

Sullivan-Leshin, Isaac, PRC

From: Sullivan-Leshin, Isaac, PRC
Sent: Thursday, October 22, 2020 12:47 PM
To: Records, PRC, PRC
Subject: 20-00159-UT; Filing Submission
Attachments: 20-00159-UT, Final Order Adopting Repeal and Replacement Rules 17.9.560, 17.10.650, and 17.12.760 NMAC to Allow Commission to Prohibit Discontinuation of Residential Customer Utility Service During States of Emergency.pdf

IN THE MATTER OF A COMMISSION RULEMAKING TO PROMULGATE)
AMENDMENTS TO RULES 17.9.560.12. G, 17.10.650.11.G, AND)
17.12.760.9 NMAC TO PROHIBIT DISCONTINUATION OF RESIDENTIAL)
UTILITY SERVICE FOR THE DURATION OF TIME THAT THE GOVERNOR'S) Case No. 20-00159-UT
EXECUTIVE ORDERS RELATED TO THE COVID-19 PANDEMIC ARE IN)
EFFECT)
_____)

Please file the attached FINAL ORDER ADOPTING REPEAL AND REPLACEMENT RULES 17.9.560, 17.10.650, AND 17.12.760 NMAC TO ALLOW COMMISSION TO PROHIBIT DISCONTINUATION OF RESIDENTIAL CUSTOMER UTILITY SERVICE DURING STATES OF EMERGENCY WHEN GOVERNOR'S EXECUTIVE ORDERS ARE IN EFFECT into the above captioned case.

Thank you.

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

**IN THE MATTER OF A COMMISSION RULEMAKING TO)
PROMULGATE AMENDMENTS TO RULES 17.9.560.12. G,)
17.10.650.11.G, AND 17.12.760.9 NMAC TO PROHIBIT)
DISCONTINUATION OF RESIDENTIAL UTILITY) Case No. 20-00159-UT
SERVICE FOR THE DURATION OF TIME THAT THE)
GOVERNOR’S EXECUTIVE ORDERS RELATED TO THE)
COVID-19 PANDEMIC ARE IN EFFECT)**

**FINAL ORDER ADOPTING REPEAL AND REPLACEMENT RULES 17.9.560,
17.10.650, AND 17.12.760 NMAC TO ALLOW COMMISSION TO PROHIBIT
DISCONTINUATION OF RESIDENTIAL CUSTOMER UTILITY SERVICE DURING
STATES OF EMERGENCY WHEN GOVERNOR’S EXECUTIVE ORDERS ARE IN
EFFECT**

THIS MATTER comes before the New Mexico Public Regulation Commission (the "Commission") upon the Commission’s August 5, 2020 order issuing notice of proposed rulemaking to promulgate amendments to Rules 17.9.560.12.G, 17.10.650.11.G and 17.12.760.9 NMAC to prohibit the discontinuation of residential customer public utility service during the time period of the Governor's Executive Orders related to the COVID-19 pandemic are in effect (the “NOPR”) and upon the public hearing held via zoom platform; whereupon, being duly advised in its premises;

THE COMMISSION FINDS AND CONCLUDES:

1. By Commission Order Initiating Rulemaking the Commission issued a Notice of Rulemaking on August 5, 2020 that the Commission was commencing a rulemaking proceeding adopt the proposed rule to promulgate permanent amendments to Rules 17.9.560.12.G (“Rule 560”), 17.10.650.11.G (“Rule 650”) and 17.12.760.9 (“Rule 760”) NMAC to prohibit discontinuation of residential customer utility service for the duration of time that the Governor’s Executive Orders related to the COVID-19 pandemic are in effect (collectively referred to as the “Proposed Amendments”). A copy of the Proposed Amendments were attached to the August 5th Order as Exhibit A.

2. The Proposed Amendments are intended to permanently codify previous emergency amendments to these Rules which had occurred by Commission Order in Case No. 20-00069-UT, dated March 18, 2020. The March 18th Emergency Amendments to these Rules, expired on September 18, 2020, in accordance with the State Rules Act, Section 14-4-5.6 (D) NMSA 1978 and they also prohibited disconnection of residential customer utility service for the duration of time that the Governor's Executive Orders related to the COVID-19 pandemic are in effect.

3. The Notice of Proposed Rulemaking, Exhibit B to the August 5th Order, was published in the New Mexico Register on September 15, 2020 and it provided notice that a public hearing on the proposed amendments would be held on October 21, 2020 at 9 a.m. via zoom. In addition, the Notice of Proposed Rulemaking set an October 16, 2020 deadline for submission of written comments.

4. On October 16, 2020, the Commission received written comments from the following: a) Public Service Company of New Mexico ("PNM"); b) El Paso Electric Company ("EPE"); c) Southwestern Public Service Company ("SPS"); d) New Mexico Gas Company ("Gas Co."); e) the Commission's Utility Division Staff ("Staff"); f) New Mexico Rural Electric Cooperatives; and g) the New Mexico Attorney General ("NMAG").

5. Except for Staff's comments, which are summarized below, attached as Exhibit B is a summary of all of the written comments as well as a brief statement of oral comments made at the October 21, 2020 public hearing.

6. Staff's written comments stated that, in light of the continuing impact of the COVID-19 pandemic and the Governor's related Executive Orders, Staff is not opposed to the Proposed Amendments. Staff's Comments, in particular, Plan A, proposes to address a potential

conflict with Commission Rule 17.5.410 NMAC (“Rule 410”), entitled Residential Customer Service by Gas, Electric and Rural Electric Cooperative Utilities, which might effectively nullify the Proposed Amendments. In addition, Staff seeks to preserve the utility’s ability to disconnect service to maintain safety and address hazardous operating conditions. Regarding the potential conflict Rule 410, Staff indicated that Rule 410 sets out standards to be followed by electric, gas, and rural electric cooperative utilities in serving residential customers, including the standards associated with discontinuance of service in 17.5.410.31 NMAC and prohibitions on discontinuance of service in 17.5.410.32 NMAC. Staff stated that while the Governor’s Executive Orders related to the COVID-19 pandemic remain in effect, provisions in Rule 410 would conflict with the Proposed Amendments. Further, Staff pointed to a provision in Rule 410 that addresses such potential conflicts in 17.5.410.2.B NMAC and states: “In case of conflict between provisions of this rule and 17.9.560 NMAC or 17.10.650 NMAC, the provisions of this rule control.” Staff concluded that given that Rule 410 appears to trump any conflicting provisions of Rule 560 for electric service and Rule 650 for natural gas service, the Proposed Amendments may be nullified by Rule 410.2.B. The Proposed Amendments to Rule 760 associated with water service are not similarly impacted. In order to address this potential conflict that may nullify the proposed rule revisions for electric and natural gas service, Staff proposes to add the following language as a predicate to the Commission’s proposed amendments to Rule 560 and Rule 650: “Irrespective of any conflict with 17.5.410 NMAC,…” This proposed change is provided in the context of the full text of the Commission’s proposed replacement rules in MS Word, in Staff Exhibits A (Rule 560) and B (Rule 650). With this proposed addition to the proposed amendments, Staff believes this would keep the prohibition on electric or natural gas residential utility disconnections during the COVID-19 pandemic and prevent nullification by

Rule 410.

7. Staff also recommends adding language about utility disconnections for other reasons citing to page 2 of Exhibit A of the Commission's Notice of Intent to Issue Emergency Rules) to the Commission's Order Finding Need for Emergency Rule in Case No. 20-00069-UT date March 18, 2020. In particular, Staff recommends adding the following language: "Public Utilities are not prohibited from disconnecting service to residential customers due to: a) an emergency; b) safety; or c) a request to disconnect from the residential customer." Staff believes that the addition of this language preserves the utilities' ability to disconnect electric or natural gas service for those reasons stated above and as provided for by Rule 410. With respect to water service, Staff also believes it would be prudent to add the same language to Rule 760 in order to preserve the utility's ability to disconnect residential water service due to an emergency, safety concerns, or by customer request.

8. On October 21, 2020, the public hearing was held, with participation via zoom from Staff, SPS, PNM, EPE, Gas Co., the NMRECA, the NMAG, Epcor Water, Jemez Mountain Electric Cooperative and the following private individuals or representative of other organizations: Mariel Nanasi-New Energy Economy; Paul Gibson-Retake Our Democracy; Christopher Hall: Individual; Joan Brown: New Mexico Interfaith Power and Light; Eric Griego: individual; Castille Aguilar: YUCCA Campaign Organizer; Tanyah LeValdo: individual; and Rhonda Heyns: individual

9. The Commission finds that Staff's comments Plan A are well-taken and should be partially adopted as part of the final Proposed Amendments as set forth in the attached Exhibit A in order to prevent any conflict with Rule 410 and ensure that utilities are not prohibited from disconnecting residential service for the following reasons: 1) safety; 2) at the request of the

residential customer; and 3) emergency.

10. The Commission further finds persuasive the comments from the NMAAG, private individuals and other organizations that commented at the public hearing in support of the Proposed Amendments as a consumer protection mechanism that is needed by citizens and students that are working using the internet and electricity from home during the COVID-19 pandemic.

11. The Commission also finds that the comments of NMRECA and Jemez Electric Cooperative regarding the need to re-assess the COVID-19 pandemic emergency on a regular basis moratorium on disconnections because the rural electric cooperatives are not-for-profit consumer owned utilities whose members must cover expenses if bills go unpaid. The Commission acknowledges that for member-owned rural electric cooperatives, if the moratorium becomes permanent without subsequent periodic review, it will protect some customers but be a cost burden to the other customer who will have to cover those unpaid costs.

12. The Commission further finds that the comments provided by investor owned utilities requesting more flexibility and requesting the moratorium on disconnects during the COVID-19 Emergency Executive Orders be temporary and regularly re-assessed so that the amount of unpaid bills does not continue to grow are reasonable as well. The Commission concurs that the investor owned utilities should work with customers to establish installment payment plans with customers having difficulty making full payment of utility bills during the emergency instead of customers completely not paying any amount on their bills so that the debt of unpaid bills does not continue to rise. The Commission realizes that the investor owned utilities may seek and may eventually be approved to recover unpaid debt from other ratepayers for unpaid costs the utility accrues during the moratorium,

13. Based upon all comments received, the Proposed Amendments are hereby

adopted as noticed but have been modified to include language to provide that the Commission is authorized by temporary Order to prohibit disconnections of residential service in general anytime the Governor issues any emergency order under the Public Health Emergency Response Act and the All Hazards Emergency Management Act rather than only in the COVID-19 Emergency Order situation. Adopting the modified language stop a momentary occurrence of the pandemic into a permanent rule and will also provide flexibility in adjusting the application of the rule provisions as conditions change. It also allows the Commission to address other future emergencies, even beyond a health emergency. In addition, the Proposed Amendments have been modified to require the Commission to issue an additional Order concurrently that provides flexibility to the length of time of the moratorium on disconnections during the present COVID_19 public health emergency. Finally, the modifications to the Proposed Amendments provide that the moratorium will be temporary and regularly reassessed and will provide for exceptions for situations of an emergency, safety concerns and requests for disconnection by the residential customer.

IT IS THEREFORE ORDERED:

A. The Proposed Repeal and Replacement Rules 17.9.560, 17.10.650 and 17.12.760 NMAC which bring the rules into proper NMAC2 formatting and add language to prohibit discontinuation of residential customer utility service for the duration of time that of any Governor's Executive Orders issued under the Public Health Emergency Response Act and the All Hazards Emergency Management Act, as modified by Staff's written comments, and as modified by Paragraph 13 herein (attached to this Final Order as Exhibit A) are hereby adopted. The rules shall be published in the New Mexico Register in accordance with the State Rules Act 14-4-1 et

seq. NMSA 1978 and Notice shall be provided to the public as set forth in the State Rules Act.
Section 14-4-2 (E) NMSA 1978.

B. Copies of this Order, including Exhibit A and Exhibit B, shall be e-mailed to all persons listed on the attached Certificate of Service if their e-mail addresses are known, and if not known, mailed to such persons via regular mail.

C. This Final Order is effective immediately.

ISSUED under the Seal of the Commission at Santa Fe, New Mexico, this 21st day of
October, 2020.

NEW MEXICO PUBLIC REGULATION COMMISSION

/s/ Cynthia B. Hall, electronically signed

CYNTHIA B. HALL, COMMISSIONER DISTRICT 1

VOTED NO

JEFFERSON L. BYRD, COMMISSIONER DISTRICT 2

/s/ Valerie Espinoza, electronically signed

VALERIE ESPINOZA, COMMISSIONER DISTRICT 3

/s/ Theresa Becenti-Aguilar, electronically signed

THERESA BECENTI-AGUILAR, COMMISSIONER DISTRICT 4

/s/ Stephen Fischmann, electronically signed

STEPHEN FISCHMANN, COMMISSIONER DISTRICT 5



THIS DOCUMENT SHOWS CHANGES FROM THE PROPOSED RULE LANGUAGE THAT WAS ATTACHED TO THE AUGUST 26, 2020 IN "TRACK CHANGES" FORMAT

(5) for violation of or noncompliance with the utility's rules on file with and approved by the commission;

(6) for failure of the customer to fulfill their contractual obligations for service or facilities subject to the regulations of the commission;

(7) for failure of the customer to permit the utility reasonable access to its equipment;

(8) for nonpayment of bill provided the utility has given the customer final notice;

(9) for failure of the customer to provide the utility with a deposit as authorized by Subsection B of 17.9.560.12 NMAC except that a utility may not discontinue service to an existing customer solely for failure to pay deposit;

(10) for failure of the customer to furnish such service equipment, permits, certificates, or rights-of-way as shall have been specified by the utility as a condition for obtaining service or in the event such equipment or permissions are withdrawn or terminated; and

(11) for failure of the customer to pay for service of the same class at a previous metering point or points.

G. Reasons insufficient for denying or discontinuing service:

(1) The following shall not constitute sufficient cause for discontinuing service to a present customer:

(a) for failure to pay for merchandise purchased from the utility;

(b) for failure to pay for a different type or class of public utility service;

(c) for failure to pay the bill of another customer as guarantor thereof; or

(d) for failure to pay for concurrent service of whatever class at a different metering point.

(2) The following shall not constitute sufficient cause for denying service to a prospective customer:

(a) for delinquency in payment for service by a previous occupant unless the previous occupant still resides at the premises;

(b) for failure to pay for merchandise purchased from the utility; or

(c) for failure to pay the bill of another customer as guarantor thereof.

(3) Irrespective of any conflict with 17.5.410 NMAC, the following rules regarding disconnection of residential utility service may be implemented on a temporary basis by order of the Commission for a period of time, up to and including, the duration of any emergency executive order issued by the Governor of New Mexico pertaining to a public health or other emergency condition under either the Public Health Emergency Response Act and the All Hazards Emergency Management Act:

(a) all utilities may be prohibited from discontinuing residential utility service for non-payment during the time period the emergency executive orders are in effect;

(b) any late fees on residential accounts that would be incurred during the time period of the effectiveness of the emergency executive orders may be required to be waived;

(c) utilities may be permitted to temporarily close in-person bill payment locations provided the utility provides notice to residential customers of such closures and identifies in such notice how payment made be made, including electronically or by mail. In the event of the closure of in-person bill payment locations, utilities shall be permitted to continue to collect credit card or bank fees in accordance with their own commission approved and filed tariffs;

(d) medical certificates set to expire shall not expire for the duration of the effectiveness of any emergency executive order and may be automatically be extended for 90 days from the end of any emergency executive order. and;

(e) irrespective of this rule, public utilities are not prohibited from disconnecting service to residential customers due to: a) an emergency; b) safety; or c) a request to disconnect from the residential customer. . . The following additional rules regarding disconnection of residential utility service shall be effective for the duration of time that governor's executive orders pertaining to the COVID-19 pandemic remain in effect:

(a) all utilities are prohibited from discontinuing residential utility service for non-payment during the time period the emergency executive orders are in effect;

(b) disconnections of residential utility service for non payment issued on or after March 11, 2020 (the effective date of the governor's first emergency executive orders pertaining to the COVID-19 pandemic) are suspended for the duration of the effectiveness of all COVID-19 related emergency executive orders;

(c) any late fees on residential accounts that would be incurred during the time period of the effectiveness of the emergency executive orders shall be waived;

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~~(d) utilities are permitted to temporarily and immediately close in person bill payment locations as long as they provide notice to residential customers regarding the same and notice how to pay electronically or by mail. In the event of closure of in person bill payment locations, utilities shall be permitted to continue to collect credit card or bank fees in accordance with their own commission approved and filed tariffs;~~

~~(e) medical certificates set to expire shall not expire for the duration of the effectiveness of all COVID-19 related emergency executive orders and shall automatically be extended for 90 days from the end of all COVID-19 related emergency executive orders.~~

H. Estimated demand: Upon request of the customer and provided the customer's demand is estimated for billing purposes, the utility shall measure the demand during the customer's normal operations and use the measured demand for billing.

I. Servicing utilization control equipment: Each utility shall service and maintain any equipment it owns and used on the customer's premises and shall correctly set and keep in proper adjustment any thermostats, clocks, relays, time switches, or other devices which control the customer's service in accordance with the provisions of the utility's rate schedules.

J. Customer complaints: Bona fide complaints concerning the charges, practices, or service of the utility shall be investigated promptly and thoroughly. The utility shall keep such records of customer complaints as will enable the utility to review and analyze its procedures and actions.

K. Temporary service: When the utility renders temporary service to a customer it may require that the customer bear all the cost of installation and removal of the service facilities in excess of any salvage realized.

L. Extension plan: Each utility shall develop a plan acceptable to the commission for the extension of facilities where they are in excess of those included in the regular rates for service and for which the customer shall be required to pay all or part of the cost.

[17.9.560.12 NMAC - Rp, 17.9.560.12 NMAC, 11/10/2020]

17.9.560.13 ENGINEERING:

A. Requirement for good engineering practice: The electric plant of the utility shall be constructed, installed, maintained, and operated in accordance with accepted good engineering practice in the electric industry to assure, as far as reasonably possible, continuity of service, uniformity in the quality of service furnished, and the safety of persons and property.

B. Acceptable standards: Unless otherwise specified by the commission the utility shall use the applicable provisions in the latest edition of the publications listed below as standards of accepted good practice.

(1) National electric safety code as compiled by the national bureau of standards.

(2) National electrical code, NFPA No. 70, ANSI standard C-1;

(3) American standard code for electricity meters, ANSI standard C-12;

(4) American standard requirements, terminology and text code for instrument transformers, ANSI standard C-57.13;

(5) Preferred voltage ratings for A-C systems and equipment, EEI Pub. No. R-6, NEMA Pub. No. 117 ANSI standard C-84.1;

(6) Voltage levels on rural distribution system-REA bulletin 169-4;

(7) New Mexico state electrical code.

C. Adequacy of supply: The generating capacity of the utility's plant supplemented by the electric power regularly available from other sources must be sufficiently large so as to meet all normal demands for service and provide a reasonable reserve for emergencies.

D. Inspection of electric plant: Each utility must adopt a program of inspection of its electric plant in order to determine the necessity for replacement and repair. The frequency of the various inspections shall be based on the utility's experience and accepted good practice. Each utility shall keep sufficient and reasonable records to give evidence of compliance with its inspection program.

[17.9.560.13 NMAC - Rp, 17.9.560.13 NMAC, 11/10/2020]

17.9.560.14 INSPECTION AND TESTS:

A. Request tests: Upon request by a customer the utility shall test the meter serving that customer. The utility shall advise such customer that they may be present during the meter test. If the meter has been tested within the last 18 months the utility may charge the customer the applicable amount provided for in its filed rules, such charge to be refunded to the customer whenever the meter proves to be in excess of two percent in error.

