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GABRIEL AGUILERA
GREG NIBERT
PATRICK O'CONNELL

CHIEF OF STAFF
Cholla Khoury

P.O. Box 1269
Santa Fe, NM 87504-1269

February 27, 2026

TO PARTIES OF RECORD IN CASE NO. 25-00061-UT

This is the Recommended Decision of hearing examiners Elizabeth Hurst and Patrick Schaefer. Unless and until the Commission considers the matter and votes to approve it, the Recommended Decision has no legal effect. This matter will be considered at a future Open Meeting of the Commission. To confirm when the matter will be considered, please see the Commission's Open Meeting agenda, which is posted on the Commission's website at least 72 hours before each Open Meeting at: https://www.nm-prc.org/nmprc-open-meeting-agenda/.

The Commission may hold a deliberative meeting to address this matter in closed session in advance of the Open Meeting at which the matter will be considered, in accord with Section 10-15-1(H)(3) of the Open Meetings Act. NMSA 1978, § 10-15-1(H)(3) (2013). In such event, notice of the deliberative meeting will be posted on the Commission's website 72 hours in advance of the deliberative meeting at the https address set forth above.

Jocelyn Barrett
Chief Hearing Examiner

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

IN THE MATTER OF THE APPLICATION OF NEW MEXICO GAS COMPANY, INC. FOR APPROVAL OF ITS 2026-2028 ENERGY EFFICIENCY PROGRAM PLAN PURSUANT TO THE NEW MEXICO PUBLIC UTILITY AND EFFICIENT USE OF ENERGY ACT	)	**Case No. 25-00061-UT**
NEW MEXICO GAS COMPANY, INC., APPLICANT.	)	

RECOMMENDED DECISION

Patrick C. Schaefer
Hearing Examiner

Elizabeth C. Hurst
Hearing Examiner

February 27, 2026

Table of Contents

Table of Abbreviations

AFUE	Annual Fuel Utilization Efficiency
EE	Energy Efficiency
EIA	Energy Information Administration
EUEA	Efficient Use of Energy Act
HERS	Home Energy Rating System
HPWH	Heat-Pump Water Heater
IECC	International Energy Conservation Code
LI	Low-Income
M&V	Measurement And Verification
NMGC	New Mexico Gas Company, Inc.
NPV	Net Present Value
NTG	Net-To-Gross
PUA	Public Utility Act
TRM	Technical Resource Manual
UCT	Utility Cost Test
UEF	Uniform Energy Factor
WACC	Weighted Average Cost of Capital

(1) Elizabeth C. Hurst and Patrick C. Schaefer, co-presiding Hearing Examiners, submit this Recommended Decision to the New Mexico Public Regulation Commission ("Commission") pursuant to 1.2.2.37(B) NMAC. We respectfully recommend that the Commission issue a Final Order consistent with the presentation of facts and legal analysis that follows.

1. EXECUTIVE SUMMARY

(2) In its Application for Approval of its 2026-2028 Energy Efficiency Program ("Application"),[1] filed on September 2, 2025, New Mexico Gas Company ("NMGC") asks the New Mexico Public Regulation Commission ("Commission") to approve its 2026-2028 Efficiency ("EE") Plan, which includes the reauthorization or modification of certain previously approved EE Programs, approval of its budget, recovery of costs via Rate Rider No. 15, and its proposed performance incentive structure.

(3) As a whole, the Application proposes significant cost increases with sometimes limited supporting evidence. For Plan Year 2026, NMGC is proposing a program portfolio budget of $20,932,759, and earning a performance incentive amount of $1,421,334. The proposed program budget is 37% higher than Plan Year 2025,[2] but also 250% higher than the proposed budget that was approved for Plan Year 2017.[3] And although the Application does not seek approval of an increase to its EE cost program cost and incentive recovery rider, it does alert the Commission that

[1] New Mexico Gas Company ("NMGC"), Inc.'s, Application for Approval of Its 2026-2028 Energy Efficiency Program Plan ("Application") (Sept. 2, 2025) at 1.

[2] Direct Testimony of Carey Salaz ("Salaz Direct"); 2026-2028 Energy Efficiency Plan ("2026-2028 EE Plan") at 4.

[3] The proposed and approved budget for Plan Year 2017 was $5,898,173, *see* Case No. 16-00100-UT, Final Order (Feb. 15, 2017).

it will imminently request an increase from the current rate of $0.0380[4] to $0.0426 in 2026, an increase of 12%.

(4) On a preliminary basis, NMGC's proposed plan provides evidence that it satisfies the various procedural and formal requirements required by statute and rule without objection. Regarding its 2026-2028 EE Plan requests, NMGC demonstrates with sufficient evidence, even if minimal at times, that the programs are cost-effective and are designed to provide every affected customer class with the opportunity to participate and benefit economically from the EE programs. It also demonstrates with affirmative evidence that the performance incentive mechanism that it proposes and the recovery of its costs through Rate Rider No. 15 would be just and reasonable. Commission Utility Division Staff ("Staff") supports the Application entirely with only a few minor recommendations that NMGC has agreed to adopt.

(5) Western Resource Advocates ("WRA"), the only other party to file testimony, critiques NMGC's design and calculations of the Water, Space, and New Homes programs. There, WRA recommends, among other things, that the Commission require the denial, modification, or eventual elimination of NMGC's proposed rebate structures, and the adoption of different energy efficiency standards and reporting. These changes, it argues, are in the public interest as they would facilitate more cost-effective programs and contribute economic value and market competitiveness in New Mexico. WRA also requests that the Commission alter the proposed recovery incentive mechanism to require payments only after reaching higher percentage EE savings targets.

(6) In rebuttal, NMGC opposes each recommendation of WRA, with a pointed objection to allowing electric space and water heater appliances to qualify for rebates. NMGC also points out

[4] Application at 5.

that while WRA attended the three public advisory sessions that form part of the Application's development prior to filing, it shared none of its recommendations then. To grant WRA's recommendations, NMGC says, would upend the entire plan and cause significant disruption at this point in the proceedings. Staff, in its rebuttal, asserts that the Commission should not require the off-cycle adoption of updated energy efficiency standards.

(7) In reviewing the evidentiary record, the Hearing Examiners determine that NMGC has provided sufficient, if often minimal, information, documentation, and analysis, to recommend that the Commission approve its proposed 2026-2028 EE Plan and budget, its performance incentive structure and cost-recovery via Rate Rider No. 15. At the same time, the Hearing Examiners also recommend to the Commission that it require NMGC to provide more detailed information and documentation in its next EE Plan budget, specifically regarding the determination of avoided costs and administrative costs.

2. PROCEDURAL BACKGROUND[5]

(8) New Mexico Gas Company ("NMGC") is a Delaware corporation that owns, operates and controls public utility plant, property and facilities including natural gas transmissions and distribution facilities that provide retail gas utility service in New Mexico.[6] NMGC is a public utility subject to the jurisdiction of the Commission.[7]

(9) NMGC filed its application for approval of its 2026 – 2028 Energy Efficiency Program

[5] This section includes a broad summary of the procedural history of this case. For more minute detail, please consult the full case history contained in the Commission's eDocket filing system.

[6] Application at 2.

[7] New Mexico Public Utility Act, NMSA 1978, Sections 62-3-1 et seq. ("PUA"), the New Mexico Efficient Use of Energy Act, NMSA 1978, Sections 62-17-1 et seq. ("EUEA"), and NMPRC Energy Efficiency Rule, 17.7.2 NMAC.

Plan on September 2, 2025. NMGC's Application requests the following:

1. Approval of NMGC's 2026-2028 EE Plan, including:
    a. the modification of NMGC's Space Heating, Water Heating, New Homes and Home Energy Reports Programs;
    b. the addition of a Single-Family Home offering under the Income Qualified Program; and
    c. the addition of an Agricultural Program;
2. Approval of NMGC's proposed 2026-2028 EE Plan budget;
3. Approval of a performance incentive pursuant to the EUEA;
4. Approval for NMGC to recover 2026-2028 EE Plan costs and the proposed incentive through NMGC's Second Revised Rule No. 37 - Rate Rider No. 15 Details; and
5. All other approvals, authorizations and actions that may be necessary to implement the 2026-2028 EE Plan.[8]

(10) On September 10, 2025, the Commission appointed Elizabeth C. Hurst and John F. Kreienkamp as Hearing Examiners to preside over this matter. Subsequently, these Hearing Examiners issued a prehearing order, and a procedural order that set a procedural schedule, including a notice deadline of October 31, 2025, and an intervention deadline of November 17, 2025. It also scheduled a public hearing for January 5, 2026.

(11) On October 23, 2025, Hearing Examiner Kreienkamp issued a Notice of Departure and Screening and on November 25, 2025, the Commission issued an Order appointing Patrick C. Schaefer as a Hearing Examiner to preside in this case.

[8] Application at 1-2.

(12) On October 31, 2025, NMGC filed Affirmations of Publication, Notification to Customers, and Website posting.

(13) While three organizations filed motions to intervene, namely, the Coalition for Clean Affordable Energy ("CCAE"), Prosperity Works, and Western Resource Advocates ("WRA"), only WRA submitted testimony and appeared at the evidentiary hearing.

(14) The public hearing was conducted on January 5, 2026, as scheduled. Appearing as witnesses for NMGC were Ms. Carey J. Salaz and Mr. Andrew Cottrell; for WRA, Mr. Edward Carley; and for Staff, Dr. Bamadou Ouattara, and Dr. Edison Jimenez. There were two public comments filed with the Commission that specifically referred to this case, and they were not in favor of the Application.

(15) The Hearing Examiners determined that the evidence and legal arguments presented in testimony and at the evidentiary hearing required no further analysis in post-hearing briefing.

(16) NMGC filed corrections to the transcript.

3. LEGAL STANDARDS

3.1. Statutory and Regulatory Standards

(17) The EUEA rests on three fundamental pillars. Firstly, it requires that public utilities implement cost-effective energy efficiency and load management programs in their energy resource portfolios.[9] Cost-effectiveness means that the energy efficiency or load management program meets the utility cost test ("UCT").[10] The UCT, in turn, means a standard that is met if the monetary costs that are borne by the public utility and that are incurred to develop, acquire and

[9] NMSA 1978, § 62-17-5(B); 17.7.2.8(F) NMAC.

[10] NMSA 1978, § 62-17-4(F).

operate energy efficiency or load management resources on a life-cycle basis are less than the avoided monetary costs associated with developing, acquiring and operating the associated supply-side resources.[11]

(18) Stated differently, a proposed EE program meets the UCT so long as the avoided costs resulting from energy savings, i.e., the financial benefits, remain greater than the EE program costs. This means that, at least formally, a program is cost effective if the ratio of avoided costs to program costs is greater than one (i.e., when UCT > 1.0). It is important to note here that the calculation of the UCT also requires the application of discount rates and Net-to-Gross (NTG) ratios to determine the NPV of avoided costs and program costs.

