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BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE COMPANY OF NEW MEXICO FOR APPROVAL OF ELECTRIC ENERGY EFFICIENCY PROGRAMS AND PROGRAM COST TARIFF RIDER PURSUANT TO THE NEW MEXICO PUBLIC UTILITY AND EFFICIENT USE OF ENERGY ACTS,	)	**Case No. 14-00310-UT**
PUBLIC SERVICE COMPANY OF NEW MEXICO,	)	
Applicant.	)	

TESTIMONY IN SUPPORT OF PARTIAL STIPULATION

OF

JOHN J. REYNOLDS

FEBRUARY 6, 2015

Q. Please state your name and occupation and your business address.

A. My name is John J. Reynolds. I am employed by the New Mexico Public Regulation Commission ("NMPRC" or "Commission") as a Utility Economist in the Utility Division. My business address is 1120 Paseo de Peralta, Santa Fe, NM 87501.

Q. Please summarize your educational background.

A. I earned a Bachelor of Arts degree in linguistics as well as a Masters in Business Administration with a concentration in Finance from the University of Rochester in Rochester, NY.

Q. Please summarize your professional experience.

A. From 1978 to 2002, I worked in the non-ferrous metals production and manufacturing industry in internal auditing, purchasing of raw materials and trading of commodity derivatives to manage exposure to price fluctuations. More recently, I have worked as an analyst for individual income taxation with the Commonwealth of Virginia and as a Federal Royalty Auditor in the Oil & Gas Bureau of the State of New Mexico's Taxation and Revenue Department. In September 2008, I joined the Commission as a Utility Economist. In the middle of 2011, my assignment within the Utility Division changed and I have since been focusing primarily on energy efficiency and renewable energy matters. Since then, I have attended two annual workshops of the Southwest Energy

Efficiency Project ("SWEEP") as well as the National Conference on Energy Efficiency as a Resource in 2011 hosted by the American Council for an Energy-Efficient Economy ("ACEEE"). I have also attended New Mexico State University's Practical Regulatory Training Seminar in 2010 and the National Association of Regulatory Utility Commissioners' Utility Rate School in 2012 offered by Michigan State University.

Q. Have you previously testified before this Commission?

A. Yes. Please see Appendix A for a listing of cases in which I filed either testimony or an affidavit.

Q. What is the purpose of your testimony?

A. The purpose of my testimony is to support the Stipulation filed in this case on January 30, 2015 ("Stipulation") regarding Public Service Company of New Mexico's ("PNM") Application for approval of its 2014 Energy Efficiency and Load Management Plan ("Program Plan" or "2014 Plan"). The Stipulation resolves all issues relating to the 2014 Plan proposed by PNM in its Application filed on October 6, 2014 except for the timing of profit incentive recovery which I will address later. My testimony will (1) review each of the requests made by PNM in its Application, (2) explain how PNM's requests are modified or not by the Stipulation, (3) address the unresolved issue related to the timing of incentive recovery, and (4) provide Staff's recommendation with respect to each request as modified or not by the Stipulation.

Q. Have you included any attachments in support of your testimony?

A. Yes, I have included the following exhibit with my testimony:

JJR-1: Filing Requirements for Program Approval

JJR-2: Staff Proposal – Extended Duration of EE Incentive Recovery

Q. Are other Staff witnesses filing testimony in support of the Stipulation?

A. No.

Q. Please discuss the impact of the amended Efficient Use of Energy Act on PNM's Application.

A. In the 2013 session of the New Mexico State Legislature, the passage of House Bill 267 resulted in significant amendments to the Efficient Use of Energy Act ("EUEA") which became effective on July 1, 2013. These amendments define program costs and affect overall program funding, low-income program funding, cost-effectiveness testing, large customer recovery caps and 2020 savings requirements.

First, the amended EUEA adds a definition of "program costs" as costs relating to the development and implementation of programs but which excludes any incentives or the removal of disincentives.

Second, the EUEA now precisely sets funding for electric investor owned utilities ("IOUs") by providing in part that "[f]unding for program costs for investor-owned electric utilities shall be three percent of customer bills, excluding gross receipts taxes and franchise and right-of-way access fees, or seventy-five thousand dollars ($75,000) per customer per calendar year, whichever is less, for customer classes with the opportunity to participate"[1]. Significantly, the $75,000 customer cap for electric IOUs now applies to newly defined "program costs".

Third, funding for low-income energy efficiency programs shall not be less than five percent (5%) of total program costs to the extent the utility's overall portfolio remains cost-effective[2].

Fourth, cost-effectiveness testing of energy efficiency or load management programs has been modified as a result of replacing the Total Resource Cost test ("TRC") in the earlier version of the EUEA with the Utility Cost Test ("UCT")[3] in the amended version.

