from the hydrant.


§ 50-30-1415 Hydrant Wrenches
Only regulations for* fire hydrant wrenches which shall have been approved by CUC shall be used for the operation of fire hydrants.

*So in original.


§ 50-30-1420  Damage to Hydrant or Property

The permittee shall report promptly any defect in or damage to the hydrant. The cost of any damage to property including the hydrant or of any injury to persons resulting from the use of the hydrant shall be paid for by the permittee. CUC will not be held responsible for any damage to property or injury to persons arising from the use of any hydrant for any cause whatsoever. Any damage to fire hydrants shall be paid for by the person or organization responsible for the damage.


§ 50-30-1425  Change in Hydrant Location

CUC will, if it approves the request for a change in location of hydrant, change such location provided the cost of all labor, material, equipment and all other charges are paid by the person requesting such change.


Part 1500 - Subdivision Water System Regulations

§ 50-30-1501  Availability of Water and Approval of Subdivision Map

(a) Extensions from and connections to the public water system will be approved by CUC where pressure conditions permit; provided that CUC has a sufficient water supply developed for domestic use and for fire protection to take on a new or additional service without detriment to those already served and the subdivision water system otherwise conforms to this chapter.

(b) In areas where there is no CUC water supply available, or where large quantities of water are required or a large investment is necessary to provide service, the subdivider will be informed as to the conditions under which the subdivision may be approved.

(c) After a governmental department submits the subdivision map to CUC along with the backup information, CUC will inform the department in writing of its approval, requirements for approval, or its disapproval of extension or connection to CUC water system map based on water
utility service capabilities. No statement by CRM prior to CUC approval should be construed as to the availability of water at a certain location where development is proposed to take place.

Modified, 1 CMC § 3806(d).


§ 50-30-1505 Extension to Subdivision

(a) General requirement. The subdivider shall install and pay for the subdivision water main extension required from CUC water system to the subdivision. All such subdivision water extensions shall be designed and located in accordance with CUC standards.

(b) Increase in size of water main extensions for services to other areas. Whenever CUC finds it is necessary that the water mains needs be of a greater capacity than to provide adequate service and fire protection for such subdivision, in order to supply water and fire protection to property not in the subdivision, it shall require the subdivider to install mains of such greater capacity.

Modified, 1 CMC § 3806(f).


§ 50-30-1510 Installations Within Subdivision

(a) General requirement. The subdivider shall install in accordance with this chapter and the standards of CUC and pay for the subdivision water system required within a subdivision.

(b) Increase in size of water mains within subdivision for benefit of other areas. Whenever, in order to provide for existing or future services beyond the boundaries of a subdivision, CUC finds that mains to be installed within the subdivision should be of greater capacity than would be required to provide adequate service within such subdivision, CUC will require the subdivider to make installations of such greater capacity.

(c) If and when reimbursement to subdivider who is required to install a larger size main for the reasons set forth in the preceding paragraph, CUC will reimburse the subdivider, as soon as practicable after acceptance by CUC of the completed work, the additional cost of the installation over and above the cost of the mains that would have been required; provided, however, that in no case will reimbursement be made of any portion of the cost of an 8-inch main in other areas; provided further that reimbursement will not be made to the subdivider where such larger main or mains will serve only areas under the same ownership as the subdivision under consideration.
(d) After the installation has been completed and accepted by CUC, the subdivider shall furnish CUC with an affidavit itemizing the costs incurred by him in the installation of the said larger mains. The said additional costs shall be determined by CUC.

Modified, 1 CMC § 3806(d), (f).


Commission Comment: The final paragraph was not designated. The Commission designated it subsection (d).

§ 50-30-1515 Mains, Hydrants in Subdivisions

(a) Locations and sizes of mains, fire hydrant locations and other pertinent design criteria shall be determined by CUC Chief Engineer.

(b) Fire Protection. In fixing the standards for fire protection insofar as water supply is concerned, CUC will be guided by the standards of the National Board of Fire Underwriters.


§ 50-30-1520 Preparation and Approval of Plans, Elevation Agreement, Delays in Construction

(a) Preparation of Plans. All construction plans shall be prepared by a registered engineer to the extent of his professional qualifications and approved by the Chief Engineer, CUC. Tentative maps and final maps of subdivisions to be reviewed by the CUC shall fully conform to the definitions and requirements of the Subdivision Rules and Regulations of the Commonwealth of the Northern Mariana Islands.

(b) Elevation Agreement. Whenever a lot or lots within a subdivision are at such an elevation that they cannot be assured of a dependable water supply, the approval of the construction drawings will be subject to each owner of such lot or lots signing an “elevation agreement” whereby such lot owner agrees to accept such water service as CUC is able to render, and such owner agrees to construct, if necessary, and maintain at his expense a water tank or a pump with a water tank, all in accordance with the standards and requirements of CUC, of sufficient capacity to furnish a supply of water at such times as the pressure in the water mains may be insufficient to supply such lot or lots with water. When required, a statement as to this conditional approval will be clearly lettered on the construction drawings by CUC.

(c) Approval of Plans. No construction of a subdivision water system, or any portions thereof shall be undertaken prior to approval of the final construction plans by CUC. After said approval, the subdivider shall transmit four sets of all final construction plans to CUC. In areas where there is no CUC water supply available to serve the subdivision, plans and specifications
for the development of water sources, including wells, tunnels, shafts, pumps, buildings, mains and other appurtenant structures and devices, shall be approved by CUC in their entirety prior to construction.

Modified, 1 CMC § 3806(f).


§ 50-30-1525 Materials and Construction Standards; Installation of Water Service

(a) Materials and Construction Standards. All materials, design and construction procedures, and workmanship, with respect to any subdivision water system, or any portion thereof shall be in accordance with the requirements and standards of CUC.

(b) Installation of Water Service. No water service will be approved, excepting a service for subdivision construction purposes, until the subdivision water system has been completed and accepted by the CUC and all the improvements required by the Subdivision Rules and Regulations have been completed.


§ 50-30-1530 Ownership of Installed Water System

As a condition precedent to connecting the project water system to the public water system, the subdivider shall convey the water system to CUC and said system thereafter will be maintained and operated as a part of the public water system provided, however, that CUC may refuse to operate and maintain facilities installed without CUC’s prior approval. Prior to commencement of water services and as a prerequisite to such service, the subdivider shall deliver to CUC perpetual easements for all portions of the water system installed other than publicly owned property. The subdivider shall also convey, without cost to CUC, fee simple title to all sites on which are located tanks, reservoir, sources of supply, and pumps constructed by the subdivider and connected to the public water system together with easements for access, water pipeline, and other necessary utility purpose.


Part 1600 - Miscellaneous Provisions

§ 50-30-1601 Water Resources Conservation and Water Pollution

All decisions regarding water resources conservation and water pollution, to be made in conjunction with the operations of CUC’s Water Division, shall be based on the applicable laws.
§ 50-30-1605 Severability

If any, article section, sentence, clause, or phrase of this chapter or their application to any person or circumstance or property is held to be unconstitutional or invalid, the remaining portion of this chapter or the application of this chapter to other persons or circumstances or property shall not be affected and shall therefore remain in force and effect.

Modified, 1 CMC § 3806(d).


§ 50-30-1610 Effective Date

This chapter shall become effective immediately upon their approval and adoption by the Board of Directors of CUC.

Modified, 1 CMC § 3806(d).


Commission Comment: The notice of adoption for the 1988 Water Services Regulations stated:

Some minor changes were made on the proposed regulations. They are:

1. Article XX

wording of the effective date of these regulations.

The change was not published. See 10 Com. Reg. at 5603 (Aug. 15, 1988).

CHAPTER 50-40

CUSTOMER BILLING AND DISPUTES REGULATIONS

Part 001 General Provisions
§ 50-40-001 Authority
§ 50-40-005 Purpose
§ 50-40-010 Non-billing Disputes

Part 100 Customer Billing Disputes

§ 50-40-101 Filing a Customer Billing Dispute
§ 50-40-105 CUC Response to Billing Dispute
§ 50-40-110 Informal Settlement
§ 50-40-115 Right to Hearing
§ 50-40-120 Appeal from Decision of the Hearing Officer
§ 50-40-125 Appeal from Decision of the Board
§ 50-40-130 Record for Appeal

Part 200 Amendment of Existing Regulations
§ 50-40-201 Amendment of Existing Regulations

Part 300 Miscellaneous Provisions
§ 50-40-301 Previous Regulations
§ 50-40-305 Severability
§ 50-40-310 Effectiveness

Chapter Authority: 4 CMC § 8157; 4 CMC § 8141(e) and (g).


Commission Comment: For the history of the regulatory authority of the Commonwealth Utilities Corporation in the Commonwealth, see the general comment to chapter 50-10.

Public Law 15-123 (effective December 3, 2007) amended 4 CMC § 8143 to require CUC to bill water, power and sewer separately. PL 15-123 prohibits CUC from disconnecting “a consumer’s water service for failure to pay for the electrical power portion of their bill.” 4 CMC § 8143. PL 15-122 (effective December 5, 2007), codified at 4 CMC §§ 8144-8145, sets forth requirements for the disconnection and reconnection of utility services. Public Law 16-17, effective October 1, 2008, repealed and reenacted 4 CMC §§ 8143 -8144 in addition to other code sections.

PL 16-17 contains similar requirements as PL 15-122 and PL 15-123. These requirements include: using security deposits to offset past due amounts; CUC may not disconnect before the disconnection date; disconnections may not occur during disputes regarding billing statements; CUC may not disconnect all services (power, water and sewer) when a delinquent payment involves only one utility service; and disconnection may not occur for consumers receiving utility assistance for failure of Department of Community and Cultural Affairs to pay the bill. 4 CMC § 8144.

Part 001 - General Provisions

§ 50-40-001 Authority

The regulations in this chapter are adopted by the Commonwealth Utilities Corporation pursuant to 4 CMC § 8157, 4 CMC § 8141(e) and (g) and 1 CMC § 9115, and shall have the force of law.

Modified, 1 CMC § 3806(d).

§ 50-40-005 Purpose

The purpose of this chapter is to standardize billing and dispute procedures for all of the utility services provided by CUC, to bill and collect fees in a fair and rational manner, and to adopt procedures which permit consumers to contest their billings while allowing for the efficient management of the corporation. Section 50-40-101 through § 50-40-125 govern only billing disputes. It is contemplated that all other disputes shall be brought as allowed by and pursuant to the Administrative Procedure Act, (1 CMC §§ 9101, et seq.), may not be brought as a claimed offset, setoff, or counterclaim in a billing dispute, and that such disputes not concerning the correctness of a bill shall not serve as a basis to stay disconnection of service for non-payment.

Modified, 1 CMC § 3806(c), (d), (g).


Commission Comment: The Commission changed the period after “Administrative Procedure Act” to a comma to correct a manifest error.