(1) The customer or their representative may be present when their meter is tested if such customer's request to be present is made at the time of their request for the meter test. The utility shall give the

**THIS DOCUMENT SHOWS THE FINAL REPEAL/REPLACEMENT RULE ADOPTED BY THIS
ORDER**

TITLE 17 PUBLIC UTILITIES AND UTILITY SERVICES
CHAPTER 9 ELECTRIC SERVICES
PART 560 SERVICE STANDARDS FOR ELECTRIC UTILITIES

17.9.560.1 ISSUING AGENCY: New Mexico Public Regulation Commission.
[17.9.560.1 NMAC - Rp, 17.9.560.1 NMAC, 11/10/2020]

17.9.560.2 SCOPE: 17.9.560 NMAC shall apply to every electric utility (investor-owned, rural electric cooperative, or municipal) operating within the state of New Mexico and which is subject to the jurisdiction of the New Mexico public regulation commission as provided by the public utility act.
[17.9.560.2 NMAC - Rp, 17.9.560.2 NMAC, 11/10/2020]

17.9.560.3 STATUTORY AUTHORITY: Public Regulation Commission Act, Section 8-8-15 NMSA 1978.
[17.9.560.3 NMAC - Rp, 17.9.560.3 NMAC, 11/10/2020]

17.9.560.4 DURATION: Permanent.
[17.9.560.4 NMAC - Rp, 17.9.560.4 NMAC, 11/10/2020]

17.9.560.5 EFFECTIVE DATE: November 10, 2020 unless a later date is cited at the end of a section.
[17.9.560.5 NMAC - Rp, 17.9.560.5 NMAC, 11/10/2020]

17.9.560.6 OBJECTIVE: 17.9.560 NMAC is intended to promote safe and adequate service to the public, to provide standards for uniform and reasonable practices by utilities, and to establish a basis for determining the reasonableness of such demands as may be made by the public upon the utilities.
[17.9.560.6 NMAC - Rp, 17.9.560.6 NMAC, 11/10/2020]

17.9.560.7 DEFINITIONS: When used in 17.9.560 NMAC unless otherwise specified the following definitions will apply:

- A. “commission means”** the New Mexico public regulation commission;
- B. “customer means”** any person, firm, association, or corporation, or any agency of the federal, state, or local government being supplied with and responsible for payment for electric services by an electric utility;
- C. “electric plant means”** all plant, property, or facilities owned, operated, leased, or controlled for the generation, transmission, or distribution of electricity;
- D. “filed rule means”** rules and regulations filed by a utility with the commission in compliance with 17.1.210 NMAC which has been made effective either through commission approval thereof or by operation of law;
- E. “final notice means”** personal communication with a non-residential customer by telephone, hand delivery or other electronic communications at least two days prior to the specific date of discontinuance of service or, if by mail, at least four days prior to the specific date of discontinuance of service, excluding Sundays and holidays observed by the utility, to remind the non-residential customer of the pending date of discontinuance of service.
- F. “meter means”**, unless otherwise qualified, a device that measures and registers the integral of an electrical quantity with respect to time;
- G. “meter shop means”** a shop where meters are inspected, repaired, and tested and may be at a fixed location or may be mobile and shall contain facilities for protected storage of secondary standards;
- H. “meter standards laboratory means”** a facility which is equipped and staffed to provide the calibration and certification of secondary standards by comparison with primary standards;
- I. “premises means”** a piece of land or real estate including buildings and other appurtenances thereon;
- J. “primary standards means”** those items of laboratory equipment from which the basic units of electricity and standard time interval can be obtained for use in a meter standards laboratory;
- K. “protected storage means”** an enclosed case or cabinet in a clean location free from excessive heat, moisture, and vibration for the storage and protection of secondary standards and which is accessible only to authorized personnel;
- L. “secondary indicating ammeter standard means”** an indicating ammeter standard which is in a semi-fixed installation in the protected storage of the meter shop and is used for calibrating the working ammeter

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ORDER**

standard; this standard remains in the protected storage at all times except when sent to a meter standards laboratory for standardization;

M. “secondary indicating voltmeter standard means” an indicating voltmeter standard which is in a semi-fixed installation in the protected storage of the meter shop and is used for calibrating the working voltmeter standard; this standard remains in the protected storage at all times except when sent to a meter standards laboratory for standardization;

N. “secondary instrument transformer standard means” an instrument transformer standard which is in a semi-fixed installation in the protected storage of the meter shop and is used for calibrating the working transformer standard; this standard remains in the protected storage at all times except when sent to a meter standards laboratory for standardization;

O. “secondary watt-hour standard means” an indicating watt-hour standard which is in a semi-fixed installation in the protected storage of the meter shop and is used for calibrating the working watt-hour standard; this standard remains in the protected storage at all times except when sent to a meter standards laboratory for standardization;

P. “special contract means” a written agreement between a utility and a customer to establish a rate or conditions of utility service, or both, that, due to size or load characteristics or both, differs from those established for general classes of service;

Q. “utility and electric utility” has the meaning given for “public utility” or “utility” in Section 62-3-3 NMSA 1978.

[17.9.560.7 NMAC - Rp, 17.9.560.7 NMAC, 11/10/2020]

17.9.560.8 [RESERVED]

[17.9.560.8 NMAC - Rp, 17.9.560.8 NMAC, 11/10/2020]

17.9.560.9 APPLICATION OF RULE:

A. Modifications. If unreasonable hardship to a utility or to a customer results from the application of any provision herein prescribed, application may be made to the commission for the modification of the provision or for temporary or permanent exemption from its requirements.

B. Rule revisions. 17.9.560 NMAC establishes standards to be followed by every electric utility in providing service to customers who are not residential customers as defined in Subsection J of 17.5.410.7 NMAC of the commission's code of rules and regulations and in providing service to residential customers except to the extent inconsistent with 17.5.410 NMAC of the code; provided, however, that any electric utility may file rules inconsistent with the provisions herein established when permitted by the commission under the provisions of Subsection A of 17.9.560.9 NMAC above, or, for residential customers, to conform with the requirements of 17.5.410 NMAC and when so filed and approved by the commission such utility rules shall take precedence over the provisions herein established.

C. Adoption. The adoption of 17.9.560 NMAC will in no way preclude the commission from altering or amending it or from making such modifications with respect to its application as may be found necessary to meet exceptional conditions.

D. Duties. These regulations shall in no way relieve any utility from any of its duties under the laws of this state.

[17.9.560.9 NMAC - Rp, 17.9.560.9 NMAC, 11/10/2020]

17.9.560.10 RECORDS AND REPORTS:

A. Location of records. The location of records shall be as prescribed in Section 62-6-17 NMSA 1978.

B. Retention of records. Records shall be retained as prescribed in 17.3.310 NMAC.

C. Data to be filed with the commission. The utility shall maintain the following documents and information on a current basis. Upon commission request, the utility shall provide the following information to the commission within 10 working days:

(1) a copy of utility's drawings or rules, if any, published or furnished by the utility for the use of engineers, architects, electrical contractors, etc., covering meter and service installations;

(2) a map or series of maps showing the geographical location of the utility system outside the limits of an incorporated community together with a schematic drawing which shows:

(a) generating stations, with the individual unit nameplate kilowatt capability and total capability of all units shown;

THIS DOCUMENT SHOWS THE FINAL REPEAL/REPLACEMENT RULE ADOPTED BY THIS ORDER

- (b) transmission lines, with operating and design voltages and types and sizes of conductors shown;
- (c) sub-transmission lines, with operating and design voltages and types and sizes of conductors shown;
- (d) utility-owned transmission and sub-transmission substations and switching stations, with the capacities and voltages shown;
- (e) state boundary crossings of utility's lines, with sources of generation from other states shown;
- (f) intrastate and interstate connections with other utilities, with metering points, names of other utilities, and nature of service furnished or taken shown;
- (g) names of all incorporated communities served;
- (3) the name, title, address, and telephone number of the person or persons who should be contacted by the commission in connection with:
 - (a) general management duties;
 - (b) customer relations (complaints);
 - (c) engineering operations;
 - (d) meter tests and repairs; and
 - (e) emergencies during non-office hours;
- (4) a list of those items such as meters, meter sockets, instrument transformers, enclosures, and service entrances along with all other equipment which is furnished and maintained by the utility in its regular rates for service;
- (5) report detailing the results of all meters (excluding new meters) tested during the year showing:
 - (a) total of meters tested;
 - (b) percentage of breakdown of reasons for tests;
 - (c) number of meters found to be more than two percent fast; and
 - (d) number of meters found to be more than two percent slow;
- (6) a list detailing all genuine customer voltage complaints and investigations along with the corrective measures taken to correct high or low voltage system conditions;
- (7) the location at which the utility keeps the various classes of records required by these rules;
- (8) information regarding any generating units which are not available for service, either scheduled or nonscheduled, which may affect reliability, and the arrangements to maintain service:
 - (a) scheduled-by advance letter advice of scheduled maintenance by the owning utility, or if the utility is a member of any power pool the pool schedule should be furnished in advance; if a unit is not returned to service by the scheduled date, such supplemental notice as will enable the commission to be fully advised will be required;
 - (b) nonscheduled-by telegraph in the event a unit is not available for service for a period of 24 hours or longer due to any reason not covered by Subparagraph (a) above;
- (9) A list detailing the continuity of service (short planned outages for routine maintenance, system improvements, etc., are not considered as a customer hours outage).

$$\text{Continuity} = \frac{\text{Customer hours actually served}}{\text{Maximum customer hours possible to serve}} \times \text{one hundred percent}$$

[17.9.560.10 NMAC - Rp, 17.9.560.10 NMAC, 11/10/2020]

17.9.560.11 METER REQUIREMENTS:

A. Disposition of electricity:

- (1) All electricity sold by a utility shall be on a basis of meter measurement except for service of installations where the load is constant and the consumption may be readily computed.
- (2) Wherever practicable, consumption of electricity within the utility itself or by administrative units associated with it shall be metered.

B. Meter reading sheets, cards, or records: The meter reading sheets, cards, or records from which the customer's bills are prepared shall show:

- (1) customer's name, address, and rate schedule;
- (2) identification number or description of the meter(s);
- (3) meter readings;

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- (4) if the reading has been estimated; and
- (5) any applicable multiplier or constant.

C. Meter reading interval: The meter shall be read at monthly intervals as nearly as practicable except that authority may be obtained from the commission for reading the meters at other than monthly intervals. commission approval need not be obtained where deviation from monthly meter reading schedules occurs because of the seasonal nature of the customer. As nearly as practicable utilities shall avoid sending a customer two successive estimated bills.

D. Condition of meter: No meter shall be installed which is known to be mechanically or electrically defective or to have incorrect constants or which has not been tested and adjusted, if necessary, in accordance with Subsection H of 17.9.560.14 NMAC. The capacity of the meter and the index mechanism should be consistent with the requirements of the customer.

E. Meter charts: All charts taken from recording meters shall be marked with the date of the record, the meter number, the customer's name and location, and chart multiplier.

F. Meter multiplier: If it is necessary to apply a multiplier to the meter readings the multiplier must be marked on the face of the meter register.

G. Demand meter registration: When a demand meter is used for billing the installation should be designed so that the highest demand reading used for billing should appear in the upper half of the meter's range. [17.9.560.11 NMAC - Rp, 17.9.560.11 NMAC, 11/10/2020]

17.9.560.12 CUSTOMER RELATIONS:

A. Customer information: Each utility shall:

(1) maintain up-to-date maps, plans, or records of its entire transmission and distribution systems with such other information as may be necessary to enable the utility to advise prospective customers and others entitled to the information as to the facilities for serving any locality;

(2) assist the customer or prospective customer in selecting the most economical rate schedule appropriate for their class of service;

(3) notify customers affected by a change in rates or schedule classification;

(4) post a notice in a conspicuous place in each office of the utility where applications for service are received informing the public that copies of the rate schedules and rules relating to the service of the utility as filed with the commission are available for inspection;

(5) upon request inform its customers as to the method of reading meters; and

(6) furnish such additional information as the customer may reasonably request.

B. Customer deposits: Each utility may require from any customer or prospective customer a deposit intended to guarantee payment of bills for service.

(1) A utility may not require a security deposit or other guarantee of payment as a condition of new or continued service to a customer except in the case of service:

(a) to a customer that has not previously had utility service with the utility and that has not established an acceptable credit rating;

(b) to a customer that has on three or more occasions, within a 12-month period, received a final notice;

(c) as a condition for reconnection of service following discontinuance of service by the utility; or

(d) to a customer that in an unauthorized manner has interfered with or diverted the service of the utility situated on or about or delivered to the customer's premises.

(2) In determining whether a customer that has not previously had utility service with the utility has an acceptable credit rating, a utility shall consider the following:

(a) documentation that the customer has an adequate credit reference from a utility where the customer had prior utility service;

(b) documentation obtained by the utility from a commercial credit source; or

(c) any other reasonable documentation.

(3) A utility may give special consideration to a prospective or existing customer in determining if payment by an installment agreement is appropriate.

(4) If a utility requires a deposit, it shall have on file with the commission an approved rule setting forth the minimum and maximum deposit that may reasonably be required by the utility in cases involving all types of service. That rule shall conform to the following provisions:

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(a) a deposit for a customer shall not exceed an amount equivalent to one-sixth of that non-residential customer's estimated annual billings; a utility shall base its deposit criteria upon the most recent available prior 12-month corresponding period at the same service location; or, if there is not a comparable period of service at the same service location, the deposit shall be based upon consumption of similar units in the same area;

(b) simple interest on deposits at a rate not less than the rate required by Section 62-13-13 NMSA 1978, shall accrue annually to the customer's credit for the time the deposit is held by the utility; by January 15 of each year the commission shall post on its website the minimum rate to be paid on any deposits required of a customer by any public utility; the deposit shall cease to draw interest on the date it is returned, on the date service is terminated, or on the date the refund is sent to the non-residential customer's last known address.

(5) Each customer that posts a security deposit shall receive in writing at the time of tender of deposit or with the first bill a receipt as evidence thereof. A utility shall provide the means whereby a depositor may establish its claim if its receipt is lost. The receipt shall contain the following minimum information:

- (a) name of customer;
- (b) date of payment;
- (c) amount of payment; and
- (d) statement of the terms and conditions governing the payment, retention, interest,

and return of deposits.

(6) Refunds. Any non-residential customer that has not received a final notice for the 12-month period from the date of deposit or guarantee shall promptly receive a credit or refund in the amount of the deposit together with accrued interest due or shall be permitted to terminate any guarantee. If the amount of the deposit exceeds the amount of the current bill, the customer may request a refund in the amount of the excess if such excess exceeds \$25.00. If the customer fails to qualify for a refund of the deposit on the one year anniversary date of the deposit, that account shall be reviewed at least annually, and the amount of the deposit shall be credited if the customer has not received a final notice during the preceding 12 months. A customer may request a refund at any time after 12 months payment history, which refund shall promptly be paid if the customer has not received a final notice during the prior 12-month period or a utility may pay such refund in the absence of a request within a reasonable period of time.

(7) Each utility shall keep records to show:

- (a) the name and address of each depositor;
- (b) the amount and the date of the deposit; and
- (c) each transaction concerning the deposit.

(8) A record of each unclaimed deposit shall be maintained for at least three years during which time the utility shall mail a check or a letter to the customer at their last known address in an effort to return the deposit.

(9) Unclaimed deposits together with accrued interest shall be credited to the appropriate account and shall be handled as required by the uniform disposition of unclaimed property act of the state of New Mexico.

C. Customer bill forms:

(1) The utility shall bill each customer as promptly as possible following the reading of their meter. The bill shall show:

- (a) the reading of the meter at the end of the period for which the bill is rendered;
- (b) the nominal date on which the meter was read;
- (c) the number and kind of units metered;
- (d) the applicable rate schedule or identification of the applicable rate schedules;
- (e) the gross or net amount of the bill;
- (f) the date by which the customer must pay the bill in order to benefit from any

discount or to avoid any penalty;

- (g) a distinct marking to identify an estimated bill;
- (h) any conversions from meter reading units to billing units or any calculations to determine billing units from recording or other devices or any other factors, such as fuel clause adjustments, power factor adjustments, applicable primary discounts for customer-owned transformer, or billing units additions for secondary metering of primary services used in determining the bill; and

(i) a multiplier constant when used to determine billing will be shown on the bill whenever applicable.

(2) In lieu of information required under subparagraphs (c), (g), and (h) above, the utility may incorporate on the bill form a statement advising the customer that any additional information desired relative

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to the application of the rate schedule can be obtained by contacting one of the utility's offices.

D. Customer records: The utility shall retain records as may be necessary to effect compliance with 17.3.310 NMAC and with Subsection E of 17.9.560.12 NMAC and Subsection E of 17.9.560.14 NMAC, and shall show where applicable the following:

- (1) KWH meter reading;
- (2) KWH consumption;
- (3) KW or KVA readings;
- (4) KW or KVA measured demand;
- (5) KW or KVA billing demand;
- (6) primary discounts; and
- (7) total amount of bill.

E. Adjustments of bills:

(1) General. An adjustment of bills for service shall be made for the following reasons, and may be made for reasons not listed below in order to achieve a reasonable, fair and just result:

- (a) meter creep;
- (b) kilowatt-hour registration in excess of two percent average error determined by meter test;
- (c) demand registration in excess of one percent error in addition to errors allowed under accuracy of demand meters, Subsection H of 17.9.560.14 NMAC;
- (d) failure of meter or equipment including automatic meter reading technology if such failure was not the result of a customer tampering with, damaging, replacing or deliberately destroying the equipment furnished and owned by the utility;
- (e) improper installation, testing, or inspection of equipment;
- (f) improper application of rate schedule;
- (g) improper multiplier;
- (h) improper application of a tax;
- (i) failure of utility to bill a customer for services at the time the customer received the services; or

(j) failure of a customer to provide safe and reasonable access to utility equipment.

(2) The amount of the adjustment shall be calculated on the basis that the metering equipment should be 100 percent accurate with respect to the testing equipment used to make the test. For watt-hour meters the average accuracy shall be the arithmetic average of the percent registration at light load and at heavy load, giving the light load registration a weight of one and the heavy load registration a weight of four.

(3) Determination of adjustments. Unless otherwise specified, the time periods established in Paragraph (8) of Subsection E of 17.560.12 NMAC shall apply to adjustments made under Paragraph (3) of Subsection E of 17.560.12 NMAC.

(a) Meter creep. The error in registration due to creep shall be calculated by timing the rate of creeping and assuming that this creeping affected the registration of the meter for 25 percent of the time since the meter was installed or since the last previous test, whichever is later.

(b) Meter with inaccuracy in excess of specified limits. If the date when the error in registration began can be determined, such date shall be the starting point for determination of the amount of adjustment. If the date when the error in registration began cannot be determined, it shall be assumed that the error has existed for a period equal to one-half the time elapsed since the meter was installed or one-half the time elapsed since the last previous test, whichever is later.

(c) Failure of meter or equipment. When the error in registration is caused by failure of part or all of the metering installation, it shall be permissible to use the registration of check metering installations, if any, or to estimate the kilowatt-hour consumption, demand, and other data required for billing based upon a period of similar operating conditions as agreed to between the customer and the utility.

(d) Improper installation, testing, or inspection of meter or equipment. When the error in registration is caused by improper installation, testing, or inspection of meter or equipment, the date of installation, date of test, or date of inspection shall be the starting point for determination of the amount of the adjustment.