(19) The second pillar of the EUEA rests on the requirement that it be designed to provide every affected customer class with the opportunity to participate and benefit economically.[12] It requires that the Commission provide public utilities an opportunity to earn a profit on cost-effective energy efficiency and load management resources that, with satisfactory program performance, is financially more attractive to the utility than supply-side resources.[13]

(20) In pursuing approval of an EE Plan, the utility must satisfy additional requirements in statutes and rule. The rule that governs the approval of EE Plans is 17.7.2 NMAC ("EE Rule"). One important requirement concerns the total amount of program costs that a utility can seek to recover as well as the minimum amount of program costs that are directed to Low Income ("LI") Programs. The first necessitates that estimated plan year program costs for a public gas utility shall

[11] NMSA 1978, § 62-17-4(Q).

[12] NMSA 1978, § 62-17-5(C); 17.7.2.8(G) NMAC.

[13] NMSA 1978, § 62-17-3.

not exceed 5% of customers' bills estimated to be billed during the plan year.[14] The second necessitates that a public utility shall direct at least 10% of its plan year funding, during each year of the plan period, to programs for low-income customers.[15] Another signature requirement is that utilities proposing new energy efficiency and load management programs shall, before seeking commission approval, solicit nonbinding recommendations on the design and implementation of those programs from Commission Staff, the New Mexico Department of Justice, the Energy, Minerals and Natural Resources Department, and other interested parties.[16]

(21) New Mexico regulation further requires an extensive formal and substantive detail in a utility's application. These are listed fully in 17.7.2.8 NMAC.

3.2. Burden of Proof

(22) As the applicant in this administrative adjudication, NMGC's burden of proof is established as a matter of law.[17] The rule in administrative proceedings in general, and adjudications before this Commission in particular, is that unless a statute provides otherwise, the proponent of an order or moving party has the burden of proof.[18] The burden of proof is two-pronged: it includes both

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[14] NMSA 1978, § 62-17-6(A)(2); 17.7.2.8(C)(3) NMAC.

[15] 17.7.2.9(B).

[16] NMSA 1978, § 62-17-5(E); 17.7.2.8(B)(1).

[17] See, e.g., Southwestern Public Service Company's Application Requesting: (1) Acceptance of its 2014 Annual Energy Efficiency and Load Management Report; (2) Approval of its 2016 EE/LM Plan and Associated Programs; (3) Approval of its Cost Recovery Tariff Rider; and (4) a Determination Whether a Separate Process Should be Established to Analyze a Smart-Meter Pilot Program, Case No. 15-00119-UT, Certification of Stipulation, at 16 (Dec. 18, 2015) (citing Gray v. State ex rel. Wyoming Workers' Safety and Compensation Div., 193 P.3d 246, 251 (Wyo. 2008)). See also NMSA 1978 § 62-8-7(A) ("At any hearing involving an increase in rates or charges sought by a public utility, the burden of proof to show that the increased rate or charge is just and reasonable shall be upon the utility.").

[18] 3 Davis, Kenneth Culp, Administrative Law Treatise § 16.9 at 255-57 (2d ed. 1980). See Int'l Minerals and Chemical Corp. v. N.M. Pub. Serv. Comm'n, 81 N.M. 280, 283, 466 P.2d 557, 560 (1970) ("Although the statute does not specifically place any burden of proof on [complainant] International, the courts have uniformly

the prima facie burden of adducing sufficient evidence to go forward with a claim and the burden of ultimate persuasion. The quantum of proof in administrative adjudications is, again unless expressly provided otherwise, a preponderance of record evidence.[19]

(23) The general rule in administrative law is that, unless a statute otherwise assigns the burden of proof, the proponent of an order has the burden of proof." *JM v. Dep't of Fam. Servs*., 922 P.2d 219, 221 (Wyo. 1996). See also *Int'l Minerals and Chemical Corp. v. N.M. Pub. Serv. Comm'n*, 81 N.M. 280, 283, 466 P.2d 557, 560 (1970) ("Although the statute does not specifically place any burden of proof on [complainant] International, the courts have uniformly imposed on administrative agencies the customary common-law rule that the moving party has the burden of proof."). The quantum of proof in administrative adjudications is a preponderance of the evidence in the record. *See El Paso Electric Co. et al. v. N.M. Pub. Serv. Comm'n*, 1985-NMSC-085, ¶ 12 ("This Court, however, does express its deep concern regarding the reasonableness of this heightened standard of proof ['clear and convincing evidence'], especially since a 'preponderance of evidence' standard is customary in administrative and other civil proceedings.") (emphasis added).

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imposed on administrative agencies the customary common-law rule that the moving party has the burden of proof.").

[19] See Davis, supra, § 16.9 at 256 ("One can never prove a fact by something less than a preponderance of the evidence") (emphasis in original). See El Paso Electric Co. et al. v. N.M. Pub. Serv. Comm'n, 1985-NMSC085, ¶ 12 ("This Court, however, does express its deep concern regarding the reasonableness of this heightened standard of proof ['clear and convincing evidence'], especially since a 'preponderance of evidence' standard is customary in administrative and other civil proceedings.") (emphasis added); Re: Southwestern Public Service Co., Case No. 2678, Recommended Decision (Nov. 15, 1996) ("No matter how the Commission describes its standard of review, SPS bears the burden of proof in this case. SPS must demonstrate that a preponderance of evidence exists in the record on which to base approval of the requested authorizations surrounding the merger.").

4. DISCUSSION

(24) NMGC's proposed 2026-2028 EE Plan presents a series of considerations and evidence for the Commission to evaluate before determining whether to approve the Application. Firstly, it must satisfy a range of pre-filing and formal attributes detailed in New Mexico statute and regulation. No party contests these matters. Secondly, the EE Plan proposes a range of programmatic and related budgetary and financial requests that, while supported by Staff, are contested and subject to critiques and counterproposals by WRA. Despite these criticisms, NMGC provides sufficient evidence to approve its requests.

4.1. The Application Satisfies Prefiling, Filing, and Formal Content Standards

(25) The evidentiary record confirms, without objection, that NMGC's proposed plan satisfies various procedural and formal requirements, such as holding public advisory meetings with specific participants prior to filing the 2026-2028 EE plan,[20] detailed plan year funding, costs, and expenditures,[21] and detailed descriptions of each measure and plan.[22]

(26) The evidentiary record indicates that NMGC, prior to filing its Application, complied with the requirements of both Section 62-17-5(E) and 17.7.2.8(B) NMAC to solicit nonbinding recommendations on the design, implementation, and use of third-party service contractors on the programs from interested parties as well as competitive bids for energy efficiency and load management resources. Also, NMGC held three public advisory meetings with the requisite parties

[20] 17.7.2.8(B)(1).

[21] 17.7.2.8(C).

[22] 17.7.2.8(E).

before filing its application, while also documenting the stakeholder process, including identifying dates and participant categories prior to filing its plan.[23]

(27) NMGC witness Salaz states that meetings were held on August 14, 2024, April 10, 2025, and July 21, 2025, and that those in attendance included the Commission's Utility Staff, the New Mexico Department of Justice, Prosperity Works, Western Resource Advocates, Public Service Company of New Mexico, EPE, Southwest Energy, Zia Natural Gas, Xcel Energy, United States Department of Energy, MFA, Coalition for Clean Affordable Energy, Los Alamos National Laboratory, ICF, CLEAResult, ICAST, EnergyWorks, and Franklin Energy.[24] Staff witness Dr. Jimenez reviewed this evidence and confirms that it satisfies the legal requirements.[25]

(28) With respect to the requirement to solicit competitive bids, cited above, NMGC here provides only superficial and scant evidence that it solicited competitive bids for its energy efficiency and load management resources. In her Direct Testimony, NMGC witness Salaz explains that NMGC issued two Requests for Proposals ("RFPs") for Energy Efficiency Programs and Load Management/Demand Response ("DR") Programs on February 11, 2025.[26] Bids were submitted, she states, to NMGC for both Programs on March 31, 2025. Subsequently and upon review of the RFPs, NMGC selected a combination of implementers for its Energy Efficiency Programs who offered the best programs and resulted in a cost-effective portfolio.[27] At the same time, however, NMGC determined that the two DR proposals would not lead to effective energy

[23] *See* Salaz Direct at 51-54 and Application at 21-22.

[24] *Id.* 51:11-17.

[25] Direct Testimony of Edison Jimenez, PhD., ("Jimenez Direct") at 26:8-12.

[26] Salaz Direct at 6:9-12.

[27] *Id.*at 6:13-20.

efficiency savings as neither of the proposals received would result in a savings of 10,000 therms (1,000 MMBtu) or more in a given event, or provide for guaranteed load reductions.[28] Staff does not provide evidence that it inquired further into the sufficiency of the evidence provided by NMGC that the bids were in fact competitive.[29]

(29) With respect to the detailed funding costs and detailed program characteristics, NMGC provides thorough information in the 2026-2028 EE Plan and through the testimony of its principal witness, Ms. Salaz. Staff witness Dr. Jimenez states that NMGC met these requirements and no other party opposes.[30] Given this evidence and confirmation by Staff, the Hearing Examiners determine that NMGC has satisfied all prefiling, plan year funding, program detail requirements of the EE Rule.

4.2. The Proposed EE Plan is Cost Effective

(30) Beyond these initial filing and formal requirements, the heart of any energy efficiency application centers on the extent to which its proposed program costs comply with the requirements in statute and rule that it be cost-effective.[31] To be cost effective, the net present costs of avoided supply side resources must always remain larger than the net present EE program costs on a plan year basis, thereby satisfying the UCT. To demonstrate that the UCT is met for its EE programs, NMGC first provides a description of how it calculates avoided therms, followed by the methods used to price those future therms, and the ultimate application of a discount rate and NTG ratios to determine the NPV and adjust for program performance.

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[28] Salaz Direct at 6:21-22 – 7:1-15.

[29] As required by 17.7.2.8(B)(3) NMAC.

[30] Jimenez Direct at 27:9-12.

[31] NMSA 1978, § 62-17-5(C) and 17.7.2.8(G) NMAC.