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[1] EUEA as amended in 2013 by House Bill 267; Section 62-17-6A NMSA 1978.
[2] Id.
[3] The UCT is defined in the EUEA as amended in 2013 by House Bill 267; Section 62-17-4K NMSA 1978.

Fifth, the amended EUEA omits language from the earlier version of the EUEA that limits the customer impact of cost recovery to $75,000 annually[4].

Sixth, the savings requirements for 2020 applicable to electric IOUs as defined in the EUEA have changed from 10% to 8% of the utility's 2005 total retail kilowatt-hour sales to New Mexico customers[5]

Q. Is PNM's Application in this case the first one filed since the effective date of the latest version of the EUEA?

A. Yes.

Q. What is the status of the Commission's Energy Efficiency Rule (17.7.2 NMAC)?

A. The Commission's Final Order in a rulemaking case[6] resulted in the approval and adoption of a substantially revised 17.7.2 NMAC (2015 Version) which was published in the New Mexico Register and became effective on January 1, 2015. In light of a New Mexico Supreme Court opinion in July 2011 nullifying the previously existing 2010 version of the energy efficiency ("EE") rule, it had been Staff's practice to rely on the earlier 2007 version of the rule for energy efficiency compliance purposes. In the Commission's Final Order Granting

[4] "The only limit to the tariff rider or customer impact for any utility customer is that it shall not exceed seventy-five thousand dollars ($75,000) per year without the customer's consent." Earlier version of EUEA, 62-17-6A NMSA 1978.
[5] EUEA as amended in 2013 by House Bill 267; Section 62-17-5G NMSA 1978.
[6] Final Order Repealing and Replacing Rule 17.7.2 NMAC; Filed on October 8, 2014 in NMPRC Case No. 13-00310-UT.

Blanket Variances of November 22, 2011 in Case No. 11-00439-UT ("Order"), the Commission had waived until further order the 1.5% customer impact cap under 17.7.2.7(Z) NMAC (2007 Version) as well as the annual requirement for energy efficiency program approval under 17.7.2.9(B) NMAC (2007 Version). This Order also states that public utilities are to file for program approval not less than every two years. PNM's Application was filed in this case before the current EE rule became effective at the beginning of this year. The Stipulation addresses the prospective applicability of the EE rule. However, my review of the Application's compliance with the EE rule will be based on the prior practice of relying on the 2007 Version of the EE rule as modified by the Commission by the Order in 11-00439-UT.

Q. Have you reviewed PNM's Application in this proceeding?

A. Yes. I have reviewed PNM's Executive Summary, PNM's Application as well as PNM's Notice to Customers, PNM's Advice Notice No. 501 for a 13th Revised Rider No. 16, and the direct testimonies of Gerard T. Ortiz ("Ortiz Direct"), Steven M. Bean ("Bean Direct"), and Stella Chan ("Chan Direct")[7]. PNM Exhibit SMB-1 included with Bean Direct is PNM's detailed description of its proposed 2014 Energy Efficiency and Load Management Program Plan. I have also participated in settlement discussions regarding the 2014 Plan and other issues in this case.

[7] Engineering Staff of the NMPRC's Utility Division was unavailable for the review of the direct testimony of PNM witness O'Connell provided with the Application.

Q. What is PNM requesting in its Application?

A. According to its Application and the supporting direct testimonies thereof, PNM is seeking approvals and authorizations by April 1, 2015 required by the Public Utility Act ("PUA") and the Efficient Use of Energy Act ("EUEA") for:

i) One new electric energy efficiency programs included in PNM's 2014 Program Plan: the Multi-Family Program;

ii) Consolidation of four existing residential programs into a single Residential Comprehensive Program. The four existing residential programs that PNM proposes to consolidate are the Refrigerator Recycling Program, the Home Energy Check-Up Program, the Low Income Home Energy Check-Up Program and the Stay Cool Program;

iii) Revised budgets and projected participation levels for nine existing or consolidated energy efficiency ("EE") and load management ("LM") programs from the current 2012 Program Plan that PNM proposes to continue and include with the proposed 2014 Program Plan;

iv) Termination of two existing energy efficiency programs from the current 2012 Program Plan: the Community CFL Program at the end of 2014 and the Home Energy Reports Program at the end of 2015;

v) 13th Revised Tariff Rider No. 16 as set forth in Advice No. 501 to recover the costs of its proposed 2014 Plan through PNM's proposed tariff rider ("EE Rider");

vi) Annual profit incentive pursuant to Section 62-17-5(F) of the EUEA to be recovered in concert with program costs through the EE Rider; and

vii) All other approvals, authorizations and relief that may be required by the PUA, EUEA, and any Commission rules and orders for PNM to implement the 2014 Plan and revisions to the EE Rider.

Q. Please summarize the energy efficiency and load management programs proposed in its Application by PNM for its 2014 Plan.