(4) Refunds.

(a) If the recalculated bills indicate that a refund is due an existing customer or a person no longer a customer of the utility, the full amount of the calculated difference between the amount paid and

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the true amount shall be refunded in the applicable time period established in Paragraph (8) of Subsection E of 17.560.12 NMAC.

(b) The refund to an existing customer may be in cash or as credit on a bill. In the case of a previous customer who is no longer a customer of the utility, a notice of the amount due shall be mailed to such previous customer at their last known address and the utility shall, upon demand within three months thereafter, refund the amount due.

(5) Back-billing.

(a) If the recalculation of billing indicates that an amount is due the utility and such amount is in excess of any refund due the customer, the utility may bill the customer the true amount due in the applicable time period established in Paragraph (8) of Subsection E of 17.560.12 NMAC.

(b) Each utility may establish a minimum amount below which the utility will not back-bill the customer. When the amount of the back-billing is greater than the established minimum amount, the customer will be billed the true amount due the utility in the applicable time period established in Paragraph (8) of Subsection E of 17.560.12 NMAC.

(c) The customer shall be permitted to pay the amount of the back-billing in reasonable installments. A back-bill shall be accompanied by an offer of an installment agreement.

(d) The utility shall not charge the customer interest for any amount back-billed.

(6) A utility and its special contract customer may make their own agreements respecting adjustments for errors in measurement.

(7) The utility will assist the customer in selecting the rate schedule under which the customer is eligible to be billed. However, the utility will not be held responsible for refunding any overcharge caused by the customer's failure to select the appropriate rate schedule or by the customer's failure to notify the utility of a change in customer's operations. If the utility improperly applies the rate schedule selected by the customer, any billing in excess of the true amount will be refunded to the customer and any billing less than the true amount when greater than the established minimum amount will be billed to the customer in the applicable time period established in Paragraph (8) of Subsection E of 17.560.12 NMAC.

(8) Time periods for adjustment of bills.

(a) Residential customer class (metered usage): Refunding of an overbilling is limited to 12 months. Back-billing of an under billing is limited to six months. Customers responsible for the back-billed under-bill shall be given, at a minimum, the same time period to pay the under billing as the length of time period of the under billing.

(b) Residential customer class (zero usage or no bill): Back-billing is limited to six months. Customers responsible for the back-billed under-bill shall be given, at a minimum, the same time period to pay the under billing as the length of time period of the under billing.

(c) Non-residential small commercial customer class, defined by tariff: Refunding of an overbilling is limited to six months. Back-billing of an under billing is limited to six months. Customers responsible for the back-billed under-bill shall be given, at a minimum, the same time period to pay the under billing as the length of time period of the under billing.

(d) All other non-residential customer class, such as medium, large or industrial as defined by tariff: Refunding of an overbilling is limited to 12 months. Back-billing is limited to 12 months. Customers responsible for the back-billed under-bill shall be given, at a minimum, the same time period to pay the under billing as the length of time period of the under billing.

(e) Back-billing customers is limited to 72 months for under billing that was caused by tampering or fraud by the customer.

(f) Notwithstanding the above time limits, the commission may determine a different time limit for back-billing or refunding in order to achieve a reasonable, fair, and just result.

F. Reasons for denying or discontinuing service. Service may be denied or discontinued for any of the reasons listed below unless prohibited under Paragraph (3) of Subsection G of 17.9.560.12 NMAC. Unless otherwise stated the customer shall be allowed a reasonable time in which to comply with the rule before service is discontinued except as provided in Paragraphs (1), (2), (3) and (4) below:

- (1) without notice in the event of a condition determined by the utility to be hazardous;
- (2) without notice in the event of customer use of equipment in such manner as to adversely affect the utility's equipment or the utility's service to others;
- (3) without notice in the event that a customer tampers with, damages, or deliberately destroys the equipment furnished and owned by the utility;
- (4) without notice in the event of unauthorized use;

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(5) for violation of or noncompliance with the utility's rules on file with and approved by the commission;

(6) for failure of the customer to fulfill their contractual obligations for service or facilities subject to the regulations of the commission;

(7) for failure of the customer to permit the utility reasonable access to its equipment;

(8) for nonpayment of bill provided the utility has given the customer final notice;

(9) for failure of the customer to provide the utility with a deposit as authorized by Subsection B of 17.9.560.12 NMAC except that a utility may not discontinue service to an existing customer solely for failure to pay deposit;

(10) for failure of the customer to furnish such service equipment, permits, certificates, or rights-of-way as shall have been specified by the utility as a condition for obtaining service or in the event such equipment or permissions are withdrawn or terminated; and

(11) for failure of the customer to pay for service of the same class at a previous metering point or points.

G. Reasons insufficient for denying or discontinuing service:

(1) The following shall not constitute sufficient cause for discontinuing service to a present customer:

(a) for failure to pay for merchandise purchased from the utility;

(b) for failure to pay for a different type or class of public utility service;

(c) for failure to pay the bill of another customer as guarantor thereof; or

(d) for failure to pay for concurrent service of whatever class at a different metering point.

(2) The following shall not constitute sufficient cause for denying service to a prospective customer:

(a) for delinquency in payment for service by a previous occupant unless the previous occupant still resides at the premises;

(b) for failure to pay for merchandise purchased from the utility; or

(c) for failure to pay the bill of another customer as guarantor thereof.

(3) Irrespective of any conflict with 17.5.410 NMAC, the following rules regarding disconnection of residential utility service may be implemented on a temporary basis by order of the commission for a period of time, up to and including, the duration of any emergency executive order issued by the governor of New Mexico pertaining to a public health or other emergency condition under either the Public Health Emergency Response Act, Section 12-10A-1 NMSA 1978, and the All Hazards Emergency Management Act, Section 12-10-1 NMSA 1978:

(a) all utilities may be prohibited from discontinuing residential utility service for non-payment during the time period the emergency executive orders are in effect;

(b) any late fees on residential accounts that would be incurred during the time period of the effectiveness of the emergency executive orders may be required to be waived;

(c) utilities may be permitted to temporarily close in-person bill payment locations provided the utility provides notice to residential customers of such closures and identifies in such notice how payment made be made, including electronically or by mail. In the event of the closure of in-person bill payment locations, utilities shall be permitted to continue to collect credit card or bank fees in accordance with their own commission approved and filed tariffs;

(d) medical certificates set to expire shall not expire for the duration of the effectiveness of any emergency executive order and may be automatically be extended for 90 days from the end of any emergency executive order; and

(e) irrespective of this rule, public utilities are not prohibited from disconnecting service to residential customers due to:

(i) an emergency;

(ii) safety;

(iii) a request to disconnect from the residential customer.

H. Estimated demand: Upon request of the customer and provided the customer's demand is estimated for billing purposes, the utility shall measure the demand during the customer's normal operations and use the measured demand for billing.

I. Servicing utilization control equipment: Each utility shall service and maintain any equipment it owns and used on the customer's premises and shall correctly set and keep in proper adjustment any thermostats,

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clocks, relays, time switches, or other devices which control the customer's service in accordance with the provisions of the utility's rate schedules.

J. Customer complaints: Bona fide complaints concerning the charges, practices, or service of the utility shall be investigated promptly and thoroughly. The utility shall keep such records of customer complaints as will enable the utility to review and analyze its procedures and actions.

K. Temporary service: When the utility renders temporary service to a customer it may require that the customer bear all the cost of installation and removal of the service facilities in excess of any salvage realized.

L. Extension plan: Each utility shall develop a plan acceptable to the commission for the extension of facilities where they are in excess of those included in the regular rates for service and for which the customer shall be required to pay all or part of the cost.

[17.9.560.12 NMAC - Rp, 17.9.560.12 NMAC, 11/10/2020]

17.9.560.13 ENGINEERING:

A. Requirement for good engineering practice: The electric plant of the utility shall be constructed, installed, maintained, and operated in accordance with accepted good engineering practice in the electric industry to assure, as far as reasonably possible, continuity of service, uniformity in the quality of service furnished, and the safety of persons and property.

B. Acceptable standards: Unless otherwise specified by the commission the utility shall use the applicable provisions in the latest edition of the publications listed below as standards of accepted good practice.

(1) National electric safety code as compiled by the national bureau of standards.

(2) National electrical code, NFPA No. 70, ANSI standard C-1;

(3) American standard code for electricity meters, ANSI standard C-12;

(4) American standard requirements, terminology and text code for instrument transformers, ANSI standard C-57.13;

(5) Preferred voltage ratings for A-C systems and equipment, EEI Pub. No. R-6, NEMA Pub. No. 117 ANSI standard C-84.1;

(6) Voltage levels on rural distribution system-REA bulletin 169-4;

(7) New Mexico state electrical code.

C. Adequacy of supply: The generating capacity of the utility's plant supplemented by the electric power regularly available from other sources must be sufficiently large so as to meet all normal demands for service and provide a reasonable reserve for emergencies.

D. Inspection of electric plant: Each utility must adopt a program of inspection of its electric plant in order to determine the necessity for replacement and repair. The frequency of the various inspections shall be based on the utility's experience and accepted good practice. Each utility shall keep sufficient and reasonable records to give evidence of compliance with its inspection program.

[17.9.560.13 NMAC - Rp, 17.9.560.13 NMAC, 11/10/2020]

17.9.560.14 INSPECTION AND TESTS:

A. Request tests: Upon request by a customer the utility shall test the meter serving that customer. The utility shall advise such customer that they may be present during the meter test. If the meter has been tested within the last 18 months the utility may charge the customer the applicable amount provided for in its filed rules, such charge to be refunded to the customer whenever the meter proves to be in excess of two percent in error.

(1) The customer or their representative may be present when their meter is tested if such customer's request to be present is made at the time of their request for the meter test. The utility shall give the customer reasonable advance notification as to the day, time, and place of the test.

(2) A report of the test results shall be made to the customer within a reasonable time after the completion of test, and a record of the report together with a complete record of each test shall be kept on file at the office of the utility for as long a period as prescribed in Subsection K of 17.9.560.14 NMAC.

B. Pre-installation inspections and tests:

(1) Every meter not certified by the manufacturer shall be inspected and tested in the utility's meter shop before being placed in service, and the accuracy of each of these meters shall be adjusted to be within the tolerances permitted by Subsection H of 17.9.560.14 NMAC.

(2) If a meter is physically removed from a customer's premises except for field testing and has not been tested during the preceding thirty-month period, it must be returned to the utility's meter shop and inspected and tested as above before it is again placed in service.

C. Post-installation inspections and tests: The utility shall employ such qualified personnel and

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shall conduct such post-installation inspections as may be necessary to insure an overall accuracy within two percent of the condition as prescribed in Paragraph (6) of Subsection H of 17.9.560.14 NMAC in the following installations:

- (1) meters with associated instrument transformers and phase shifting transformers;
- (2) kilovar-hour meters, if associated with instrument transformers;
- (3) demand meters, if associated with instrument transformers; and
- (4) direct current watt-hour meters.
- (5) The commission may order inspections when in its opinion such inspections are

necessary.

D. As-found tests: All meters shall be tested after they are physically removed from service if they have not been tested during the preceding thirty-month period. Excepted are those meters damaged beyond testing. Such tests shall be made before the meters are adjusted, repaired, and calibrated. It will not be mandatory to test meters scheduled for retirement unless there is cause to suspect that there will be a subsequent complaint involving the accuracy of the meter.

E. In-service performance tests:

(1) General. In-service performance tests must be made in accordance with Paragraph (2) of Subsection E of 17.9.560.14 NMAC. These tests may be made on the customer's premises or in the utility's meter shop. All self-contained single-phase meters and three-wire network meters on a utility's system must be tested in accordance with Subparagraphs (a) through (e) of Paragraph (2) below.

(2) Periodic test schedule: In the test intervals specified below the word "years" means calendar years and the word "months" means calendar months. The basic periodic test interval shall not be longer than provided for in the following schedule.

- (a) Alternating current watt-hour meters:
 - (i) meters used with instrument transformers: polyphase meters - at least once in four years, and single-phase meters - at least once in eight years;
 - (ii) self-contained polyphase meters - at least once in six years;
 - (iii) self-contained single-phase meters - at least once in eight years.
- (b) All self-contained single-phase meters and three-wire meters must be tested in accordance with any one of the following listed permissive test programs referred to in 8.1.8 of the standard code for electricity metering, ANSI standard C-12-1965:
 - (i) periodic interval program,
 - (ii) variable interval program,
 - (iii) statistical sampling program.
- (c) Variable interval and statistical sampling programs can be used only when specifically approved by the commission and when in accordance with the specific program adopted by commission.
- (d) Var-hour meters: same as the schedule for associated watt-hour meters.
- (e) Demand meters.
 - (i) block-interval nonrecording demand meters and registers - same as the schedule for associated watt-hour meters;
 - (ii) block-interval graphic watt-hour demand meters - two years;
 - (iii) block-interval pulse-operated recording demand meters - two years;
 - (iv) lagged-demand meters - same as the schedule for associated watt-hour meters.
- (f) Secondary standards.
 - (i) portable rotating standard watt-hour meters - 12 months;
 - (ii) indicating voltmeters - 12 months;
 - (iii) instrument transformers - 10 years.
- (g) working standards and instruments.
 - (i) portable rotating standard watt-hour meters - one month;
 - (ii) indicating voltmeters - six months;
 - (iii) instrument transformers - 10 years.

F. Instrument transformer tests: All instrument transformers shall be tested in accordance with the applicable procedures of American standard requirements, terminology and test code for instrument transformers, ANSI standard C-57.13:

- (1) when first received except in cases where a certificate of test is furnished by the manufacturer;
- (2) when removed from service if there is subsequently found to be visual evidence of

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damage;

- (3) upon complaint;
- (4) while still in service if there is visual evidence of damage; and
- (5) whenever an approved check, such as the variable burden method in the case of current transformers, made whenever the meter was tested indicated that a quantitative test is required.

G. Generating station meter tests: Each generating utility may establish its own test procedures to insure the accuracy of its generating station output watt meter and watt-hour meters as per Subsection A of 17.9.560.13 and Subsection K of 17.9.560.14 NMAC.

H. Test procedures and accuracies: Meters shall be tested at the loads indicated below and adjusted as close as practicable to zero error when found to exceed the tolerances prescribed below. The test of any meter shall consist of a comparison of its accuracy with the accuracy of a standard. The commission will use the applicable provisions of the latest edition of the American standard code for electricity meters, ANSI standard C-12, as criteria of accepted good practice.

(1) Alternating current watt-hour meters.

(a) Shop tests:		
Test Load as Approximate Percentage of Test Current*	Power Factor	Tolerances
100	1.0	$\pm 1.0\%$
10	1.0	$\pm 1.0\%$
100	0.5	$\pm 1.5\%$
(b) Field Tests:		
100	1.0	$\pm 1.0\%$
10	1.0	$\pm 1.0\%$
*For meters used with current transformers the current at heavy load shall be approximately 100% of the secondary rating of the current transformers and at light load approximately 10% of that rating.		

(2) Direct current watt-hour meters.

Test Load as Approximate Percentage of Test Current	Power Factor	Tolerances
100		$\pm 1.5\%$
10		$\pm 1.5\%$

(3) Demand meters.

(a) Integrated (block interval) demand meters.

(i) Demand meters which are direct driven shall be tested at a load point no less than 50 percent of full scale. Tests shall be continuous for at least one demand interval and shall be started simultaneously with the demand interval of the demand meter.

(ii) Demand meters which are actuated by impulses shall be tested by transmitting enough impulses to cause the meter to register at a load point no less than 50 percent of full scale. If an impulse-actuated demand meter is equipped with a device which records the number of impulses received by the meter, and if there is frequent and accurate comparison of such record with the number of kilowatt hours registered on the associated watt-hour meter, then it is not necessary to make a periodic field test of the demand meter.

(iii) Demand meters shall be adjusted to indicate zero under no-load conditions and shall be checked to ascertain that the meter resets to zero.

(iv) Impulse devices associated with demand meters must be checked for proper operation.

(v) The demand meter shall have an accuracy of within two percent of full scale.

(vi) The time interval must be accurate within half a percent for synchronous motor timing elements and within two percent for mechanical clock timing elements.

(vii) Meters recording demand reading on a chart which provides a record of the time at which the demand occurs shall be accurate to within plus or minus four minutes in 24 hours.

(b) Lagged demand meters.

(i) Demand meters shall be tested at a load point no less than 50 percent of full scale.

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(ii) Demand meters shall be adjusted to indicate zero under no-load conditions with potential applied.

(iii) The demand meter shall have an accuracy within three percent of full scale.

(iv) Meters recording demand readings on a chart which provides a record of the time at which the demand occurs shall be accurate to within plus or minus four minutes in 24 hours.

(4) Transformers.

(a) All current and potential transformers shall be tested in accordance with the applicable procedures prescribed in ANSI standard C-57.13.

(b) Any utility unable to perform the above tests due to a lack of proper equipment may have its instrument transformers tested by another utility or laboratory whose testing conforms to the requirements of the commission.

(c) In lieu of the utility testing of instrument transformers the commission will accept the certificate of test as furnished by the manufacturer.

(d) Current or potential transformers shall not be installed if their accuracy does not fall within the 0.6 accuracy class as described in ANSI standard C-57.13.

(5) Meters for measurement of purchased electricity. Utilities purchasing electricity from non-utilities or from utilities outside the state must see that the instruments and meters which are necessary to furnish complete and accurate information as to the energy purchased are installed and tested in accordance with the requirements of the commission.

(6) General.

(a) All meters when tested shall be adjusted as closely as practicable to the condition of zero error.

(b) All tolerances are to be interpreted as maximum permissible variations from the condition of zero error. In making adjustments no advantage of the prescribed tolerance limits shall be taken.

(c) Meters shall not "creep," i.e., there shall be no continuous rotation of the moving element of a meter at a speed in excess of one revolution in 10 minutes when the meter load wires have been removed and voltage is applied to the potential elements of the meter.

I. Facilities and equipment for meter testing: Each utility shall maintain a meter shop or shall have the services of a meter shop available to it for the purpose of inspecting, testing, and repairing meters. The shop shall be open for inspection by authorized representatives of the commission at all reasonable times, and the facilities and equipment as well as the methods of measurement and testing employed shall be subject to the approval of the commission. The meter shop used by a utility shall have adequate and sufficient testing equipment to comply with this rule and to conduct the tests and make repairs and adjustments in compliance with this rule.

(1) Each location at which the shop conducts tests of meters shall have a three-phase voltage supply, one phase of which shall be variable from zero volts to 270 volts.

(2) Standards. Extreme care shall be exercised in the handling of standards to assure that their accuracy is not disturbed. Each meter shop shall contain facilities for protected storage of the secondary standards which are accessible only to personnel specifically so assigned by the utility management.

(a) Secondary standards:

(i) Each shop shall have at least one indicating voltmeter with a stated accuracy within one-quarter percent of full scale. This instrument must be maintained within its stated accuracy.

(ii) Each shop shall have at least one portable rotating standard watt-hour meter with a correction of not more than one-half percent at commonly used loads. If the correction percentage varies between successive tests by more than one-quarter percent, a complete check must be made to determine the cause of such variation. If the cause of variation cannot be removed the use of the instrument should be discontinued.

(iii) Secondary standards shall be checked periodically (See Paragraph (2) of Subsection E of 17.9.560.14 NMAC) at the national bureau of standards or at a laboratory acceptable to the commission. Secondary standards otherwise shall be kept in the protected storage of the meter shop at all times.