Avoided Therm Calculations

(31) As discussed above, the heart of the determination of cost-effectiveness turns on the net present cost of avoided supply side resources always remaining larger than the net present EE program costs on a Plan Year basis. In order to establish this, NMGC must first calculate the proposed amount of energy saved. In this case, NMGC bases its avoided costs on the amount of therms saved, where one therm is 100,000 Btu (a measure of heat) and equivalent energy content of approximately 100 cubic feet of natural gas.[32]

(32) Specifically, NMGC estimates that the performance of its EE programs will yield significant savings in therms saved, i.e., therms that, because of customer participation in the proposed EE programs, will not be consumed. Here, NMGC calculates that its therm savings for the Plan Years 2026-2028 will be between approximately 5.8 and 5.9 million therms.

Table 1: NMGC Estimated Therm Savings for Plan Years 2026-2028

Year	Estimated Therms Saved
2026	5,829,787
2027	5,918,850
2028	5,903,094[33]

These estimated therm savings, according to NMGC, represent an increase from its prior, 2022-2025 EE Plan. For comparison, the anticipated net energy savings for 2023 was 4,531,970 therms.[34] NMGC also states that the 2026 Plan Year estimate is an increase of 27% in therm savings over Program Year 2025.[35]

[32] Therm, Definition https://www.eia.gov/tools/glossary/index.php, last visited Feb. 27, 2025.

[33] Salaz Direct at 34:5.

[34] *Id.* at 8:13-14; Application at 4.

[35] *Id.* at 8:13-14.

(33) Despite the fundamental importance of calculating the therms saved, NMGC provides little information on how it reaches its estimates. Throughout its proposed 2026-2028 EE Plan, and throughout the testimony of Ms. Salaz, NMGC merely states the final estimated therm savings. NMGC does not discuss or describe the calculations or methodology used to calculate the estimated amount of therms saved based on the performance of its proposed EE programs. NMGC witness Salaz says only that "[e]xpected therm savings values for the existing, modified, and new residential programs were based on previous years' experience and discussions with NMGC's energy efficiency contractors."[36]

(34) And although NMGC identifies those saving values for each program in its 2026-2028 EE Plan, those calculations and their reasoning are never fully expressed. Even when it tries to provide more detail on program performance assumptions, the participation that justifies the resulting savings value expressed in therms, NMGC refers to information that is not present. In the very final pages of its current EE Plan (in Appendix G, Program Performance Assumptions), it states that "[s]pecific program inputs including a list of measures and participation numbers by measure and year are included in the tables contained in Section B.1 of this document."[37] In other sections of the EE Plan, where each proposed program is described in further detail, this same substantive reference to Section B.1 or Section X.B.1, where more information regarding anticipated participation, incentive structure, or even energy savings can be found, is repeated. Importantly, though, no such Sections or tables are present in the Plan. In fact, the Section X.B.1 in the Plan

[36] *Id.* at 35:1-3.

[37] 2026-2028 EE Plan at 88.

only presents a one paragraph description of the promotional efforts and approach that NMGC will make for its commercial energy efficiency programs.[38]

(35) Additionally, in the same Program Performance Appendix, NMGC alludes to information contained in identified sources but again provides no further detail in the proposed EE Plan. The Plan here merely introduces a range of sources undifferentiated fashion that it says are used to estimate therm savings and Net-to-Gross. All of these sources, with the exception of the New Mexico Technical Resource Manual ("TRM"), are produced by Evergreen Economics and Ecometric [39] Both firms were previously contracted by NMGC for the M&V of its prior EE Plans, from 2017-2022[40] and 2023-2025,[41] respectively.

Avoided Therm Cost Calculation

(36) In contrast to the paucity of information provided regarding the methods and calculations of its estimated therms saved (and ultimately cost of gas saved) through its EE programs, NMGC presents the Commission with a detailed explanation of the use of its future price modelling to determine a total cost of avoided therms.[42] The avoided cost of the gas, NMGC states, is developed primarily through the use of pricing curves published for the El Paso San Juan Index and the El Paso Permian Index ("Indices") by S&P Global,[43] an adder to account for transportation and

[38] *Id.* at 55.

[39] *Id.* at 88.

[40] Application of New Mexico Gas Company, Inc., for Approval of Its 2023-2025 Energy Efficiency Program Pursuant to the New Mexico Public Utility and Energy Efficiency Acts, Recommended Decision at 20 (Feb. 27, 2023).

[41] Salaz Direct at 50:1-6.

[42] *See Id.* at 41-43.

[43] *Id.* at 41:10-12.

storage costs,[44] as well as the avoided gross receipts taxes and franchise fees that would not be paid.[45]

(37) To this primary determination, NMGC then provides further description on various elements of their forecasting methods. First, it states the calculation of future pricing is grounded across multiple other utility cost applications, such as supply chain analysis, financial and budgetary modeling, and the Purchased Gas Adjustment Clause Gas Cost Factor.[46] Second, it justifies the shift from Energy Information Agency future price inputs to the use of the El Paso San Juan and El Paso Permian Indices, and explains the way in which the split in volumes sourced from either of the Indices affects the future price. Third, NMGC elucidates elements of the adder, that it relies on the costs of firm transportation on interstate pipelines, underground storage costs, and anticipated future hedging costs.[47] Through the application of these inputs and the methods of future price calculations, NMGC determines the total unadjusted amount for the cost of future avoided therms that would be saved due to the application of the proposed energy efficiency programs over the course of their lifecycle.

(38) Based on these cost and pricing structures, NMGC projects that the net avoided costs of energy will start at $5.41 per MMBtu or $0.541 per therm in Plan Year 2026 and increase to $8.32 per MMBtu or $0.832 per therm in 2050, an increase of 53.62%.[48] NMGC further provides what the total NPV avoided costs would be per program and for all programs, particularly Appendix H,

[44] *Id.* at 41:12-13.

[45] *Id.* at 42:2-6.

[46] *Id.* at 40:21-22 – 41:1-6.

[47] *See Id.*at 41-43.

[48] 2026-2028 EE Plan at 85.

Energy Efficiency Programs UCT Analysis Output Tables. There, those costs are labeled NPV Benefits.[49]

Proposed Discount Rate and NTG Ratios

(39) The next step in determining the estimated avoided costs requires the application of a discount rate, to adjust for the present value of future costs, i.e., the Net Present Value of estimated avoided costs. As discussed previously, a higher discount rate reduces the present value of future savings (reduces the numerator, the avoided costs), whereas a lower rate increases it, often making long-term efficiency projects appear more cost-effective. In presenting its 2026-2028 EE Plan for approval, NMGC proposes the use of a certain discount rate, which it states is based on the same reasoning for the discount rate approved in its prior 2023-2025 EE Plan.[50] In that case, NMGC argued for the use of a 30-year fixed mortgage rate because it aligned and better reflected customer capital costs and the lifetime of the EE programs. At that time, the proposed rate was 4.0%, which was the average for a 30-year mortgage within a 52-week period ending August 4, 2022.[51]

(40) In the present case, however, NMGC proposes to update the discount rate. It bases this proposal to update the rate on three reasons, namely, that the updated rate:

> 1. More accurately reflects the cost of capital of NMGC's customers for long-term investments in their home;
>
> 2. Matches the average useful life of NMGC's energy efficiency measures; and,

[49] *See Id.* at 91-93.

[50] *See* Case No. 22-00232-UT (Final Order) (March 22, 2023) at 8, approving the Recommended Decision in total, including NMGC's proposed 30-year mortgage discount rate.

[51] Salaz Direct at 44:6-7.

> 3. Enables NMGC to offer more energy efficiency programs to customers thereby maintaining a similar level of programming dedicated to low-income customers. [52]

Specifically, it is proposing to update the prior approved 30-year discount rate of 4.0% in the 2023-2025 EE Plan to a 15-year discount rate of 4.91%, which is based both on the average mortgage rate as of August 26, 2025, and on information obtained from Bankrate.com and JP Morgan.[53]

(41) However, these three reasons provided to justify the updated discount to a 4.91%, 15-year mortgage rate directly contradict the reasons provided for the use of a 30-year discount rate in its 2023-2025 EE Plan. Firstly, NMGC is using the same explanation for an accurate reflection of long-term customer borrowing rates to apply to two wholly different mortgage periods. In that 2023-2025 EE Plan Application, to justify its use of a 30-year rate, NMGC stated that:

> NMGC believes that the discount rate [30-year mortgage at 4.0%] should reflect the borrowing rate that its customers face in making long-term investment decisions regarding their home. NMGC further believes that the 30-year mortgage rate best reflects that borrowing rate.[54]

The reasoning of the prior case to use a 30-year rate, that it reflects the cost of capital that NMGC customers face in making long-term investments, is now the very same as the first reason why NMGC proposes a 15-year rate in the present case. Even if a 15-year term is now more accurate in reflecting customer borrowing costs, NMGC provides no evidence to justify such a change.

(42) Also, the current claim that a 15-year rate is more accurate and justified is belied by NMGC's own statements in the 2023-2025 EE Plan Application. In response to his own question

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[52] *Id.* at 44:10-14.

[53] *Id.* at 44:19-21.

[54] Case No. 22-00232-UT, Application of New Mexico Gas Company, Inc., for Approval of Its 2023-2025 Energy Efficiency Program Pursuant to the New Mexico Public Utility and Efficient Use of Energy Acts ("NMGC 2023-2025 Application"), Direct Testimony of John Fernald ("Fernald Direct") at 2:19-21.

whether NMGC considered using mortgage rates other than the 30-year fixed rate, NMGC witness Mr. Fernald stated that it "is the industry standard for mortgages, is the most appropriate for this purpose."[55]

(43) Secondly, NMGC now attempts to justify updating the discount rate by stating that a 15-year mortgage would match the average useful life of NMGC's energy efficiency measures. This again directly contradicts the reasoning from the 2023-2025 EE Plan Application. In that Application, NMGC witness Fernald stated that "[a] shorter term mortgage, such as a 15-year, [while likely resulting] in a lower discount rate, … does not match the useful life of some of NMGC's energy efficiency programs and is not as widely available in the mortgage market."[56] In the present case, NMGC provides no reasoning or basis to justify how, for an EE Plan that largely replicates the programming of the 2023-2025 Plan, the life-cycle of its programs suddenly matches a 15-year cycle.

(44) Finally, to justify its use of a 15-year rate, NMGC employs the reasoning that a lower discount rate allows it to offer more programs and benefits. Certainly, a lower discount rate would keep the NPV of avoided costs high and therefore theoretically allow NMGC to offer more, i.e., spend more on, energy efficiency programs to customers, especially programing dedicated to low-income customers. Even so, NMGC provides no comparison of what the difference between the 15-year and other fixed year rates were at the time of the present Application so there is no way to determine if the 15-year rate is higher or lower than other available rates. If all other mortgage rates would be too high, then it could be argued that they would prevent utility from offering

[55] *Id.* at 8:11-12.