A. PNM's Energy Efficiency and Load Management Plan consists of ten programs for implementation in 2015 (and nine programs for 2016 after one program is discontinued) which largely continue the existing EE and LM programs approved in NMPRC Case No. 12-00317-UT. The proposed annualized budget before profit incentives for the Program Plan is about $25.8 million for 2015 and $26.2 million for 2016. The program budgets conform to the EUEA requirement that funding for program costs shall be 3% of customer bills as projected by PNM. In the residential segment, there are eight programs for 2015 (and seven for 2016) open to all residential customers. These include a load management program, an educational program which targets fifth graders, as well as two programs and an element of a consolidated program which target low-income customers. In the business segment, there is a single comprehensive energy efficiency program that offers incentives for a number of measures as well as a load management program. Finally, PNM also proposes to continue the Market

Transformation program which, while it does not directly generate savings, supports the other programs in PNM's portfolio with outreach, promotion and education.

Q. How are the programs proposed by PNM in its 2014 Plan modified by the Stipulation?

A. The Stipulation (§§ 7-11) does not modify either the portfolio of programs or the program budget. However, in order to transition neatly into the requirements of the new EE rule (2015 Version), PNM and Staff concur that the requirements of the effective EE rule shall apply prospectively. In order to dovetail into the annual application cycle now required, PNM and Staff agree the 2014 Plan should apply upon Commission approval for the remainder of 2015 and for all of 2016. The calendar year 2015 program budget is to be a prorated blend[8] of the existing budget for the first five months of 2015 and the proposed 2015 program budget of the 2014 Plan for the last 7 months for 2015[9]. For calendar year 2016, the program budget is to be $26,213,826 as proposed by PNM in its 2014 Plan. PNM and Staff further agree that PNM's next annual EE program plan application required by the EE rule to be filed in 2016 should address program

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[8] This is consistent with PNM's past practice of prorating calendar year EE program budgets based on timing of plan approval by the Commission.

[9] The existing annualized program budget for the 2012 Plan is $24,360,051. 5/12 of that budget is $10,150,021. The annualized 2015 program budget proposed with the 2014 Plan is $25,805,151. 7/12 of that budget is $15,053,005. Therefore, assuming timely Commission approval, the program budget for calendar year 2015 is to be $25,203,026 ($10,150,021 + $15,053,005).

implementation for calendar year 2017[10]. Staff expects that subsequent annual applications shall address subsequent calendar years. Notwithstanding the ability of any interested party to petition the Commission to terminate a measure or program for good cause as provided for by the EE rule[11], Staff and PNM concur that during an approved plan year PNM may adjust individual program spending without Commission approval[12] in order to deploy its overall program budget cost effectively while remaining within contractual constraints. Any deviations in actual program spending during a calendar year from Commission authorized funding for the plan year is to be addressed in accordance with the new EE rule.

Q. How is the profit incentive proposed by PNM in its 2014 Plan modified by the Stipulation?

A. Instead of the variable shared incentive approach proposed by PNM in its Application, the Stipulation (§§ 14-19) provides for a fixed profit incentive of $1.75 million on an annualized basis for 2015 and $1.85 million for calendar year 2016. Similar to the proration of program budgets for calendar year 2015, PNM's profit incentive 2015 would be the result of prorating the annualized profit incentive for the 2012 Plan approved by the Commission in Case No. 12-

[10] Staff supports PNM's request in this case for a variance from the filing deadline in the new EE rule of March 1, 2016 to a new deadline of April 15, 2016. See Stipulation § 23.
[11] 17.7.2.12 NMAC
[12] This is consistent with the new EE rule. The new EE rule omits language in the 2007 Version of the EE rule that provided for the utilities to seek Commission approval to modify program budgets for any budget changes exceeding 25%.

00317-UT and the 2015 profit incentive for the 2014 Plan[13]. The Stipulation sets a profit incentive of $1.85 million for calendar year 2016.

Q. Is there a performance basis for the stipulated profit incentives for 2015 and 2016?

A. Yes. The Stipulation provides that the profit incentives in the 2014 Plan only will be paid if PNM adheres to a linear track toward meeting the EUEA savings requirement of 8% of 2005 retail kWh sales[14]. For 2015, the stipulated incentive will only be paid if the cumulative impact of EE programs during 2015 meets or exceeds 452,000,000 kWh (or about 5.5% of PNM's 2005 retail kWh sales) based upon independently evaluated program savings. For 2016, the stipulated incentive will only be paid if the cumulative impact of EE programs during 2016 meets or exceeds 493,000,000 kWh (or about 6% of PNM's 2005 retail kWh sales) based upon independently evaluated program savings.

Q. What if the cumulative impact of EE programs fails to meet or exceed the linear track toward the EUEA's 2020 savings requirement as outlined above?

