

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

**IN THE MATTER OF THE APPLICATION)
OF NEW MEXICO GAS COMPANY, INC.;)
EMERA INC., EMERA U.S. HOLDINGS)
INC.; NEW MEXICO GAS INTERMEDIATE,)
INC.; TECO HOLDINGS, INC.; TECO)
ENERGY, LLC; BCP INFRASTRUCTURE)
FUND II, LP; BCP INFRASTRUCTURE)
FUND II-A, LP; BCP INFRASTRUCTURE)
FUND II GP, LP; SATURN UTILITIES, LLC;)
SATURN UTILITIES HOLDCO, LLC;)
SATURN UTILITIES AGGREGATOR, LP;)
SATURN UTILITIES AGGREGATOR GP,)
LLC; SATURN UTILITIES TOPCO, LP; AND)
SATURN UTILITIES TOPCO GP, LLC FOR) Case No. 24-00___-UT
THE ACQUISITION OF TECO ENERGY)
LLC, AND FOR ALL OTHER APPROVALS)
AND AUTHORIZATIONS REQUIRED TO)
CONSUMMATE AND IMPLEMENT THE)
ACQUISITION,)
)
)
JOINT APPLICANTS.)**

JOINT APPLICATION

New Mexico Gas Company, Inc., a Delaware corporation (“NMGC”); Emera Inc., a Nova Scotia corporation (“Emera”); Emera U.S. Holdings Inc., a Delaware corporation (“EUSHI”); New Mexico Gas Intermediate, Inc., a Delaware corporation (“NMGI”); TECO Holdings, Inc., a Florida corporation (“TECO Holdings”); TECO Energy, LLC (formerly TECO Energy, Inc.), a Florida limited liability company (“TECO Energy”¹); Saturn Utilities, LLC; a Delaware limited liability company (“Saturn Utilities”); Saturn Utilities Holdco, LLC, a Delaware limited liability company (“Saturn Holdco”); Saturn Utilities Aggregator, LP, a Delaware limited partnership (“Saturn Aggregator”); Saturn Utilities Aggregator GP, LLC, a Delaware limited liability company (“Saturn Aggregator GP”); Saturn Utilities Topco, LP, a Delaware limited partnership (“Saturn Topco”);

¹ It is intended that TECO Energy’s name will change at or around the time of closing.

Saturn Utilities Topco GP, LLC, a Delaware limited liability company (“Saturn Topco GP”)²; BCP Infrastructure Fund II, LP, a Delaware limited partnership (“BCP Infrastructure Fund II”); BCP Infrastructure Fund II-A, LP, a Delaware limited partnership (“BCP Infrastructure Fund II-A”); and BCP Infrastructure Fund II GP, LP, a Delaware limited partnership (“BCP Infrastructure II GP,” and together with BCP Infrastructure Fund II and BCP Infrastructure Fund II-A, the “BCP Infrastructure Funds”)³ (collectively, the “Joint Applicants”), respectfully request that the New Mexico Public Regulation Commission (“NMPRC” or the “Commission”) approve: (1) the acquisition of TECO Energy, NMGI and NMGC (the “NMGC Group”) by Saturn Holdco (the “Transaction”); (2) the Transition Services Agreement (“TSA”) whereby Emera and its affiliates will provide a variety of support services to the NMGC Group for a period of time after closing the Transaction; (3) the divestiture of the NMGC Group by Emera, EUSHI and TECO Holdings; (4) NMGC’s Amended General Diversification Plan (“Amended GDP”); and (5) any other approvals or authorizations necessary or required under the New Mexico Public Utility Act (“PUA”) to consummate and implement the Transaction. In support of this Joint Application, the Joint Applicants state the following:

I. INTRODUCTION AND DESCRIPTION OF JOINT APPLICANTS

A. NMGC is a New Mexico natural gas local distribution company that provides regulated utility service and delivery of natural gas to over 549,000 customer meters in New Mexico (serving over 1.3 million people), pursuant to NMGC’s Certificate of Public Convenience

² Saturn Aggregator, Saturn Aggregator GP, Saturn Topco, Saturn Topco GP, and Saturn Utilities, collectively, are the “Intermediate Companies.”