[56] *Id.* at 8:12-15.

sufficient programming, preventing customers from participating or becoming aware of energy efficiency programs in which they may have been able to participate.

(45) Taken together, NMGC provides minimal evidence to support the calculation of the avoided therms, their projected cost, and the application of NTG ratios and the discount rate (to calculate the NPV of avoided costs). Such costs are the foundation and heart of the application. Not only do they form the ceiling of what NMGC can propose in its program cost budget, they also set the basis for the determination of their cost-effectiveness through the UCT. Even so, no party provides evidence of any concern or dispute regarding NMGC's missing reasoning for establishing the avoided therm values or the contradictory and unsupported claim for using a 15-year rate versus a 30-year rate.

(46) Yet, as the rule and the testimony demonstrate, cost-effectiveness is relative. Only when program costs grow or remain the same relative to decreased avoided costs does the UCT trend away from cost-effectiveness. If the NPV of avoided costs is decreasing, then program costs must decrease in order to maintain a satisfactory UCT, where program costs can never equal or exceed avoided costs. There is an appearance that NMGC is arbitrarily choosing a 15-year rate (that may be lower than current 30-year rates) in order to preserve increased program costs and maximize cost recovery in an unjustified fashion.

Calculation of Program Costs and Satisfying the UCT

(47) To determine whether NMGC's proposed programs are cost-effective, they must be compared to the NPV of the avoided costs. If they are, they will yield a UCT greater than 1.0. In the present Application, NMGC proposes total program costs of $20,932,759 in Plan Year 2026,

$21,235,761 in Plan Year 2027, and $21,717,790 in Plan Year 2028.[57] NMGC then proceeds to present detailed cost determinations in its 2026-2028 EE Plan for each of its individual programs that constitute its entire program portfolio. As discussed above, it provides overall program costs and cost per program in Appendix H, Programs UCT Analysis Output Tables.

(48) In testimony, NMGC witness Ms. Salaz states that when avoided costs are compared to program costs, the estimated EE Plan yields a UCT of 1.18, thereby satisfying the legal minimum.[58] In its 2026-2028 EE Plan, it provides some more detail. There, it states that NMGC performed the UCT calculations for the efficiency programs using the GDS Associates Screening Tool, which is the same model that it has used in each of its energy efficiency cases filed with the NMPRC since 2009.[59] Further, it states that "[a]voided cost assumptions are provided in Section X.B and Section X.V. of this document.[60]"

(49) Notably, though, no such cost assumptions are found in the Sections of the EE Plan mentioned. Section X.B. details NMGC's efforts in promoting Commercial EE programs and Section X.V. does not exist. While NMGC does provide the final NPV of the avoided costs and the program costs, it offers no insight into how the calculation tool establishes the UCT ratios for each program and the overall program portfolio.

(50) In his review, however, Dr. Jimenez states that NMGC's estimated cost-effectiveness of the Plan satisfies the requirements of the UCT standard. With respect to cost-effectiveness, Dr. Jimenez states that NMGC's 2026-2028 EE Plan portfolio of programs is projected to meet and

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[57] Salaz Direct at 35:13-15.

[58] *Id.* at 54:20-21.

[59] 2026-2028 EE Plan at 28.

[60] *Id.*

exceed the UCT with an overall UCT ratio of 1.18 for each of the plan years 2026-2028.[61] While Dr. Jimenez accepts the portfolio UCT result (1.18) he also notes that specific programs, specifically the LI programs, are not cost-effective in 2026.[62] Here, he expresses concern that NMGC may be increasing budgets for cost-effective programs to compensate for non-cost-effective ones and he recommends NMGC work to improve low-income program UCT ratios in the next plan.[63] Nonetheless, he supports approval because low-income programs are important for EUEA goals and affordability, and the overall portfolio remains projected cost-effective.[64]

Budget Limitations and Minimum Spending on Low Income Programs

(51) In addition to the elements constituting cost-effectiveness of the budget, NMGC provides evidence that the proposed budget complies with percentage cost limitations and requirements, specifically, that the EE program costs, as required by Section 62-17-6(A)(2) and 17.7.2.8(C)(3), may not exceed more than 5% of annual revenues, and that no less than 10% of the Plan costs must specifically be directed to Low Income customers, as required by 17.7.2.9(B) NMAC.

(52) In presenting the plan's proposed budgets, NMGC's proposed plan itself and NMGC witness Ms. Salaz in her Direct Testimony state that the 2026 Program Year energy efficiency program budget ($20,932,759) is approximately 4.31% of average historical billings for the prior

[61] Jimenez Direct at 28:7-10.

[62] *Id.* at 4:16-22 – 5:1-2.

[63] *Id.* at 25:6-15.

[64] *Id.* at 26:1-5.

three-years, and is under the 5% cap as directed under NMSA 1978, Section 62-17-6(A)(2).[65] Dr. Jimenez after review of NMGC's budget confirms that it complies with 17.7.2.8(C)(3) NMAC.[66]

(53) Regarding the minimum expenditure requirement for LI Customers, NMGC witness Ms. Salaz points out that the Income Qualified Program budget for Plan Year 2026 is $6,035,101, approximately 29% of the total EE program portfolio costs.[67] She also indicates that, in addition to the overall budget for LI programs, the Multi-Family Program has allocated 50% of its budget to target LI properties, and that the High School and Senior Citizen Education Program in the Space Heating Program and Water Heating Program will benefit low-income customers who are located in Title V school districts.[68] In his review of this evidence present by NMGC, Staff witness Dr. Jimenez finds and states in his testimony that the plan here meets the minimum amount of costs directed to LI programs, complying with 17.7.2.9(B)(1) NMAC.[69]

Significant Growth of Program Costs

(54) While NMGC states that the proposed program budget increase from 2025 to 2026 will only be 37%,[70] it is important for the Commission to consider the development of program budget proposals and tariff rate approval in recent years. Since 2017, large and ongoing increases in budget costs have been filed and approved, as the table demonstrates below. The proposed program budget

[65] Salaz Direct at 29:17-19; 2026-2028 EE Program Plan at 26.

[66] Jimenez Direct at 29:9-12.

[67] Salaz Direct at 29:9-17; 2026-2028 EE Plan at 49.

[68] *Id.* at 29:9-17.

[69] Jimenez Direct at 29:19-21.

[70] 2026-2028 EE Plan at 4.

from 2017 to 2026 Plan Years has grown by over 250%, and the tariff rate has grown by almost 390%.

Table 2. Growth of Proposed EE Program Budgets and Cost Recovery Tariffs

Plan Year	Program Budget	Percentage Increase	Estimated Tariff Rate	Percentage Increase
2017	$5,898,173		$0.0087	
2020	$7,739,720	31.22% (from 2017)[71]	$0.0178	104.59% (from 2017)[72]
2023	$14,993,203	93.71% (from 2020)	$0.0358	101.12% (from 2020)
2026	$20,932,759	39.62% (from 2023)	$0.0426	18.99% (from 2023)
		254.90% (2017-2026)		389.66% (2017-2026)

Such growth represents a significant rise in nine years. Also, it is important to note that the estimated tariff rate is growing faster over the same time-period.

(55) One area of program cost that deserves greater scrutiny concerns administrative costs. In a different section of the EE Plan, and as discussed in the testimony of Ms. Salaz, NMGC offers greater insight into the component costs of all programs and each individual program.[73] In her testimony, NMGC witness Salaz states that these program costs are comprised of NMGC's administrative costs (including internal labor costs), third-party administrative costs (including third-party promotion), customer incentive and rebate costs, promotional costs incurred by

[71] The proposed budget for Plan Year 2017 was $5,898,173, as approved in Case No. 16-00100-UT.

[72] The proposed rate rider tariff rate for Plan Year 2017 was $0.0087.

[73] *See* 2026 - 2028 Energy Efficiency Program Plan at 47-48.

NMGC, and portfolio costs which include costs not directly related to any one individual program.[74]

(56) Specifically, NMGC provides the total breakdown of these costs across all programs for each Plan Year.[75] In her testimony, Ms. Salaz provides evidence, though certainly conclusory and which would benefit from greater detail, for the millions of dollars in administrative costs. In asserting that they are reasonable, she refers to an industry practice where the incentive and rebate costs comprise over half of the EE program cost.[76] In the present Application, NMGC's rebate and incentive costs are approximately 53% for each Plan Year.[77] It goes on to say that the other costs are "in line" with prior administrative costs approvals in its previous EE Plan. Nevertheless, NMGC provides scant evidence to justify these assertions. When viewing the entirety of program costs growing at such rates over time, NMGC must provide greater reasoning and justification to the Commission in order to approve all program costs.

(57) At the same time, as these program costs are growing and tariff rates have increased multiple times over, the overall UCT for the program portfolios has diminished.

Table 3: EE Program UCT as Proposed

Plan Year	UCT
2017	1.79
2020	1.51
2023	1.55
2026	1.18

[74] Salaz Direct at 35:18-22.

[75] Salaz Direct at 36:1.

[76] Salaz Direct at 40:18-19.

[77] Salaz Direct at 40:18-19.

Given these dynamics of rapidly expanding costs and tariff rates, and the gradual yet steady diminishment of the cost-effectiveness of NMGC's EE programs, the Hearing Examiners recommend that NMGC include specific information in its next EE application that provides the Commission greater insight into how it calculates avoided therms, chooses a discount rate, and approves its administrative, promotional, and portfolio and innovation costs.

4.3. The Proposed EE Programs Allow for Participation and Economic Benefit

(58) NMGC currently offers seven programs, Water Heating, Space Heating, New Homes, Income Qualified, Multi-Family, Efficient Buildings, and Home Energy Reports and proposes to continue all of them.[78] The present Application asks the Commission to reauthorize these seven EE programs that were authorized in previously in Case No. 22-00232-UT.[79] NMGC provides thorough evidence, in the testimony of Ms. Salaz and notably in the 2026-2028 EE Plan, of the principal elements of each program, covering the programs' background, description and objectives, implementation conditions, incentive structure, documentation and inspections, contractor and retailer responsibilities, target market, marketing and outreach, relation to existing programs energy savings, and measurement and verification.[80] This evidence demonstrates, and no other party contests, that each of these seven current programs are designed such that every customer class affected by the cost recovery for the EE programs has an opportunity to participate and benefit economically.

[78] Salaz Direct at 4:14-16 and 8:20-21.

[79] Application at 3.

[80] *See* Salaz Direct at 9-17; 2026-2028 EE Plan at 57-84.