§ 50-40-010 Non-billing Disputes

Any party may seek review of agency action other than the dispute of the correctness or accuracy of a billing by a written request for a hearing pursuant to the Administrative Procedure Act (1 CMC §§ 9101, et seq.). The matter shall be heard pursuant to 1 CMC §§ 9109 and 9110 by a hearing officer employed or appointed by the Board of Directors of CUC who shall initially decide the matter, and whose decision shall become final unless appealed in writing within fifteen days of the initial decision. The initial decision of the hearing officer shall become the interim order of the agency and shall be given effect unless and until stayed, reversed, or modified by the action of the Board. The matter will be reviewed on the record made at the initial hearing and no further hearing shall be held unless good cause is shown and it is ordered by the Board.

Modified, 1 CMC § 3806(e), (f).


Part 100 - Customer Billing Disputes

§ 50-40-101 Filing a Customer Billing Dispute

(a) Within sixty days of a billing or of becoming aware of facts which give rise to a complaint regarding a billing, a customer may dispute the billing. Such disputes are limited to:

(1) Dispute as to the applicable rate or fee
(2) Dispute as to the computation of charges
(3) Dispute as to delivery of services charged for, including disputes regarding accuracy of metering or estimates made by CUC.

(b) The dispute shall be made in writing and clearly and directly state any theory or ground claimed for relief. Any factual allegations claimed to be personally known by the customer shall be made under penalty of perjury. Any factual allegations not claimed to be personally known may be made upon information and belief, but the customer shall identify all witnesses they will rely on as to those facts.

(c) CUC shall provide a form to aid the customer in complying with this section, and if the customer attempts to make a verbal complaint regarding a bill, CUC shall advise the customer of the necessity of making a written complaint in order to obtain formal review customer in properly making his complaint.*

*So in original.

Modified, 1 CMC § 3806(e).


Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) through (c).

§ 50-40-105 CUC Response to Billing Dispute

Within twenty days of receipt of a written billing dispute, CUC shall cause a written response to be made to the customer. The response shall clearly and directly admit, deny, or explain each of the factual allegations contained in the customer complaint, give the CUC’s position regarding any theories or grounds claimed for relief, and state whether the CUC is willing to make an adjustment in whole or in part regarding the disputed billing. The CUC response shall provide notice to the customer that if he wishes to appeal this determination of his complaint he must do so in writing within ten calendar days of delivery of the CUC response, or else further action on his claimed will be barred. If payment has been made of all undisputed charges, no disconnection or other action shall be taken on the disputed bill until ten calendar days after CUC’s delivery of its written response.

Modified, 1 CMC § 3806(e).


Commission Comment: PL 15-122 (effective December 5, 2007) provides that CUC “shall not disconnect the utility services of a residential consumer if the consumer is actively disputing the billing statement.” PL 15-122 § 2 (§ 8144(c)). Public Law 16-17, effective October 1, 2008, repealed and reenacted 4 CMC § 8143-8144 in addition to other code provisions. Public Laws
§ 50-40-110 Informal Settlement

The CUC or the customer may request an informal settlement conference at any stage of the proceedings, with or without the presence of an administrative hearing officer. Informal settlement conferences are encouraged, but no such conference shall affect any time limits set by this chapter except upon an order issued by an administrative hearing officer.

Modified, 1 CMC § 3806(d), (f).


§ 50-40-115 Right to Hearing

Upon receipt of a written response of CUC to a billing dispute the customer may request review of the matter by an administrative hearing officer. Request for a hearing must be in writing and delivered to the Administrative Hearing Office of CUC within ten calendar days of the customer’s receipt of the CUC response. Failure to request review with ten calendar days shall result in waiver of the right of any further appeal or hearing, and the matter shall be finally resolved pursuant to the terms of CUC’s written response. The hearing shall be conducted pursuant to 1 CMC § 9109. The hearing officer shall issue a written decision and an order regarding disposition of the matter with ten calendar days of conclusion of the hearing. No disconnection of the customer’s account shall take place until an order of the administrative hearing officer is issued provided that the customer has paid the undisputed portion of the billing and any undisputed charge occurring during adjudication.

Modified, 1 CMC § 3806(e), (f).


Commission Comment: PL 15-122 (effective December 5, 2007), codified at 4 CMC §§ 8144-8145, provides that CUC “shall not disconnect the utility services of a residential consumer if the consumer is actively disputing the billing statement.” Public Law 16-17, effective October 1, 2008, repealed and reenacted 4 CMC § 8144 in addition to other code sections. PL 16-17 contains similar language as PL 15-122 regarding disconnection of utility services. The provisions of PL 16-17 supersede this section to the extent that they conflict.

§ 50-40-120 Appeal from Decision of the Hearing Officer

(a) With ten calendar days of the written decision of the administrative hearing officer regarding a billing dispute, the customer or CUC may appeal the decision to the Board of
Directors of the CUC. Failure to request review with ten calendar days shall result in waiver of the right of any further appeal. The appeal shall be in writing and state with particularity the parts of the hearing decision excepted to or claimed to be in error. No further hearing need be held unless desired by the Board and the Board may, but need not, review the entire record. Appeal to the Board shall not stay effect of the decision of the hearing officer, and unless or until the decision is stayed or reversed a customer may be disconnected for nonpayment of the disputed amount according to the terms of the decision and order of the hearing officer. The customer may pay the disputed amount and proceed with an appeal, or seek damages for wrongful termination should they prevail in their appeal after service is terminated.

(b) The Board shall decide the appeal at its next meeting occurring after the appeal of a decision by the hearing officer, but may continue the matter should it require further submissions to decide the appeal.

Modified, 1 CMC § 3806(e), (f).


Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) and (b).

PL 15-122 (effective December 5, 2007), codified at 4 CMC §§ 8144-8145, provides that CUC “shall not disconnect the utility services of a residential consumer if the consumer is actively disputing the billing statement.” Public Law 16-17, effective October 1, 2008, repealed and reenacted 4 CMC § 8144 in addition to other code sections. PL 16-17 contains similar language as PL 15-122 regarding disconnection of utility services. The provisions of PL 16-17 supersede this section to the extent that they conflict.

§ 50-40-125 Appeal from Decision of the Board

A person aggrieved after the decision of the Board in a billing dispute may seek judicial review pursuant to 1 CMC § 9112.


§ 50-40-130 Record for Appeal

All hearings shall be recorded. The customer may obtain a copy of the tape recording of the hearing upon payment of the fee of five dollars per tape. Should a written transcript be requested or required, it shall be at the expense of the party requesting it. Upon request, the hearing officer shall designate a person to prepare a transcript and upon completion certify its accuracy.

Modified, 1 CMC § 3806(e), (g).
Part 200 - Amendment of Existing Regulations

§ 50-40-201 Amendment of Existing Regulations

In order to provide for uniform billing and collection for the various utility services provided by CUC and in order to be consistent with this chapter, the amendments of CUC’s existing regulations set forth in this part are made.

Modified, 1 CMC § 3806(d), (g).


Commission Comment: The Commission changed “it” to “its” to correct a manifest error.

§ 50-40-205 Electric Service Regulations of the CUC

Part 19.2 is revoked and a new part 19.2 is made to read:

When a customer and the CUC fail to agree on the amount of a bill for electric service, the dispute between the parties shall be adjudicated in accordance with the CUC Regulations Regarding Customer Billing and Disputes. Should it be necessary to bring an action in court to collect any amount due or to appear in court to defend or enforce any order issued pursuant to these regulations, CUC shall if it prevails receive its reasonable costs and attorney’s fees.

Modified, 1 CMC § 3806(f).


§ 50-40-210 Regulations Governing the Use of CUC Water System

Article VII, section 2 is revoked and a new article VII, section 2 is made to read:

Section 2.
(a) Any bill which is not paid within fifteen (15) days after presentation or deposit in the United States mail shall be deemed past due, and incur a one percent (1%) late charge.

(b) This charge becomes part of the balance due. Thereafter, interest on the past due balance accrues at the rate of one percent (1%) per month, compounded yearly.

(c) CUC shall have the power to terminate water service to any customer who is past due in making payment of water service charges. The procedures for notice and governing termination shall be those set forth at Part 18, sections 18.3 through 18.7 of the Electric Service Regulations of the CUC.

(d) When a customer and the CUC fail to agree on the amount of a bill for water service, the dispute between the parties shall be adjudicated in accordance with the Regulations Regarding Customer Billing and Disputes.

(e) Should it be necessary to bring an action in court to collect any amount due or to appear in court to defend or enforce any order issued pursuant to these regulations, CUC shall if it prevails receive its reasonable costs and attorney’s fees.

Modified, 1 CMC § 3806(f).


Commission Comment: Article VII § 2 of the Water Services Regulations is codified at NMIAC § 50-30-505.

§ 50-40-215 Regulations Governing the Use of Public Sewer

(a) Article V, section 6 is revoked and a new article V, section 6 is made to read: All bills shall be due and payable upon deposit in the United States mail or upon other presentation to the consumer. Payment shall be made to collectors duly authorized by the CUC any bill which is not paid within fifteen (15) days after presentation or deposit in the United States mail shall be deemed past due, and incur a one percent (1%) charge. This charge becomes part of the balance due. Thereafter, interest on the past due balance accrues at the rate of one percent (1%) per month, compounded yearly.

(b) Article VI, section 1 is revoked and a new article VI, section 1 is made to read:

Section 1.

a. CUC shall have the power to terminate water service to any customer who is past due in making payment of sewer service charges. The procedures for notice and governing termination shall be those set forth at Part 18, 18-3 to 18-7 of the Electric Service Regulations of the CUC
b. When a customer and the CUC fail to agree on the amount of a bill for sewer service, the dispute between the parties shall be adjudicated in accordance with the Regulations Regarding Customer Billing and Disputes.

c. Should it be necessary to bring an action in court to collect any amount due or to appear in court to defend or enforce any order issued pursuant to these regulations, CUC shall if it prevails receive its reasonable costs and attorney’s fees.

Modified, 1 CMC § 3806(f).


Commission Comment: Article V § 6 of the Public Sewer Use Regulations is codified at NMIAC § 50-20-425. Article VI § 1 is codified at NMIAC § 50-20-501.

Part 300 - Miscellaneous Provisions

§ 50-40-301 Previous Regulations

If any provision of any previous regulation is found to be in conflict with this chapter, it is the intention of CUC that this chapter shall control in order to provide for uniform treatment of billings for all services provided by CUC.

Modified, 1 CMC § 3806(d).


§ 50-40-305 Severability

If any provision or provisions of this chapter, or the application of any such provision or provisions to any person or circumstances, shall be held invalid by a court of competent jurisdiction, the remainder of this chapter, or the application of such provision or provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

Modified, 1 CMC § 3806(d).