[13] For the 2012, the Commission found that a "profit margin of 7.6% is fair, just and reasonable" and that it "should be used for reconciliation and compliance purposes". The calculated profit based on this formula should be calculated and prorated for the first five months of 2015 and the result should be added to 7/12 of the stipulated 2015 incentive of $1.75 million to determine the profit incentive for calendar year 2015.

[14] Based on the EUEA savings requirements, the linear track refers to a linear trajectory in percentage terms which starts with 5% in 2014 and ends with 8% in 2020. In between these two years, the linear trajectory is 5.5% in 2015, 6% in 2016, 6.5% in 2017, 7% in 2018, and 7.5% in 2019.

A. For any given year in which PNM's cumulative savings impact is determined to be below the linear track established that year toward the 8% savings requirement, PNM will not receive any profit incentive.

Q. How and when shall PNM recover from ratepayers any stipulated profit incentive for the 2014 Plan?

A. As with program costs, PNM is to recover any profit incentive through its Rate Rider No. 16. However, Staff and PNM are unable to agree on the timing of the recovery of its 2015 and 2016 profit incentives. Staff finds that the introduction of the stipulated performance basis for the profit incentive necessitates a departure from current practice where the recovery of both the program costs and the profit incentives has been concurrent with program spending by the utility. To the extent PNM earns a profit incentive for the successful implementation of EE programs, it is inherently in the public interest that a significant portion of such a bonus or reward should not unfairly burden ratepayers until after independent evaluation of its programs can establish that PNM is indeed on track toward its statutory savings requirement. Aside of prior practice, Staff knows of no support or justification either in the statute or in the rule that requires contemporaneous recovery by PNM of the entire profit incentive largely before performance can be assessed. It is fundamentally and simply unfair for ratepayers to wholly fund a reward or bonus for PNM's benefit before PNM even presents a final report card to its ratepayers. To inject equity and fairness to the recovery of any profit incentive, Staff proposes that the recovery of annual profit incentives take place equally over a period lasting up to two years starting with the month following the filing of PNM's annual reconciliation[15]. This would generally result in PNM recovering about 50% of its annual profit incentive equally over the first 12 months concurrently with program expenditures with the remaining balance of its profit incentive to be recovered, subject to true-up and performance evaluation, during the second 12 months. Compared to the current recovery practice, PNM would recover its entire profit incentive equally over 24 months instead of only over the first 12 months. Exhibit JJR-2 provided herewith is a table which illustrates the monthly recovery of PNM's profit incentives for 2015 and 2016 based on Staff's proposed extended recovery. Staff recommends that the Commission approve an extended recovery period of up to two years for PNM's profit incentive proposed by Staff as a reasonably justified and balanced approach to the payment by ratepayers of a reward or bonus allowed but not guaranteed by the EUEA in exchange for PNM successfully implementing approved programs. Staff's proposal seeks to balance the interest of PNM with those of ratepayers by allowing half of the profit incentive to be recovered before the independent evaluation is available to the ratepayers with the remaining half to be recovered after. Any continuation of the current recovery practice inappropriately burdens

[15] PNM's annual reconciliation and true-up is normally filed in late March for implementation at the start of the May billing cycle. The timing of PNM's next annual reconciliation and true-up may be impacted by the timing of the Commission's Final Order in this case.

ratepayers with premature funding of a reward or bonus before it is definitively earned by PNM.

Q. Please summarize the provisions of the EUEA and EE rule governing the approval of Energy Efficiency and Load Management Plans.

A. The Efficient Use of Energy Act requires a showing (1) that the utility solicited nonbinding recommendations from Staff, the Attorney General, the Energy, Minerals, and Natural Resources Department and other interested parties before seeking the Commission's approval (NMSA 1978, § 62-17-5(E)); (2) that the portfolio is cost-effective (NMSA 1978, § 62-17-5(C)); and (3) that the plan is designed to provide every affected customer class with the opportunity to participate and benefit economically (NMSA 1978, § 62-17-5(C)). The following review concerning the filing requirements met by PNM's Application relate to the 2007 version of the EE rule which guided utility EE applications before January 1, 2015.

Q. Has PNM complied with the pre-filing requirements set forth in NMSA 1978, § 62-17-5(E) and 17.7.2.8(A) NMAC (2007 Version)?

A. Yes, the Commission's rule (17.7.2.8(A) NMAC) (2007 Version) requires the solicitation of public input on proposed programs. PNM provides testimony that describes the public participation process which culminated in Public Advisory Meetings on June 17, 2014 and September 5, 2014[16].

Q. Has PNM complied with the pre-filing requirements set forth in NMSA 1978, § 62-17-6(A) and 17.7.2.8(B) NMAC (2007 Version)?