(59) In its current Application, NMGC also proposes to modify:

1. The Space Heating Program and Water Heating Program by providing additional offerings focused on community outreach and education, including a high school and senior citizen education program, promotion and education in rural communities, and a customer link rebate tool;

2. The New Homes Program by expanding the scope to include new manufactured homes and new multi-family homes;

3. The Home Energy Reports Program to provide technological enhancements that will provide customers with more personalized and useful information;

4. The Income Qualified Program by adding a Single-Family Energy Efficiency Program which will provide additional low-income customers with more expedient access to weatherization services than NMGC's current Energy$mart Weatherization Assistance Program alone;

5. The program portfolio by adding an Agricultural Program to increase rural commercial customer participation in EE programs by providing rebates for the installation of high efficiency farm and agricultural equipment.[81]

(60) For the Water Heating and Space Heating Programs, Ms. Salaz also states NMGC proposes increased rebates, a new high school and senior citizen education program, program promotion and education in rural communities, bilingual local staff, a customer link rebate tool, and a sophisticated HVAC contractor portal.[82]

(61) With respect to rebates, NMGC states that it plans to increase rebates for customers who install tank or tankless water heaters from $115-$300 to $200-$500; Tier II and III furnaces and boilers from $325-$375 to $540-$625; and ENERGY STAR gas dryers from $25 to $55 beginning in Program Year 2026.[83] NMGC also states that it plans to increase rebates for customers who participate in its Furnace Tune Up Program from $85 ($110 low-income) to $100 ($150 low-

[81] Application at 3-4.

[82] *See* Salaz Direct 18-20.

[83] *Id.* at 18:7-10.

income).[84] Based on these rebates and the other changes to the Water and Space Heating Programs, NMGC estimates that they will deliver a net savings of 625,234 therms in Program Year 2026, an increase of approximately 175,970 therms over 2023 savings expectations.[85]

(62) Staff witness Dr. Jimenez summarizes the same modifications and recommends approval of the Water Heating and Space Heating enhancements, including the rural education and promotion elements.[86] But, Staff also recommends that NMGC provide the number of site visitors and number of rebates processed through the customer link rebate tool and sophisticated HVAC Contractor Portal in NMGC's Annual EE Reports.[87] In turn, NMGC, through its witness, Ms. Salaz, accepts this recommendation.[88]

(63) Ms. Salaz also describes the proposed changes to the New Homes Program in her testimony. There, she states that NMGC is proposing to expand the program to include new manufactured homes, as well as construction of new multi- family homes.[89] The manufactured homes expansion is intended to improve reach in rural markets and to create participation opportunities for low- and middle-income customers in underserved communities, and she states the multi-family expansion is intended to encourage efficient new construction measures, including incentives for efficient space and water heating appliances and smart thermostats.[90]

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[84] *Id.* at 18:10-12.

[85] *Id.* at 20:19-21.

[86] Jimenez Direct at 6; Jimenez Direct at 10

[87] Jimenez Direct at 12:19-22.

[88] Rebuttal Testimony of Carey Salaz ("Salaz Rebuttal") at 3:1-3.

[89] *Id.* at 21:4-5.

[90] *Id.* at 21:7-17.

(64) Ms. Salaz states the New Homes expansion is projected to produce net savings of 603,554 therms annually and to increase savings expectations by approximately 202,802 therms, or 51%, compared with 2023 expectations.[91] Dr. Jimenez supports expanding the New Homes Program to include new manufactured and new multi-family homes.[92]

(65) With respect to modifications to the Home Energy Reports ("HER") Program, Ms. Salaz states that they are intended to enhance highly accurate and detailed insights into a customer's energy use through advanced algorithms to provide more detailed usage insights and tailored tips, together with a QR code feature that links customers to an interactive web portal for additional energy-saving information.[93] Dr. Jimenez supports the proposed HER Program enhancements and notes that the program only incurs one-time startup costs in Plan Year 2026.[94]

(66) Ms. Salaz also describes a new Single-Family Energy Efficiency Program within the Income Qualified portfolio to provide direct-install weatherization services for low-income customers in single-family homes.[95] Ms. Salaz states the direct-install services include safety and carbon monoxide measures, water-saving devices, water heater insulation, thermostats, and building shell improvements such as air sealing, duct sealing, and attic insulation.[96] In her testimony, she demonstrates that the program is intended to address delays associated with the Weatherization Assistance Program pathway and to reach customers more quickly while

[91] *Id.* at 22:8-18.

[92] Jimenez Direct at 14:16-19.

[93] Salaz Direct at 22:6-18.

[94] Jimenez Direct at 14:16-19.

[95] Salaz Direct at 23:4-15.

[96] *Id.* at 23:4-15.

continuing coordination with Mortgage Finance Authority ("MFA").[97] Ms. Salaz states NMGC estimates a 2026 budget of $1,671,754 and annual therm savings of 240,162 for each plan year 2026–2028.[98]

(67) Staff recommends approval and believes the new program element will accelerate the deployment of EE measures for LI customers that are not in need of new appliances or major home repairs but that would greatly benefit from the energy savings from direct-install weatherization measures.[99] Staff states that NMGC indicated that it would reduce the budget assigned for the MFA program to $1,000,000, to increase funding for its LI programs and that Staff considers this approach as efficient since the goal with the EE Plan funds is for them to be used in EE programs by customers in a timely manner.[100]

(68) Ms. Salaz further describes the proposal for the new Agricultural Energy Efficiency Program directed to customers such as dairy farms, indoor agriculture and greenhouses, and crop farms, with the stated intent to provide information and incentives that encourage installation of high-efficiency measures during maintenance and new construction.[101] She states that agricultural customers are dispersed and operations vary, and she describes targeted outreach and marketing including materials at farm sales counters and county offices, attendance at rural agricultural events, and direct contact at agricultural establishments.[102] In her testimony, she points out that NMGC estimates a 2026 budget of $731,729, including $126,000 dollars in one-time startup costs, and annual therm savings of 160,843

[97] *Id.* at 25:6-10.

[98] *Id.* at 25:14-16.

[99] Jimenez Direct at 16:6-8.

[100] *Id.* at 16:8-12.

[101] Salaz Direct at 25:22-23 – 26:1-3.

[102] *Id.* at 26:15-19.

for each plan year 2026–2028.[103] Dr. Jimenez supports the creation of the new Agricultural Energy Efficiency Program as a pilot offering and recommends approval.[104]

(69) But, in reviewing the level of cooperation between electric and natural gas utilities in similar programs nationwide, he recommends that NMGC explore coordinated efforts with other utilities to provide coordinated measures and rebates in NMGC's next filing.[105] NMGC, in the rebuttal of Ms. Salaz, agrees to proceed in the manner which Staff recommends and accept this recommendation.[106]

(70) Looking at the foregoing, the evidentiary record indicates that, in addition to being cost-effective, NMGC's current, modified, and new EE programs all provide an opportunity for every affected customer class to participate and benefit economically. Additionally, Staff supports the Commission's approval of these programs, while making two minor recommendations regarding Agricultural Energy Efficiency Program and the Space and Water Heating Programs that NMGC has indicated that it would accept. Based on the credible uncontested evidence in the record, the Hearing Examiners determine that these EE program proposals and Staff modifications are consistent with the statutory and regulatory requirements and recommend approval.

4.4. WRA Critique and Counterproposal and NMGC and Staff Rebuttal

(71) While Staff fully support NMGC's requests for approval of its requested program modifications and additions, WRA finds them deficient and articulates a series of counterproposals, specifically within the Space and Water Heating Programs and New Homes

[103] *Id.* at 27:1-5.

[104] Jimenez Direct at 18:2-3.

[105] *Id.* at 18:3-7.

[106] Salaz Rebuttal at 2:7-13.

Program.[107] WRA offers a critique of these programs' rebate and incentive structure, calculation of cost-effectiveness, and application of certain efficiency standards and policy choices. WRA argues that rebates are not truly cost-effective in these programs because reporting demonstrates that they have limited influence on customer choices (i.e., high free ridership), are based on outdated appliance efficiency standards, and miss opportunities to advance the market for EE goods and services in New Mexico. Of note is its proposal here to request that the Commission require NMGC to allow rebates for electric heat and water pumps. Additionally, WRA provides critiques and alternatives to the use of certain NTG ratios (when determining cost-effectiveness) and to the efficiency standards from the New Mexico TRM, and elsewhere.

(72) Within its rebuttal, NMGC also provides testimony that WRA, though having attended all three public advisory sessions in advance of NMGC's EE filing, did not mention its critique or recommendations to NMGC until it filed its direct testimony in the present case. NMGC witness Salaz states that WRA did not, for example, request that NMGC conduct a program participation study, that it eliminate or modify rebate structures, or replace the New Homes Program during those meetings.[108] Ms. Salaz characterizes WRA's alternative as a major portfolio redesign involving electric heat pump rebates and a new codes training program. She objects that these proposals were not presented to NMGC before Mr. Carley's testimony, were not part of implementor RFP proposals, and have unknown costs and unknown UCT impacts.

Water Heating Program

[107] Carley Direct at 2:12-16.

[108] Salaz Rebuttal at 28:15-21.

(73) WRA primarily recommends that the Commission require that NMGC phase out gas water heater rebates and pivot to Heat Pump Water Heaters ("HPWH"). Mr. Carley first argues in his testimony that the Water Heating Program appears to support a high percentage of free riders and have a very limited and ineffective influence on customer purchase decisions.[109] He also argues that NMGC should shift rebates toward HPWH as the "more efficient" option and align programs with state policy (specifically, the Sustainable Buildings Tax Credit) so ratepayers are not paying for "two competing" rebate structures.[110] Additionally, Mr. Carley asserts that NMGC rebates and incentives rely on incorrect efficiency figures from the New Mexico TRM for the Calculation of Energy Efficiency Savings when describing ENERGY STAR efficiency specifications.[111]

(74) NMGC opposes WRA's recommendation to sunset or eliminate rebates for gas water heaters, and Ms. Salaz, in her rebuttal to WRA's recommendations, emphasizes customer affordability and asserts that WRA provides no workable three-year sunset pathway with unit counts and budgets. She adds that NMGC cannot determine how a mid-plan sunset would affect implementor bids obtained through the RFP process or the overall portfolio UCT.[112]

(75) Ms. Salaz also rejects WRA's proposal to replace gas water heater rebates with electric heat pump rebates, stating NMGC is a natural gas utility and does not offer rebates for electric equipment. She also emphasizes customer choice and notes electric utilities and state programs already offer heat pump rebates and tax credits. She argues eliminating gas rebates would push customers toward less efficient gas appliances, contrary to the goals of a natural gas efficiency

[109] Carley Direct at 16:11-13.