§ 50-40-310 Effectiveness

The regulations in this chapter shall become effective upon compliance with 1 CMC § 9105(b) and shall apply to all matters that have not become final as of that date, except that matters which
have already been heard shall proceed for appeal under existing regulations, with the initial
decision of the hearing officer becoming final if not appealed in writing within fifteen days.

Modified, 1 CMC § 3806(d), (e), (f).

History: Adopted 24 Com. Reg. 19115 (Apr. 29, 2002); Proposed 24 Com. Reg. 19016 (Feb. 28,
2002).

CHAPTER 50-50
PROCUREMENT REGULATIONS

Part 001 General Provisions
Subpart A General
§ 50-50-001 Purposes
§ 50-50-005 Authority
§ 50-50-010 Supplementary General Principles
of Law Applicable
§ 50-50-015 Requirement of Good Faith
§ 50-50-020 Application of Regulations
§ 50-50-025 Validity of Contract
§ 50-50-030 Remedy Against Employee
Subpart B Definitions
§ 50-50-035 Definitions
Subpart C Public Access
§ 50-50-040 Public Access to Procurement
Information

Part 100 Procurement Organization
§ 50-50-101 Responsibility for Procurement
and Supply Functions
§ 50-50-105 Procurement and Supply Manager
§ 50-50-110 Duties of the Procurement and
Supply Manager
§ 50-50-115 Contract Oversight
§ 50-50-120 Split Contracts
§ 50-50-125 Acceptance of Gratuities by the
Director and CUC Employees

Part 200 Source Selection and Contract
Formation
Subpart A Source Selection
§ 50-50-201 Methods of Source Selection
§ 50-50-205 Competitive Sealed Bidding
§ 50-50-210 Small Purchases
§ 50-50-215 Sole Source Procurement
§ 50-50-220 Emergency Procurement
§ 50-50-225 Competitive Sealed Proposals

§ 50-50-230 Competitive Selection Procedures
for Professional Services
Subpart B Cancellation of Invitation for Bids or
Request for Proposals
§ 50-50-235 Cancellation
Subpart C Qualifications and Duties
§ 50-50-240 Responsibility of Bidders and
Offerors
§ 50-50-245 Pre-qualification of Contractors
Subpart D Types of Contracts
§ 50-50-250 Types of Contracts
Subpart E Inspection and Audit
§ 50-50-255 Right to Inspect Place of Business
§ 50-50-260 Right to Audit Records
Subpart F Reports and Records
§ 50-50-265 Report of Anti-competitive or
Deceptive Practices
§ 50-50-270 Retention of Procurement Records

Part 300 Procurement of Construction and
Architect-Engineer
Services
§ 50-50-301 Construction Procurement
§ 50-50-305 Architect-Engineer Services

Part 400 Protests and Disputes
Subpart A Bid Protests and Appeals
§ 50-50-401 Protests to the Director
§ 50-50-405 Appeals of Director’s Decisions to
the Public Auditor
§ 50-50-410 Remedies
§ 50-50-415 Effective Date
Subpart B Disputes
§ 50-50-420 Disputes

Part 500 Ethics in Public Contracting
Subpart A Definitions
PART 50 COMMONWEALTH UTILITIES CORPORATION

§ 50-50-501 Definition of Terms
Subpart B Standards of Conduct
§ 50-50-505 Policy
§ 50-50-510 General Standards
§ 50-50-515 Employee Disclosure Requirements
§ 50-50-520 Employee Conflict of Interest
§ 50-50-525 Gratuities and Kickbacks
§ 50-50-530 Prohibition Against Contingent Fees

§ 50-50-535 Contract Clauses
§ 50-50-540 Restrictions on Employment of Present and Former Employees
§ 50-50-545 Use of Confidential Information
§ 50-50-550 Collusion by Bidders
§ 50-50-555 Penalties
§ 50-50-560 Authority to Debar or Suspend

Part 600 Miscellaneous Provisions

§ 50-50-601 Severability

Chapter Authority: 4 CMC §§ 8122 and 8123; 4 CMC § 8157.


* The regulations were not published for comment prior to adoption. See Commission comment to this chapter.

Commission Comment: For the history of the regulatory authority of the Commonwealth Utilities Corporation in the Commonwealth, see the general comment to chapter 50-10.

On January 27, 2006, Governor Fitial issued Executive Order No. 2006-1 (Reorganization Plan No. 1 of 2006). In Executive Order No. 2006-1, Governor Fitial allocated CUC to the Department of Public Works (DPW), as a division of DPW; abolished the Board of Directors of CUC; and transferred the Board’s functions to DPW. 28 Com. Reg. 25520 (Feb. 28, 2006).

On January 27, 2006, Governor Benigno R. Fitial signed Emergency Declaration No. 2006-2 (28 Com. Reg. 25519 (Feb. 28, 2006)). In Emergency Declaration No. 2006-2, Governor Fitial assumed full control of the CUC; suspended “all regulatory statute provisions and regulations applicable to the CUC, including procurement regulations”; suspended the authority of the Board of Directors; and reprogrammed all necessary money to provide CUC with funds to address the imminent fuel shortage. 28 Com. Reg. 25519 (Feb. 28, 2006).

On March 29, 2006, Governor Fitial signed Executive Order No. 2006-03. Governor Fitial ordered that the utilities division of DPW (formerly CUC) be under a state of emergency in Executive Order No. 2006-03. 28 Com. Reg. 25527 (Mar. 30, 2006).

On May 5, 2006, Governor Fitial issued Executive Order No. 2006-4 which rescinded Reorganization Plan No. 1 of 2006 (Executive Order No. 2006-1). Executive Order No. 2006-4, the “Commonwealth Utilities Corporation Reorganization Executive Order,” reestablished CUC as a public corporation and set forth its duties and powers. 28 Com. Reg. 25626 (May 19, 2006). Executive Order No. 2006-4 addressed corporate directors, officers and employees; general corporate operations and miscellaneous matters, including providing the executive director of CUC with the power to issue regulations necessary to carry out the purposes of the Commonwealth Utilities Corporation Reorganization Executive Order.
Executive Order No. 2006-4 § 4 provides:

§ 8152. Procurement and Audits.
(a) The corporation shall comply with the procurement regulations of the Commonwealth or such other procurement regulations as may be issued by the executive director and approved by the Secretary of Finance and Attorney General.

In June 2007, CUC published a notice of adoption in the Commonwealth Register with an exact copy of NMIAC, title 50 chapter 50. 29 Com. Reg 26582 (June 18, 2007). The notice indicates approval of the Attorney General as required by Executive Order No. 2006-4 § 4 (§ 8152). 29 Com. Reg 26582 (June 18, 2007). The notice provides:

The issuance of the procurement regulations is effective upon the approval of the Secretary of Finance and the Attorney General. See 4 CMC sec. 8152(a), as amended by Executive Order 2006-4.

The Executive Director of CUC has determined the continued application of such procurement regulations is in the best interests of CUC and the CNMI Government and that such regulations should be adopted as permanent under the authority provided by Executive Order 2006-4.

However, CUC does not appear to have complied with the Administrative Procedure Act (1 CMC §§ 9101 et seq.) when readopting the regulations set forth in this chapter. The adoption notice does not include any reference to the date of publication of proposed regulations or demonstrate compliance with the 30 day notice and comment period required by 1 CMC § 9104(a). Moreover, the notice did not address the requirements for emergency regulations set forth in 1 CMC § 9104(b). Consequently, the validity of the regulations set forth in this chapter is questionable because the adoption procedure following the suspension of the regulations imposed by Emergency Declaration No. 2006-2 did not meet the requirements of the Administrative Procedure Act (1 CMC §§ 9101 et seq.).

state of disaster emergency for thirty days regarding CUC’s power generation failure and suspended the procurement regulations in this chapter and enabled CUC, within PL 16-9, to sign a power contract relating to the Aggreko temporary wholesale generation power contract. See EO No. 2008-10 (30 Com. Reg. 28775 (Sept. 2008)). The ensuing emergency declarations, EOs 2008-13, -17, -20 through -22 and EOs 2009-01 through -08, extended the state of emergency for another 30 days with the same effect as EO 2008-10 on the regulations in this chapter, and incorporated all findings and conclusions of the preceding Executive Orders, some with modifications.

Public Law 17-34 (effective March 10, 2011), codified at 4 CMC § 8191, amended PL 16-17 § 3, codified at 4 CMC § 8191.

On December 3, 2011, PL 17-62 was enacted to authorize the Executive Director to execute a loan in the absence of an organized board of directors.

Part 001 - General Provisions

Subpart A - General

§ 50-50-001 Purposes

(a) Interpretation. The regulations in this chapter shall be construed and applied to promote their underlying purposes and policies.

(b) Purposes and Policies. The underlying purposes and policies of this chapter are:
(1) To provide for increased public confidence in the procedures followed in CUC procurement;
(2) To ensure the fair and equitable treatment of all persons who deal with the procurement system of CUC;
(3) To provide increased economy in CUC procurement activities and to maximize to the fullest extent practicable the purchasing value of CUC funds;
(4) To foster effective broad-based competition within the free enterprise system; and
(5) To provide safeguards for the maintenance of a procurement system of quality and integrity.

Modified, 1 CMC § 3806(d), (f).


§ 50-50-005 Authority

This chapter is promulgated under the authority of 4 CMC §§ 8122 and 8123, which give CUC the duties and powers to be in control of and be responsible for procurement and supply for utility services in the Commonwealth; and 4 CMC § 8157, which empowers the Board to issue regulations.
Modified, 1 CMC § 3806(d), (g).


Commission Comment: The Commission changed “gives” to “give” to correct a manifest error.

§ 50-50-010 Supplementary General Principles of Law Applicable

Unless displaced by the particular provisions of this chapter, the principle of law and equity including, but not limited to, the uniform Commercial Code of the Commonwealth and common law of fraud, conflicts of interest, waste, false pretenses, and public purpose shall supplement this chapter.

Modified, 1 CMC § 3806(d), (f).


§ 50-50-015 Requirement of Good Faith

The regulations in this chapter require all parties, including CUC employees and contractors, involved in the negotiation, bidding, performance or administration of CUC contracts to act in good faith.

Modified, 1 CMC § 3806(d).


§ 50-50-020 Application of Regulations

Except as otherwise specified by law, this chapter applies to every expenditure of CUC funds irrespective of source, including federal assistance monies and Covenant funds, which are not subject to federal procurement requirements. Nothing in this chapter shall be construed to prevent CUC from complying with the terms and conditions of any grant, cooperative agreement or memoranda of understanding.

Modified, 1 CMC § 3806(d).


§ 50-50-025 Validity of Contract
No CUC contract covered by this chapter shall be valid unless it complies with this chapter.

Modified, 1 CMC § 3806(d).


§ 50-50-030 Remedy Against Employee

Any procurement action of an employee of CUC in violation of this chapter is an action outside the scope of his or her employment. Should such wrongful acts be demonstrated to be willful on the part of a CUC employee, the CUC will seek to have any liability asserted against it by a contractor which directly results from these improper acts to be determined judicially to be the individual liability of the employee who committed such wrongful act.