A. Yes. The rule (17.7.2.8.B NMAC) (2007 Version) requires written consent from the Attorney General if the utility plans to propose a tariff rider that exceeds any statutory dollar and percentage caps. PNM has not proposed at this time to exceed any statutory dollar or percentage caps and has not presented any written consents from the Attorney General.

Q. Has PNM complied with the filing requirements set forth in 17.7.2.9(A) and (B) NMAC (2007 Version)?

A. With respect to 17.7.2.9(A) NMAC (2007 Version), PNM provides testimony that describes the public participation process.[17] With respect to 17.7.2.9(B) NMAC (2007 Version) as modified by the Commission in Case No. 11-00439-UT concerning the timing of the request for program approval, PNM's Application in this case was filed two years after its previous Application in Case No. 12-00317-UT in compliance with the rule[18].

[16] See Bean Direct; pp. 10-11.
[17] See Bean Direct; pp. 10-11.
[18] PNM's Application in 12-00317-UT was filed on October 5, 2012. October 5, 2014 was a Sunday and PNM's Application in this case was filed the next business day.

Q. Has PNM complied with program selection criteria pursuant to 17.7.2.9(C) NMAC (2007 Version)?

A. The mandatory cost effectiveness criterion is addressed separately in my testimony. Further criteria to be considered for program selection are addressed in detail by PNM Witnesses Bean[19]. Staff's review of the Application and the related testimonies indicates these criteria were considered. The criteria include the breadth of system benefits and participation opportunities, cost effectiveness, as well as energy and demand savings.

Q. Does PNM include in its proposed 2014 Plan any indirect impact measures that negate the portfolio's projected overall cost effectiveness as prohibited by 17.7.2.9(D) NMAC (2007 Version)?

A. No.

Q. Does PNM's Application fulfill the filing requirements for approval listed under 17.7.2.9(E)(1) through (17) NMAC (2007 Version) for program approval?

A. Yes. PNM's Plan is a thorough submission of its energy efficiency and load management plans for 2015 and 2016. Refer to Exhibit JJR-1 which details how these requirements were addressed in PNM's Application in this case filed on October 6, 2014.

[19] Bean Direct; pp. 40-41.

Q. With respect to NMSA 1978, §62-17-5(C) and 17.7.2.9(F) NMAC (2007 Version), are each of the energy efficiency programs proposed by PNM cost effective?

A. PNM represents in its Application that each of the energy efficiency and load management programs it proposes to implement in 2015 and 2016 has a Utility Cost Test ("UCT") ratio in excess of one and is therefore projected to be cost effective both before and after the impact of profit incentives. Other than Market Transformation expenses, PNM allocates indirect costs, e.g. internal administration and independent evaluation, to each program based on the program's relative budget. Inclusive of the impact of Market Transformation expenditures and of proposed profit incentives, PNM projects that the entire portfolio's overall UCT ratio for its 2014 Plan is projected to be 1.74 for 2015[20]. As I indicated earlier, the UCT has replaced the TRC as the determining measure of cost-effectiveness since the amended EUEA became effective on July 1, 2013. With the UCT only the program costs borne by the utility are considered.

Q. Is it reasonable to project that the portfolio programs proposed by PNM in its 2014 Plan will be cost effective in 2015 and 2016?

[20] Exclusive of profit incentive, the projected portfolio UCT for 2015 is 1.89.

A. Based on the numerous assumptions about the impact of the measures forming the 2014 Plan that are necessary to quantify the benefits and costs in monetary terms, it is reasonable for PNM to project that its 2014 Plan will be cost effective. Staff's concurrence with the projected cost effectiveness is only for purposes of the Stipulation in this case and Staff reserves its right to contest in any future proceedings the basis of such determination that Staff believes is inconsistent with the EE rule or the EUEA[21].

Q. Does the Commission require that each of the energy efficiency or load management programs proposed by a utility stand on its own with a UCT ratio greater than one?

A. Based on the EUEA and the 2007 version of the EE rule[22], it has been the practice of utility EE applications to support the cost effectiveness of each individual program proposed. That is also the case with the application under consideration in this case. Notwithstanding the latest version of the EE rule effective on January 1, 2015 which only states that the utility "shall demonstrate that its portfolio of proposed measures and programs <u>are</u> cost-effective"[23] [Emphasis added], the EUEA refers in several instances to cost effective programs and measures while both the EUEA[24] and the EE rule[25] refer to the

[21] Stipulation, §13.
[22] "While each program proposed by a utility must be cost effective, each measure within a program need not be cost effective." 17.7.2.9(F) NMAC (2007 Version)
[23] 17.7.2.8(J) NMAC (2015 Version)
[24] NMSA 1978, § 62-17-6 A

recovery by utilities of "prudent and reasonable [program] costs". Staff's view is that the prudency and reasonableness of costs to be recovered by utilities should at a minimum be assessed with an analysis of the cost effectiveness of individual programs. Without this level of granularity, ratepayers bear the risk of supporting identifiable utility expenditures that are demonstrably cost detrimental.