[110] Carley Direct at 17:1-18.

[111] Carley Direct at 7: 2-6.

[112] Salaz Rebuttal at 5- 6.

program.[113] Here, NMGC witness Mr. Cottrell provides further rebuttal testimony and responds that gas-only utilities generally should not provide rebates for electric efficiency measures, and that using gas ratepayer funds for electric heat pump measures would create cross-subsidization and cost-shifting risks for customers who remain on the gas system.[114]

(76) In its continued critique of the Water Heating Program, WRA seeks to highlight a high degree of free-ridership. According to Mr. Carley, NMGC's 2024 M&V Report for the Water Heating Program found a free ridership rate of 0.4512, or 45%.[115] This means that more than 45% of participants would have likely selected the more efficient equipment, even in the absence of NMGC's rebate. WRA, in Mr. Carley's testimony also notes that while the report assigned a free ridership rate of 45%, it found that 90% of participants reported they would have likely purchased an appliance with the same level of efficiency without the rebate.[116] In his view, this indicates that NMGC's rebates have very limited influence on the ratepayer's decision about equipment purchases.[117]

(77) Responding to WRA's free-ridership critique, Ms. Salaz states that free-ridership percentages in the 2024 M&V report are one reason why NMGC proposes increased rebates plus a customer rebate tool and a more sophisticated contractor portal. She argues that the M&V report does not capture customers who could not afford a more efficient water heater under current

[113] *Id.* at 10-11.

[114] Cottrell Rebuttal at 10-11.

[115] Carley Direct at 7:11-14, citing Case No. 22-00232-UT, New Mexico Gas Company, Inc.'s 2024 Annual Energy Efficiency Report, Appendix C, at 56.

[116] *Id.* at 7:15-16.

[117] *Id.* at 7:16-17.

rebates, and asserts higher rebates will draw in customers who otherwise would not buy efficient units, reducing free ridership and improving program success.[118]

(78) In addition to this critique of free-ridership, WRA also argues that NMGC EE programs use outdated energy efficiency standards that are found in the New Mexico TRM, rather than the current ENERGY STAR requirements. The TRM cites ENERGY STAR or in some instances the Consortium for Energy Efficiency (CEE) Tier 1 specification as the basis for its efficiency figures but does not reflect current ENERGY STAR or CEE Tier 1 requirements. WRA argues in Mr. Carley's testimony that NMGC should use the most current U.S. EPA ENERGY STAR or CEE Tier 1 requirements to avoid consumer and market confusion.[119] He points out that the commercial water heating equipment standards for ENERGY STAR Program Requirements for Commercial Water Heaters Partner Commitments referenced by the TRM have been out of date since October 2018, more than seven years ago.[120]

(79) WRA recommends that the contractor who prepared the 2025-2026 edition of the New Mexico TRM should be directed to complete a thorough review of the TRM to ensure that the efficiency requirements accurately reflect the current relevant ENERGY STAR and Consortium for Energy Efficiency ("CEE") performance requirements and submit the updated manual to the Commission for posting on its website within 60 days of a Final Order.[121]

(80) Staff believes that updates to the TRM are important but should follow the established process. As explained by EcoMetric, the current process allows evaluation consultants to provide

[118] Salaz Rebuttal at 6.

[119] Carley Direct at 8:5-10.

[120] Carley Direct at 9:4-6

[121] *Id.* at 56:21-22.

final versions of the annual evaluation report for the electric utilities in April and for the gas utilities in June.[122] The planning portion of the TRM review begins in June so that all utilities have the opportunity to focus on annual reports and TRM updates separately.[123]

(81) Staff believes the TRM is currently up to date and does not require the changes suggested by WRA to reflect higher ENERGY STAR tier standards. Staff states the TRM's ENERGY STAR table provides default values when actual unit efficiency is unknown and is not intended as a required minimum threshold.[124] The purpose of the New Mexico TRM is to ensure that baselines are consistent with current federal or state energy codes and standards, which it does. In Staff's opinion, the analysis provided by NMGC in its EE Plan continues to be reasonable and with it, the rebates proposed for the Water Heating Program in its Portfolio. Accordingly, Staff stands by its recommendation for approval of the NMGC's Application requests.[125]

(82) In addition to these critiques, WRA also states that NMGC is using incorrect (i.e., higher) NTG ratios. Mr. Carley treats NTG corrections as material to cost-effectiveness: lowering NTG reduces the Utility Cost Test (UCT) for the program and portfolio.[126] Regarding this NTG misapplication and the effect it has on calculating the UCT and cost-effectiveness, Mr. Carley contends NMGC's assigned NTG for water heating (65%) does not reflect the most recent M&V result (NTG 0.5488, to be applied beginning in 2025).[127] Mr. Carley states that reducing the NTG ratio reduces the UCT value of the proposed program and portfolio, and in his analysis, correcting

[122] Jimenez Rebuttal at 5:27-31.

[123] *Id.* at 5:27-31.

[124] *Id.* at 4:1-6.

[125] *Id.* at 6:9:17.

[126] Carley Direct at 16:2-7.

[127] *Id.* at 15:5-9.

the NTG attribution and removing the rebates and savings for equipment that does not achieve ENERGY STAR or CEE performance requirements results in NMGC's proposed Water Heating Program achieving a UCT ratio of 0.91, meaning it is not cost effective.[128]

(83) Here in rebuttal, Ms. Salaz rejects using the 2024 M&V water-heating NTG for the proposed plan, asserting the M&V value reflects the current program and does not capture the proposed enhancements. She states the 65% NTG projection is based on implementor experience and expects the enhancements will enable that outcome.[129] Ms. Salaz also rejects WRA's claim that water-heating savings are overstated, emphasizing annual independent M&V review and asserting overstatement would not benefit NMGC because failing UCT could cause NMGC to forgo the incentive. She states the water-heating therm savings inputs match those used in the prior plan and reflect actual achieved savings.[130] Finally, Ms. Salaz finds fault with Mr. Carley's observations, stating that WRA's reliance on external consumption survey data as potentially unrepresentative of NMGC's service territory and asserts that participating customers typically use more natural gas than average.[131]

(84) Lastly, WRA requests that the Commission require a separate study of actual savings resulting from the Water Heating Program. He asserts that NMGC, in addition to relying on incorrect NTG ratios in its Water Heating Programs, has also not provided sufficient and reliable sources or calculations, citing, in particular, to NMGC Response to Staff Interrogatory 1-1.[132]

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[128] *Id.* at 16:4-8.

[129] Salaz Rebuttal at 12.

[130] *Id.* at 13.

[131] *Id.* at 13.

[132] Carley Direct at 19:2-5, see WRA Exh. EC-4.

Consequently, he requests that the Commission require NMGC to file actual savings no later than September 1, 2027.[133] Ms. Salaz opposes WRA's request for a separate study of actual savings impacts by September 1, 2027, stating that it is unnecessary because NMGC programs and savings are already subject to independent M&V and annual reporting.[134]

Space Heating Program

(85) WRA provides three general recommendations to the Commission regarding the NMGC's Space Heating Program. Firstly, it asks that the Commission direct NMGC to eliminate or sunset boiler rebates, or in the alternative if furnace rebates continue, to tighten minimum efficiency requirements.[135] Secondly, it asks that if gas appliance rebates are not eliminated, remove rebates for ≤96% Annual Fuel Utilization Efficiency[136] ("AFUE") furnaces, sunset 97% AFUE furnace rebates, and replace them with rebates for dual-fuel heat pumps.[137] Thirdly, it asks that the Commission direct NMGC to introduce rebates for electric heat pumps and dual-fuel heat pumps as more efficient options, arguing that these new incentives can build market awareness and contractor knowledge because heat pump markets are "not as well-developed" as furnace markets.[138] Finally, WRA requests that if NMGC is not required to sunset its rebates for gas-fired furnaces and boilers, then the Commission deny the NMGC's request for increased rebate levels.[139]

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[133] *Id.* at 19:3-4.

[134] Salaz Rebuttal at 14:6-8.

[135] Carley Direct at 28:16-20.

[136] AFUE, refers to the rating for heating equipment that has earned the ENERGY STAR label. It is the percentage of fuel that is converted into heat; a higher AFUE is more efficient.

[137] Carley Direct at 27:9-17.

[138] *Id.* at 27:21 -28:17.

[139] *Id.* at 29:11-12.

(86) WRA here asserts, similar to its critiques of the Water Heating Program rebates, that NMGC's current proposal for large increases in furnace and boiler rebate levels (66%–92%) are not justified because customers appear to be purchasing high-efficiency equipment regardless of rebates.[140] He contends that these purchases would occur anyway, given strong market adoption of high-efficiency equipment and M&V evidence that many customers report rebates were "not at all influential."[141] He warns higher rebates can increase free ridership, which he notes is already reported at about 29%.[142]

(87) NMGC witness Ms. Salaz rejects WRA's recommendation to sunset boiler and furnace rebates, repeating her affordability and implementation concerns and disputing WRA's criticisms of the program.[143] On WRA's proposed minimum furnace efficiency threshold of at least 97% AFUE, Ms. Salaz responds that NMGC follows the New Mexico TRM, which permits furnaces and boilers with AFUE of 90% or greater. She states NMGC will revise if the TRM changes and adds uncertainty regarding federal standards.[144]

(88) NMGC also rejects restricting rebates to dual-fuel systems, arguing it would remove incentives for customers who have already decided to buy a natural gas furnace or boiler to choose higher-efficiency models. She points to a reported high UCT for the Space Heating Program in the 2024 annual report and argues sunsetting successful measures would be counterproductive.[145] Likewise, Ms. Salaz rejects WRA's proposal that NMGC create a new program offering rebates

[140] *Id.* at 20:11-31.

[141] *Id.* at 20:31-38.

[142] *Id.* at 20:31-38.

[143] Salaz Rebuttal at 15:3-9.

[144] *Id.* at 15:15-20.

[145] *Id.* at 16:4-11.

for air- or ground-source heat pumps, again stating NMGC is not an electric utility, electric utilities already offer those measures, and gas customers should not lose incentives to use natural gas more efficiently.[146]

(89) In response to WRA's call for a potential study, Ms. Salaz states NMGC does not oppose a Commission directive for an M&V contractor to study the potential for adoption of efficient gas appliances, but opposes requiring NMGC customers to pay for a study of electric heat pumps. She recommends any such study be pursued through a Commission process with input from other affected utilities and with costs allocated among utilities and recovered as M&V costs.[147]

New Homes Program

(90) The New Homes Program offers home builders two pathways to receive a rebate for building more efficient new homes. The first path is a prescriptive path where the builder can receive a rebate for installing higher efficiency equipment than required by code. The second pathway allows the builder to demonstrate that the whole home achieves energy performance at least 10% better than required by code using a tool called the Home Energy Rating System ("HERS") index.[148] WRA proposes discontinuing NMGC's current New Homes Program structure and replacing it with a comprehensive building energy code compliance training program focusing on high-impact building features, including HVAC sizing, envelope tightness, duct tightness, insulation quality, water heating.[149] Mr. Carley observes that while NMGC's baseline for rebates in the New Homes Program is for a home meeting 2018 International Energy Conservation Code

[146] *Id.* at 17:11-16.