³ The Intermediate Companies, Saturn Holdco, and the BCP Infrastructure Funds, collectively, are the “BCP Applicants.”

and Necessity issued by the Commission in Case No. 08-00078-UT. NMGC is headquartered at 7120 Wyoming Blvd., NE, Suite 20, Albuquerque, NM 87109.

B. NMGI is a public utility holding company that owns and holds 100% of the issued and outstanding stock of NMGC; NMGI conducts no business other than owning and holding NMGC stock. In turn, 100% of the issued and outstanding stock of NMGI is owned and held by TECO Energy, a public utility holding company; TECO Energy owns no assets other than NMGI. TECO Energy is currently wholly owned by EUSHI and TECO Holdings. NMGI's principal office is located at 7120 Wyoming Blvd., NE, Suite 20, Albuquerque, NM 87109. TECO Energy's principal office is located at 702 N. Franklin Street, Tampa, Florida 33602.

C. Emera is an energy and services company that owns and invests in electric generation, transmission and distribution, natural gas transmission, utility services, and energy marketing and trading. Emera's common stock is publicly traded on the Toronto Stock Exchange. Emera is currently the ultimate parent of NMGC. Emera wholly and directly owns EUSHI and indirectly owns TECO Holdings. Emera's ownership structure is further described in the Direct Testimony of Karen Hutt. Emera is filing as a co-applicant because it seeks to sell the NMGC Group. Emera's principal office is located at 5151 Terminal Road, Halifax, Nova Scotia, B3J 1A1 Canada.

D. Saturn Holdco is a recently-created Delaware limited liability company formed solely for the purpose of entering into the Purchase and Sale Agreement dated August 5, 2024 ("PSA"), completing the Transaction, and thereafter owning 100% of the Equity Interests of TECO Energy and, indirectly, of NMGI and NMGC. Saturn Holdco has not engaged in any business except for activities incidental to its formation and as contemplated by the PSA. Saturn Holdco is filing as a co-applicant because, subject to the terms of the PSA, upon the closing of the

Transaction, Saturn Holdco will become the sole owner of TECO Energy and, therefore, the sole indirect owner NMGI and NMGC. Saturn Holdco's sole member is Saturn Utilities, which is an indirect wholly owned subsidiary of the BCP Infrastructure Funds with the sole purpose of owning the equity interests in Saturn Holdco. Saturn Holdco's principal office is located at 400 Convention Street, Suite 1010, Baton Rouge, LA 70802.

E. The BCP Infrastructure Funds comprise the three funds that will be the ultimate parent entities of NMGC upon closing of the Transaction. The BCP Infrastructure Funds own 100% of the limited partnership interests in Saturn Aggregator, and own 100% of Saturn Aggregator GP and Saturn Topco GP. BCP Infrastructure II GP, which will hold a de minimis amount of ownership in Saturn Holdco, is the general partner of both BCP Infrastructure Fund II and BCP Infrastructure Fund II-A. It is anticipated that the BCP Infrastructure Funds will, in the future, make other investments similar but unrelated to those in this Transaction, with similar ownership structures. In no instance would any future company in which the BCP Infrastructure Funds invest have any control or management authority over NMGC or any of the Intermediate Companies. BCP Infrastructure II GP anticipates contracting with Bernhard Capital Partners Management, LP ("BCP Management") for BCP Management's expertise in assisting investors in infrastructure businesses. BCP Management is a Delaware limited partnership and an independent services and infrastructure-focused private equity management firm with approximately \$4.4 billion in assets under management. Established in 2013 and with offices in Baton Rouge, New Orleans, Louisiana and Nashville, Tennessee, BCP Management supports investments of large institutional investors, such as public and private pension funds, college endowments, insurance companies, labor union funds and other investment groups. BCP Management acts as an investment manager and is well-versed in the industries in which the investment funds invest, and

thereby is capable of providing support for investors and their portfolio companies. BCP Management does not manage the operations of the portfolio companies of the funds it supports, and, accordingly, will not manage the operations of NMGC. BCP Management is not a party to the PSA and does not and will not directly or indirectly own or control NMGC. The BCP Infrastructure Funds and BCP Management are described further in NMGC's Amended GDP, which is attached to the Direct Testimony of Jeffrey M. Baudier as JA Exhibit JMB-3. The BCP Infrastructure Funds are filing as co-applicants because they will be the ultimate parent entities of NMGC if the Transaction is approved and consummated. The principal office of the BCP Infrastructure Funds is located at 400 Convention Street, Suite 1010, Baton Rouge, LA 70802.