Modified, 1 CMC § 3806(d).


Subpart B - Definitions

§ 50-50-035 Definitions

As used in this chapter, unless the context otherwise requires, the following meanings apply:

(a) “Attorney General” means the Attorney General of the Northern Mariana Islands.

(b) “Construction” means the process of building, altering, repairing, improving or demolishing of a public structure or building or public improvements commonly known as “capital improvements.” It does not include the routine maintenance of existing structures, buildings, or public real property.

(c) “Contract” means all types of agreements regardless of what they may be called for the procurement of supplies, services or construction.

(d) “Cost-reimbursement contract” means a contract under which a contractor is reimbursed for costs which are allowable and allocable in accordance with the contract terms and this chapter, and a fee, if any.

(e) “CUC” means the Commonwealth Utilities Corporation of the Commonwealth government.

(f) “Director” means the Executive Director of the Commonwealth Utilities Corporation or his designee.
(g) “Dispute” means a disagreement concerning the legal rights and obligations of contracting parties, which, if not settled by mutual agreement, must be referred to a neutral third party for resolution.

(h) “Employee” means an individual receiving a salary from CUC and non-salaried individuals performing personal services of the government. This definition extends to the members of the Board. Consultants, independent contractors and part-time workers shall be considered employees.

(i) “Goods” means all property, including but not limited to equipment, materials, supplies, and other tangible personal property of any kind of nature, printing, insurance, leases of real and personal property, and sale or other disposal of personal property.

(j) “Governor” means the Governor of the Northern Mariana Islands.

(k) “Invitation for bids” means all documents, whether attached or incorporated by reference, utilized for soliciting bids.

(l) “Person” means an individual, sole proprietorship, partnership, joint venture, corporation, other unincorporated association or a private legal entity.

(m) “Procurement” means buying, purchasing, renting, leasing or acquiring construction, goods or services. It also includes all functions that pertain to the obtaining of construction, goods or services, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration.

(n) “Purchase description” means the words used in a solicitation to describe the goods, services or construction to be purchased and includes specifications attached to, or made part of, the solicitation.

(o) “Responsible” in reference to a bidder, means a person who has the capability in all respects to perform fully the contract requirements, and the integrity and reliability which will assure good faith performance.

(p) “Responsive” in reference to a bidder, means a person who has submitted a bid which conforms in all material respects to the invitation for bids.

(q) “Services” means the furnishing of time, labor or effort by a person other than an employee, and not involving the delivery of a specific end product other than reports, plans and incidental documents.

Modified, 1 CMC § 3806(d), (f), (g).

Commission Comment: In subsection (b), the Commission moved the period after “capital improvements” inside of the closing quotation mark.

Subpart C - Public Access

§ 50-50-040 Public Access to Procurement Information

Procurement information shall be a matter of public record and shall be available for public inspection. Procurement information may be kept confidential when necessary to insure proper bidding procedures. This decision shall be made only by the Director.


Part 100 - Procurement Organization

§ 50-50-101 Responsibility for Procurement and Supply Functions

The Executive Director of the Commonwealth Utilities Corporation (CUC), hereafter referred to as Director is hereby designated as the responsible officer for the procurement and supply function of the CUC to assist the Board of Directors in the execution of those duties and exercise powers authorized under 4 CMC §§ 8122 and 8123.

Modified, 1 CMC § 3806(f).


Commission Comment: On December 3, 2011, PL 17-62 was enacted to authorize the Executive Director to execute a loan in the absence of an organized board of directors.

§ 50-50-105 Procurement and Supply Manager

The Director may designate a procurement and supply manager in his office to administer and coordinate the day-to-day activities of the procurement and supply functions. The procurement and supply manager may be assisted in carrying out his functions and duties by other employees.

Modified, 1 CMC § 3806(f).


§ 50-50-110 Duties of the Procurement and Supply Manager

The duties and responsibilities of the procurement and supply manager include, but are not limited to, the following:
(a) Oversee that this chapter is observed in all CUC procurement;

(b) Hear all appeals of protests and disputes;

(c) Conduct bidding, procurement, negotiation or administration of CUC contracts upon request of the official with expenditure authority;

(d) Provide advanced planning for the centralized purchase of CUC supplies;

(e) Exercise general supervision and control over all inventories of supplies belonging to CUC; and

(f) Establish and maintain programs for the inspection, testing and acceptance of supplies.

Modified, 1 CMC § 3806(d), (f).


§ 50-50-115 Contract Oversight

(a) Before the execution of a contract, it must be reviewed and approved by the Director or his designee. The Director shall review all contracts for construction, the procurement of goods, leases, the sale of goods and for services by an independent contractor to insure compliance with this chapter, that the contract is for CUC purpose, and does not constitute a waste or abuse of CUC funds.

(b) A contract shall next be approved by the Comptroller who shall certify the availability of funds.

(c) The Attorney General or the legal counsel for the Corporation shall certify the form and legal capacity of every CUC contract, change order, or purchase order. No contract for personal services or employment shall be approved if it is retroactive for more than thirty days.

(d) A contract shall be approved first by the Director, and the Chairman, Board of Directors before it is signed by the contractor. The Director shall cause such review to occur in a prompt and timely manner.

(e) Upon his own initiative or upon the request of the Public Auditor, the Director may refer any contract to the Public Auditor for a recommendation before he approves or disapproves of the contract.

(f) The Director or his designee shall approve of all contracts for employment or personal services, including excepted services contracts and contracts for services by an independent contractor in a non-employment status.
(g) A contract may be referred back to the Director by the Chairman, Board of Directors, Attorney General or the legal counsel of the Corporation, or Public Auditor for further review based on additional evidence that it may not comply with this chapter. If the Director withdraws approval or refuses to approve a contract, he shall state in writing the basis for his determination.

(h) It is the responsibility of the Director to ensure that the contractor does not sign the contract or incur any expenses under it until all necessary government signatures have been obtained. The supervision and inspection of a project is the primary responsibility of the Director.

(i) No contract is effective against the Commonwealth until all of the Commonwealth officials whose signatures appear on the contract form have signed the contract. A contract shall contain a right to audit records clause.

Modified, 1 CMC § 3806(d), (e), (f).


Commission Comment: On December 3, 2011, PL 17-62 was enacted to authorize the Executive Director to execute a contract for a loan in the absence of an organized board of directors.

§ 50-50-120 Split Contracts

If the Director determines that a contract has been split into subcontracts for the purpose of avoiding bidding or if a change order or modification is unreasonably being made in a contract to increase the contract price where a contract has been bid and awarded to the lowest responsible bidder, then the Director may require the contract or the modification to be competitively bid. An unreasonable modification or change order would be, for example, one which would have been reasonably foreseeable at the time of the formation of the contract.

Modified, 1 CMC § 3806(g).


Commission Comment: The Commission deleted a “2” in the first sentence to correct a typographical error.

§ 50-50-125 Acceptance of Gratuities by the Director and CUC Employees

(a) In addition to the restriction found in § 50-50-525, the Director and the employees of CUC shall be subject to these additional restrictions to avoid the appearance of impropriety.

(b) The Director or the employees of CUC cannot accept from any person any gift of value given with the intent to influence their business judgment.
Modified, 1 CMC § 3806(c).


Part 200 - Source Selection and Contract Formation

Subpart A - Source Selection

§ 50-50-201 Methods of Source Selection

Unless otherwise authorized by law or by regulation, all CUC contracts shall be awarded by competitive sealed bidding, except as provided in:

(a) § 50-50-210 (Small Purchases);
(b) § 50-50-215 (Sole Source Procurement);
(c) § 50-50-220 (Emergency Procurement);
(d) § 50-50-225 (Competitive Sealed Proposals);
(e) § 50-50-230 (Professional Services);
(f) § 50-50-305 (Architect-Engineer Services).

Modified, 1 CMC § 3806(c).


Commission Comment: Public Law 17-34 (effective March 10, 2011), codified at 4 CMC § 8191, amends PL 16-17 § 3, codified at 4 CMC § 8191.

§ 50-50-205 Competitive Sealed Bidding

(a) Invitations for Bids. An invitation for bids shall be issued and shall include at the minimum:
   (1) An invitation for bids number;
   (2) Date of issuance;
   (3) Name, address and location of issuing office;
   (4) Specific location where bids must be submitted;
   (5) Date, hour and place of bid opening;
   (6) A purchase description in sufficient detail to permit full and open competition and allow bidders to properly respond;
   (7) Quantity to be furnished;
(8) Time, place and method of delivery or performance requirements;
(9) Essential contractual terms and conditions; and
(10) Any bonding requirements.

(b) Public Notice. Adequate public notice of the invitation for bids shall be given a reasonable time prior to the date set forth for the opening of bids. Publication of notice in a newspaper of general circulation in the Commonwealth once in each week over a period of calendar days shall be deemed to be adequate notice.

(c) Bidding Time. A bidding time of at least thirty calendar days shall be provided, unless the Director determines a shorter period is reasonable and necessary.

(d) Bid Receipt. All bids shall be submitted to the Office of the Director. Bids shall be received prior to the time set for opening and shall be maintained sealed in a locked receptacle at that office. If a bid is open by mistake, it shall be resealed and the person who opened the bid shall write his signature and print his title on the envelope and deliver it to the Director. No information contained in the bid shall be disclosed prior to the bid opening. The Director shall cause the opened bid to be placed into the sealed receptacle.

(e) Bid Opening. The bid opening shall be conducted by the Director at the CUC conference room. Bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the invitation for bids. The Director or his designee shall be present at the bid opening. The bids received prior to the bid closing date and time shall be publicly opened. The amount of each bid, together with the name of each bidder shall be recorded, the record and each bid shall be open to public inspection. The Director shall prepare a written summary of the bid opening.

(f) Bid Acceptance and Bid Evaluation. Bids shall be unconditionally accepted without alteration or correction, except as authorized in this chapter. Bids shall be evaluated based on the requirements set forth in the invitation for bids, which may include criteria as is necessary to reasonably permit a determination as to the acceptability of the bid for the particular purpose intended.

(g) Bid Rejection. A bid may be rejected for any of the following reasons:
(1) Failure to conform to essential requirements of the invitation for bids such as specifications or time of delivery;
(2) Imposition of conditions or restrictions in the bid which modify requirements of the invitation or limit the bidder’s liability to CUC. For example, bids shall be rejected in which the bidder:
(i) Protects against future changes in condition, such as increased costs;
(ii) Fails to state a price and indicates that prices shall be the price in effect at the time of delivery;
(iii) States a price but qualifies it as subject to price in effect at time of delivery;
(iv) Limits the rights of CUC;
(3) Unreasonableness as to price;
(4) A bid from a non-responsible bidder.
(h) Correction or Withdrawal of Bids. Cancellation of Awards. Correction or withdrawal of inadvertently erroneous bids, before or after award, or cancellation of awards or contracts based on bid mistakes must be approved by the Director in writing. After the bid opening, no changes in bid price or other provision of bids prejudicial to the interest of CUC or fair competition shall be allowed. Whenever a bid mistake is suspected, CUC shall request confirmation of the bid prior to award. In such instance, if the bidder alleges an error, CUC shall only permit correction of the bid or withdrawal of the bid in accordance with subparagraph (h)(1) or (h)(2).