Q. Does PNM's Application include information about the assumptions, calculations and other elements that underlie the projected cost effectiveness of its proposed programs for 2015 and 2016 as required under 17.7.2.9(G)(1) through (6) NMAC (2007 Version)?

A. Staff did not address this information as this portion of the old EE rule (2007 Version) refers to the TRC and the EUEA was subsequently amended to change the cost effectiveness test from the TRC to the UCT.

Q. With respect to NMSA 1978, §62-17-5(C) and 17.7.2.9(J) NMAC (2007 Version), does PNM's proposed portfolio of programs provide every affected customer class with the opportunity to participate and benefit economically?

A. Based on PNM's testimony and Application, Staff finds no limitation to the opportunity to participate other than access to the necessary capital.

[25] 17.7.2.13(B) NMAC (2015 Version)

Q. With respect to 17.7.2.10(A) and (B) NMAC (2007 Version), does PNM's proposed Program Plan meet the rule provision that PNM establish cost effective residential programs that provide the opportunity for all residential customers to participate and does PNM's 2014 Plan specifically include a program for its low-income customers as contemplated by the rule?

A. The calculations provided by PNM in its testimony and Application support PNM's contention that the residential portion of its Program Plan is cost effective. Staff is not aware of any barriers inherent to PNM's proposed programs in its residential segment that may prevent any residential customer from participating. While PNM proposes no single program wholly devoted to low-income customers, PNM is proposing to implement a new Multi-Family Program that largely targets low-income participants who are less likely to be homeowners. PNM further proposes to continue its Low Income Home Energy Check-Up as an element of its consolidated Residential Comprehensive Program, as well as the existing Low Income Refrigerator and CFL Replacement and Easy Savings Kit programs. PNM's Home Works Program which distributes savings kits to fifth graders also indirectly serves a significant number of low income ratepayers.

Q. Does PNM's 2014 Plan provide that at least 5% of what PNM projects to receive for program costs be specifically directed to low-income customers as required by the EUEA (NMSA 1978 § 62-17-6 A)?

A. Yes. PNM's proposed annual budget for the Low Income Home Energy Check-Up element of the Residential Comprehensive Program exceeds $1 million. In concert with the program budgets for Low Income Refrigerator and CFL Replacement and Easy Savings Kit, projected spending in PNM's 2014 Plan specifically directed to low income customers exceeds 5% of the portfolio program budget[26]. The portfolio of programs in PNM's 2014 Plan is projected to remain cost effective even with the inclusion of spending targeted to low income customers.

Q. Does PNM intend to offer a large customer self-direct program pursuant to 17.7.2.11 NMAC (2007 Version)?

A. Yes. PNM proposes to continue offering a separate Large Customer Self-Direct Program.

Q. Does Staff recommend approval of the residential, educational and low-income segment of PNM's 2014 Plan as stipulated?

[26] 5% of a $26 million annual EE program budget is $1.3 million. Given PNM's plan to spend $1 million annually for Low Income Energy Check Up, PNM needs to plan to spend at least $300,000 annually in addition for low income customers to meet the EUEA requirement. The sum of the program budgets for Low Income Refrigerator and CFL Replacement and for Easy Savings Kit exceeds $500,000. Any spending in the new Multi Family program which reaches low income customers would further exceed the EUEA requirement.

A. Yes. As stipulated, Staff recommends approval of the residential, educational and low-income segment of PNM's 2014 Plan. The independent evaluation of the continuing programs for 2013 concluded that these programs were cost-effective based on the TRC. While the transition to the UCT will present a challenge for PNM to maintain the cost effectiveness of each and every program in the residential, educational and low-income segment[27], Staff expects future independent evaluations to support the cost effectiveness of the portfolio of programs in the 2014 Plan.

Q. Does Staff recommend approval of the commercial & industrial segment of PNM's 2014 Plan as stipulated?

A. Yes. As stipulated, Staff recommends approval of the commercial & industrial segment of PNM's 2014 Plan. The independent evaluation of these programs for 2013 concluded that they were cost-effective based on the TRC. The transition to the UCT for the commercial & industrial programs does not appear to present the same challenge PNM is facing for some residential programs. Staff expects future independent evaluations to support the cost effectiveness of the portfolio of programs in the 2014 Plan.

[27] ADM Associates, Inc. (ADM), the statewide independent evaluator of energy efficiency and load management programs in New Mexico, stated in its 2013 annual report for PNM that "declining incremental cost and the upcoming shift to the UCT will strain the cost effectiveness of programs that do not have customer investment". ADM's 2014 annual report for PNM is expected to be available by late March 2015.