[147] *Id.* at 16:17-2 – 17:1-5.

[148] Carley 30:18-21.

[149] *Id.* 38:10-14 – 39:1-2.

("IECC"), requirements, New Mexico has adopted two new successive updates to the energy code since 2017.[150] In 2020, New Mexico adopted the 2018 IECC and in January 2024, adopted a new energy code based on the 2021 IECC.[151]

(91) In his view, the lack of due diligence and rigor in reporting HERS scores, the use of the outdated 2018 energy code as a baseline, and inclusion of outdated ENERGY STAR and CEE appliance specifications to receive rebates in the prescriptive path rebates, suggest the program is due for change.[152] For Mr. Carley, this change would see the Commission directing NMGC to sunset the New Homes program as it currently exists and launch a new building energy code training program either alone or in collaboration with overlapping regulated electric utilities in New Mexico. The new building energy code training should provide training to builders, building officials, tradespeople, building designers, engineers and architects to ensure that newly constructed buildings in New Mexico comply with the code in place when the building receives the appropriate permits.[153]

(92) With respect to the rebates and incentives in the New Homes Program, Mr. Carley recommends that they be eliminated over time for gas appliances and replaced with rebates for air- or ground-source heat pumps and heat pump water heaters and require rebated appliances to meet the most current ENERGY STAR or CEE Tier 1 specifications at the time rebates are issued.[154]

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[150] *Id.* 30:3-6.

[151] *Id.* 30:3-6.

[152] *Id.*at 32:15-18.

[153] *Id.* at 33:1-7.

[154] *Id.* at 39:16-22.

(93) Furthermore, Mr. Carley states that the New Homes Program uses an inflated and incorrect NTG ratio. While the program uses a NTG ratio of 80%, he observes that both the 2023, 2024, and 2025 EE reports found an actual NTG ratio of 69.17%.[155] The consequence of using accurate NTG ratios would lower the UCT of the New Homes program. According to Mr. Carley, NMGC's present Application assigns the New Homes program a UCT of 1.52 for 2026, 1.67 for 2027, and 1.67 for 2028. But, using the actual NTG ratio of 69.17 and removing appliances that he argues are inefficient, Mr. Carley calculates that the UCT for the program will be reduced to 1.18 in 2026, 1.32 in 2027, and 1.32 in 2028.[156]

(94) NMGC rejects WRA's recommendation to discontinue the New Homes Program and replace it with a building energy code training program, asserting the New Homes Program is one of NMGC's most successful and cost-effective offerings. Ms. Salaz cites UCT performance in 2023 and 2024 and argues that high-UCT programs support inclusion of lower-UCT offerings such as low-income programs.[157]

(95) NMGC does, however, agree with WRA that the baseline for the New Homes Program should reflect the 2021 IECC and acknowledges an error in Exhibit CJS-3 and in her prior description.[158] Ms. Salaz states New Mexico adopted the 2021 IECC in January 2024 and homes permitted on or after June 30, 2024, must comply, and she states NMGC aligned the program with that change and filed an errata.[159]

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[155] *Id.* at 32:3-6, citing NMGC 22-00232-UT 2023 Annual Energy Efficiency Report, Appendix C, at 66 and NMGC 22-00232-UT 2024 Annual Energy Efficiency Report, Appendix C, at 17.

[156] *Id.* at 32:9-12.

[157] Salaz Rebuttal at 18:11-21.

[158] *Id.* at 19:10-14.

[159] *Id.* at 19-20, *see also* NMGC Errata to the Direct Testimony of Carey Salaz.

(96) NMGC rejects WRA's claim of limited due diligence in the New Homes Program HERS performance path option. Ms. Salaz describes how third-party HERS raters are accredited by RESNET, including training, exams, probationary ratings, quality assurance review requirements, and recertification. NMGC witness Ms. Salaz adds that the EE program implementor confirms raters are in good standing and that HERS submissions are also filed with RESNET, and that the implementor performs its own quality assurance including visual inspections and blower door tests of a minimum of 5% of new homes.[160] She reiterates that reliance on the current TRM is appropriate and should not be the basis for eliminating rebates.[161]

(97) On NTG, NMGC rejects using NTG ratios from the 2023 and 2024 annual reports because those reflect the current New Homes Program and not NMGC's proposed changes, including adding manufactured and multifamily homes. Ms. Salaz asserts those additions benefit low-income customers and notes low-income measures are typically assigned 100% NTG, supporting NMGC's use of 80% NTG for the revised program. She also states that even using the 2024 M&V NTG, the program would still exceed a UCT of 1.0.[162]

(98) While WRA does raise important points for the Commission and NMGC to take into consideration, namely, the elimination or modification of outdated rebate structures, revising the use of NTGs, and updating efficiency standards, they are complex and arrive very late in the process of developing and submitting the 2026-2028 EE Plan for approval. Its suggested changes are broad and deep from a legal, budgetary, and policy perspective. Cancelling, eventually eliminating, or including electric appliances in rebate and incentive structures, applying different

[160] *Id.* at 21:16-20.

[161] *Id.* at 22:5-8.

[162] *Id.* at 22:13-19 – 23:1-6.

NTG ratios to avoided cost calculations, adopting efficiency standards out of cycle, all substantially disrupt the development of the program costs and their cost-effectiveness. And, as NMGC points out, WRA's critiques and counterproposals were not raised at any of the three public advisory meetings that it organized to comply with its requirements to seek input from certain parties and appear to have had no notice until WRA filed direct testimony. For these reasons, the Hearing Examiners have determined not to recommend their approval to the Commission.

4.5. The Proposed Performance Incentive Mechanism and Cost Recovery under Rate Rider No. 15 are Just and Reasonable

(99) As discussed above, NMGC may recover additional costs through an incentive mechanism if certain avoided therm savings targets are achieved as a result of the EE program performance are met. In the present Application, NMGC proposes to increase its incentive rate from 6.65% to 6.79% of total program portfolio costs for program years 2026–2028, and asks that the Commission find it to be just and reasonable.[163] NMGC notes that its current incentive is 6.65% of its overall portfolio costs, which matched the weighted average cost of capital ("WACC") from its 2020 rate case filing.[164] However, NMGC's most recent approved rate case, filed in 2023 and approved in 2024, resulted in a WACC of 6.79%.[165] Therefore, it states, NMGC is proposing to change the incentive rate to 6.79% of its overall portfolio costs for its 2026 – 2028 portfolio.[166] Based on the program portfolio costs proposed by NMGC for Plan Year 2026, this new incentive rate would yield an additional $1,421,334 in cost recovery for NMGC if all savings targets are

[163] Application at 7.

[164] Salaz Direct at 48:10-11.

[165] *Id.* at 48:11-12.

[166] *Id.* at 48:12-14.

achieved, leading to a total potential cost recovery of $22,354,093 (i.e., 2026 Plan Year program costs of $20,932,759 plus $1,421,334 of incentives).[167]

(100) Staff witness Dr. Ouattara states that he is not opposed to the Commission approving NMGC's incentive proposal, but that he recommends two modifications.[168] First, Staff recommends that NMGC's incentive be calculated as a percentage of NMGC's actual expenditures on EE programs, not the approved budget.[169] Unlike prior approvals of incentive mechanisms, where approved budget served as the basis of the calculation, Dr. Ouattara states that an approach where the actual expenditures are the basis has several advantages. Specifically, he states, this approach pays for work performed and benefits delivered, avoids rewarding unspent budget, and encourages prudent, full use of approved EE funds in line with Rule 15 17.7.2.8(H) NMAC.[170]

(101) Second, Dr. Ouattara recommends that the percentage used to calculate the incentive amount be set according to a performance-based sliding scale tied to NMGC's verified annual therm savings, with the incentive capped at NMGC's currently authorized WACC (6.79%).[171] This approach is consistent with the Commission's prior approval of a performance-based mechanism for NMGC in Case No. 22-00232-UT. Specifically, he proposes that under this sliding scale NMGC may begin earning an incentive at 35% of the plan-year savings target, with an incentive of 5.29% of actual EE expenditures at that level.[172] From here, the incentive rate would increase by 0.30 percentage points for each additional 5% of the plan-year target achieved, reaching a

[167] *Id.* at 48:16.

[168] Ouattara Direct at 4:13-14.

[169] *Id.* at 4:18-19.

[170] *Id.* at 5:14-16.

[171] *Id.* at 4:19-21 - 5:1-3.

[172] *Id.* at 6:3-5.

maximum of 6.79% at 60% of the target.[173] Finally, Dr. Ouattara adds for clarity that the incentive is payable only if the UCT for the overall portfolio is greater than or equal to 1.0 and is awarded after M&V verification through Rate No. 15.[174] NMGC states, in the rebuttal testimony of Ms. Salaz, that it is agreeable to accepting these two proposed modifications.[175]

(102) On the other hand, WRA challenges NMGC's proposed incentive approach explaining that the prior plan used a graduated incentive tied to therm savings, and that NMGC's described eligibility for maximum incentive at 60% of expected savings does not incentivize higher performance when compared to electric utility practice.[176] Mr. Carley also recommends reforms to NMGC's performance incentive mechanism so that NMGC earns incentives only at higher levels of verified performance more comparable to electric utility practice. WRA recommends aligning NMGC's incentive scale with electric utilities by beginning incentive eligibility at 80% of expected annual savings and reaching maximum incentive at 102% of expected savings.[177]

(103) Ms. Salaz states NMGC is not agreeable to WRA's recommended incentive scale that begins eligibility at 80% of annual savings and reaches maximum at 102%. She argues that such a proposal would require NMGC to exceed the therm savings the portfolio is designed to deliver to fully recover an incentive, and she contends this would discourage innovation and make NMGC more conservative in plan design.[178] She also argues the proposal would discourage low-income programming because low-income offerings tend to have lower UCT performance, and WRA's

[173] *Id.* at 6:5-7.

[174] *Id.* at 6:7-9.

[175] *See* Salaz Rebuttal at 3-4.

[176] Carley Direct at 53:1-3.

[177] *Id.* at 53:8-11.