1. Correction of bids. Correction of bids shall only be permitted when:
   (i) An obvious clerical mistake is clearly evident examining the bid document. Examples of such mistakes are error in addition or the obvious misplacement of a decimal point, or
   (ii) The otherwise lowest low bidder alleges a mistake and the intended bid is evident from the bid document or is otherwise supported by clear and convincing evidence as to the bid intended and the corrected bid remains the low bid. A low bidder may not be permitted to correct a bid mistake resulting from an error in judgment.

2. Withdrawal of bids. Withdrawal of a bid shall only be permitted where the otherwise low bidder alleges a mistake and there is a clear and convincing evidence as to existence of a mistake.

3. Cancellation of awards. Cancellation of awards or contracts shall only be permitted when:
   (i) Evidence as to the existence of the mistakes is not discovered until after the award;
   (ii) There exists no clear and convincing evidence to support what the bid intended; and
   (iii) Performance of the contract at the award price would be unconscionable.

Award.

1. The contract must be awarded with reasonable promptness by written notice to the lowest responsive bid by a responsible bidder whose bid fully meets the requirements of the invitation for bids and this chapter. Unsuccessful bidders shall also be promptly notified.

2. Notice of an award shall only be made by the presentation of a contract with all of the required signatures to the bidder. No other notice of an award shall be made orally or by letter. No acceptance of an offer shall occur nor shall any contract be formed until a CUC contract is written and has been approved by all the officials required by law and regulations. CUC contracts shall contain a clause which states that the signature of the private contractor shall be last in time to be affixed to a contract and that no contract can be formed prior to the approval of all required government officials.

3. In the event all bids exceed available funds and the bid of the lowest responsive and responsible bidder does not exceed those funds by more than fifteen percent, and time or economic considerations preclude resolicitation of work of a reduced scope, the official with expenditure authority may be authorized by the Director to negotiate an adjustment of the bid price, including changes in bid requirements, with the lowest responsive bidder in order to bring the bid price within the amount of available funds. The negotiation shall be documented in writing and attached to the bidding documents.

Modified, 1 CMC § 3806(c), (d), (e), (f), (g).

Commission Comment: In subsection (g)(2), the Commission replaced the semi-colon with a colon to correct a manifest error. In subsection (g)(2)(iv), the Commission replaced the final period with a semi-colon. In subsection (g)(4), the Commission inserted the final period.

Public Law 16-17, effective October 1, 2008, establishes a procurement process for private sector assistance agreements (PSAA) requiring awards pursuant to invitations for bids only. 4 CMC § 8191. The provisions of PL 16-17 supersede this section to the extent that they conflict.

§ 50-50-210 Small Purchases

(a) Any procurement not exceeding the amounts established herein may be made in accordance with small purchase procedures. However, procurement requirements shall not be artificially divided so as to constitute a small purchase.

(b) No bidding is required for procurement under $25,000.00.

(c) For procurement valued at $25,000 to $50,000, the Director must obtain price quotations from at least three vendors and base the selection on competitive price and quality.

(d) Purchase orders may be utilized for small purchases in subsections (b) and (c) only. In no other instance may purchase orders be utilized instead of contracts.

Modified, 1 CMC § 3806(c), (e).


§ 50-50-215 Sole Source Procurement

(a) A contract may be awarded for a supply, service or construction item without competition when the Director determines in writing that there is a demonstrated benefit to CUC for sole source procurement for the required supply, service or construction item.

(b) The written determination shall be prepared by the Director and shall contain the following information:

(1) The unique capabilities required and why they are required and the consideration given to alternative sources.

Modified, 1 CMC § 3806(f).


§ 50-50-220 Emergency Procurement
(a) Notwithstanding any other provision of this chapter, CUC may make emergency procurements when there exists a threat to public health, safety or welfare under emergency conditions. An emergency procurement must be as competitive as practical under the circumstances.

(b) A written determination of the basis for the emergency and for the selection of the particular contractor must be made by the Director and approved by the Board of Directors.

Modified, 1 CMC § 3806(d), (g).


Commission Comment: In subsection (a), the Commission changed “an other” to “any other” to correct a manifest error.

§ 50-50-225 Competitive Sealed Proposals

(a) Conditions for use. When the Director determines in writing that the use of a competitive sealed bidding is either not practical or not advantageous to the government and receives the approval of the Board of Directors, a contract may be entered into by competitive sealed proposals.

(b) Request for proposals. Proposals shall be solicited through a request for proposals.

(c) Public notice. Adequate public notice of the request for proposals shall be given in the same manner as provided for in competitive sealed bids.

(d) Receipt of proposals. Proposals shall be opened so as to avoid disclosure of contents to competing offerors during the process of negotiation. A register of proposals shall be prepared and opened for public inspection after contract award.

(e) Evaluation factors. The request for proposals shall state the relative importance of price and other evaluation factors.

(f) Discussion with responsible offerors and revisions to proposals. As provided in the request for proposals, discussions may be conducted with responsible offerors who submit proposals determined to be reasonably susceptible of being selected for award for the purpose of clarification and to insure full understanding of, and responsiveness to, solicitation requirements. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals and such revisions may be permitted after submission and prior to award for the purpose of obtaining the best and final offers. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing offerors.
(g) Award. Award shall be made to the responsible offeror whose proposal is determined in writing to be the most advantageous to CUC taking into consideration price and the evaluation factors set forth in the request for proposals. No other factors or criteria shall be used in the evaluation and the contract file shall contain the basis on which the award is made.

Modified, 1 CMC § 3806(g).


Commission Comment: In subsection (e), the Commission changed “an” to “and” to correct a manifest error. In subsection (g), the Commission deleted the repeated word “shall.”

Public Law 16-17, effective October 1, 2008, establishes a procurement process for private sector assistance agreements (PSAA) requiring awards pursuant to invitations for bids only. 4 CMC § 8191. The provisions of PL 16-17 supersede this section to the extent that they conflict.

§ 50-50-230 Competitive Selection Procedures for Professional Services

(a) Procurement method. The services of accountants, physicians or lawyers shall be procured as provided in this section except when authorized as a small purchase, emergency procurement or sole-source procurement.

(b) Policy. It is the policy to publicly announce all the requirements for professional services and negotiate contracts on the basis of the demonstrated competence and qualifications at a fair and reasonable price. The Director shall maintain files of current statements of qualifications of professional firms. Persons engaged in providing professional services may submit statements of qualifications and expressions of interest providing such types of services. Persons may amend these statements at any time by filing a new statement.

(c) Public announcement and form of request for proposals. Adequate notice of the need for such services shall be given by the official with expenditure authority through a request for proposals. The request for proposals shall describe the services required, list the type of information and data required of each offeror and state the relative importance of particular qualifications.

(d) Discussions. The official with expenditure authority may conduct discussions with any offeror who has submitted a proposals to determine such offerors qualifications for further consideration. Discussions shall not disclose any information derived from proposals submitted by other offerors.

(e) Award. Award shall be made to the offeror determined in writing by the Director to be the best qualified based on the evaluation factors set forth in the request for proposals and negotiations of compensation determined to be fair and reasonable. If compensation cannot be agreed upon with the best qualified offeror then negotiations will be formally terminated with the selected offeror. If proposals were submitted by one or more offerors determined to be qualified,
negotiations may be conducted with such other offeror or offerors, in the order of their respective qualification ranking, and the contract may be awarded to the offeror then ranked as best qualified if the amount of compensation is determined to be fair and reasonable.

Modified, 1 CMC § 3806(g).


Commission Comment: In subsection (a), the Commission changed “lawyer” to “lawyers” and in subsection (b) the Commission changed “filling” to “filing a” to correct manifest errors. The Commission also deleted the repeated word “in” in subsection (e).

Subpart B - Cancellation of Invitation for Bids or Request for Proposals

§ 50-50-235 Cancellation

An invitation for bids or request for proposals may be cancelled, and any and all bids or proposals may be rejected, when such action is determined in writing by the Director and approved by the Chairman, Board of Director to be in the best interest of CUC or any of the following reasons:

*So in original.

(a) Inadequate or ambiguous specifications contained in the solicitation;
(b) Specifications which have revised;
(c) Goods or services being procured which are no longer required;
(d) Inadequate consideration given to all factors of cost to CUC in the solicitation;
(e) Bids or proposals received indicate that the needs of CUC can be certified by a less expensive good or service;
(f) All offers with acceptable bids or proposals received are at unreasonable prices; or
(g) Bids were collusive.

Modified, 1 CMC § 3806(f), (g).


Commission Comment: In subsection (e), the Commission deleted the repeated phrase “by a less expensive.”
Subpart C - Qualifications and Duties

§ 50-50-240 Responsibility of Bidders and Offerors

(a) Award shall be made only to responsible contractors. To be determined responsible, a prospective contractor must:

(1) Have adequate financial resources to perform the contract, or the ability to obtain them;
(2) Be able to comply with the required delivery or performance schedule;
(3) Have a satisfactory performance record;
(4) Have a satisfactory record of integrity and business ethics;
(5) Have the necessary organization, experience and skill, (or the ability to obtain them), required to successfully perform the contract;
(6) Have the necessary production, construction and technical equipment facilities, or the ability to obtain them; and
(7) Be otherwise qualified and eligible to receive an award under applicable laws and rules.

(b) Obtaining information. Prior to award, the Director shall obtain information from the bidder or offeror necessary to make determination of responsibility using the factors in subsection (a) above. The unreasonable failure of a bidder or offeror to promptly supply information in connection with an inquiry with respect to responsibility may be grounds for determination of non-responsibility with respect to that bidder or offeror.

(c) Right of non-disclosure. Information furnished by a bidder or offeror pursuant to subsection (b) may not be disclosed outside of the office of the Director, the Attorney General or any involved government agency without prior consent by the bidder or offeror.

(d) Non-responsibility determination. When a bid or proposal on which a contract award would otherwise be made is rejected because the prospective contractor is found to be non-responsible, a written determination shall be signed by the Director stating the basis for the determination, and this shall be placed in the contract file.

Modified, 1 CMC § 3806(c), (f), (g).


Commission Comment: In subsection (b), the Commission changed “form” to “from” to correct a manifest error.