F. The following designated corporate representatives and attorneys for the BCP Applicants, Emera, and the NMGC Group should receive all notices, pleadings, discovery requests, objections and responses, briefs, and all other documents related to this case:

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II. DESCRIPTION OF THE TRANSACTION

A. The terms of the Transaction are contained in the PSA. A copy of the PSA is attached to the Direct Testimony of Jeffrey M. Baudier as JA Exhibit JMB-2. Under the PSA, Saturn Holdco will purchase one hundred percent 100% of the Equity Interests (as defined in the PSA) of TECO Energy from EUSHI and TECO Holdings. Upon the closing of the Transaction, TECO Energy will become a wholly owned subsidiary of Saturn Holdco, which is an indirect subsidiary of and controlled by the BCP Infrastructure Funds. TECO Energy will also be a subsidiary of the Intermediate Companies which will thereby each become indirect public utility holding companies of NMGC. The aggregate purchase price for the Equity Interests of TECO Energy is \$1.252 billion including the assumption of approximately \$550 million of existing NMGC debt and subject to customary post-closing adjustments.

B. NMGC will continue in existence and remain a wholly owned subsidiary of NMGI and subject to the jurisdiction of the NMPRC.

C. The headquarters for NMGC's utility operations will remain in Albuquerque, New Mexico.

D. TECO Energy will remain the sole shareholder of NMGI.

E. Emera and its affiliates will continue to provide services to NMGC for a period of up to eighteen (18) months after closing of the Transaction pursuant to the TSA. These support services will facilitate an orderly and efficient transition by allowing NMGC to continue to receive shared services from Emera and its affiliates for a designated period of time after the Transaction closes.

F. The Transaction will close after all required regulatory approvals are received and all conditions are met. In addition to the present filing, an antitrust review will be filed pursuant

to the Hart-Scott-Rodino Antitrust Improvements Act (“Hart-Scott-Rodino”), to be reviewed by the United States Department of Justice or Federal Trade Commission. Further, a filing with the Federal Communications Commission (“FCC”) will be made associated with the FCC licenses maintained by NMGC due to the change in ownership of the parent company of the operating company holding the FCC licenses.

G. The Joint Applicants state and represent that the BCP Infrastructure Funds’ and Saturn Holdco’s acquisition of the NMGC Group will not:

1. change NMGC’s legal status as a public utility that is regulated by the NMPRC under the PUA;
2. affect NMGC’s ability to provide reasonable and proper gas utility service to its New Mexico customers at fair, just, and reasonable rates; nor
3. affect the Commission’s authority to supervise and regulate NMGC’s rates and service.

H. The Transaction will not require the issuance or refinancing of any NMGC or NMGI debt.

III. NMGC’S AMENDED GENERAL DIVERSIFICATION PLAN

A. Joint Applicants also request Commission approval of the Amended GDP which contains the information required by 17.6.450 NMAC (“Rule 450”) in order for NMGC to engage in the Class II transaction of establishing the BCP Applicants as indirect public utility holding companies of NMGC.

B. The BCP Applicants and the NMGC Group make the following representations required by Rule 450:

1. The books and records of NMGC will be kept separate from those of non-regulated businesses and NMGC's affiliates in accordance with the Uniform System of Accounts.
2. The NMPRC and its Staff will have access to the books, records, accounts, or documents of NMGC, its affiliates, corporate subsidiaries, or holding companies pursuant to NMSA 1978, Sections 62-6-17 and 62-6-19.
3. The supervision and regulation of NMGC pursuant to the PUA will not be obstructed, hindered, diminished, impaired, or unduly complicated.
4. NMGC will not pay excessive dividends to any holding company, and any holding company will not take any action which will have an adverse and material effect on NMGC's ability to provide reasonable and proper service at fair, just and reasonable rates.
5. NMGC will not without prior approval of the Commission:
 - (a) loan its funds or securities or transfer similar assets to any affiliated interest; or
 - (b) purchase debt instruments of any affiliated interests or guarantee or assume liabilities of such affiliated interests.
6. All applicable statutes, rules, or regulations, federal or state, have been or will be complied with.
7. If required by the Commission, NMGC will have an allocation study (which will not be charged to ratepayers) performed by a consulting firm chosen by and under the direction of the Commission.
8. If required by the Commission, NMGC will have a management audit (which will not be charged to ratepayers) performed by a consulting firm chosen by and under the

direction of the Commission to determine whether there are any adverse effects of the proposed Class II transaction upon NMGC.