(iv) Secondary standards shall be accompanied at all times by a certificate or calibration card, duly signed and dated, on which are recorded the corrections required to compensate for errors found at the customary test points at the time of the last previous test.

(b) Working standards. Each shop shall have at least one portable rotating standard watt-hour meter with a correction of not more than one-half percent at commonly used loads. If the correction percentage varies between successive tests by more than one-quarter percent, a complete check must be made to

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determine the cause of such variation. If the cause of variation cannot be removed the use of the instrument should be discontinued. Working standards shall be checked periodically (See Paragraph (2) of Subsection E of 17.9.560.14 NMAC) by comparison with a secondary standard from the protected storage of the meter shop.

J. Records of meters: Each utility shall maintain records of the following data, where applicable, for each meter until retirement:

- (1) the complete identification (number, type, voltage, amperes, number of wires, disk constant (kh), demand interval, and ratio); and
- (2) the dates of installation and removal from service together with the location.

K. Meter test records: Each utility shall keep meter test records until a superseding test has been made but not less than two years or as may be necessary to comply with service rules regarding refunds on inaccurate meters. Test records shall include the following:

- (1) the date and reason for the test,
- (2) the reading of the meter before making any test,
- (3) the accuracy "as found" at light and heavy loads,
- (4) the accuracy "as left" at light and heavy loads, and
- (5) a statement of any repairs made.

[17.9.560.14 NMAC - Rp, 17.9.560.14 NMAC, 11/10/2020]

17.9.560.15 STANDARDS OF QUALITY OF SERVICES:

A. Standard frequency. The standard frequency for alternating current distribution systems shall be 60 cycles per second. The frequency shall be maintained within limits which will permit the satisfactory operation of customers' clocks connected to the system.

B. Voltage limits: Each utility shall adopt and file with the commission standard nominal service voltages and for each of the several areas into which its distribution system or systems may be divided.

- (1) The variations of the voltage for the various classes of service, voltage spread, and extreme tolerable voltage limits shall be in accordance with the publication EEI No. R-6, NEMA No. 117, ANSI standard C-84.1, or voltage levels on rural distribution systems REA bulletin No. 169.4.
- (2) For service rendered to public utilities and others for resale, the nominal voltage spread and extreme tolerable voltage limits shall be as mutually agreed upon by the parties concerned. These limitations do not apply to special contracts in which the customer specifically agrees to accept service with unregulated voltage.
- (3) Exceptions to voltage requirements. Voltage outside the limits specified will not be considered a violation when the variations:
 - (a) arise from the action of the elements,
 - (b) are infrequent fluctuations not exceeding five minutes' duration,
 - (c) arise from service interruptions,
 - (d) arise from temporary separation of parts of the system from the main system,
 - (e) are from causes beyond the control of the utility.

C. Voltage surveys and records:

(1) Each utility shall make a reasonable number of voltage measurements using recording voltmeters or minimum/maximum voltmeters to determine if voltages are in compliance with the requirements as stated in Subsection B of 17.9.560.15 NMAC.

(2) Voltage measurements shall be made at the customer's point of metering and at other pertinent locations on the utility system.

(3) All voltmeter records obtained under paragraphs (1) and (2) above shall be retained by the utility in accordance with 17.3.310 NMAC and shall be available for inspection by the commission's representatives. Notations on each record shall indicate the following:

- (a) the location where the voltage was taken,
- (b) the time and date of the test, and
- (c) the results of the comparison with an indicating voltmeter.

D. Equipment for voltage measurements:

(1) Working instruments.

- (a) Each utility shall have at least two indicating voltmeters with a stated accuracy within plus three percent of full scale.

(b) Each utility shall have at least two portable recording voltmeters with a stated accuracy within plus three percent of full scale.

(2) Working instruments shall be checked periodically (see Paragraph (2) of Subsection E. of

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17.9.560.14 NMAC) by comparison with a standard in a meter shop.

(3) Extreme care shall be exercised in the handling of instruments to assure that their accuracy is not disturbed.

E. Interruptions of service: Each utility shall make reasonable efforts to avoid interruptions of service, but when interruptions occur service shall be reestablished within the shortest time practicable consistent with safety.

(1) Each utility shall keep records of interruptions of service on its primary distribution circuits and shall make an analysis of the records for the purpose of determining steps to be taken to prevent recurrence of such interruptions. Such records should include the following information concerning the interruptions:

- (a) cause;
- (b) date and time; and
- (c) duration.

(2) The log for each unattended substation must show interruptions which require attention to restore service with the estimated time of interruption.

(3) Planned interruptions shall be made at a time that will not cause unreasonable inconvenience to customers and shall be preceded, if feasible, by adequate notice to those who will be affected.

(4) Each utility shall report the following information.

(a) A major interruption of service is defined as an unscheduled interruption of service of more than 30 minutes in duration, affecting:

- (i) more than 10 percent of a utility's New Mexico jurisdictional load or more than 100 MW of its New Mexico jurisdictional load, whichever is less; or
- (ii) substantially all of a New Mexico municipality or county; or
- (iii) any of the utility's customers of at least one MW (based on the most recent demand billing information on the date of the major interruption).

(b) Within two hours of the commencement of a major interruption of service (or no later than 9:00 AM the following business day for outages occurring after 4:00 PM or on a weekend), the utility division of the commission shall be notified telephonically, by facsimile or by e-mail of the occurrence with a brief description of the occurrence.

(c) Within three business days a written report shall be filed with the records division of the commission. The written report shall contain the pertinent information on the outage including, but not limited to, time of occurrence, duration, cause, facilities affected, MW of load lost, MWH of lost sales, estimated number of consumers affected, municipalities and counties wholly or partially interrupted, and actions taken by the utility to correct and prevent recurrence of the outage.

(d) Utilities that submit reports of an interruption to any coordinating council, regional transmission group or other industry review shall concurrently submit copies to the records division of the commission, including any engineering reports associated with an interruption. Each utility shall provide to commission staff all information requested by staff that is reasonably needed to assess the situation.

(5) Each utility shall identify critical customers, including facilities that require electricity to perform essential life-health-safety services, including other utility services such as natural gas compression, to establish priority of service and to minimize curtailments to these customers.

(6) Each utility shall identify an emergency coordinator to act as a single point of contact between designated emergency personnel in each community served by the utility in the event of a system emergency.

F. Curtailment of service plan: Each utility shall have in place a plan for curtailment of service that may need to be instituted to maintain system reliability and integrity. Each plan shall be consistent with applicable NERC and other reliability standards. The plan shall identify various levels of curtailment and conditions that an electric utility must experience for each level as well as specifying the type of actions the utility must undertake to contain or reverse a potential emergency. Each plan must also prescribe the minimum documentation required at each level. The plan must also include information dissemination to customers, the public and governmental entities. Each utility will periodically review and update the plan and will submit a copy of the most current plan version to the records division of the commission as a company rule pursuant to 17.9.210 NMAC.

[17.9.560.15 NMAC - Rp, 17.9.560.15 NMAC, 11/10/2020]

17.9.560.16 SAFETY:
A. Protective measures:

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(1) Each utility shall exercise reasonable care to protect its employees, its customers, and the general public from hazards to which they may be subjected.

(2) The utility shall give reasonable assistance to the commission in the investigation of the cause of accidents and in the determination of suitable means of preventing accidents.

(3) Each utility shall maintain a summary of each accident arising from its operations and make such summaries available to the commission upon request.

(4) A utility shall not connect a new electric service unless the utility has the three copies of the application for electrical inspection. This subsection is not applicable to federal installations for which a state or local inspection is not required.

B. Safety program: Each utility shall adopt and execute a safety program fitted to the size and type of its operations. As a minimum the safety program should:

(1) require employees to use suitable tools and equipment in order to perform their work in a safe manner;

(2) instruct employees in safe methods of performing their work; and

(3) instruct employees who in the course of their work are subject to the hazard of electrical shock or drowning in accepted methods of artificial respiration.

C. Grounding of secondary distribution system: Each utility shall comply with the applicable provisions in the national electrical safety code and the national electrical code for the grounding of secondary circuits and equipment.

[17.9.560.16NMAC - Rp, 17.9.560.16 NMAC, 11/10/2020]

HISTORY OF 17.9.560 NMAC:

Pre-NMAC History. The material in this part was derived from that previously filed with the commission of public records-state records center and archives.

PSC 77-1, (Case No. 1350) Amendments to Second Revised General Order No. 5 and Second Revised General Order No. 6: Applicability of Amendments to Water Utilities, filed 4/4/1977.

NMPSC Rule 560, Service Standards for Electric Utilities, filed 6/30/1988.

History of repealed material.

NMPSC Rule 560, Service Standards for Electric Utilities (filed 6/30/1988) repealed 6/15/2005.

17.9.560 NMAC - Service Standards for Electric Utilities (filed 6/15/2005) repealed 11/10/2020.

Other History:

NMPSC Rule 560, Service Standards for Electric Utilities (filed 6/30/1988) replaced by 17.9.560 NMAC, Service Standards for Electric Utilities, effective 6/15/2005.

17.9.560 NMAC - Service Standards for Electric Utilities (filed 6/15/2005) replaced by 17.9.560 NMAC - Service Standards for Electric Utilities, effective 11/10/2020.

- (2) without notice in the event of customer use of equipment in such manner as to adversely affect the utility's equipment or the utility's service to others;
- (3) without notice in the event of customer's tampering with, damaging, or deliberately destroying the equipment furnished and owned by the utility;
- (4) without notice in the event of unauthorized use;
- (5) for violation of, or noncompliance with, the utility's rules on file with and approved by the commission;
- (6) for failure of the customer to fulfill its contractual obligations for service or facilities subject to the regulation by the commission;
- (7) for failure of the customer to permit the utility reasonable access to equipment;
- (8) for nonpayment of bill, provided the utility has given the customer final notice;
- (9) for failure of the customer to provide the utility with a deposit as authorized by Subsection B of 17.10.650.11 NMAC, except that a utility may not discontinue service to an existing customer solely for failure to pay a deposit;
- (10) for failure of the customer to furnish such service, equipment, permits, certificates, or rights-of-way as shall have been specified by the utility as a condition to obtaining service, or in the event such equipment or permissions are withdrawn or terminated; or
- (11) for failure to pay for service of the same class at a previous metering point or points.

G. Reasons insufficient for denying or discontinuing service:

- (1) The following shall not constitute sufficient cause for denial of or discontinuance of service to a present customer:
 - (a) failure to pay for merchandise purchased from the utility;
 - (b) failure to pay for a different type or class of public utility service;
 - (c) failure to pay the bill of another customer as guarantor thereof; or
 - (d) failure to pay for concurrent service of whatever class at a different metering point.
- (2) The following shall not constitute sufficient cause for denying service to a prospective customer:
 - (a) delinquency in payment for service by a previous occupant unless the previous occupant still resides at the premises;
 - (b) failure to pay for merchandise purchased from the utility; or
 - (c) failure to pay the bill of another customer as guarantor thereof.
- (3) Irrespective of any conflict with 17.5.410 NMAC, the following rules regarding disconnection of residential utility service may be implemented on a temporary basis by order of the Commission for a period of time, up to and including, the duration of any emergency executive order issued by the Governor of New Mexico pertaining to a public health or other emergency condition under either the Public Health Emergency Response Act and the All Hazards Emergency Management Act:
 - (a) all utilities may be prohibited from discontinuing residential utility service for non-payment during the time period the emergency executive orders are in effect;
 - (b) any late fees on residential accounts that would be incurred during the time period of the effectiveness of the emergency executive orders may be required to be waived;
 - (c) utilities may be permitted to temporarily close in-person bill payment locations provided the utility provides notice to residential customers of such closures and identifies in such notice how payment made be made, including electronically or by mail. In the event of the closure of in-person bill payment locations, utilities shall be permitted to continue to collect credit card or bank fees in accordance with their own commission approved and filed tariffs;
 - (d) medical certificates set to expire shall not expire for the duration of the effectiveness of any emergency executive order and may be automatically be extended for 90 days from the end of any emergency executive order and;
 - (e) irrespective of this rule, public utilities are not prohibited from disconnecting service to residential customers due to: a) an emergency; b) safety; or c) a request to disconnect from the residential customer. . The following additional rules regarding disconnection of residential utility service shall be effective for the duration of time that governor's executive orders pertaining to the COVID-19 pandemic ("emergency executive orders") remain in effect:
 - (a) all utilities are prohibited from discontinuing residential utility service for non-payment during the time period the emergency executive orders are in effect;

~~(b) disconnections of residential utility service for non-payment issued on or after March 11, 2020 (the effective date of the governor's first emergency executive orders pertaining to the COVID-19 pandemic) are suspended for the duration of the effectiveness of all COVID-19 related emergency executive orders;~~

~~(c) any late fees on residential accounts that would be incurred during the time period of the effectiveness of the emergency executive orders shall be waived;~~

~~(d) utilities are permitted to temporarily and immediately close in-person bill payment locations as long as they provide notice to residential customers regarding the same and notice how to pay electronically or by mail. In the event of closure of in-person bill payment locations, utilities shall be permitted to continue to collect credit card or bank fees in accordance with their own commission approved and filed tariffs;~~

~~(e) medical certificates set to expire shall not expire for the duration of the effectiveness of all COVID-19 related emergency executive orders and shall automatically be extended for 90 days from the end of all COVID-19 related emergency executive orders.~~

H. Material changes in character of service: If under the control of the utility and after adequate notice to customers, material changes in the character of gas service rendered shall be made only with the approval of the commission. Whenever required by any such change the utility shall make any necessary adjustments to the customers' appliances without charge and shall conduct such adjustment program with a minimum of inconvenience to customers.

I. Customer complaints: Complaints concerning the charges, practices, facilities, or service of the utility shall be investigated promptly and thoroughly. The utility shall maintain such records of customer complaints as will enable the utility to review and analyze its procedures and actions. The utility shall make such information available to the commission upon request.

[17.10.650.11 NMAC - Rp, 17.10.650.11 NMAC, 11/10/2020]

17.10.650.12 ENGINEERING:

A. Requirements for good engineering practices:

(1) The gas plant of the utility shall be constructed, installed, maintained, and operated in accordance with accepted good engineering practice in the gas industry to assure, as far as reasonably possible, continuity of service, uniformity in the quality of service furnished, and the safety of persons and property.

(2) In certain instances the commission may authorize the use of pipe other than steel for low pressure transmission and distribution systems. In no case shall a utility deviate from the use of steel pipe without first obtaining authorization from the commission.

B. Acceptable standards: Unless otherwise specified by the commission the utility shall use the applicable provisions in the publications listed below as standards of accepted good practice for construction initiated and operations and testing procedures conducted after the effective date of Second Revised General Order No. 6, codified by 17.10.650 NMAC.

(1) American standard code for "gas transmission and distribution piping system," ASA B31.8-1968.

(2) National board of fire underwriters standard no. 59, July 1962, "the storage and handling of liquefied petroleum gases at utility gas plants".

(3) "Standard methods of gas testing," circular no. 48, national bureau of standards, 1916 (the applicable portions of the circular have been substantially reproduced in the American meter co. handbook E-4 covering the testing of positive displacement gas meters).

(4) "Testing large capacity rotary gas meters," research paper no. 1741, national bureau of standards journal of research, September 1946.

(5) "Standard method of test for caloric value of gaseous fuels by the waterflow calorimeter," American society for testing materials, standard D 900-55, 1955.

C. Acceptable references: The following publications have not been designated as standards but may be used as guides to acceptable practice.

(1) "Accuracy of the recording gas calorimeter when used with gases of high BTU content," by John H. Eiseman, national bureau of standards, and Elwin A. Potter, gas inspection bureau of the District of Columbia, AGA publication no. CEP-55-13.

(2) "Orifice metering of natural gas," report No. 3 of the AGA gas measurement committee.

D. Adequacy of supply: The production and storage capacity of the utility's plant supplemented by the gas supply regularly available from other sources must be sufficiently large to meet all reasonably expectable demands for firm service.

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TITLE 17 PUBLIC UTILITIES AND UTILITY SERVICES
CHAPTER 10 GAS SERVICES
PART 650 SERVICE STANDARDS FOR GAS UTILITIES

17.10.650.1 ISSUING AGENCY: New Mexico Public Regulation Commission.
[17.10.650.1 NMAC - Rp, 17.10.650.1 NMAC, 11/10/2020]

17.10.650.2 SCOPE: 17.10.650 NMAC shall apply to any gas utility operating within the state of New Mexico under the jurisdiction of the New Mexico public regulation commission.
[17.10.650.2 NMAC - Rp, 17.10.650.2 NMAC, 11/10/2020]

17.10.650.3 STATUTORY AUTHORITY: Section 8-8-15 NMSA 1978.
[17.10.650.3 NMAC - Rp, 17.10.650.3 NMAC, 11/10/2020]

17.10.650.4 DURATION: Permanent.
[17.10.650.4 NMAC - Rp, 17.10.650.4 NMAC, 11/10/2020]

17.10.650.5 EFFECTIVE DATE: November 10, 2020 unless a later date is cited at the end of a section.
[17.10.650.5 NMAC - Rp, 17.10.650.5 NMAC, 11/10/2020]

17.10.650.6 OBJECTIVE:

A. Intentions: 17.10.650 NMAC is intended to promote safe and adequate service to the public, to provide standards for uniform and reasonable practices by utilities, and to establish a basis for determining the reasonableness of such demands as may be made by the public upon the utilities.

B. Modifications: If unreasonable hardship to a utility or to a customer results from the application of any provision herein prescribed, application may be made to the commission for the modification of the provision or for temporary or permanent exemption from its requirements.

C. Rule revisions: 17.10.650 NMAC establishes standards to be followed by every gas utility in providing service to customers who are not residential customers as defined in Subsection J of 17.5.410.7 NMAC and in providing service to residential customers except to the extent inconsistent with 17.5.410 NMAC provided, however, that any electric utility may file rules inconsistent with the provisions established herein when permitted by the commission under the provisions of Subsection A of 17.9.560.9 NMAC, or, for residential customers, to conform with 17.5.410 NMAC. When so filed and approved by the commission such utility rules shall take precedence over the provisions established herein.

D. Adoption: The adoption of 17.10.650 NMAC shall not preclude the commission from altering or amending it or from making such modifications with respect to its application as may be found necessary to meet exceptional conditions.