Public Law 15-95 (effective Oct. 4, 2007), codified at 1 CMC § 7404, restricts contract awards for capital improvements, public works, and procurement of goods and services for the amount of $500,000 or less to business owned by US citizens. PL 15-95 sets forth the specific requirements for local preference in government contract awards. Public Law 15-118 (effective Dec. 14, 2007) amends PL 15-95 to exempt federally funded projects or procurement of goods and services governed by federal regulations that conflict with CNMI local preference.
requirements. The provisions of PL 15-95 and PL 15-118 supersede this section to the extent that they conflict.

§ 50-50-245 Pre-qualification of Contractors

Prospective suppliers of goods or services may be prequalified for particular types of construction, goods and services when determined necessary by the Director. Opportunity for qualification before solicitation shall be afforded to all suppliers. Solicitation mailing lists of potential contractors shall include, but shall not be limited to pre-qualified suppliers. In no event will bidders be allowed to qualify after the bid opening.


Subpart D - Types of Contracts

§ 50-50-250 Types of Contracts

(a) Use of a cost-plus-a-percentage-cost and percentage of construction cost methods of contracting is prohibited.

(b) CUC contracts shall utilize a firm fixed price unless use of a cost reimbursement contract is justified under subsection (c).

(c) A cost reimbursement contract may be used when the Director determines in writing, which is attached to the contract, that:
(1) Uncertainties in the work to be performed make the cost of performance too difficult to estimate with the degree of accuracy required for a firm fixed price contract;
(2) Use of a firm fixed price contract could seriously affect the contractor’s financial stability or result in payment by CUC for contingencies that never occur; or
(3) Use of a cost reimbursement contract is likely to be less costly to CUC than any other type due to the nature of the work to be performed under the contract.

Modified, 1 CMC § 3806(c), (f).


Subpart E - Inspection and Audit

§ 50-50-255 Right to Inspect Place of Business

CUC, may at reasonable times, inspect the place of business of a contractor or any subcontractor which is related to the performance of any contract awarded or to be awarded by CUC.
§ 50-50-260 Right to Audit Records

As required by § 404 of Public Law No. 3-91, the contractor and subcontractor or grantee or subgrantee at all levels shall provide the Public Auditor of the Commonwealth with access to and the right to examine and copy any records, data or papers relevant to a CUC contract or grant for a period of three years after the final payment under the contract or grant. A clause to this effect shall appear in all CUC contracts and obligations.

Modified, 1 CMC § 3806(e).


Subpart F - Reports and Records

§ 50-50-265 Report of Anti-competitive or Deceptive Practices

(a) When any person suspects the following practices are occurring among bidders, offerors, contractors or subcontractors, a notice of the relevant facts shall be transmitted to the Attorney General without delay;
   (1) Unfair methods of competition;
   (2) Deceptive acts; or
   (3) Unfair business practices.

(b) These acts are more fully defined at 4 CMC §§ 5101 through 5206.

Modified, 1 CMC § 3806(f).


Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) and (b).

§ 50-50-270 Retention of Procurement Records

(a) All procurement records shall be retained by the Director.

(b) The Director shall maintain a record listing all contracts made under sole-source procurement or emergency procurement for a minimum of years. The records shall contain:
   (1) Each contractor’s name;
   (2) The amount and type of each contract; and
   (3) A listing of the supplies, services or construction procured under each contract.
(c) All procurement records, except those designated herein as not subject to disclosure, shall be available to public inspection.

Modified, 1 CMC § 3806(e), (f).


Part 300 - Procurement of Construction and Architect-Engineer Services

§ 50-50-301 Construction Procurement

(a) Invitation for Bids.
   (1) Deposit. The Director shall determine the amount of deposit required for potential bidders to obtain the invitation for bids.
   (2) Contents. The invitation for bids shall be prepared in accordance with § 50-50-205(a). In addition, the following items shall be included in the invitation for bids:
      (i) Notice to Bidders. General information regarding project;
      (ii) Instructions to Bidders. Information on the preparation of bids, bid security requirements and form and certifications that must be submitted with the bid;
      (iii) The General Conditions. Standard contract clauses governing the performance of work;
      (iv) Special Conditions. Special contract clauses depending on the nature and dollar amount of the work to be performed; and
      (v) Technical Specifications. Specification governing the technical aspects of the work to be performed.

(b) Bid Security.
   (1) Requirement. Bid security shall be required for all competitive sealed bidding construction contracts where the price is estimated by the Director to exceed $25,000.00 or when the Director determines it is in the interest of CUC. Bid security shall be on a bid bond, in cash, by certified check, cashier's check or other form acceptable to CUC. A surety company shall hold the certificate of authority from the U.S. Secretary of the Treasury as an acceptable surety or other surety acceptable to the Attorney General.
   (2) Amount. Bid security shall be an amount to at least fifteen percent of the amount of the bid or other amount as specified in the invitations for bids depending upon the source of funding.
   (3) Rejection of Bid. Failure to furnish bid security, when required by the invitation, shall result in rejection of the bid as non-responsive.

(c) Contract Performance and Payment Bonds.
   (1) When a construction contract is awarded in excess of $25,000.00, the following bonds or security shall be delivered to CUC and shall become binding on the parties upon the execution of the contract:
      (i) A performance bond satisfactory to CUC, executed by a surety company authorized to do business in the Commonwealth or otherwise secured in a manner satisfactory to CUC, in an amount equal to one hundred percent of the price specified in the contract; and
(ii) A payment bond satisfactory to CUC, executed by a surety company authorized to do business in the Commonwealth or otherwise secured in a manner satisfactory to CUC, for the protection of all persons supplying labor and material to the contractor or its subcontractors for the performance of the work provided for in the contract. The bond shall be in an amount equal to one hundred percent of the price specified in the contract.

(d) Suits on Payment Bonds; Right to Institute. Every person who has furnished labor or material to the contractor or its subcontractors for the work provided in the contract, in respect of which a payment bond is furnished under this section, and who has not been paid in full therefore before the expiration of a period of ninety days after the day on which the last of the labor was done or performed by such person for which such claim is made, shall have the right to sue on the payment bond for the amount, or the balance thereof, unpaid at the time of institution of such suit and to prosecute said action for the sum or sums justly due such persons, provided, however, that any person having a direct contractual relationship with a subcontractor of the contractor, but no contractual relationship express or implied with the contractor furnishing said payment bond, shall have a right of action upon the payment bond upon giving written notice to the contractor within ninety days from the date on which such person did or performed the last of the labor or furnished or supplied the last of the material upon which such claim is made, stating with substantial accuracy the amount claimed and the name of the party to whom the material was furnished or supplied or for whom the labor was done or performed. Such notice shall be personally served or served by mailing the same by registered or certified mail, postage prepaid, in an envelope addressed to the contractor maintains an office or conducts its business.*

*So in original.

(e) Suite on Payment Bonds. Where and When Brought. Every suit instituted upon a payment bond shall be brought in a court of competent jurisdiction for the Commonwealth; but not** such suit shall be commenced after the expiration of one year after the day on which the last of the labor was performed or material was supplied by the person bringing suit. The obligee named in bond need not be joined as a party in any such suit.

**So in original; probably should be “no.”

(f) Fiscal Responsibility. Every contract modification, change order, or contract price adjustment under a construction contract shall be subject to prior written certification by the Chairman, Board of Directors, as to the effect of the contract modification, change order or adjustment in contract price on the total project budget or the total contract budget. In the event that the certification discloses a resulting increase in the total project budget and/or the total contract budget, such contract modification, change order or adjustment in contract price shall not be made unless sufficient funds are available therefor, or the scope of the project or contract is adjusted so as to permit the degree of completion that is feasible within the total project budget and/or total contract budget as it existed prior to the price contract modification, change order or adjustment in contract price under consideration; provided, however, that with respect to the validity, as to the contractor, of any executed contract modification, change order or adjustment in contract price which the contractor has reasonably relied upon, it shall be presumed that there has been compliance with the provisions of this subsection.
§ 50-50-305 Architect-Engineer Services

(a) Procurement Method. Architect-engineer services shall be procured as provided in this section except when authorized as a small or emergency procurement.

(b) Policy. It is the policy to publicly announce all requirements for architect-engineer services and negotiate contracts on the basis of demonstrated competence and qualifications at a fair and reasonable price.

(c) Selection. The director and the Assistant Directors of Electrical Power, Water, Sewer, Refuse Collection Divisions shall jointly maintain files of current statements of qualifications of architect-engineer firms. After public announcement of requirement for architect-engineer services, current statements shall be reviewed together with those that may be submitted by other firms in response to the announcement. Discussions shall be conducted with at least three of the firms, regarding the contract requirements and technical approach and selection made therefrom, in order of preference, of no less than three firms determined to be the most highly qualified to perform the services required.

(d) Negotiation. The official with expenditure authority shall negotiate a contract with the highest qualified architect-engineer firm at a price determined to be fair and reasonable to CUC. If a fair and reasonable price cannot be negotiated, negotiations shall be terminated, and negotiations shall be undertaken with the second highest qualified firm. If a fair and reasonable price cannot be negotiated, negotiations shall be terminated and negotiations shall be undertaken with the third highest qualified firm. If a fair and reasonable price cannot be negotiated with any of the firms, then the officer with expenditure authority shall select additional firms in order of competence and qualifications and continue negotiations until a fair and reasonable price is agreed upon.

Modified, 1 CMC § 3806(e), (g).


Commission Comment: In subsection (c), the Commission changed the period after “Sewer” to a comma to correct a manifest error.

Part 400 - Protests and Disputes
Subpart A - Bid Protests and Appeals

Commission Comment: Public Law 16-17, effective October 1, 2008, established a procurement process for private sector assistance agreements (PSAA) including a mechanism for addressing protests. 4 CMC § 8192. The provisions of PL 16-17 supersede this subpart to the extent that they conflict.