C. Joint Applicants assert that NMGC's Amended GDP is in the public interest because the level of investment being made by the BCP Applicants is reasonable and NMGC's ability to provide reasonable and proper utility service at fair, just, and reasonable rates will not be adversely and materially affected by the Transaction, or its resulting effects. The Joint Applicants further assert the standards and representations in Rule 450.10 will be maintained.

**IV. BENEFITS OF THE TRANSACTION AND ASSURANCE OF
REASONABLE AND PROPER SERVICE AT FAIR, JUST, AND
REASONABLE RATES⁴**

A. The Transaction provides the following principal new benefits to NMGC customers:

1. The BCP Applicants and NMGC anticipate that the Transaction will result in adding approximately 51 to 61 new jobs in New Mexico as support services currently performed for NMGC by Emera and its affiliates out-of-state are moved to New Mexico. These new jobs could include positions in areas such as information technology, finance, human resources and other similar support functions. NMGC and its customers will experience improved quality and reliability of back-office service from the relocation of these support services to New Mexico.

2. NMGC will evaluate opportunities for the development of and investment in renewable natural gas, certified low emission natural gas, and/or other lower-carbon energy sources including low-carbon hydrogen development, without seeking recovery from customers for the costs of those evaluations.

⁴ A complete list of the benefits of the Transaction is contained in the Direct Testimony of Jeffrey M. Baudier.

3. NMGC will contribute \$5 million over a period of five years to economic development projects or programs in NMGC's service territory designed to attract new business and to retain and grow existing businesses, without seeking recovery from customers for the costs of those economic development projects or programs.

4. NMGC will make annual charitable contributions of cash or in-kind donations valued at a minimum of \$500,000 for five years to qualified, tax-exempt organizations that are engaged in the development and improvement of communities and citizens in NMGC's service territory. NMGC will not seek recovery from customers of those contributions or in-kind donations.

B. The Transaction and related commitments maintain or strengthen existing benefits and protections to ensure NMGC will continue to provide reasonable and proper utility service at fair, just, and reasonable rates:

1. NMGC will invest a minimum of the rolling three (3) year average for depreciation and amortization expense on an average annual basis in the NMGC system as needed to ensure reliability and safety until the issuance of the final order in NMGC's next general rate case. NMGC agrees that all investments will be subject to prudence review in NMGC's next general rate case.

2. NMGC will not close or relocate to outside of New Mexico its call center operations, and all regional or operations offices will remain open in their respective communities, unless otherwise authorized by the Commission.

3. NMGC Gas Control Operations will not be moved out of New Mexico without prior express Commission approval.

4. The BCP Applicants will not sell their interest in NMGC for at least five (5) years after closing of the Transaction.

5. NMGC will continue to participate in annual JD Power Residential Gas Utility Customer Satisfaction Surveys and provide the Commission with the results.

6. NMGC agrees to continue filing specific customer service reports as ordered in NMPRC Case No. 09-00163-UT (expired June 2013) and agrees to include in this filing supplemental customer service reports regarding leak response time and damages per 1,000 locate ticket requests.

7. NMGC will maintain a post-closing equity ratio of at least fifty percent (50%) at NMGC until the final order in the next general rate case using a capital structure that includes equity and the par amount of long-term debt only. If the twelve (12) month average equity ratio falls below fifty percent (50%) for more than two (2) consecutive quarters, capital will be invested in NMGC to achieve the fifty percent (50%) equity ratio.

8. NMGC will not seek a regulatory equity ratio in its next base rate proceeding in excess of fifty-four percent (54%). NMGC agrees that the Commission is not bound to accept this as the equity ratio and acknowledges that other parties may propose different equity ratios in the next rate proceeding.