E. Duties: These regulations shall not relieve any utility from its duties under the laws of this state.
[17.10.650.6 NMAC - Rp, 17.10.650.6 NMAC, 11/10/2020]

17.10.650.7 DEFINITIONS: When used in 17.10.650 NMAC unless otherwise specified the following definitions will apply:

A. “BTU means” British thermal unit;

B. “check flow means” a flow between twenty percent and fifty percent of the meter's rated capacity;

C. “commission means” the New Mexico public regulation commission;

D. “cubic foot of gas shall have the following meanings”:

(1) when gas is supplied and metered to customers at the pressure (as defined in Subsection B of 17.10.650.14 NMAC) normally used for domestic customers' appliances and no other basis of measurement is provided for by special contract or in the utility's rules on file with the commission, a cubic foot of gas shall be that quantity of gas which at the temperature and pressure existing in the meter occupies one cubic foot;

(2) when gas is supplied to customers at other than the pressure in Paragraph (1) above, the utility shall specify in its rules or special contract the base for measurement of a cubic foot of gas (see Paragraph (2) of Subsection C of 17.10.650.9 NMAC); unless otherwise stated a cubic foot of gas shall be that quantity of gas which at temperature of 60 degrees F. and a pressure of 14.73 psia occupies one cubic foot; and

(3) the standard cubic foot of gas for testing the gas itself for heating value shall be that

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quantity of gas saturated with water vapor which at a temperature of 60 degrees F. and a pressure of 30 inches of mercury occupies one cubic foot; (temperature of mercury = 60 degrees F.; acceleration due to gravity = 32.17 ft. per second; density = 13.595 grams per cubic centimeter;) other bases may be used by the utility and customer when provided for by special contract;

E. “customer means” any person, firm, association, corporation, or any agency of the federal, state, or local government being supplied with and responsible for payment for gas service by a gas utility;

F. “delivery point means” that point at which the system of the seller connects into the system of the buyer regardless of the location of the meter unless otherwise specified by written contract;

G. “filed rule means” rules and regulations filed by a utility with the commission in compliance with 17.1.210 NMAC which have been made effective either through commission approval thereof or by operation of law;

H. “full rated flow means” a flow of one hundred percent of the rated capacity of a meter;

I. “gas plant means” all facilities owned by a gas utility for the production, storage, transmission, and distribution of gas;

J. “LP-gas means” liquefied petroleum gas;

K. “main means” a gas pipe owned, operated, or maintained by a utility which is used for the transmission or distribution of gas, but does not include "service pipe;"

L. “meter, without other qualification, means” any device or instrument which a utility uses to measure a quantity of gas;

M. “premises means” a piece of land or real estate, including buildings and other appurtenances thereon;

N. “psia means” pounds per square inch, absolute;

O. “psig means” pounds per square inch, gauge;

P. “service pipe means” the pipe that runs between a main or a transmission line and a customer's property line;

Q. “special contract means” a written agreement between a utility and a customer to establish a rate or conditions of utility service, or both, that due to size or load characteristics, or both, differ from those established for general classes of service;

R. “system emergency means” an unplanned situation in which a utility's system or a segment of its system is in imminent danger of failure and implementation of normal curtailment or interruption procedures would not rectify the condition;

S. “therm means” the unit of heat that is equal to 100,000 British thermal units;

T. “utility and gas utility” shall have the meaning given for "public utility" or "utility" in the New Mexico Public Utility Act, Section 62-3-3 NMSA 1978;

U. “W.C. means” water column;

V. “yard line means” the pipe that runs across a customer's property from the property line to the point of consumption;

W. “final notice means” personal communication with a non-residential customer by telephone, hand delivery or other electronic communications at least two days prior to the specific date of discontinuance of service or if by mail, at least four days prior to the specific date of discontinuance of service, excluding Sundays and holidays observed by the utility, to: remind the non-residential customer of the pending date of discontinuance of service.

[17.10.650.7 NMAC - Rp, 17.10.650.7 NMAC, 11/10/2020]

17.10.650.8 [RESERVED]

[17.10.650.8 NMAC - Rp, 17.10.650.8 NMAC, 11/10/2020]

17.10.650.9 RECORDS AND REPORTS:

A. Location of records: Records shall be located as provided in Section 62-6-17 NMSA 1978.

B. Retention of records: Records shall be retained as provided in 17.3.310 NMAC.

C. Data to be filed with the commission: The utility shall maintain the following documents and information on a current basis and upon commission request, the utility shall provide the information to the commission within 10 working days:

(1) a statement of the standard heating value in BTU's per cubic foot of the gas supplied by the utility in each district, division, or community served;

(2) a statement indicating the volumetric measurement base to which all sales of gas at other

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than standard delivery pressure except where made under special contract are corrected (see Paragraph (2) of Subsection K of 17.10.650 NMAC and Subsection B of 17.10.650.14 NMAC);

(3) a map or series of maps showing the utility's operating area (the map shall be revised annually unless such revision is unnecessary, in which event the utility shall notify the commission that the map on file is current); the map should show:

- (a) gas production plant,
- (b) principal storage holders,
- (c) principal transmission mains by size,
- (d) system metering (supply) points,
- (e) state boundary crossings,
- (f) franchise area, and
- (g) names of all incorporated communities served;

(4) the name, title, address, and telephone number of the person who should be contacted in connection with:

- (a) general management duties,
- (b) customer relations (complaints),
- (c) engineering operations,
- (d) meter tests and repairs, and
- (e) emergencies during non-office hours;

(5) notice of accidents, explosions, and leaks:

(a) prompt notice of fatal accidents shall be given to the commission by telephone or telegraph,

(b) prompt notice of any explosion involving any of the utility's system or products shall be given to the commission by telephone or telegraph,

(c) the utility shall maintain information regarding leaks that occur in a transmission or distribution line owned by the company or in a customer's line for at least three years from the date the leak is discovered by the utility, and

(d) the utility shall file a report with the commission within 48 hours after exercising its option to discontinue service under Paragraph (1) of Subsection F of 17.10.650.11 NMAC;

(6) reports of heating value:

(a) each utility shall file reports showing the results of its determinations of the heating value of the gas made in accordance with Subsection F of 17.10.650.14 NMAC,

(b) when the utility obtains its gas supply from another utility which is required to supply BTU reports to the commission under this section, copies of the supplier's reports may be submitted in lieu of compliance with the other requirements of this section, and

(c) these reports shall be provided to the commission within 10 working days of a request for such a report by the commission;

(7) the location at which the utility keeps the various classes of records required by these rules; and

(8) a report detailing the results of all meters (excluding new meters and all orifice meters) tested during the year showing:

- (a) total number of meters tested;
- (b) percentage breakdown of reasons for tests;
- (c) number of meters found to be more than two percent fast; and
- (d) number of meters found to be more than two percent slow.

[17.10.650.9 NMAC - Rp, 17.10.650.9 NMAC, 11/10/2020]

17.10.650.10 GENERAL REQUIREMENTS:

A. Disposition of gas:

(1) Unless otherwise authorized by the commission all gas sold by a utility shall be on the basis of meter measurement except where the usage is constant and the consumption may be readily computed.

(2) Wherever practicable and exclusive of field usages, consumption of gas within the utility itself or by administrative units associated with it shall be metered.

B. Meter reading sheets, cards, or records: The meter reading sheets, cards, or records from which the customer's bills are prepared shall show:

- (1) customer's name, address, and rate schedule;

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- (2) identification number or description of the meter(s);
- (3) meter readings;
- (4) if the reading has been estimated; and
- (5) any applicable multiplier or constant.

C. Meter reading interval: Meters shall be read monthly except that authority may be obtained from the commission for reading the meters at other than monthly intervals. Commission approval need not be obtained where deviation from monthly meter reading schedules occurs because of changes in meter reading routes. As nearly as practicable utilities shall avoid sending a customer two successive estimated bills.

D. Condition of meter: No meter shall be installed which is mechanically defective, has an erroneous correction factor, or has not been tested and adjusted if necessary in accordance with Subsection B of 17.10.650.13 NMAC. However, meters being transferred from one service location to another need not be so tested if the time period prescribed in Paragraph (5) of Subsection A of 17.10.650.13 NMAC has not yet expired unless the utility has reasonable grounds for believing that some particular meter may be registering improperly. The capacity of the meter and the index mechanism should be consistent with the gas requirements of the customer.

E. Prepayment meters: Prepayment meters shall not be geared or set so as to result in the charge of a rate or amount higher than would be paid if a standard meter were used except under such special rate schedule as may be filed under 17.1.210 NMAC.

F. Temporary service: When the utility renders temporary service to a customer it may require that the customer bear all the costs of installing and removing the service in excess of any salvage realized.

G. Extension plan: Each utility shall develop a plan acceptable to the commission for the installation of extensions of mains and service lines where such facilities are in excess of those included in the regular rates for service and for which the customer shall be required to pay all or part of the cost. This plan must be related to the investment that can be made prudently for the probable revenue and expenses to be incurred.
[17.10.650.10 NMAC - Rp, 17.10.650.10 NMAC, 11/10/2020]

17.10.650.11 CUSTOMER RELATIONS:

A. Customer information: Each utility shall:

- (1) maintain up-to-date maps, plans, or records of its entire transmission and distribution systems with such other information as may be necessary to enable the utility to advise prospective customers and others entitled to the information as to the facilities for serving any locality;
- (2) assist the customer or prospective customer in selecting the most economical rate schedule appropriate for their class of service;
- (3) notify customers affected by a change in rates or schedule classification;
- (4) post a notice in a conspicuous place in each office of the utility where applications for service are received informing the public that copies of the rate schedules and rules relating to the service of the utility as filed with the commission are available for inspection;
- (5) upon request inform its customers as to the method of reading meters; and
- (6) furnish such additional information as the customer may reasonably request.

B. Customer deposits: Each utility may require from any customer or prospective customer a deposit intended to guarantee payment of bills for service.

(1) A utility may not require a security deposit or other guarantee of payment as a condition of new or continued service to a customer except in the case of service:

- (a) to a customer that has not previously had utility service with the utility and that has not established an acceptable credit rating;
- (b) to a customer that has on three or more occasions, within a 12-month period, received a final notice;
- (c) as a condition for reconnection of service following discontinuance of service by the utility; or
- (d) to a customer that in an unauthorized manner has interfered with or diverted the service of the utility situated on or about or delivered to the customer's premises.

(2) In determining whether a customer who has not previously had utility service with the utility has an acceptable credit rating, a utility shall consider the following:

- (a) documentation that the customer has an adequate credit reference from a utility where the customer had prior utility service;
- (b) documentation obtained by the utility from a commercial credit source; or
- (c) any other reasonable documentation.

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(3) A utility may give special consideration to a prospective or existing customer in determining if payment by an installment agreements is appropriate.

(4) If a utility requires a deposit, it shall have on file with the commission an approved rule setting forth the minimum and maximum deposit that may reasonably be required by the utility in cases involving all types of service. That rule shall conform to the following provisions:

(a) a deposit for a customer shall not exceed an amount equivalent to one-sixth of that non-residential customer's estimated annual billings; a utility shall base its deposit criteria upon the most recent available prior 12-month corresponding period at the same service location; or, if there is not a comparable period of service at the same service location, the deposit shall be based upon consumption of similar units in the same area;

(b) simple interest on deposits at a rate not less than the rate required by Section 62-13-13 NMSA 1978 shall accrue annually to the customer's credit for the time the deposit is held by the utility; by January 15 of each year the commission shall post on its website the minimum rate to be paid on any deposits required of a customer by any public utility; the deposit shall cease to draw interest on the date it is returned, on the date service is terminated or on the date the refund is sent to the customer's last known address.

(5) Each customer that posts a security deposit shall receive in writing at the time of tender of deposit or with the first bill a receipt as evidence thereof. A utility shall provide the means whereby a depositor may establish its claim if its receipt is lost. The receipt shall contain the following minimum information:

(a) name of customer;

(b) date of payment;

(c) amount of payment; and

(d) statement of the terms and conditions governing the payment, retention, interest and return of deposits.

(6) Refunds. Any non-residential customer that has not received a final notice for the 12-month period from the date of deposit or guarantee for the 12-month period from the date of deposit or guarantee shall promptly receive a credit or refund in the amount of the deposit together with accrued interest due or shall be permitted to terminate any guarantee. If the amount of the deposit exceeds the amount of the current bill, the customer may request a refund in the amount of the excess if such excess exceeds \$25.00. If the customer fails to qualify for a refund of the deposit on the one year anniversary date of the deposit, that account shall be reviewed at least annually, and the amount of the deposit shall be credited if the customer has not received a final notice during the preceding 12 months. A customer may request a refund at any time after 12- months of payment history, which refund shall promptly be paid if the customer has not received a final notice during the prior 12-month period or a utility may pay such refund in the absence of a request within a reasonable period of time.

(7) Each utility shall maintain records to show:

(a) the name and address of each depositor,

(b) the amount and the date of the deposit, and

(c) each transaction concerning the deposit.

(8) A record of each unclaimed deposit shall be maintained for at least three years during which time the utility shall mail a check or a letter to the customer at its last known address in an effort to return the deposit.

(9) Unclaimed deposits together with accrued interest shall be credited to the appropriate account and shall be handled as required by the Uniform Disposition of Unclaimed Property Act of the state of New Mexico.

C. Customer bill forms: The utility shall bill each customer as promptly as possible following the reading of their meter. The bill shall show:

(1) the reading of the meter at the end of the period for which the bill is rendered;

(2) the nominal date on which the meter was read;

(3) the number and kind of units metered;

(4) the applicable rate schedule or identification of the applicable rate schedule;

(5) the gross or net amount of the bill;

(6) the date by which the customer must pay the bill in order to benefit from any discount or to avoid any penalty;

(7) a distinct marking to identify an estimated bill;

(8) any conversions from meter reading units to billing units from recording or other devices or any other factors such as fuel clause adjustments, power factor adjustments, applicable primary discounts for a customer-owned transformer, or billing unit additions for secondary metering of primary services used in determining the bill; and

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(9) a multiplier constant when used to determine billing, whenever applicable.

(10) In lieu of information required by Paragraphs (4), (8), and (9) of this subsection, the utility may incorporate on the bill form a statement advising the customer that any additional information desired relative to the application of the rate schedule can be obtained by contacting one of the utility's offices.

D. Customer records: The utility shall retain records as may be necessary to effect compliance with 17.3.310 NMAC and with Subsection E of 17.10.650.11 NMAC, and Subsections D and E of 17.10.650.13 NMAC, and shall show, where applicable, the following:

- (1) MCF meter reading;
- (2) MCF consumption;
- (3) demand charges;
- (4) penalties; and
- (5) total amount of bill.

E. Adjustment of bills: Bills which are incorrect due to meter or billing errors are to be adjusted as follows.

(1) Fast meters. Whenever a meter in service is tested and found to have over-registered more than two percent, the utility shall recalculate the bills for service for the period as determined below.

(a) The bills for service shall be recalculated from the time the error first developed or occurred if that time can be determined.

(b) If the time the error first developed or occurred cannot be determined, it shall be assumed that the over-registration existed for a period equal to one-half the time since the meter was last tested, not to exceed six months, and the bills for service shall be recalculated for that period.

(c) If the recalculated bills indicate that a refund is due an existing customer or a person no longer a customer of the utility, the full amount of the calculated difference between the amount paid and the recalculated amount shall be refunded. The utility shall make refunds to the existing customer and to the next previous customer served through the same meter if the period of refund determined in accordance with this section extends into the period when the said next previous customer was served through the same meter. The refund to an existing customer may be in cash or as a credit on their bill if a refund is due a person no longer a customer of the utility, a notice shall be mailed to the last known address, and the utility shall upon request made within three months thereafter refund the amount due.

(2) Non-registering meters. Whenever a meter in service is found not to register the utility may render an estimated bill.

(3) Slow meters. Whenever a meter is found to be more than two percent slow the utility may bill the customer for one-half of the undercharge caused by the error indicated by the test for a period of 12 months unless the meter has been tested within the twelve-month period, in which event the customer may be billed for the undercharge caused by the error indicated by the test for the period since the meter was last tested. No back-billing will be sanctioned if the customer has called to the company's attention their doubts as to the meter's accuracy and the company has failed to check it within a reasonable time.

(4) Billing adjustments due to fast or slow meters shall be calculated on the basis that the meter should be 100 percent accurate. For the purpose of billing adjustments the meter error shall be one-half of the algebraic sum of the error at full-rated flow plus the error at check flow.

(5) When a customer has been overcharged as a result of incorrect reading of the meter, incorrect application of the rate schedule, incorrect connection of the meter, or other similar reasons, the amount of the overcharge shall be adjusted, refunded, or credited to the customer. The utility will assist the customer in selecting the rate schedule under which the customer is eligible to be billed. However, the utility will not be held responsible to refund any overcharge caused by the customer's failure to select the appropriate rate schedule or to notify the utility of a change in their operations.

(6) When a customer has been undercharged as a result of an incorrect meter reading, incorrect application of the rate schedule, or other similar reasons, the amount of the undercharge may be billed to the customer.

(7) A utility and its special contract customers may make their own agreements with respect to adjustments for errors in measurement.

F. Reasons for denying or discontinuing service: Service may be denied or discontinued for any of the reasons listed below unless prohibited under Paragraph (3) of Subsection G of 17.10.650.11 NMAC. Unless otherwise stated the customer shall be allowed a reasonable time in which to comply with the rule before service is discontinued, except as provided in Paragraphs (1), (2), (3), and (4) of this subsection:

- (1) without notice in the event of a condition determined by the utility to be hazardous;

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- (2) without notice in the event of customer use of equipment in such manner as to adversely affect the utility's equipment or the utility's service to others;
- (3) without notice in the event of customer's tampering with, damaging, or deliberately destroying the equipment furnished and owned by the utility;
- (4) without notice in the event of unauthorized use;
- (5) for violation of, or noncompliance with, the utility's rules on file with and approved by the commission;
- (6) for failure of the customer to fulfill its contractual obligations for service or facilities subject to the regulation by the commission;
- (7) for failure of the customer to permit the utility reasonable access to equipment;
- (8) for nonpayment of bill, provided the utility has given the customer final notice;
- (9) for failure of the customer to provide the utility with a deposit as authorized by Subsection B of 17.10.650.11 NMAC, except that a utility may not discontinue service to an existing customer solely for failure to pay a deposit;
- (10) for failure of the customer to furnish such service, equipment, permits, certificates, or rights-of-way as shall have been specified by the utility as a condition to obtaining service, or in the event such equipment or permissions are withdrawn or terminated; or
- (11) for failure to pay for service of the same class at a previous metering point or points.

G. Reasons insufficient for denying or discontinuing service:

- (1) The following shall not constitute sufficient cause for denial of or discontinuance of service to a present customer:
 - (a) failure to pay for merchandise purchased from the utility;
 - (b) failure to pay for a different type or class of public utility service;
 - (c) failure to pay the bill of another customer as guarantor thereof; or
 - (d) failure to pay for concurrent service of whatever class at a different metering point.
- (2) The following shall not constitute sufficient cause for denying service to a prospective customer:
 - (a) delinquency in payment for service by a previous occupant unless the previous occupant still resides at the premises;
 - (b) failure to pay for merchandise purchased from the utility; or
 - (c) failure to pay the bill of another customer as guarantor thereof.
- (3) Irrespective of any conflict with 17.5.410 NMAC, the following rules regarding disconnection of residential utility service may be implemented on a temporary basis by order of the commission for a period of time, up to and including, the duration of any emergency executive order issued by the governor of New Mexico pertaining to a public health or other emergency condition under either the Public Health Emergency Response Act, Section 12-10A-1 NMSA 1978, and the All Hazards Emergency Management Act, Section 12-10-1 NMSA 1978:
 - (a) all utilities may be prohibited from discontinuing residential utility service for non-payment during the time period the emergency executive orders are in effect;
 - (b) any late fees on residential accounts that would be incurred during the time period of the effectiveness of the emergency executive orders may be required to be waived;
 - (c) utilities may be permitted to temporarily close in-person bill payment locations provided the utility provides notice to residential customers of such closures and identifies in such notice how payment made be made, including electronically or by mail. In the event of the closure of in-person bill payment locations, utilities shall be permitted to continue to collect credit card or bank fees in accordance with their own commission approved and filed tariffs;
 - (d) medical certificates set to expire shall not expire for the duration of the effectiveness of any emergency executive order and may be automatically be extended for 90 days from the end of any emergency executive order; and
 - (e) irrespective of this rule, public utilities are not prohibited from disconnecting service to residential customers due to:
 - (i) an emergency;
 - (ii) safety;
 - (iii) a request to disconnect from the residential customer.