Q. With respect to the first requested approval in PNM's application, please address PNM's request for authority to implement the newly proposed Multi-Family Program.

A. Staff supports PNM's renewed attempt to reach non-homeowner customers who appear to be underserved by PNM's existing EE programs. PNM previously implemented a program that targeted renters but it was discontinued as it did not turn out to be cost effective. At this stage, the program is designed to target multi-family housing complexes with a minimum percentage of low-income tenants. With the expertise of a third party implementer, PNM expects to more effectively serve this hard to reach audience.

Q. With respect to the second requested approval in PNM's Application, please address PNM's request for authority to consolidate four existing residential programs into a single Residential Comprehensive Program.

A. Staff supports PNM's request to consolidate the existing Refrigerator Recycling, Home Energy Check-Up, Low Income Home Energy Check-Up and Stay Cool programs into a single Residential Comprehensive Program. Staff expects this proposed consolidation will provide PNM the opportunity to both consolidate expenses and redeploy funding more effectively in order to improve the consolidated program's cost effectiveness.

Q. With respect to the third requested approval in PNM's Application, please address PNM's revised budget and projected participation levels for nine existing or consolidated EE and LM programs from the current 2012 Plan that PNM proposes to continue and include in the 2014 Plan under consideration in this case.

A. Given the EUEA requirement that EE and LM program cost funding are to equal 3% of customer bills, Staff supports the overall budgets proposed by PNM in its 2014 Plan. Commission authorized funding for 2015 and 2016 should be calculated in accordance with 17.7.2.8.C NMAC (2015 Version) and based on the 2014 Plan as stipulated.

Less than 3% of the overall budget is allocated to the single new program proposed in the 2014 Plan[28]. The remaining lion's share of the overall budget is to fund continuing and previously approved programs. Staff therefore expects that PNM has significant data available to effectively allocate funding among these continuing programs.

Q. With respect to the fourth requested approval in PNM's Application, please address PNM's request to terminate two existing programs from its 2012 Plan approved in Case No. 12-00317-UT.

[28] For 2015, the budget for the Multi-Family Program is $685,127.

A. Staff supports the termination by PNM of the Community CFL Program which has already taken place[29] and of the Home Energy Reports Program by the end of 2015. PNM witness Bean explains that negative customer feedback raised concerns about the effectiveness of the behavioral Home Energy Reports Program and about a possible secondary negative impact on other programs[30].

Q. With respect to the fifth requested approval, please summarize the requirements of the EUEA governing the recovery of PNM's program costs.

A. The Efficient Use of Energy Act authorizes the establishment of a tariff rider to provide for the recovery, on a monthly basis, of all reasonable costs of approved energy efficiency and load management programs as well as approved profit incentives for the implementation of such programs. NMSA 1978, § 62-17-6.

Q. How is PNM proposing to recover the program costs associated with its proposed energy efficiency and load management programs for 2015 and 2016?

A. Concurrently with its Application in this case, PNM filed Advice Notice No. 501 which proposes a 13th revision of its Tariff Rider No. 16 ("EE Rider"). One element of the proposed EE Rider addresses the recovery of prudent and

[29] The Community CFL Program was terminated at the end of 2014. Staff understands that PNM had previously planned to terminate this program at that point.
[30] Bean Direct; pp. 22-23.

reasonable program costs. The Commission has suspended the EE Rider until April 20, 2015[31]. PNM is seeking recovery for program costs of 3% of customer bills or an estimated $25,842,415 annually through a revised EE Rider before the impact of any true-up adjustments[32]. The proposed program cost recovery through an EE Rider Rate of 3% appears to be consistent with the new requirement in the EUEA that "funding for program costs for investor-owned electric utilities shall be three percent of customer bills, excluding gross receipts taxes and franchise and right-of-way access fees, or seventy-five thousand dollars ($75,000) per customer per calendar year, whichever is less, for customer classes with the opportunity to participate"[33].

Q. How does PNM propose to recover the profit incentives spelled out in the Stipulation for 2015 and 2016?

A. PNM proposes to recover financial incentives through an additive element to the 3% EE Rider element necessary to recover costs of EE and LM programs of the 2014 Plan. Staff expects PNM will be providing new calculations of the EE Rider profit incentive element to reflect the amount of the stipulated profit incentives for 2015 and 2016 but which are likely to be based on an unresolved duration of recovery for the profit incentives. In all cases, recovery of annual

[31] Order Designating Hearing Examiner and Suspending Tariff; Filed October 22, 2014 in this case.
[32] The estimated annual recovery of $25,842,415 is adjusted for the maximum funding of $75,000 per customer per year (62-17-6A NMSA 1978). See Chan Direct, PNM Exhibit SC-2, Page 1 of 5.
[33] EUEA, 62-17-6A NMSA 1978.

profit incentives will be subject to periodic true-up in accordance with the Commission approved duration of recovery.