[178] Salaz Rebuttal at 24:21-22 – 25:1.

structure would incentivize NMGC to reduce low-income access.[179] Ms. Salaz contrasts WRA's recommendations with Staff's approach and states that the latter better aligns with the EUEA due to the fact that electric-utility incentive scales have statutory savings goals while gas utilities do not.[180]

(104) Finally, NMGC asks the Commission to find that its proposal to recover the cost of the modified energy efficiency programs and those previously approved programs that will be continued, as well as the program incentive amounts, through a surcharge factor, is just and reasonable under Rate Rider No. 15.[181] Specifically, NMGC proposes to recover these costs from the application of Rate Rider No. 15 to service customer classes that are eligible to participate in the efficiency programs, including customers receiving service under NMGC's Residential Service Rate No. 10, Small Volume Service Rate No. 54, and Medium Volume Service Rate No. 56, and transportation customers in the corresponding rate classes under Transportation Rate No. 70.[182]

(105) The calculation of the surcharge factor, NMGC states in its 2026-2028 EE Plan, is composed of three parts: 1) the 2026 program budget and incentive amounts as described above; 2) reconciliation of the over or under-recovered actual expenses including carrying charges for the period ending March 31, 2026; and, 3) actual or estimated collections for the April 2024 through July 2026 time period.[183] NMGC estimates that the proposed surcharge factor will be approximately $0.0426 per therm beginning in August 2026 (increasing from the current rate of

[179] *Id.* at 25:9-15.

[180] *Id.* at 25-6.

[181] Application at 8.

[182] *Id.* at 5.

[183] 2026-2028 EE Plan at 27.

$0.0380), and would be about 3.3% of a residential customer's bill, or approximately $2.20 per month.[184] NMGC estimates that it will seek a change to Rate Rider No. 15 in June 2026.[185] In reviewing its proposal, Staff witness Dr. Ouattara recommends a continuation of Rate Rider No. 15 as requested by NMGC, with an Advice Notice to be filed in June 2026 and implementation targeted for August 5, 2026, subject to Commission's approval, so that recovery occurs through the same tariff mechanism already in place.[186]

(106) Considering the foregoing, NMGC has demonstrated with sufficient evidence that its proposed performance incentive mechanism and the proposal to recover program costs and performance incentive earnings through Rate Rider No. 15 are just and reasonable. Additionally, the record indicates that Staff's recommendation, accepted by NMGC, that it only earn its performance incentive on actual therms saved contributes further to the just and reasonable nature of the performance incentive structure. Finally, the suggestions from WRA that NMGC begin earning incentives at the same statutory point as electric utilities cannot be resolved in this proceeding, but will require a broader statutory or rule change for all utilities.

5. FINDINGS OF FACT AND CONCLUSIONS OF LAW

Based on the foregoing executive and background summaries, statement of procedural history, discussion, and analysis, the Hearing Examiners recommend that the Commission **FIND** and **CONCLUDE** that:

[184] *Id.* at 27.

[185] Application at 5.

[186] Ouattara Direct at 13:4-7.

The foregoing executive and background summaries, discussion of the Application's substantive legal sufficiency, and all findings and conclusions contained therein, whether or not numbered or designated as such, are incorporated herein as findings of fact and conclusions of law of the Commission.

(107) NMGC is authorized to conduct the business of providing natural gas public utility service within the State of New Mexico and therefore is a public utility subject to the jurisdiction of the Commission under the Public Utility Act. As a public utility, NMGC is required to furnish adequate, efficient and reasonable service at just and reasonable rates in conformity with NMSA 1978, § 62-8-1 and § 62-8-2.

(108) The Commission has jurisdiction over the parties and the subject matter of this case.

(109) Reasonable, proper, and adequate notice of this matter has been given.

(110) NMGC's Application and supporting testimony and exhibits demonstrate that it considered the criteria set forth in the EUEA and the EE Rule.

(111) NMGC demonstrates that it has satisfied the requirements of NMSA 1978, § 62-17-5(E) and 17.7.2.8(B) NMAC to solicit nonbinding recommendations from required and interested parties.

(112) NMGC demonstrates that the EE programs in its 2026-2028 EE Plan are cost-effective and designed to provide every affected customer class with the opportunity to participate and benefit economically in satisfaction of NMSA 1978, § 62-17-5 and § 62-17-6.

(113) NMGC has provided sufficient evidence that its overall EE program portfolio cost satisfies the UCT standard and should be accepted.

(114) The EE programs costs for which NMGC seeks recovery are just, reasonable. NMGC demonstrates that they do not exceed the limits established by NMSA 1978, § 62-17-6(A)(2) nor do they fall below the minimum expenditure limit for LI programs set by 17.7.2.9(B).

(115) NMGC provides sufficient evidence to determine that its performance incentive mechanism is just and reasonable. NMGC further accepts Staff's recommendation that the incentive be earned on actual therms saved.

(116) NMGC establishes with sufficient evidence that it may recover program costs and performance incentive earnings consistent with NMSA 1978, § 62-17-6 through a tariff rider, specifically Rate Rider 15.

(117) NMGC's Application, supporting testimony, and exhibits demonstrate that its EE programs, as proposed, satisfy the requirements of the EUEA and the EE Rule.

(118) The Hearing Examiners therefore, based on the preponderance of the evidence presented, recommend approval of the NMGC EE program proposal. Specifically, they recommend approval of NMGC's proposed:

a. 2026-2028 EE Plan, including the modifications to the Water and Space Programs and the New Homes Program, the addition of the Single Family Home Offering under the Income Qualified Program, and the addition of the Agricultural Program, as well as the reauthorizations of the previously approved EE programs;

b. 2026-2028 EE Plan budget

c. Performance Incentive Mechanism; and,

d. Recovery of EE program costs and incentive earnings through Rate Rider No. 15.

(119) At the same time, though, given the often minimal amount of evidence provided, the Hearing Examiners recommend that the Commission require NMGC to include more specific

transparent data, inputs, and methodologies, used to calculate avoided therms, select its proposed discount rate, and determine the EE program administrative costs.

(120) NMGC's proposed corrections to the transcript are accepted pursuant to 1.2.2.34 NMAC.

6. DECRETAL PARAGRAPHS

The Commission, having adopted and approved the findings of fact and conclusions of law as stated above, **ORDERS** that:

(A) The findings, conclusions, analyses, determinations, and rulings made and construed herein are hereby adopted and approved as the findings, conclusions, analyses, determinations, and rulings of the Commission.

(B) The NMGC's Application is approved consistent with the foregoing findings and conclusions.

(C) NMGC shall comply with all requirements established in this Order, including but not limited to matters involving future cases before the Commission.

(D) The evidentiary record is closed.

(E) Any argument, issue, or matter not specifically addressed or ruled on during this proceeding is resolved consistent with the findings and conclusions of this Final Order and the Commission's Rules.

(F) In accordance with l.2.2.35(D) NMAC, the Commission has taken administrative notice of all Commission orders, rules, decisions, and other relevant materials in all Commission proceedings cited in this Order.

(G) This Order is effective immediately.

(H) This docket is closed.

ISSUED under the seal of the Commission at Santa Fe, New Mexico this 27th day of February, 2026.

NEW MEXICO PUBLIC REGULATION COMMISSION

Patrick Schaefer
Hearing Examiner
patrick.schaefer@prc.nm.gov

Elizabeth C. Hurst
Hearing Examiner
elizabeth.hurst@prc.nm.gov

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

IN THE MATTER OF THE APPLICATION OF NEW MEXICO GAS COMPANY, INC. FOR APPROVAL OF ITS 2026-2028 ENERGY EFFICIENCY PROGRAM PLAN PURSUANT TO THE NEW MEXICO PUBLIC UTILITY ACT AND THE EFFICIENT USE OF ENERGY ACT	)))))))	**Docket No. 25-00061-UT**

CERTIFICATE OF SERVICE

I CERTIFY that on this date I sent a true and correct copy of the Recommended Decision to the parties and contacts listed below.

New Mexico Gas Company - NMGC	
Brian J. Haverly	bjh@jkwlawyers.com;
Julianna T. Hopper	jth@jkwlawyers.com;
Nicole V. Strauser	Nicole.Strauser@nmgco.com;
Dominic A. Martinez	Dominic.Martinez@nmgco.com;
Gerald Weseen	Gerald.Weseen@nmgco.com;
Anita L. Hart	Anita.Hart@nmgco.com;
Carey J. Salaz	Carey.Salaz@nmgco.com;
Brian Buffington	Brian.Buffington@nmgco.com;
NMGC Regulatory	nmgcregulatory@nmgco.com;
Coalition for Clean Affordable Energy CCAE	
Charles De Saillan	Desaillan.ccae@gmail.com;
Cara R. Lynch	Lynch.Cara.NM@gmail.com;
Don Hancock	sricdon@earthlink.net;
Caitlin Evans	Evans.ccae@gmail.com;
NMPRC – Utilities Staff	
Kaythee Hlaing	Kaythee.Hlaing@prc.nm.gov;
Gideon Elliot	Gideon.Elliot@prc.nm.gov;
Edison Jimenez	Edison.jimenez@prc.nm.gov;
Bamadou Ouattara	Bamadou.Ouattara@prc.nm.gov;
Elisha Leyba-Tercero	Elisha.Leyba-Tercero@prc.nm.gov;
Elizabeth Ramirez	Elizabeth.Ramirez@prc.nm.gov;
Peggy Martinez-Rael	Peggy.Martinez-Rael@prc.nm.gov;
Prosperity Works	
Cara R. Lynch	Lynch.Cara.NM@gmail.com;
Ann Lyn Hall	Annlyn@prosperityworks.net;
Western Resource Advocates - WRA	
Cydney Beadles	Cydney.Beadles@westernresources.org;
Caitlin Evans	Caitlin.Evans@westernresources.org;

Ed Carley	Ed.Carley@westernresources.org;
Stephanie Altman	Stephanie.Altman@westernresources.org;
Michael Kenney	Michael.Kenney@westernresources.org;
PRC General Counsel Division	
William Mount LaurieAnn Santillanes	William.Mount@prc.nm.gov; Laurieann.Santillanes@prc.nm.gov;
PRC Hearing Examiners Division	
Elizabeth Hurst Patrick Schaefer Ana Kippenbrock, Paralegal	Elizabeth.Hurst@prc.nm.gov; Patrick.schaefer@prc.nm.gov; Ana.Kippenbrock@prc.nm.gov;

DATED this February 27, 2026

NEW MEXICO PUBLIC REGULATION COMMISSION

/s/ Ana Kippenbrock**, electronically signed**
Paralegal