H. Material changes in character of service: If under the control of the utility and after adequate

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notice to customers, material changes in the character of gas service rendered shall be made only with the approval of the commission. Whenever required by any such change the utility shall make any necessary adjustments to the customers' appliances without charge and shall conduct such adjustment program with a minimum of inconvenience to customers.

I. Customer complaints: Complaints concerning the charges, practices, facilities, or service of the utility shall be investigated promptly and thoroughly. The utility shall maintain such records of customer complaints as will enable the utility to review and analyze its procedures and actions. The utility shall make such information available to the commission upon request.

[17.10.650.11 NMAC - Rp, 17.10.650.11 NMAC, 11/10/2020]

17.10.650.12 ENGINEERING:

A. Requirements for good engineering practices:

(1) The gas plant of the utility shall be constructed, installed, maintained, and operated in accordance with accepted good engineering practice in the gas industry to assure, as far as reasonably possible, continuity of service, uniformity in the quality of service furnished, and the safety of persons and property.

(2) In certain instances the commission may authorize the use of pipe other than steel for low pressure transmission and distribution systems. In no case shall a utility deviate from the use of steel pipe without first obtaining authorization from the commission.

B. Acceptable standards: Unless otherwise specified by the commission the utility shall use the applicable provisions in the publications listed below as standards of accepted good practice for construction initiated and operations and testing procedures conducted after the effective date of Second Revised General Order No. 6, codified by 17.10.650 NMAC.

(1) American standard code for "gas transmission and distribution piping system," ASA B31.8-1968.

(2) National board of fire underwriters standard no. 59, July 1962, "the storage and handling of liquefied petroleum gases at utility gas plants".

(3) "Standard methods of gas testing," circular no. 48, national bureau of standards, 1916 (the applicable portions of the circular have been substantially reproduced in the American meter co. handbook E-4 covering the testing of positive displacement gas meters).

(4) "Testing large capacity rotary gas meters," research paper no. 1741, national bureau of standards journal of research, September 1946.

(5) "Standard method of test for caloric value of gaseous fuels by the waterflow calorimeter," American society for testing materials, standard D 900-55, 1955.

C. Acceptable references: The following publications have not been designated as standards but may be used as guides to acceptable practice.

(1) "Accuracy of the recording gas calorimeter when used with gases of high BTU content," by John H. Eiseman, national bureau of standards, and Elwin A. Potter, gas inspection bureau of the District of Columbia, AGA publication no. CEP-55-13.

(2) "Orifice metering of natural gas," report No. 3 of the AGA gas measurement committee.

D. Adequacy of supply: The production and storage capacity of the utility's plant supplemented by the gas supply regularly available from other sources must be sufficiently large to meet all reasonably expectable demands for firm service.

E. Inspection of gas plant: Each utility shall adopt a program of inspection of its gas plant in order to determine the necessity for replacement and repair. The frequency of various inspections shall be based on the utility's experience and accepted good practice. Each utility shall maintain sufficient records to give evidence of compliance with its inspection program.

[17.10.650.12 NMAC - Rp, 17.10.650.12 NMAC, 11/10/2020]

17.10.650.13 INSPECTIONS AND TESTS:

A. Utility inspections and tests: Each utility shall make inspections and tests of meters and associated metering devices as follows:

(1) Pre-installation inspections and tests. Every meter and associated metering device shall be inspected and tested in the utility's meter shop before being placed in service, and the accuracy of each meter shall be within the tolerances permitted by Subsection B of 17.10.650.13 NMAC.

(2) As-found tests. All meters and associated metering devices shall be tested before they are adjusted or repaired, after they are removed from service, except when transferred from one service location to

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another without testing, as permitted by Subsection D of 17.10.650.10 NMAC. Excepted are those meters which are damaged beyond testing. Such tests shall be made before the meters and associated metering devices are adjusted, repaired, or retired. It will not be mandatory to test meters scheduled for retirement unless there is cause to suspect the accuracy of the meter.

(3) Leak tests. Repaired meters and meters that have been removed from service shall be leak tested prior to installation except when a meter is moved from one location to another without testing in cases permitted by Subsection D of 17.10.650.10 NMAC, unless the utility has reasonable grounds for believing that some particular meter may be leaking. New meters shall be leak tested, but testing may be conducted in accordance with a sampling method acceptable to the commission. Each meter tested shall be subjected to an internal pressure of at least 20" W.C. and checked for the presence of leaks by one of the following tests:

- (a) immersion test;
- (b) soap test; or
- (c) pressure drop test of a type acceptable to the commission.

(4) Request tests. Upon request by a customer the utility shall test the meter serving them. If the meter has been tested within the last 18 months or within a shorter applicable periodic testing interval specified in Paragraph (5) of Subsection A of 17.10.650.13 NMAC, the utility may charge the customer the applicable amount provided for in its filed rules, such charge to be refunded to the customer whenever the meter proves to be in excess of two percent in error.

(a) The customer shall be advised that the customer or their representative may be present when the meter is tested.

(b) A complete record of each test shall be kept on file by the utility.

(5) Periodic tests. Unless otherwise authorized by the commission each utility shall make periodic tests of meters, associated devices, and instruments to assure their accuracy. Such tests shall be scheduled within the calendar year or earlier when the interval is stated in years; or within the calendar month or earlier when the interval is stated in months. The basic periodic test interval shall not be longer than provided for in the following schedule. (Note: maintenance programs suggested by manufacturers of the following meters and devices should be followed carefully.)

- (a) Positive displacement meters.
 - (i) Up to 250 CF/hr. 10 yrs.
 - (ii) 250 to 1500 CF/hr. seven yrs.
 - (iii) 1500 to 3000 CF/hr. five yrs.
 - (iv) 3000 to 5000 CF/hr. two yrs.
 - (v) Over 5000 CF/hr. one yr.
- (b) Orifice meters six mos.
- (c) Base pressure correcting devices 24 mos.
- (d) Base volume correcting devices 24 mos.
- (e) Secondary standards.
 - (i) Test bottle, one cubic ft. 10 yrs.
 - (ii) Dead weight testers 10 yrs.
- (f) Working standards.
 - (i) Bell provers three yrs.
 - (ii) Rotary displacement test meters five yrs.
 - (iii) Flow provers five yrs.
 - (iv) Laboratory quality indicating pressure gauges six mos.

(6) The basic periodic test interval for positive displacement meters may be extended under the following circumstances:

(a) The utility must submit a written application requesting such extension.

(b) Such application must show the results of testing meters at the periodic test intervals for several years, and the test results must show that the meters are maintaining a high degree of accuracy.

(c) The extended interval for meter tests shall be determined by the commission, and the utility shall report annually, or as may be required, the accuracy status of such meters during the extended interval.

(d) Any authorized extension of the basic periodic test interval is subject to cancellation at any time; upon such cancellation the test interval shall be determined by the commission, but such interval shall not be less than the requirements of Paragraph (5) of this subsection.

B. Test procedures and accuracies: Meters and associated metering devices shall be tested at the

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points and adjusted to the tolerances prescribed below. The test of any unit of metering equipment shall consist of a comparison of its accuracy with the accuracy of a standard. The commission will use the applicable provisions of the standard listed in Subsection B of 17.10.650.12 NMAC as criteria of accepted good practice in testing meters.

- (1) Positive displacement meters.
 - (a) Accuracy at test points.
 - (i) Flow Adjusted to within.
 - (ii) Check flow one and one-half percent
 - (iii) Not less than full rated flow one and one-half percent
 - (b) Overall accuracy. The overall accuracy at check flow and the accuracy at not less than full rated flow shall agree within one percent.
- (2) Orifice meters. Accuracy at test points must be within two percent plus or minus.
- (3) Timing devices. All recording type meters and associated instruments which have a timing element that serves to record the time at which measurements take place must be adjusted so that the timing element is not in error more than plus or minus four minutes in 24 hours.
- (4) General.
 - (a) All meters and associated metering devices when tested shall be adjusted as closely as practicable to the condition of zero error.

(b) All tolerances are to be interpreted as maximum permissible variations from the condition of zero error. In making adjustments no advantages of the prescribed tolerance limits shall be taken.

C. Facilities and equipment for meter testing: Each utility shall maintain or designate a meter shop for the purpose of inspecting, testing, and repairing meters. The shop shall be open for inspection by authorized representatives of the commission at all reasonable times, and the facilities and equipment as well as the methods of measurement and testing employed shall be subject to the approval of the commission.

(1) The area within the meter shop used for testing meters shall be designed so that the meters and meter testing equipment are protected from drafts and excessive changes in temperature. Meters to be tested shall be stored in such manner that the temperature of the meters is substantially the same as the temperature of the prover.

(2) Working standards: Each utility shall own and maintain or have access to at least one approved bell type prover of adequate capacity, and all other equipment necessary to test meters shall be installed in the meter room.

(a) Means shall be provided to maintain the temperature of the liquid in the meter prover at substantially the same level as the ambient temperature in the prover room.

(b) The meter prover shall be maintained in good condition and correct adjustment so that it is capable of determining the accuracy of any service meter to within one half of one percent.

(c) Each utility which has meters too large for testing on a five cubic foot bell prover may use a properly calibrated test meter or a properly designed flow prover for testing the large meters.

(3) Working standards must be checked periodically (see Paragraph (5) of Subsection A of 17.10.650.13 NMAC) by comparison with a secondary standard.

(a) Bell provers must be checked with a one cubic foot bottle which has been calibrated by the national bureau of standards or by the strapping method.

(b) Rotary displacement test meters must be checked with a bell prover of adequate capacity which has been checked as provided in Subparagraph (a) of this paragraph.

(4) Extreme care must be exercised in the use and handling of standards to assure that their accuracy is not disturbed.

(5) Each standard shall be accompanied at all times by a certificate or calibration card, duly signed and dated, on which are recorded the corrections required to compensate for errors found at the customary test points at the time of the last previous test.

(6) Each utility must have such properly calibrated orifices as may be necessary to achieve the rates of flow required to test the meters on its system.

D. Records of meters and associated metering devices: Each utility shall maintain records of the following data, where applicable, for each meter and associated metering devices according to 17.3.310 NMAC:

(1) the complete identification--manufacturer, number, type, capacity, multiplier, constants, and pressure rating; and

(2) the dates of installation and removal from service together with the location.

E. Meter test records: Each utility shall maintain records of meter tests for the duration set forth in 17.3.310 NMAC. The records shall include the following:

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- (1) the date and reason for test;
- (2) the reading of the meter before making any test;
- (3) the accuracy "as found" at check and full rated flow;
- (4) the accuracy "as left" at check and full rated flow; and
- (5) in the event the test of the meter is made by using a standard meter or prover, the

utility shall retain all data taken at the time of the test in sufficiently complete forms to permit convenient checking of the test methods and calculations.

[17.10.650.13 NMAC - Rp, 17.10.650.13 NMAC, 11/10/2020]

17.10.650.14 STANDARDS OF QUALITY SERVICE:

A. Purity requirements: All gas supplied to customers shall be substantially free from impurities which may cause corrosion of mains or piping or form corrosive or harmful fumes when burned in a properly designed and adjusted burner.

B. Pressure limits: The standard pressure of gas supplied by any gas utility to domestic or commercial customers as measured on the customer's side of any such customer's meter shall not be less than four inches nor more than 14 inches of water pressure. In the case of customers who require higher pressure than the standard established for domestic and commercial service, the utility may supply gas at the desired pressure, and the volume of such gas shall be computed on the basis of a filed rule or special contract covering gas supplied to customers at other than standard pressure. (See Paragraph (2) of Subsection K of 17.10.650.7 NMAC).

C. Pressure surveys and records:

(1) Each utility shall make a sufficient number of pressure measurements on its mains and at the customer's meter so that it will have substantially accurate knowledge of the pressure in the low, intermediate, and high pressure system in each district, division, or community served by its distribution mains.

(2) All pressure records obtained under this section shall be retained in accordance with 17.3.310 NMAC and shall be available for inspection by the commission's representatives. Notations on each record shall indicate the following:

- (a) the location where the pressure check was made, and
- (b) the time and date of the check.

D. Standards for pressure measurements:

(1) Secondary standards. Each utility shall own or have access to a dead weight tester, which must be maintained in an accurate condition.

(2) Working standards. Each utility must own or have access to water manometers, mercury manometers, laboratory quality indicating pressure gauges, and field type dead weight pressure gauges as necessary for the proper testing of the indicating and recording pressure gauges used in determining the pressure on the utility's system.

(3) Working standards must be checked periodically (see Paragraph (3) of Subsection C of 17.10.650.13 NMAC) by comparison with a secondary standard.

E. Heating value:

(1) Manufactured and mixed gas. The average heating value on any one day of manufactured gas and mixed gas including liquefied petroleum gas mixed with air but excluding natural gas when mixed with manufactured or liquefied petroleum gas for peak shaving or emergency purposes shall not exceed or fall below the standard heating value specified by the utility (see Paragraph (1) of Subsection C of 17.10.650.9 NMAC) by more than five percent.

(2) Natural and liquefied petroleum gas. The heating value of natural gas and undiluted, commercially pure liquefied petroleum gas as determined in accordance with Subsection F of 17.10.650.14 NMAC) shall not exceed or fall below the standard heating value (see Paragraph (1) of Subsection C of 17.10.650.9 NMAC) by more than five percent.

(3) Adjustment of customers' appliances. Necessary adjustments of customers' appliances must be made by the utility without charge whenever the monthly average heating value of manufactured or mixed gas or natural gas or liquefied petroleum gas sold subject to thermal adjustment is more than five percent above or below the standard heating value for two successive months or whenever the heating value of natural gas or liquefied petroleum gas not sold subject to thermal adjustment is shown by two successive tests made in accordance with Paragraph (3) of Subsection F of 17.10.650.14 NMAC to be more than five percent above or below the standard heating value.

F. Heating value determination and records:

- (1) Calorimeters used for the determination of the heating value of the gas sold shall be of a

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type acceptable to the commission.

(a) The calorimetric equipment shall be installed in a suitably located testing station acceptable to the commission and subject to its inspection.

(b) The accuracy of all calorimeters as well as the method of making heating value tests shall be acceptable to the commission. Recording calorimeters shall be tested with a standard gas at least once a year.

(c) Heating value test records shall be preserved in accordance with 17.3.310 NMAC.

(2) The utility shall determine the heating value of manufactured and mixed gas at least once daily and shall make the test during the period of the highest daily peak demands.

(3) Except for gas sold subject to thermal adjustment (to which the provisions of (2) above shall be applicable), the utility shall determine the heating value of natural gas and liquefied petroleum gas at least quarterly, provided that whenever any such quarterly test or subsequent test provided for herein indicates a heating value which is above or below the standard heating value by more than five percent, another determination of the heating value shall be made no more than 30 days thereafter.

(4) Whenever a special contract between a utility and a customer makes specific provisions for the time and manner of determination of the heating value of the gas delivered to such customer, no additional or other determinations of the heating value of such gas need be made pursuant to the foregoing provisions of this section.

G. Interruptions of service:

(1) Each utility shall keep records of interruptions of service to 50 or more of its customers on any of its distribution systems and shall make an analysis of the records for the purpose of determining steps to be taken to prevent recurrence of such interruptions. Such records should include the following information concerning the interruptions:

- (a) cause,
- (b) date and time, and
- (c) duration.

(2) Planned interruptions shall be made at a time that will not cause unreasonable inconvenience to customers and shall be preceded by adequate notice to those who will be affected.

(3) Each utility shall notify the utility division of the commission by facsimile or e-mail and confirm by letter to the records division of the commission of any interruption to the service of a major portion of any single distribution system. Each utility shall provide to commission staff all information requested by staff that is reasonably needed to assess the situation.

(4) Each utility shall identify critical customers, including facilities that require natural gas to perform essential life-health-safety services, including other utility services such as electrical generating stations, to establish priority of service and to minimize curtailments to these customers.

(5) Each utility shall identify an emergency coordinator to act as a single point of contact between designated emergency personnel in each community served by the utility in the event of a system emergency.

H. Curtailment of service plan: Each utility shall have in place a plan for curtailment of service for system emergencies. Each plan shall be consistent with applicable national and other reliability and safety standards. The plan shall identify various levels of curtailment and conditions that a gas utility must experience for each level as well as specifying the type of actions the utility must undertake to contain or reverse a potential emergency. Each plan must also prescribe the minimum documentation required at each level. The plan must also include information dissemination to customers, the public and governmental entities. Each utility will periodically review and update the plan and will submit a copy of the most current plan version to the records division of the commission as a company rule pursuant to 17.9.210 NMAC.

[17.10.650.14 NMAC - Rp, 17.10.650.14 NMAC, 11/10/2020]

17.10.650.15 SAFETY:

A. Protective measures:

(1) Each utility, shall exercise reasonable care to protect its employees, its customers, and the general public from hazards to which they may be subjected.

(2) Each utility shall maintain a summary of each accident arising from its operations and make such summaries available to the commission upon request.

B. Safety program: Each utility shall adopt and execute a safety program fitted to the size and type

THIS DOCUMENT SHOWS THE FINAL REPEAL/REPLACEMENT RULE ADOPTED BY THIS ORDER

of its operations. At a minimum the safety program should:

- (1) require employees to use suitable tools and equipment in order to perform their work in a safe manner;
- (2) instruct employees in safe methods of performing their work; and
- (3) instruct employees who in the course of their work are subject to the hazards of electrical shock, asphyxiation, or drowning in accepted methods of artificial respiration.

C. Customer piping: Each customer's piping system shall be tested for leaks before original service is provided.

(1) Pressure test. If local authorities do not require a pressure test of a customer's piping as set forth in American standard installation of gas appliances and gas piping, ASA Z21.30-1964, the utility shall advise the customer of the desirability of having their plumber conduct such a test.

(2) Leakage test. Before permitting the use of gas at any location the piping system shall be tested for leaks by a method at least equal to that described in section "leakage check after gas turn on" in the American standard installation of gas appliances and gas piping, ASA Z21.30-1964.

D. Gas leaks:

(1) A report of a gas leak shall be given priority over all other service calls and shall promptly be investigated by the utility at no charge to the customer. Repair work done by the utility on the customer's side of the delivery point may be charged to the customer at the utility's regular rate.

(2) The customer shall be advised of the charges involved prior to the commencement of repair work on their side of the delivery point.

E. Odorization: Any gas which is distributed to customers through gas mains or gas services or used for domestic purposes in compressor plants and which does not naturally possess a distinctive odor, to the extent that its presence in the atmosphere is readily detectable at all gas concentrations of one-fifth of the lower explosive limits and above, shall have an odorant added to it to make it so detectable. However, odorization is not necessary for such gas as is delivered for further processing or use where the odorant would serve no useful purpose as a warning agent. Suitable tests must be made to determine whether the odor meets the aforementioned standards. [17.10.650.15 NMAC - Rp, 17.10.650.15 NMAC, 11/10/2020]

HISTORY OF 17.10.650 NMAC:

Pre-NMAC History. The material in this part was derived from that previously filed with the commission of public records-state records center and archives.

That applicable portion of PSC 77-1, (Case No. 1350) Amendments to Second Revised General Order No. 5 and Second Revised General Order No. 6: Applicability of Amendments to Water Utilities, filed 4/4/1977.

NMPSC Rule 650, Service Standards For Gas Utilities, filed 6/30/1988.

History of Repealed Material.

NMPSC Rule 650, Service Standards For Gas Utilities (filed 6/30/1988) repealed 6/15/2005.

17.10.650 NMAC – Service Standards For Gas Utilities (filed xx/xx/xxxx) repealed 11/10/2020.

Other History.