9. NMGC will not, directly or indirectly, seek to recover in any future rate case, any increased goodwill or the increase in any other intangible asset resulting from the Transaction and allocated to NMGC ("Acquisition Premium"). NMGC agrees not to revalue its assets that are a part of New Mexico regulatory rate base to reflect the Acquisition Premium. NMGC will continue to value such assets for all Commission regulatory purposes based on the original cost, less accumulated depreciation valuation methodology.

10. None of the direct costs of the Transaction, including, but not limited to, costs such as legal fees, investment banking fees, accounting fees, consulting fees, costs of this Commission proceeding, Hart-Scott-Rodino filing fees, FCC filing fees, and employee travel expenses, accrued by Joint Applicants will be recovered directly or indirectly from NMGC customers. However, NMGC may seek recovery of capital expenditures made in the course of completing the Transaction or as part of the transition to a standalone utility if the capital assets are used and useful after the closing of the Transaction, except as explicitly excluded in this proceeding or through the express agreement of the parties and approved by the Commission. Any such request for rate recovery will be subject to review by the Commission in the next NMGC base rate proceeding prior to any recovery.

11. No debt of NMGC is being reissued as a result of the Transaction.

12. All of NMGC's existing rates, rules, and forms as currently approved will remain in force and unchanged until such time as any changes are approved by the Commission.

13. The Transaction will not result in any disruption or adverse impact to NMGC's gas supply or associated hedging arrangements.

14. NMGC will not, without prior Commission approval, pay dividends any time its credit metrics are below investment grade. The restriction on the amount of dividends that may be paid does not apply to equity infused by NMGI into NMGC, which may be transferred out of NMGC without restriction, except that such transfers may not be made if NMGC's credit metrics are below investment grade. Transfers of funds necessary to pay NMGC's tax obligations shall not be construed as dividends. NMGC agrees to continue to have its credit rating performed by one or more nationally recognized credit rating agencies so long as the BCP Applicants own direct or indirect interest in NMGC.

15. NMGC will not, without prior Commission approval, pay dividends in excess of net income, on a quarterly basis; provided, however, NMGC will be permitted to rollover under-utilized dividend capacity in any quarter to a subsequent period for payment. The restriction on the amount of dividends that may be paid does not apply to equity infused by NMGI into NMGC, which may be transferred out of NMGC without restriction, except that such transfers may not be made if NMGC's credit metrics are below investment grade. Transfers of funds necessary to pay NMGC's tax obligations shall not be construed as dividends.

16. NMGC will file with the Commission a notice ("Notice") of its intent to pay a dividend at least fifteen (15) days prior to the dividend being paid and will provide NMPRC Utility Division Staff ("Staff") and the New Mexico Department of Justice a copy of the Notice on the same day it files the Notice with the Commission.

17. The BCP Applicants will continue, in substantially similar form, the separate local_subsidary Board of Directors for NMGC ("NMGC Board") which will continue to provide governance oversight and guidance of the strategy and business plans of the NMGC management team. The NMGC Board shall continue to consist of the President of NMGC, local business and community leaders, and senior executives as designated by the BCP Applicants. As is currently the practice, the majority of the NMGC Board shall be composed of local business and community leaders selected to promote diversity on the NMGC Board consistent with good governance practices. The President of NMGC will report to the NMGC Board.

18. The BCP Applicants and the NMGC Group affirmatively commit to take all actions necessary to ensure that NMGC's customers do not subsidize the activities of other utilities, or non-utility activities. NMGC will be operated as a standalone natural gas local distribution company and it is not anticipated that affiliates will provide goods or services to

NMGC. NMGC will meet its obligation to report any Class I transactions, and understands that in any future rate case, or upon the Commission’s initiative, the Commission can inquire into any concerns regarding subsidization between other businesses and NMGC. As provided for in and during the term of the TSA, support services will be provided to NMGC by Emera and its affiliates in an economically efficient manner that avoids cross subsidization and are consistent with the cost allocation manual (“CAM”) that was developed in collaboration between NMGC and the Staff and filed with the Commission in 2015, and subsequently amended.