§ 50-50-401 Protests to the Director

(a) General.
(1) Any actual or prospective bidder, offeror, or contractor who is aggrieved in connection with the solicitation or award of a contract may protest to the Director. The protest shall be received by the Director in writing within ten days after such aggrieved person knows or should have known of the facts giving rise thereto. The Director shall consider all protests or objections to the award of a contract, whether submitted before or after award. If a protest is oral and the matter cannot be resolved, written confirmation of the protest shall be requested by the Director. The written protest shall state fully the factual and legal grounds for the protests;
(2) Other persons, including bidders, involved in or affected by the protest shall be given notice of the protest and its basis in appropriate cases. These persons shall also be advised that they may submit their views and relevant information to the Director within a specified period of time. Normally, the time specified will be one week;
(3) The Director shall decide the protest within thirty calendar days after all interested parties have submitted their views, unless he certifies that the complexity of the matter requires a longer time, in which event he shall specify the appropriate longer time;
(4) When a protest, before or after award, has been appealed to the Public Auditor, as provided in these procedures, and the Director is requested to submit a report, the Director should include with his report a copy of:
   (i) The protest;
   (ii) The bid submitted by the protesting bidder and a copy of the bid of the bidder who is being considered for award, or whose bid is being protested;
   (iii) The solicitation, including the specifications on portions relevant to the protest;
   (iv) The abstract of offers or relevant portions;
   (v) Any other documents that are relevant to the protest; and
   (vi) The Director’s signed statement setting forth findings, actions, and recommendations and any additional evidence or information deemed necessary in determining the validity of the protest. The statement shall be fully responsive to the allegation of the protest, the Director’s report will include the determination prescribed in subsection (b)(4) below;
(5) Since timely action on protests is essential, they should be handled on a priority basis. Upon receipt of notice that an appeal from the Director’s decision has been taken to the Public Auditor, the Director shall immediately begin compiling the information necessary for a report as provided in subsection (a)(4) above. To further expedite processing, the official who furnishes the agency’s report should, upon request of the protester or the Public Auditor, simultaneously furnish a complete copy, (except for information privileged by law or which the Director deems must be confidential in order to benefit from competitive bidding) to the protester. In such instances, the protester shall be requested to furnish a copy of any comments on the administrative report directly to the Public Auditor as well as the Director.
(b) Protests Before Award.
(1) The Director shall require that written confirmation of an oral protest be submitted by the time specified in subsection (a)(1) and may inform the protester that the award will be withheld until the specified time. If the written protest is not received by the time specified, the oral protest may be disregarded. An award may be made in the normal manner unless the Director finds it necessary in his discretion to take remedial action.
(2) When a proper protest against the making of an award received,* the award will be withheld pending disposition of the protest. The bidders whose bids might become eligible for award shall be informed of the protest. In addition, those bidders shall be requested, before expiration of the time for acceptance of their bids to extend the time for acceptance to avoid the need for re-advertisement. In the event of failure to obtain such extensions of bids, consideration shall be given to proceeding with an award under subsection (b)(3) below.
(3) When a written protest is received, award shall not be made until the matter is resolved, unless the Director determines that:
   (i) The materials and services to be contracted for are urgently required;
   (ii) Delivery or performance will be unduly delayed by failure to make award promptly; or
   (iii) A prompt award will otherwise be advantageous to CUC.
(4) If award is under subsection (b)(3) above, the Director shall document the file to explain the need for an immediate award. The Director also shall give written notice to the protester and others concerned of the decision to proceed with the award.

(c) Protests After Award. Although persons involved in or affected by the filing of a protest after award may be limited, in addition to the Director, at least the contractor shall be furnished the notice of protest and its basis in accordance with subsection (a)(2) above. When it appears likely that an award may be invalidated and a delay in receiving the supplies or services is not prejudicial to CUC’s interest, the Director should consider seeking a mutual agreement with the contractor to suspend performance on a no-cost basis.

(d) Computation of Time.
(1) Except as otherwise specified, all “days” referred to in this part are deemed to be working days of the Commonwealth government. The term “file” or “submit” except as otherwise provided refers to the date of transmission.
(2) In computing any period of time prescribed or allowed by these procedures, the day of the act or event from which the designated period of time begins to run shall not be included.

Modified, 1 CMC § 3806(c), (e), (f), (g).


Commission Comment: In subsection (a)(1), the Commission changed “or before after” to “before or after,” and in subsection (a)(5), the Commission changed “form” to “from” and “I” to “In” to correct manifest errors.

In subsection (a)(4)(i), the Commission inserted the final semi-colon. In subsection (a)(4)(vi), the Commission replaced the final period with a semi-colon.
In subsection (b)(1), the Commission changed “disregard” to “disregarded” and in subsection (b)(4) the Commission changed “concern” to “concerned” to correct manifest errors.

§ 50-50-405 Appeals of Director’s Decisions to the Public Auditor

(a) Jurisdiction; Exhaustion of Remedies. A written appeal to the Public Auditor from a decision by the Director may be taken provided that the party taking the appeal has first submitted a written protest to the Director as provided in § 50-50-401 of these procedures, and the Director has denied the protest or has failed to act on the protest within the time provided for in § 50-50-401(a)(3) above.

(b) Form of Appeal. No particular form of pleading is required for filing an appeal to the Public Auditor. The appeal shall, however:
(1) Include the name and address of the appellant;
(2) Identify the number of the solicitation or contract;
(3) Contain a concise, logically arranged, and direct statement of the grounds for appeal; and
(4) Specifically request a ruling by the Public Auditor.

(c) Time for Filing Appeal. An appeal from the Director’s decision must be received by the Office of the Public Auditor not later than ten days after the appellant receives the decision of the Director, or, in the event that the Director has not decided the protest within ten days from the date that he should have pursuant to § 50-50-401(a)(3) above. Any appeal received after these time limits shall not be considered by the Public Auditor unless good cause is shown or unless the Public Auditor determines that the appeal presents issues significant to procurement practices that are not outweighed by the detriment to CUC should the appeal be considered.

(1) The Public Auditor shall notify the Director by telephone and in writing within one day of the receipt of an appeal to the contractor if award has been made or, if no award has been made, to all bidders or proposers who appear to have a substantial and reasonable prospect of receiving an award if the appeal is denied. The Director shall be requested to furnish in accordance with § 50-50-401(a)(2) of these procedures copies of the protest and appeal documents to such parties with instruction to communicate further directly with the Public Auditor.
(2) Material submitted by an appellant will not be withheld from any Commonwealth or federal agency which may be involved in the appeal except to the extent that the withholding of information if* permitted or required by law or regulation. If the appellant considers that the protest contains material which should be withheld, a statement advising of this fact must be affixed to the front page of the appeal document and the allegedly proprietary information must be so identified wherever it appears.
(3) The Public Auditor shall request the Director to submit a complete report on the appeal to the Public Auditor as expeditiously as possible (generally within 25 working days) in accordance with § 50-50-401(a)(4) of these procedures and to furnish a copy of the report to the appellant and other interested parties as defined in § 50-50-301(d).**
(4) Comments on CUC report shall be filed with the Public Auditor within ten days after the Public Auditor’s receipt of the report, with a copy to CUC office which furnished the report and to other interested parties. Any rebuttal an appellant or interested party may care to make shall be filed with the Public Auditor within five days after receipt of the comments or which rebuttal is directed,*** with a copy to CUC office which furnished the report, the appellant, and interested parties, as the case may be. Unsolicited CUC rebuttals shall be considered if filed within five days after receipt by the CUC of the comments to which rebuttals directed.

(5) The failure of an appellant or any interested party to comply with the time limits stated in this section may result in resolution of the appeal without consideration of the comments untimely filed.

*So in original; probably should be “is.”
**So in original; see the commission comment to this section.
***So in original.

(e) Withholding of Award. When an appeal has been filed before award, the director will not make an award prior to resolution of the protest except as provided in this section. In the event the Director determines that award is to be made during the pendency of an appeal, the Director will notify the Public Auditor.

(f) Furnishing of Information on Protests. The Public Auditor shall, upon request, make available to any interested party information on the substance of the appeal which has been submitted by interested parties or agencies, except to the extent that withholding of information is permitted or required by law or regulation. Any comments thereon shall be submitted within a maximum of ten days.

(g) Time for Submission of Additional Information. Any additional information requested by the Public Auditor from the appellant or interested parties shall be submitted no later than five days after the receipt of such request. If it is necessary to obtain additional information from the Director, the Public Auditor that such information be furnished as expeditiously as possible.

(h) Conference.
(1) A conference on the merits of the appeal with the Public Auditor may be held at the request of the appellant, any other interested party, or the Director. Request for a conference should be made prior to the expiration of the time period allowed for filing comments on CUC report. Except in unusual circumstances, request for a conference received after such time will not be honored. The Public Auditor will determine whether a conference is necessary for resolution of the appeal.

(2) Conferences normally will be held prior to expiration of the period allowed for filing comments on CUC report. All interested parties shall be invited to attend the conference. Ordinarily, only one conference will be held on an appeal.

(3) Any written comments to be submitted and as deemed appropriate by the Public Auditor as a result of the conference must be received in the Office of the Public Auditor within five days of the date on which the conference was held.

(4) Time for Decision; Notice of Decision. The Public Auditor shall, if possible, issue a decision on the appeal within 25 days after all information necessary for the resolution of the
appeal has been received. A copy of the decision shall immediately be mailed or otherwise transmitted to the appellant, other participating parties, and the Director.

(i) Request for Reconsideration.
(1) Reconsideration of a decision of the Public Auditor may be requested by the appellant, any interested person who submitted comments during consideration of the protest, the Director, and any agency involved in the protest. The request for reconsideration shall contain a detailed statement of the factual and legal grounds specifying any errors of law information not previously considered.
(2) Request for reconsideration of a decision of the Public Auditor shall be filed not later than ten days after the basis for reconsideration is known or should have been known, whichever is earlier. The term “filed” as used in this section means receipt in the Office of the Public Auditor.
(3) A request for reconsideration shall be subject to these bid protest procedures consistent with the need for prompt resolution of the matter.

Modified, 1 CMC § 3806(c), (e), (f), (g).


Commission Comment: In subsection (d)(3), the Commission changed “he” to “the” to correct a manifest error. The starred citation in subsection (d)(3) is incorrect. The original regulations reference section 4-101(4)(c), which did not exist. Original section 4-101(4) is codified at § 50-50-301(d); however, reference to that section does not make sense.

In subsection (d)(5), the Commission changed “interest” to “interested” to correct a manifest error.

§ 50-50-410 Remedies

(a) Remedies Prior to Award. If prior to award the Director or the Public Auditor determines that a solicitation or proposed award of a contract is in violation of law or regulation, then the solicitation or proposed award shall be:
(1) Cancelled; or
(2) Revised to comply with law or regulation.

(b) Remedies After an Award. If after an award the Director or the Public Auditor determines that a solicitation or award of a contract is in violation of law or regulation, then:
(1) If the person awarded the contract has not acted fraudulently or in bad faith:
   (i) The contract may be ratified and affirmed, provided it is determined that doing so is in the best interests of CUC; or
   (ii) The contract may be terminated and the person awarded the contract shall be compensated for the actual expenses reasonably incurred under the contract, plus a reasonable profit, prior to termination;
(2) If the person awarded the contract has acted fraudulently or in bad faith:
(i) The contract may be declared null and void; or
(ii) The contract may be ratified and affirmed if such action is in the best interests of CUC, without prejudice to CUC’s rights to such damages as may be appropriate.

(c) Finality of Findings of Fact by the Public Auditor. A determination of an issue of fact by the Public Auditor under these procedures shall be final and conclusive unless arbitrary, capricious, fraudulent, or clearly erroneous.

Modified, 1 CMC § 3806(f).


§ 50-50-415 Effective Date

All protests as to the manner of bidding, the failure to properly award bid, the failure of CUC to contract with a business after bidding, or the cancellation of bids which may or may not be the subject of lawsuit but have not reached final judgement as of the effective date of this chapter shall be heard in accordance with this subpart upon the request of the actual or prospective bidder,offeror, or contractor who is aggrieved.