NMPSC Rule 650, Service Standards For Gas Utilities (filed 6/30/1988) replaced by 17.10.650 NMAC, Service Standards For Gas Utilities, effective 6/15/2005.

17.10.650 NMAC - Service Standards For Gas Utilities (filed xx/xx/xxxx) replaced by 17.10.650 NMAC - Service Standards For Gas Utilities, effective 11/10/2020.

THIS DOCUMENT SHOWS CHANGES FROM THE PROPOSED RULE LANGUAGE THAT WAS ATTACHED TO THE AUGUST 26, 2020 IN "TRACK CHANGES" FORMAT

TITLE 17 PUBLIC UTILITIES AND UTILITY SERVICES
CHAPTER 12 WATER SERVICES
PART 760 CUSTOMER SERVICE RULES AND REGULATIONS FOR WATER UTILITIES

17.12.760.1 ISSUING AGENCY: New Mexico Public Public Regulation Commission.

[17.12.760.1 NMAC - Rp, 17.12.760.1 NMAC, 11/10/2020]

17.12.760.2 SCOPE: 17.12.760 NMAC shall apply to any water utility operating within the state of New Mexico under the jurisdiction of the new mexico public regulation commission.

[17.12.760.2 NMAC - Rp, 17.12.760.2 NMAC, 11/10/2020]

17.12.760.3 STATUTORY AUTHORITY: Section 8-8-15 NMSA 1978; Sections 62-3-1 NMSA 1978, 62-3-3 NMSA 1978, 62-3-4 NMSA 1978, 62-6-1 NMSA 1978, 62-6-4 NMSA 1978, 62-6-16 NMSA 1978, 62-6-18 NMSA 1978, 62-6-19 NMSA 1978, 62-6-20 NMSA 1978, 62-6-21 NMSA 1978, 62-6-22 NMSA 1978, 62-8-3 NMSA 1978, 62-8-10 NMSA 1978, and 62-9-1 NMSA 1978.

[17.12.760.3 NMAC - Rp, 17.12.760.3 NMAC, 11/10/2020]

17.12.760.4 DURATION: Permanent.

[17.12.760.4 NMAC - Rp, 17.12.760.4 NMAC, 11/10/2020]

17.12.760.5 EFFECTIVE DATE: November 10, 2020 unless a later date is cited at the end of a section.

[17.12.760.5 NMAC - Rp, 17.12.760.5 NMAC, 11/10/2020]

17.12.760.6 OBJECTIVE 17.12.760 NMAC is intended to promote safe and adequate service to the public, to provide standards for uniform and reasonable practices by water utilities under the jurisdiction of the public regulation commission, and to establish a basis for determining the reasonableness of such demands as may be made by the public upon such water utilities. If unreasonable hardship to such a water utility or to a customer of such a water utility results from the application of any provision herein prescribed, application may be made to the commission for the modification of the provision or for temporary or permanent exemption from its requirements. The public regulation commission is not precluded from altering or amending 17.12.760 NMAC or from making such modifications with respect to its application as may be found necessary to meet exceptional conditions. These regulations shall not relieve any water utility operating within the state of new mexico subject to the jurisdiction of the public regulation commission from its duties under the laws of this state.

[17.12.760.6 NMAC - Rp, 17.12.760.6 NMAC, xx/xx/2020]

17.12.760.7 DEFINITIONS: [RESERVED]

[17.12.760.7 NMAC - Rp, 17.12.760.7 NMAC, 11/10/2020]

17.12.760.8 [RESERVED]

[17.12.760.8 NMAC - Rp, 17.12.760.8 NMAC, 11/10/2020]

17.12.760.9 CUSTOMER SERVICE RULES AND REGULATIONS: The customer service rules and regulations set forth in 17.12.760 NMAC establish the responsibilities and rights of jurisdictional water utilities and their residential customers in their water service relationship. Nothing herein shall prevent any utility from adopting customer service rules and regulations which do not conflict with but which are additional to those set forth herein to cover special circumstances.

[17.12.760.9 NMAC - Rp, 17.12.760.9 NMAC, 11/10/2020]

17.12.760.10 FORMAT FOR CUSTOMER SERVICE RULES AND REGULATIONS:

A. For the convenience of the utilities the customer service rules and regulations herein are set forth in the appropriate format. (See 17.12.760.10 NMAC.pdf)

B. But for the utility's ability to disconnect residential service due to an emergency, safety concerns, or by customer request, the following rules regarding disconnection of residential utility service may be implemented on a temporary basis by order of the Commission for a period of time, up to and including, the duration of any emergency executive order issued by the Governor of New Mexico pertaining to a public health or other emergency condition under either the Public Health Emergency Response Act and the All Hazards Emergency

THIS DOCUMENT SHOWS CHANGES FROM THE PROPOSED RULE LANGUAGE THAT WAS ATTACHED TO THE AUGUST 26, 2020 IN "TRACK CHANGES" FORMAT

Management Act:

~~(a) all utilities may be prohibited from discontinuing residential utility service for non-payment during the time period the emergency executive orders are in effect;~~

~~(b) any late fees on residential accounts that would be incurred during the time period of the effectiveness of the emergency executive orders may be required to be waived;~~

~~(c) utilities may be permitted to temporarily close in-person bill payment locations provided the utility provides notice to residential customers of such closures and identifies in such notice how payment made be made, including electronically or by mail. In the event of the closure of in-person bill payment locations, utilities shall be permitted to continue to collect credit card or bank fees in accordance with their own commission approved and filed tariffs;~~

~~(d) medical certificates set to expire shall not expire for the duration of the effectiveness of any emergency executive order and may be automatically be extended for 90 days from the end of any emergency executive order. The following additional rules regarding disconnection of residential water service by all water utilities subject to the jurisdiction of the commission shall be effective for the duration of time that governor's executive orders pertaining to the COVID-19 pandemic ("emergency executive orders") remain in effect:~~

~~(1) all water utilities are prohibited from discontinuing residential water service for non-payment during the time period the emergency executive orders are in effect;~~

~~(2) disconnections of residential water service for non-payment issued on or after March 11, 2020 (the effective date of the governor's first emergency executive orders pertaining to the COVID-19 pandemic) are suspended for the duration of the effectiveness of all COVID-19 related emergency executive orders;~~

~~(3) any late fees on residential accounts that would be incurred during the time period of the effectiveness of the emergency executive orders shall be waived;~~

~~(4) water utilities are permitted to temporarily and immediately close in-person bill payment locations as long as they provide notice to residential customers regarding the same and notice how to pay electronically or by mail. In the event of closure of in-person bill payment locations, water utilities shall be permitted to continue to collect credit card or bank fees in accordance with their own commission approved and filed tariffs;~~

~~(5) medical certificates set to expire shall not expire for the duration of the effectiveness of all COVID-19 related emergency executive orders and shall automatically be extended for 90 days from the end of all COVID-19 related emergency executive orders.~~

[17.12.760.10 NMAC - Rp, 17.12.760.10 NMAC, 11/10/2020]

17.12.760.11 [RESERVED]

[17.12.760.11 NMAC - Rp, 17.12.760.11 NMAC, 11/10/2020]

HISTORY OF 17.12.760 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the Commission of Public Records-State Records Center and Archives.

General Order No. 42, Regulations Governing Water Utilities, filed 5/2/1984.

NMPSC Rule 760, Customer Service Rules and Regulations for Water Utilities, filed 6/30/1988.

History of Repealed Material:

17 NMAC 12.760 - Customer Service Rules And Regulations For Water Utilities (filed 6/30/1988), repealed effective 11/10/2020.

Other:

17 NMAC 12.760 - Customer Service Rules And Regulations For Water Utilities filed (6/30/1988) replaced by 17.12.760 NMAC - Customer Service Rules And Regulations For Water Utilities, effective 11/10/2020.

**THIS DOCUMENT SHOWS THE FINAL REPEAL/REPLACEMENT RULE ADOPTED BY THIS
ORDER**

TITLE 17 PUBLIC UTILITIES AND UTILITY SERVICES
CHAPTER 12 WATER SERVICES
PART 760 CUSTOMER SERVICE RULES AND REGULATIONS FOR WATER UTILITIES

17.12.760.1 ISSUING AGENCY: New Mexico Public Public Regulation Commission.
[17.12.760.1 NMAC - Rp, 17.12.760.1 NMAC, 11/10/2020]

17.12.760.2 SCOPE: 17.12.760 NMAC shall apply to any water utility operating within the state of New Mexico under the jurisdiction of the new mexico public regulation commission.
[17.12.760.2 NMAC - Rp, 17.12.760.2 NMAC, 11/10/2020]

17.12.760.3 STATUTORY AUTHORITY: Section 8-8-15 NMSA 1978; Sections 62-3-1 NMSA 1978, 62-3-3 NMSA 1978, 62-3-4 NMSA 1978, 62-6-1 NMSA 1978, 62-6-4 NMSA 1978, 62-6-16 NMSA 1978, 62-6-18 NMSA 1978, 62-6-19 NMSA 1978, 62-6-20 NMSA 1978, 62-6-21 NMSA 1978, 62-6-22 NMSA 1978, 62-8-3 NMSA 1978, 62-8-10 NMSA 1978, and 62-9-1 NMSA 1978.
[17.12.760.3 NMAC - Rp, 17.12.760.3 NMAC, 11/10/2020]

17.12.760.4 DURATION: Permanent.
[17.12.760.4 NMAC - Rp, 17.12.760.4 NMAC, 11/10/2020]

17.12.760.5 EFFECTIVE DATE: November 10, 2020 unless a later date is cited at the end of a section.
[17.12.760.5 NMAC - Rp, 17.12.760.5 NMAC, 11/10/2020]

17.12.760.6 OBJECTIVE 17.12.760 NMAC is intended to promote safe and adequate service to the public, to provide standards for uniform and reasonable practices by water utilities under the jurisdiction of the public regulation commission, and to establish a basis for determining the reasonableness of such demands as may be made by the public upon such water utilities. If unreasonable hardship to such a water utility or to a customer of such a water utility results from the application of any provision herein prescribed, application may be made to the commission for the modification of the provision or for temporary or permanent exemption from its requirements. The public regulation commission is not precluded from altering or amending 17.12.760 NMAC or from making such modifications with respect to its application as may be found necessary to meet exceptional conditions. These regulations shall not relieve any water utility operating within the state of new mexico subject to the jurisdiction of the public regulation commission from its duties under the laws of this state.
[17.12.760.6 NMAC - Rp, 17.12.760.6 NMAC, xx/xx/2020]

17.12.760.7 DEFINITIONS: [RESERVED]
[17.12.760.7 NMAC - Rp, 17.12.760.7 NMAC, 11/10/2020]

17.12.760.8 [RESERVED]
[17.12.760.8 NMAC - Rp, 17.12.760.8 NMAC, 11/10/2020]

17.12.760.9 CUSTOMER SERVICE RULES AND REGULATIONS: The customer service rules and regulations set forth in 17.12.760 NMAC establish the responsibilities and rights of jurisdictional water utilities and their residential customers in their water service relationship. Nothing herein shall prevent any utility from adopting customer service rules and regulations which do not conflict with but which are additional to those set forth herein to cover special circumstances.
[17.12.760.9 NMAC - Rp, 17.12.760.9 NMAC, 11/10/2020]

17.12.760.10 FORMAT FOR CUSTOMER SERVICE RULES AND REGULATIONS:
A. For the convenience of the utilities the customer service rules and regulations herein are set forth in the appropriate format. (See 17.12.760.10 NMAC.pdf)
B. But for the utility's ability to disconnect residential service due to an emergency, safety concerns, or by customer request, the following rules regarding disconnection of residential utility service may be implemented on a temporary basis by order of the commission for a period of time, up to and including, the duration of any emergency executive order issued by the governor of New Mexico pertaining to a public health or other emergency condition under either the Public Health Emergency Response Act, Section 12-10A-1 NMSA 1978, and

THIS DOCUMENT SHOWS THE FINAL REPEAL/REPLACEMENT RULE ADOPTED BY THIS ORDER

the All Hazards Emergency Management Act, Section 12-10-1 NMSA 1978:

- (1) all utilities may be prohibited from discontinuing residential utility service for non-payment during the time period the emergency executive orders are in effect;
- (2) any late fees on residential accounts that would be incurred during the time period of the effectiveness of the emergency executive orders may be required to be waived;
- (3) utilities may be permitted to temporarily close in-person bill payment locations provided the utility provides notice to residential customers of such closures and identifies in such notice how payment made be made, including electronically or by mail. In the event of the closure of in-person bill payment locations, utilities shall be permitted to continue to collect credit card or bank fees in accordance with their own commission approved and filed tariffs;
- (4) medical certificates set to expire shall not expire for the duration of the effectiveness of any emergency executive order and may be automatically be extended for 90 days from the end of any emergency executive order.

[17.12.760.10 NMAC - Rp, 17.12.760.10 NMAC, 11/10/2020]

17.12.760.11 [RESERVED]

[17.12.760.11 NMAC - Rp, 17.12.760.11 NMAC, 11/10/2020]

HISTORY OF 17.12.760 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the Commission of Public Records-State Records Center and Archives.

General Order No. 42, Regulations Governing Water Utilities, filed 5/2/1984.

NMPSC Rule 760, Customer Service Rules and Regulations for Water Utilities, filed 6/30/1988.

History of Repealed Material:

17 NMAC 12.760 - Customer Service Rules And Regulations For Water Utilities (filed 6/30/1988), repealed effective 11/10/2020.

Other:

17 NMAC 12.760 - Customer Service Rules And Regulations For Water Utilities filed (6/30/1988) replaced by 17.12.760 NMAC - Customer Service Rules And Regulations For Water Utilities, effective 11/10/2020.

IN THE MATTER OF A COMMISSION RULEMAKING TO)
PROMULGATE AMENDMENTS TO RULES 17.9.560.12. G,)
17.10.650.11.G, AND 17.12.760.9 NMAC TO PROHIBIT)
DISCONTINUATION OF RESIDENTIAL UTILITY) Case No. 20-00159-UT
SERVICE FOR THE DURATION OF TIME THAT THE)
GOVERNOR’S EXECUTIVE ORDERS RELATED TO THE)
COVID-19 PANDEMIC ARE IN EFFECT)

EXHIBIT B TO FINAL ORDER –SUMMARY OF WRITTEN AND ORAL COMMENTS

NEW MEXICO ATTORNEY GENERAL –NMAG

NMAG supports the Commission’s intent to make permanent the emergency rule prohibiting utilities from disconnecting residential customers due to non-payment for the duration of the time the Governor’s Executive Orders related to the COVID-19 pandemic are in effect. The NMAG supports Staff’s comments which present a sound approach to ensuring the Rules are amended in a manner that achieves this important objective.

SOUTHWESTERN PUBLIC SERVICE COMPANY –SPS

SPS provided no specific written comments but reserved the right to respond to other written or oral comments.

PUBLIC SERVICE COMPANY OF NEW MEXICO-PNM

PNM stated:

- the effect of the Proposed Amendment will be to defer, rather than forgive, customers' obligations for unpaid utility bill balances.
- under the moratorium, residential customers do not need to make any payment in any amount to maintain residential utility service and, therefore, many residential utility bills are going entirely unpaid, regardless of whether the customer is struggling financially or can pay a portion of the monthly bill.
- monthly COVID-19 reports filed by utilities show that past due balances have grown significantly under the current moratorium.
- these balances will come due, and if unpaid, become bad debt that is collected through utility rates.
- the existing customer services rules allow for a fair way reduce avoidable arrearages
- the Proposed Amendments may result in problematic outcomes by hindering more flexible responses to changing conditions.
- Proposed Amendments’ moratorium will create an insurmountable financial hurdle for residential customers once the disconnect moratorium is lifted.
- points to what they call an “avoidable bad debt experience in Georgia” as an example of what could be an unanticipated consequence of the moratorium in New Mexico.
- many customers are declining to participate in payment plans or to make partial or full payments on bills even when they are able to pay some or all of the balance due.

- marked drop in customers paying under installment plans and participating in assistance programs since the disconnect moratorium.
- if the current universal prohibition on residential disconnections remains in place, avoidable debt levels will become increasingly harder to pay down in full when the moratorium ultimately ends. PNM presented a chart showing the size of the potential problem (using most recent No. 20-00069-UT).
- asks the Commission to consider what they call “an alternative and more flexible course of action” as follows.

PNM would like the Commission to issue an order that provides additional direction and supervision over utility actions during the period a pandemic related state-wide emergency is in effect, without negating existing provisions in Rule 17.5.410 NMAC. PNM proposes that the Commission issue an order that:

- Grants an additional temporary moratorium through mid-November for customers who are eligible for utility payment assistance from the Low Income Home Energy Assistance Program ("LIHEAP"). This protects income-qualifying customers from service disconnections until the commencement of the statutory Winter Moratorium,² which in turn covers the period November 15, 2020, through March 15, 1) 2021;
- Formally lifts the current temporary moratorium (to the extent it has not expired on its own terms) for all other residential customers;
- Orders utilities to provide notice to non-LIHEAP residential customers with past due balances that they may be subject to potential disconnection of service for nonpayment beginning on or after December 1, 2020 (approximately 45 days) and directs utilities to work cooperatively with individual customers on reducing arrears and becoming current through the use of payment plans; and
- Prohibits the involuntary disconnection of service for customers who comply with the terms of their individual payment plan. This approach gives customers latitude to pay over a longer-than-normal period of time as circumstances warrant, and ensure that the most financially vulnerable, income-qualifying ² Pursuant to NMSA 1978, § 27-6-17 (providing disconnect moratorium for eligible LIHEAP customers under Low Income Utility Assistance Act for period November 15 through March 15); see NMPRC Customer Service Rules, 17.5.410.30 NMAC (Winter Moratorium criteria and customers are protected from service disconnections through at least March 15, 2021).

PNM discusses what other states are doing.

EL PASO ELECTRIC COMPANY (EPE)

EPE recommends against the permanent amendment to Rule 560 proposed in this proceeding and states the following:

- utilities should instead resume limited, regular customer collection practices at this time, consistent with Commission rules and orders, and filed tariffs, to facilitate reasonable, customer payment plan arrangements for service continuation and to limit accumulation of additional arrearages.
- this approach is consistent with the public interest because increasing arrearages may ultimately impact the cost of service to all customers through allocation of uncollectable expense to remaining customers.

- as of September 30, 2020, the sum of arrearage in excess of 30 days is \$3,557,408.35.
- the next winter heating season disconnection moratorium for LIHEAP qualified residential customers commences November 15, 2020, and EPE does not plan to resume regular collection practices for LIHEAP qualified residential customers until the next winter heating season ends on March 15, 2021, if authorized by the Commission to do so.
- has complied with the Commission's temporary emergency amendments to Rule 560 prohibiting discontinuance of residential customer utility service during the time period of the Governor's Executive Orders 2020-004 through 2020-0010 related to the COVID-19 pandemic are in effect, adopted by Commission order in Case No. 20-00069-UT, effective March 18, 2020 through September 18, 2020.
- has voluntarily ceased discontinuing or disconnecting commercial customer utility service during the effective period for the temporary emergency rule amendments for residential customers and voluntarily continued this practice since the emergency rule amendments expired on September 18, 2020.
- will continue to follow Commission orders and rules regarding discontinuance of service to customers
- plans to work with its customers to enter into reasonable payment plan arrangements to prevent increase of customers arrearages.
- consistent with Commission rules, orders, and EPE tariffs, EPE's plan to restart regular collection efforts with commercial customers includes 15-day notice, 2-day notice, door contact, and disconnection only if the customer fails to engage in negotiations with EPE.
- will enter into payment plans with customers with no initial payment and up to 18 months of installments.¹
- does not think the Commission should adopt the permanent rule amendments proposed by the Commission because they are contingent upon future, unknown orders of the governor. EPE recommends against amending Rule 560 at this time to provide both the Commission and utilities the flexibility required under current Commission orders, rules and utility tariffs to address customer arrearages on a utility by utility basis.
- recommends the Commission allow EPE to restart regular collection practices with its non-LIHEAP qualified residential customers consistent with Rule 17.5.410 NMAC ("Rule 410") and the collection practices outlined above for its commercial customers.