19. During the term the TSA is in place or in the event that NMGC begins to receive services from another investment fund company supported by BCP Management, NMGC will provide annual public submissions to the Commission of allocation information by FERC account and subaccounts, including total amounts allocated for the prior year, total amounts directly assigned to NMGC, with description of the cost, the amount and nature of cost allocated to each affiliate and utility and non-utility operations, the methodology used, including work papers for the allocations.

20. The books and records of NMGC will be kept separate from those of non-regulated businesses and NMGC’s affiliates in accordance with the Uniform System of Accounts.

21. The Commission and its Staff will have access to the books, records, accounts, or documents of NMGC’s affiliates, corporate subsidiaries or holding companies pursuant to NMSA 1978, Sections 62-6-17 and 62-6-19.

22. NMGC agrees not to invest in businesses that do not have a significant relationship to regulated services NMGC provides.

23. NMGC will continue to abide by all applicable NMPRC rules, regulations, and orders, including compliance with all Class I transaction requirements.

24. NMPRC jurisdiction over NMGC will remain in place and will not be diminished or adversely affected in any manner as a result of the Transaction.

25. The BCP Applicants agree to the jurisdiction of the NMPRC for the purpose of providing the books and records of each, and providing access to testimony of officers and directors for the purposes of NMPRC oversight and regulation of NMGC rates.

V. OTHER MATTERS

A. Joint Applicants include and incorporate as if fully set forth in this Joint Application the Direct Testimony and Exhibits of the following witnesses: Jeffrey Baudier, Karen Hutt, Ryan Shell, and Christopher Erickson, Ph.D.

B. Joint Applicants will serve a copy of this Joint Application and supporting Direct Testimony and Exhibits on the parties to NMGC's last rate case, NMPRC Case No. 23-00255-UT, and will publish notice of this filing in accordance with the requirements of the PUA and the Commission's Rules of Practice and Procedure. The Joint Applicants' Proposed Form of Notice to Customers is attached hereto as Exhibit 1.

VI. REQUESTED APPROVALS AND AUTHORIZATIONS FOR THE TRANSACTION

To complete the Transaction, Joint Applicants request that the Commission grant the following approvals and authorizations:

A. Joint Applicants request that the Commission approve the Transaction pursuant to NMSA 1978, Sections 62-6-12 and -13, as the acquisition of TECO Energy by Saturn Holdco under the PSA is lawful and not inconsistent with the public interest.

B. Joint Applicants request the Commission approve the TSA to permit the NMGC Group to receive a variety of support services from Emera and its affiliates for a period of time after closing the Transaction.

C. Pursuant to Rule 450.10, Joint Applicants request approval of NMGC's Amended GDP to engage in the Class II transaction in which NMGC will be acquired and wholly owned indirectly by Saturn Holdco. Approval of the Amended GDP is in the public interest because NMGC's ability to provide reasonable and proper utility service at fair, just, and reasonable rates will not be adversely and materially affected by the proposed Class II transaction or its resulting effects; the representations required by Rule 450.10 have been made; the information required by Rule 450.10 has been provided; and the level of investment for the proposed Class II transaction is reasonable.

D. Pursuant to Rule 450.15, Joint Applicants request approval of the divestiture of the NMGC Group by Emera, EUSHI and TECO Holdings.

WHEREFORE, Joint Applicants respectfully request that the Commission enter its final order granting the following relief:

1. Approve the Transaction and authorize the BCP Infrastructure Funds to become the ultimate parent entities of NMGC through Saturn Holdco's direct ownership of TECO Energy;
2. Approve NMGC's Amended GDP pursuant to Rule 450.10 in order to engage in the Class II transaction of the BCP Applicants becoming indirect public utility holding companies of NMGC;
3. Approve the TSA whereby Emera and its affiliates will provide a variety of support services to the NMGC Group for a period of time after closing the Transaction;

4. Approve of the divestiture of the NMGC Group by Emera, EUSHI and TECO Holdings; and

5. Grant such other and further approvals, consents, authorizations, and relief as the Commission deems necessary and appropriate to consummate and implement the Transaction, the TSA and NMGC's Amended GDP.

Respectfully submitted this 28th day of October 2024.

**JENNINGS HAUG KELEHER MCLEOD
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