Modified, 1 CMC § 3806(d).


Subpart B - Disputes

§ 50-50-420 Disputes

(a) Any dispute between CUC and a contractor relating to the performance, interpretation of or compensation due under a contract, which is the subject of this chapter, must be filed in writing with the Director within ten calendar days after knowledge of the facts surrounding the dispute.

(b) When a claim by or against a contractor cannot be satisfied or settled by mutual agreement and a decision on the dispute is necessary, the Director shall review the facts pertinent to the dispute, secure necessary legal assistance and prepare a written description that shall include:
   (1) Description of the dispute;
   (2) Reference to pertinent contract terms;
   (3) Statement of the factual areas of disagreement or agreement; and
   (4) Statement of the decision as to the factual areas of disagreement and conclusion of the dispute with any supporting rationale.
(c) Appeals. The Director shall review and render a decision on an appeal from an adverse decision timely taken by a contractor. The Director may require a hearing or that information be submitted on the record, in his discretion. The Director may affirm, reverse or modify the decision or remand it for further consideration.

(d) Duty to Continue Performance. A contractor that has a dispute pending before the Director or an appeal before the Director must continue to perform according to the terms of the contract and failure to do so continue shall be denied to be a material breach of the contract unless he obtains a waiver of this provision by the official with expenditure authority.

Modified, 1 CMC § 3806(d), (e), (f).


Part 500 - Ethics in Public Contracting

Subpart A - Definitions

§ 50-50-501 Definition of Terms

(a) “Confidential information” means any information which is available to an employee only because of the employee’s status as an employee of CUC and is not a matter of public knowledge or available to the public on request.

(b) “Conspicuously” means written in such special or distinctive form, print or manner that a reasonable person against whom it is to operate ought to have noticed it.

(c) “Direct or indirect participation” means involvement through decision, approval, disapproval, recommendation, preparation of any part of a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing or in any other advisory capacity.

(d) “Financial interest” means:
(1) Ownership of any interest or involvement in any relationship form or as a result of which, a person within the past year has received or is presently or in the future entitled to receive compensation; or
(2) Holding a position in a business such as an officer, director, trustee, partner, employee or the like or holding any position of management.

(e) “Gratuity” means a payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is received.

(f) “Immediate family” means spouse, children, parents, brothers, sisters, mother-in-law, father-in-law, sister-in-law and brother-in-law or any member of the household.
Subpart B - Standards of Conduct

§ 50-50-505 Policy

CUC employment is a public trust. In CUC contracting, CUC employees shall discharge their duties impartially so as to:

(a) Insure fair competitive access to CUC procurement by reasonable contractors; and

(b) Conduct themselves in a manner as to foster public confidence in the integrity of CUC.

Modified, 1 CMC § 3806(f).


§ 50-50-510 General Standards

(a) Employees. Any attempt to realize personal gain through CUC employment by conduct inconsistent with the proper discharge of the employee’s duties is a breach of public trust. In order to fulfill this ethical standard, employees must meet the requirements of this chapter.

(b) Contractors. Any effort to influence any CUC employee to breach the standards of ethical conduct set forth in this chapter is also a breach of ethical standards.

Modified, 1 CMC § 3806(d).


§ 50-50-515 Employee Disclosure Requirements

(a) Disclosure of benefit received from contract. Any employee who has, or obtains any benefit from, any CUC contract with a business in which employee has a financial interest shall report such benefit to the Director.

(b) Failure to disclose benefit received. Any employee who knows or should have known of such benefit and fails to report such benefit is in breach of these ethical standards.

§ 50-50-520  Employee Conflict of Interest

(a) Conflict of interest. It is a breach of ethical standards for any employee to participate directly or indirectly in a procurement when the employee knows that:
(1) The employee or any member of the employee’s immediate family has a financial interest pertaining to the procurement;
(2) A business or organization in which the employee, or any member of the employee’s immediate family has a financial interest pertaining to the procurement; or
(3) Any other person, business or organization with whom the employee or any of the employee’s immediate family is negotiating or has an arrangement concerning prospective employment is involved in the procurement.

(b) Discovery of actual or potential conflict of interest, disqualification and waiver. Upon discovery of an actual or potential conflict of interest, an employee shall promptly file with the Director a written statement of disqualification and shall withdraw from further participation in the transaction involved. The employee may, at the same time, apply to the Public Auditor for an advisory opinion as to what further participation, if any, the employee may have in the transaction.


§ 50-50-525  Gratuities and Kickbacks

(a) Gratuities. It shall be a breach of ethical standards for any person to offer, give or agree to give an employee or former employee, or for any employee or former employee to solicit, demand, accept or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract or to any solicitation or proposal therefor.

(b) Kickbacks. It shall be a breach of ethical standard for any payment, gratuity or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or any person associated therewith as an inducement for the award of a subcontractor or order.


§ 50-50-530  Prohibition Against Contingent Fees

(a) Contingent fees. It shall be a breach of ethical standards for a person to be retained, or to retain a person, to solicit or secure CUC contracts upon an agreement or understanding for a
commission, percentage, brokerage or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business.

(b) Representation of contractor. Every person, before being awarded a CUC contract, shall represent, in writing that such person has not retained anyone in violation of this section. Failure to do so constitutes a breach of standards.


§ 50-50-535 Contract Clauses

The prohibitions against gratuities, kickbacks and against contingent fees shall be conspicuously set forth in every contract and solicitation therefor.


§ 50-50-540 Restrictions on Employment of Present and Former Employees

(a) Present employees. It shall be a breach of ethical standards for any employee who is participating directly or indirectly in the procurement process to become or be while such an employee, the employee of any person contracting with CUC by whom the employee is employed.

(b) Restrictions on former employees in matters connected with their former duties. Permanent disqualification of former employee personally involved in a particular matter. It shall be a breach of ethical standards for any former employee knowingly to act as a principal or as an agent for anyone other than CUC, in connection with any:
   (1) Judicial or other proceeding, application, request for a ruling or other determination;
   (2) Contract;
   (3) Claim; or
   (4) Charge or controversy in which the employee participated personally and substantially through decision, approval, disapproval, recommendation, rendering of advice, investigation or otherwise while an employee, where CUC is a party or has a direct or substantial interest.

(c) Disqualification of business when an employee has a financial interest. It shall be a breach of ethical standards for a business in which an employee has a financial interest knowingly to act as a principal, or as an agent for anyone other than CUC, in connection with any:
   (1) Judicial or other proceeding, application, request for a ruling or other determination;
   (2) Contract;
   (3) Claim; or
   (4) Charge or controversy in which the employee either participates personally and substantially through decision, approval, disapproval, recommendation, the rendering of advice,
§ 50-50-545 Use of Confidential Information

It shall be a breach of ethical standards for any employee or former employee to knowingly use confidential information for actual or anticipated personal gain, or the actual or anticipated personal gain of any other person.


§ 50-50-550 Collusion by Bidders

Collusion or secret agreements between bidders for purpose of securing an advantage to the bidders against CUC in the awarding of contracts is prohibited. The official with the expenditure authority may declare the contract void if he finds sufficient evidence after a contract has been let that the contract was obtained by a bidder or bidders by reason of collusive or secret agreement among the bidders to the disadvantage of CUC.

Modified, 1 CMC § 3806(g).


Commission Comment: The Commission changed “he” to “the” to correct a manifest error.

§ 50-50-555 Penalties

(a) CUC employees. CUC employee is any person whether appointed, excepted service or civil service. An employee who violates the provisions of this chapter is subject to adverse action as may be appropriate in his or her particular circumstances. This action includes but is not limited to reprimand, suspension without pay, termination of employment, civil injunction, civil suit for damages or return of CUC money, or criminal prosecution.

(b) Contractors. A contractor who violates a provision of this chapter shall be subject to a written warning of reprimand, the termination of the contract or suspension from being a
contractor or subcontractor under a CUC contract in addition to other penalties prescribed by law.

(c) All proceedings under this section must be in accordance with due process requirements.

Modified, 1 CMC § 3806(d).


§ 50-50-560 Authority to Debar or Suspend

(a) Authority. After reasonable notice to the person involved and reasonable opportunity for the person to be heard under the Administrative Procedure Act [1 CMC §§ 9101, et seq.], the Director, after consultation with the Board of Directors and the Attorney General or the CUC legal counsel, shall have authority to debar a person for cause from consideration for award of contracts. The debarment shall not be for a period of more than three years. The same officer, after consultation with the Board of Directors and the Attorney General or the CUC legal counsel, shall have authority to suspend a person from consideration for award of contracts if there is probable cause for debarment. The suspension shall not be for a period exceeding three months.

(b) The causes for debarment or suspension include the following:
1. Conviction for commission of a criminal offense is* an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract;
2. Conviction under Commonwealth or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, violation of the Consumer Protection Act (4 CMC §§ 5101, et seq.), violation of unfair business practices as prescribed by 4 CMC § 5202, or any other offense indicating a lack of business integrity or business honesty which currently, seriously and directly affects its responsibility as a government contractor;
3. Conviction under Commonwealth or federal antitrust statutes arising out of the submission of bids or proposals such as in chapter 2 of division 5 of title 4 of the Commonwealth Code;
4. Violation of contract provisions, as set forth below, of a character which is regarded by the Director to be so serious as to justify debarment action.
   (i) Deliberate failure without good cause to perform in accordance with the specifications within the time limits provided in the contract;
   (ii) A recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts; provided that failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor shall not be considered a basis for debarment.
5. Any other causes that the Director determines to be so serious and compelling as to effect responsibility as a CUC contractor, including debarment by another governmental entity; and
6. For violation of any of the ethical standards set forth in this part 500.
*So in original; probably should be “as.”

(c) Decision. The Director shall issue a written decision to debar or suspend. The decision shall state the reasons for the action taken.

(d) Notice of Decision. A copy of the decision shall be mailed or otherwise furnished immediately to the debarred or suspended person.

Modified, 1 CMC § 3806(c), (e), (f), (g).


Commission Comment: In subsection (a), the Commission deleted the repeated word “have,” and changed “Procedures” to “Procedure.” In subsection (b)(6) the Commission changed “se” to “set” to correct a manifest error.

Part 600 - Miscellaneous Provisions

§ 50-50-601 Severability

If any provision of the regulations in this chapter or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the regulation which can be given effect without the invalid provision or application, and to this end, the provisions of this chapter are severable.

Modified, 1 CMC § 3806(d).

CHAPTER 50-60
INTERCONNECTION AND NET METERING


Commission Comment: For the history of the regulatory authority of the Commonwealth Utilities Corporation in the Commonwealth, see the general comment to chapter 50-10.

In January 2011 and again in February, 2012, CUC proposed new regulations on interconnection and net metering. To date, an adoption notice has not been published. This chapter is reserved for future interconnection and net metering regulations should they be adopted.