NEW MEXICO GAS COMPANY-NMGC

NMGC is not opposing the proposed rulemaking but is concerned that extending the suspension on the discontinuation of service for non-payment will lead to some residential customers incurring very large balances that these customers will struggle to repay, or be unable to repay, once the suspension on disconnections is lifted.

NMGC stated its concerns regarding the intended, and unintended, consequences of extending the

¹ As a first step, EPE mailed a postcard to its commercial customers on October 13, 2020 providing notice of EPE's plan to restart regular in field collection efforts, beginning on November 2, 2020. A copy of the postcard is attached as Exhibit A and incorporated herein by reference. As stated in the post card, the intent of EPE's collection efforts is not to disconnect commercial customers but rather to prompt EPE's commercial customers to enter into payment plans to avoid disconnection of service and to prevent further accumulation of arrearages

suspension and explain how this extension of the suspension will impact customers and the utilities going forward as follows:

- its monthly report filed on October 12, 2020 reported that, as of the end of the September billing cycle, over 47,000 customers owe a total of \$4.4 million in delinquent payments with 24,322 residential customers facing potential disconnection under normal billing practices.
- these numbers portend a crisis in households throughout New Mexico and financial difficulties for customers and companies alike.
- the suspension, and the extension of the suspension does not solve the underlying conditions, but instead only delays to a later date the problems that arise from customers not paying their utility bills.
- these outstanding balances will be written off as bad debt which, under the Order in Case No. 20-00069 UT, utilities may seek to recover as a regulatory asset which, in turn will be put into rate base or otherwise passed on to all customers of the utilities through a surcharge.

To address this impending problem, NMGC states that it is actively taking steps at the present time to control, to the extent it can, the ultimate size of its accounts receivables arising from the Commission's suspension of normal billing practices which will ultimately be reflected in the size of the regulatory asset that could be sought as follows:

- Contacting customers that are past due to encourage them to make payments, enter into payment plans and arrangements, move to budget billing, or otherwise work to maintain the balance of their accounts;
- Contacting customers and providing them with information on assistance programs and/or funds such as Heat New Mexico and LIHEAP.
- For those customers for whom the Company has received notification of LIHEAP assistance during the period of September 2019 through current and had balances of \$100.00 or greater, NMGC contacted and worked with the customers to complete and submit the required HEAT New Mexico application to automatically qualify these customers to receive assistance from HEAT New Mexico in the amount of \$120.00;
- Temporarily amended its HEAT New Mexico proof of income requirements for customers that were laid-off or furloughed; and NMGC is in the process of temporarily amending the HEAT New Mexico poverty level requirements to 250 percent of poverty level.
- NMGC is evaluating the possibility of establishing a new fund to assist customers with bills. As of the filing of these comments this fund has not yet been created.

NMGC states the rule should include in this rulemaking a provision that the extension of the suspension will be revisited on a regular basis. NMGC first proposes that this extension be revisited in March and September of 2021 through follow-up rulemakings and comment periods. Periodic updates such will help to ensure the Commission is considering the current state of affairs and evaluating the impact these extensions are having on customers. Second, NMGC proposes the Commission at this time, and in this rulemaking could insert in this rule a provision that the suspension of regular billing practices prohibiting a disconnection for nonpayment will only be available to those customers who continue to make some monthly payment on their outstanding bill. This requirement will further support those customers that cannot afford to pay their entire current bill but are attempting to make some payment, which would put them in a better position to get caught up on their utility bills and avoid being disconnected when normal billing practices resume. This requirement would also result in a smaller ultimate level of bad debt. Third, NMGC

proposes the suspension of normal billing practices will create significant regulatory, public policy, and accounting issues relating to collections, write-offs, credits and other issues.

NM Rural Electric Cooperative Association & Jemez Mountains Electric Cooperative:

The rural electric cooperatives stated that they serve rural, poor and economically disadvantaged regions in the state and have fewer people amongst whom to spread the construction and maintenance of facilities to bring reliable electric service. These challenges have been made worse by the COVID-19 pandemic. The rural electric cooperatives are not-for-profit consumer owned utilities whose members must cover expenses if bills go unpaid. If the moratorium becomes permanent without subsequent period review, it will protect some customers but be a cost burden to the other customer who will have to cover those unpaid costs.

Epcor Water:

At the public hearing, EPCOR stated that it supported the Proposed Amendments.

PRIVATE INDIVIDUALS OR OTHER ORGANIZATIONS:

The following commented at the public hearing in support of the Proposed Amendments as a consumer protection mechanism that is needed by citizens and students that are working using the internet and electricity from home during the COVID-19 pandemic.

Mariel Nanasi-New Energy Economy:

Paul Gibson-Retake Our Democracy:

Christopher Hall: Individual

Joan Brown: New Mexico Interfaith Power and Light

Eric Griego: individual

Castille Aguilar: YUCCA Campaign Organizer

Tanyah LeValdo: individual

Rhonda Heyns: individual

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

**IN THE MATTER OF A COMMISSION RULEMAKING TO)
PROMULGATE AMENDMENTS TO RULES 17.9.560.12. G,)
17.10.650.11.G, AND 17.12.760.9 NMAC TO PROHIBIT)
DISCONTINUATION OF RESIDENTIAL UTILITY) Case No. 20-00159-UT
SERVICE FOR THE DURATION OF TIME THAT THE)
GOVERNOR'S EXECUTIVE ORDERS RELATED TO THE)
COVID-19 PANDEMIC ARE IN EFFECT)**

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing **Final Order Adopting Repeal and Replacement Rules 17.9.560, 17.10.650, and 17.12.760 NMAC to Allow Commission to Prohibit Discontinuation of Residential Customer Utility Service During States of Emergency when Governor's Executive Orders are In Effect** issued by the New Mexico Public Regulation Commission on October 22nd, 2020 was sent via email to the parties indicated below:

Stacey Goodwin
Joan Drake
Perry Robinson
Deana M. Bennett
John Bogatko
Dhiraj Solomon
Mark Tupler
Milo Chavez
John Reynolds
Jason Montoya
Peggy Martinez-Rael
Elizabeth Ramirez
Gilbert Fuentes
John Reynolds
Russell Fisk
Judith Amer
Alicia Armijo
Elisha Leyba-Tercero
Gabriella Dasheno
Nicholas Koluncich
Jeremy Lewis
Cholla Khoury

Stacey.goodwin@pnmresources.com;
jdrake@modrall.com;
Perry.Robinson@urenco.com;
dmb@modrall.com;
John.bogatko@state.nm.us;
Dhiraj.solomon@state.nm.us;
Marc.Tupler@state.nm.us;
milo.chavez@state.nm.us;
john.reynolds@state.nm.us;
JasonN.Montoya@state.nm.us;
Peggy.Martinez-Rael@state.nm.us;
Elizabeth.Ramirez@state.nm.us;
GilbertT.Fuentes@state.nm.us;
John.Reynolds@state.nm.us;
Russell.fisk@state.nm.us;
Judith.Amer@state.nm.us;
Aarmijo@nmag.gov;
Elisha.Leyba-Tercero@state.nm.us;
Gabriella.Dasheno@state.nm.us;
nkoluncich@slo.state.nm.us;
jlewis@slo.state.nm.us;
ckhoury@nmag.gov;

Gideon Elliot
A. Minard
Robert Lundin
Elaine Heltman
Michaelene Kyrala
Rikki-Lee Chavez
Amy Nerison
Greg Ridgley
Ryan Jerman
Stacey Goodwin
Ryan Anderson
Carey Salaz
Sayuri Yamada
Matthew Jaramillo
Carlos Lucero
Brian Buffington
Mark Fenton
Matthew Loftus
Dana S. Hardy
William A. Grant
Mario A. Contreras
Ruth Sakya
Phillip Oldham
Melissa Trevino
Jeffrey Pollock
Katherine Coleman
Michael P. Gorman
Amanda Alderson
TKLaw office
Will DuBois
Jeffrey L. Fornaciari
William Grant
Linda Hudgins
Amy Shelhamer
Sonya Mares
Bernnarr Treat
Damon Withrow
Brad Baldridge
Zoe E. Lees
Mike D'Antonio
Casey Settles
Mark Walker
Nancy Burns
Patricia Griego
Curtis Hutcheson
Linda pleasant

gelliot@nmag.gov;
aminard@nmag.gov;
rlundin@nmag.gov;
Eheltman@nmag.gov;
Michaelene.Kyrala@state.nm.us;
rikkilee@theemissarygroup.net;
amy@theemissarygroup.net;
Greg.Ridgley@state.nm.us;
Ryan.Jerman@pnmresources.com;
Stacey.Goodwin@pnmresources.com;
Ryan.Anderson@pnm.com;
Carey.Salaz@pnm.com;
sayuri.yamada@pnmresources.com;
Matthew.Jaramillo@pnmresources.com;
carlos.lucero@pnm.com;
brian.buffington@pnm.com;
Mark.Fenton@pnm.com;
matthew.p.loftus@xcelenergy.com;
dhardy@hinklelawfirm.com;
william.a.grant@xcelenergy.com;
Mario.a.contreras@xcelenergy.com;
Ruth.sakya@xcelenergy.com;
phillip.oldham@tklaw.com;
Melissa_Trevino@oxy.com;
jcp@pollockinc.com;
katie.coleman@tklaw.com;
mgorman@consultbai.com;
aalderson@consultbai.com;
tk.eservice@tklaw.com;
Will.w.dubois@xcelenergy.com;
jfornciari@hinklelawfirm.com;
William.a.grant@xcelenergy.com;
linda.l.hudgins@xcelenergy.com;
ashelhamer@courtneylawfirm.com;
smares@hinklelawfirm.com;
Bernarr.R.Treat@xcelenergy.com
damon.withrow@xcelenergy.com;
brad.baldridge@xcelenergy.com;
zoe.e.lees@xcelenergy.com;
michael.a.d'antonio@xcelenergy.com;
casey.settles@xcelenergy.com;
Mark.a.walker@xcelenergy.com;
Nancy.burns@epelectric.com;
Patricia.griego@epelectric.com;
Curtis.hutcheson@epelectric.com;
Linda.pleasant@epelectric.com;

Laura Rodriguez
James Schichtl
Jennifer Ortiz
Linda Barker
Wayne Soza
Alejandra Chavira
Patrick Reinhart
Ricardo Gonzales
Carol Clifford
Keven Groenewold
Ed Rougemont
Daniel Najjar
Central New Mexico Electric
Matthew Collins
Central Valley Electric
Charles T. Pinson
Wade Nelson
Columbus Electric
Chris Martinez
Randy Massey
Continental Divide Electric
Robert Castillo
Corina Sandoval
Farmers' Electric Cooperative, Inc.
Lance Adkins
Kit Carson Electric
Luis Reyes
Andrew Gonzales
Jose Lovato
M. Poche
Nadine Varela
Lea County Electric
Bobby Ferris
Mora-San Miguel Electric
Les Montoya
Robert Quintana
Northern Rio Arriba Electric
Benjamin Leyba
Otero County Electric
Mario Romero
Charles Mulcock
Roosevelt County Electric
Antonio Sanchez
Sierra Electric
Denise Barrera
Socorro Electric

laura.rodriguez@epelectric.com;
James.Schichtl@epelectric.com;
Jennifer.Ortiz@epelectric.com;
linda.barker@epelectric.com;
wayne.soza@epelectric.com;
Alejandra.Chavira@epelectric.com;
patrick.reinhart@epelectric.com;
rico.gonzales@epelectric.com;
carol@thejonesfirm.com;
kgroenewold@nmelectric.coop;
erougemont@nmelectric.coop;
dnajjar@virtuelaw.com;
cnmecboard@cnmec.org;
matthew.collins@cnmec.org;
ajolsen@h2olawyers.com;
cpinson@cvecoop.org;
WNelson@cvecoop.org;
general@col-coop.com;
chrism@col.coop.com;
masseyfarm@vtc.net;
bob@rf-lawfirm.com;
rcastillo@cdec.coop;
csandoval@cdec.coop;
fec@fecnm.org;
lance@fecnm.org;
hrpr@kitcarson.com;
lreyes@kitcarson.com;
agonzales@kitcarson.com;
jlovato@kitcarson.com;
mpoche@kitcarson.com;
nvarela@kitcarson.com;
mnewell@newellawnm.com;
bferris@lcecnet.com;
lwiggins@wwwlaw.us;
lmontoya@morasanmiguel.coop;
quintanafarms@msn.com;
nora@noriaelectric.org;
bleyba@noriaelectric.org;
s.t.overstreet.law@gmail.com;
mario@ote-coop.com;
charliem@ote-coop.com;
rcec@rcec.coop;
sancheza@rcec.coop;
sierra@secpower.com;
deniseb@secpower.com;
service@socorroelectric.com;

Joseph Herrera
Anne Dorrough
Ernesto Gonzales
Southwestern Electric
Travis Sullivan
Springer Electric
David Spradlin
Tri-State Generation and Transmission
Mike McInnes
Western Farmers Electric
Gary Roulet
Duncan Valley Electric
Steven Lunt
Navopache Electric
Chuck Moore
Jemez Mountain Electric
Nathan Duran
April Elliott
Pat O'Connell
Mariel Nanasi
Vincent Martinez
Daniel Najjar
Carla Najar
Jane L. Yee
Danyel Mayer
Michael I. Garcia
Tony A. Gurule
Saif Isamil
Kelsey Rader
Saul J. Ramos
Nann M. Winter
Keith Herrmann
Tom Figart
Nelson Goodin
Tim Glasco
Daniel A. Najjar
Anastasia S. Stevens
Nelson Goodin
Fred Kennon
Stuart C. Ed
Jorge A. Garcia
Jose F. Provencio
Jennifer Vega-Brown
William Templeman
Michael J. Moffett
Mayor Trujillo

jherrera@socorroelectric.com;
district5@socorroelectric.com;
egonzales@jemezcoop.org;
gary@alsuplawoffice.com;
tsullivan@swec-coop.org;
dsmith9346@zialink.com;
spradlin@springercoop.com;
kreif@tristategt.org;
mmcinnnes@tristategt.org;
b_hobbs@wfec.com;
g_roulet@wfec.com;
kimberly@dvec.org;
stevel@dvec.org;
ggouker@navopache.org;
cmoore@navopache.org;
ajchavez@jemezcoop.org;
nduran@jemezcoop.org;
april.elliott@westernresources.org;
pat.oconnell@westernresources.org;
Mariel@seedsbeneaththesnow.com;
vmartinez@tristategt.org;
vnajjar@aol.com;
csnajjar@virtuelaw.com;
jyee@cabq.gov;
dmayer@cabq.gov;
MikGarcia@bernco.gov;
Tgurule@cabq.gov;
sismail@cabq.gov;
Krader@cabq.gov;
sramos@doeal.gov;
nwinter@stelznerlaw.com;
kherrmann@stelznerlaw.com;
tomf@donaanacounty.org;
nelsong@donaanacounty.org;
Ta.glasco@lacnm.us;
dnajjar@virtuelaw.com;
astevens.law@gmail.com;
nelxong@donaanacounty.org;
fredk@donaanacounty.org;
sed@las-cruces.org;
JAG@las-cruces.org;
Joprovencio@las-cruces.org;
Jvega-brown@las-cruces.org;
wtempleman@cmtisantafe.com;
mmoffett@cmtisantafe.com;
mayortrujillo@cityofanthonym.org;

Joshua L. Smith
Marcia B. Driggers
Merrie Lee Soules
NMGC-Clyde F. Worthen
Steven Cordova
NMGC-Brian Haverly
Julianna Hopper
NMGC-Thomas Domme
NMGC-Rebecca Carter
NMGC-Nicole Strauser
ZNG-Joan E. Drake
ZNG-Leslie A. Graham
ZNG-Janeen Capshaw
ZNG-Tomas J. Sullivan
ZNG-Greg Macias
David Link
LaVanda Jones
Peter Gould
ZNG-Anne G. Wheatcroft
ZNG-K. Marit Coburn
Peter Auh
Nann M. Winter
Keith W. Herrmann
EPCORE Water
Jeffrey Wechsler
Cynthia Apodaca
Ralph Phelps
Cecil Phelps
Jeffrey H. Albright
Amanda Edwards
WRA - Steve Michel
WRA-Glenda Murphy
Charles Garcia
Jack Sidler
Timothy Martinez
John Badal
Adam Alvarez
Kelly Gould
Jason Gellman
Christopher M Hall
Sharon Argenbright
Kari E. Olson
Bradford Borman
Susan Brymer
Joe Garibay
Eva Marie DeAguero

Jsmith.watsonlawlc@gmail.com;
marcyd@las-cruces.org;
mlsoules@hotmail.com;
cfw@keleher-law.com;
steven.cordova@nmgco.com;
bjh@keleher-law.com;
jth@keleher-law.com;
thomas.domme@nmgco.com;
Rebecca.carter@nmgco.com;
Nicole.strauser@nmgco.com;
jdrake@modrall.com;
lgraham@zngc.com;
jcapshaw@naturalgaspro.com;
tsullivan@nucllc.com;
MaciasGE@bv.com;
david@rngcompany.com;
LaVanda.Jones@nmgco.com;
PGOULDRAW@GMAIL.COM;
agabel@naturalgaspro.com;
mcoburn@zngc.com;
Pauh@abcwua.org;
nwinter@stelznerlaw.com;
khermann@stelznerlaw.com;
mywater@epcor.com;
jweschsler@montand.com;
capodaca@newmexicowater.com;
gloriabailey1953@yahoo.com;
cecilphelps@gmail.com;
JA@JalbLaw.com;
AE@JalbLaw.com;
smichel@westernresources.org;
gmurphy@westernresources.org;
cgarcia@cuddymccarthy.com;
Jack.Sidler@state.nm.us;
Timothy.Martinez@state.nm.us;
jbadal@sacredwindnm.com;
Adam.Alvarez@pnm.com;
kelly@thegouldlawfirm.com;
JGellman@epcor.com;
hallch@law.unm.edu;
sharonargenbright@msn.com;
kolson@montand.com;
Bradford.Borman@state.nm.us;
Susan.L.Brymer@xcelenergy.com;
joe.garibay@epelectric.com;
edeaguero@jemezcoop.org;

Carmen Campbell
Daniel Bailet
J Gellman
Paul Gibson
Ona Porter
Joan Brown
Eric Griego
Castille Aguilar
Selma Gutierrez
Tania LeValdo
Rhonda Heyns

ccampbell@jemezcoop.org;
dbailet@epcor.com;
JGellman@epcor.com;
paul@retakeourdemocracy.org;
ona@prosperityworks.net;
joankansas@swcp.com;
ericgriegoabq@gmail.com;
castille@earthcarenm.org;
selma@earthcarenm.org;
levaldot@gmail.com;
roma1358@hotmail.com;

DATED this 22nd day of October, 2020.

NEW MEXICO PUBLIC REGULATION COMMISSION

/s/ Isaac Sullivan-Leshin, electronically signed
Isaac Sullivan-Leshin, Paralegal