Q. Is PNM crediting or charging ratepayers with interest on the over-recovery or under-recovery reconciliation balance?

A. Yes. PNM is currently applying interest on any over- or under-recovery reconciliation at an annual rate of 11.66%. PNM is proposing in this case a significant adjustment of the annual interest rate by replacing the current rate with the customer deposit set annually by the Commission[34].

Q. Does PNM's cost recovery proposal meet the cost eligibility requirements outlined in 17.7.2.12(C) NMAC (2007 Version)?

A. To the extent these requirements apply prospectively, Staff expects that PNM will reasonably seek to recover Commission-approved costs and that these costs will meet the EE Rule's eligibility requirements. The new EE rule (2015 Version) omits language about "eligibility" for recovery but, with the new definition of "program costs" in the EUEA, the new EE rule (2015 Version) appears to be consistent with the old EE rule (2007 Version) with respect to such requirements[35].

[34] Pursuant to 17.9.560.12.B(4)(b) NMAC, the Commission is to post the customer deposit rate annually by January 15. The customer deposit rate for 2015 is 1.61%.
[35] In 17.7.2.12(C) NMAC (2007 Version), there is a reference to "costs associated with development and implementation of Commission-approved programs". The EUEA's new definition of "program costs"

Q. Will PNM's rider be collected on a monthly basis in accordance with 17.7.2.12(D)(1) NMAC (2007 Version)?

A. Staff is unable to find any information in PNM's Application to suggest it intends to depart from the standard practice of collecting this rider on a monthly basis. The new EE rule (2015 Version) similarly provides for the tariff rider to be applied monthly[36].

Q. Will PNM's rider be implemented no earlier than the first billing cycle in which the affected customer class has an opportunity to participate in accordance with 17.7.2.12(D)(2) NMAC (2007 Version)?

A. Subject to prior Commission action in this case, Staff expects that that a revised EE Rider will become effective on the first day of the June 2015 billing cycle at which time the 2014 Plan will be implemented and affected customer classes will have an opportunity to participate. Also, the continuity of the existing programs and measures that will continue in the 2014 Plan suggests a mostly seamless transition where customer classes who have had the opportunity to participate will continue to have that opportunity once Commission approval is granted. The new EE rule (2015 Version) appears to omit language that

refers to "costs of developing and implementing energy efficiency and load management programs" and the new EE rule (2015 Version) refers repeatedly to "program costs".
[36] 17.7.2.13.C(1) NMAC 1978

explicitly prevents cost recovery from being implemented before the affected customer class has an opportunity to participate.

Q. Will PNM's rider be assessed on a percentage-of-bill basis in accordance with 17.7.2.12(D)(3) NMAC (2007 Version)?

A. Yes. In order to align itself with the new statutory 3% funding requirement, PNM is proposing that the program cost element of the EE Rider be set at 3% of customer bills. PNM is likewise proposing that the profit incentive element of the EE Rider be assessed on a percentage-of-bill basis. The new EE rule (2015 Version) appears to omit general language about assessing the rider on a percentage-of-bill basis.

Q. In accordance with 17.7.2.12(D)(4) NMAC (2007 Version), is PNM's proposed rider consistent with program approval findings that every affected customer class has the opportunity to participate and economically benefit?

A. Yes. PNM states that the program cost recovery rider will continue to be applied to every retail customer class that has the opportunity to participate and economically benefit. This also consistent with the new EE rule (2015 Version) which states more generally that "utility recovery of programs costs shall only be from customer classes with an opportunity to participate in approved measures and programs"[37].

Q. Is the period over which PNM is seeking recovery acceptable and in accordance with 17.7.2.12(D)(6) NMAC (2007 Version)?

A. Yes. The period over which PNM seeks recovery for program costs is acceptable. The new EE rule (2015 Version) does not appear to similarly address the time period over which recovery is sought.

Q. Is PNM seeking deferral of costs for future recovery through creation of a regulatory asset as provided under 17.7.2.12(D)(7) NMAC (2007 Version)?

A. No, PNM is seeking no such deferral. The new EE rule (2015 Version) appears to allow utilities to similarly defer recovery with the creation of a regulatory asset[38].

Q. Does PNM include language on their bills in accordance with 62-17-6(A) NMSA 1978 (2007 Version)?

A. Yes. PNM plans to continue including language on most of its bill inserts explaining program benefits in accordance with 62-17-6A NMSA 1978.

[37] 17.7.2.13.A NMAC
[38] 17.7.2.13.E NMAC

Q. With respect to the sixth requested approval in PNM's Application, please address PNM's request for an annual profit incentive pursuant to Section 62-17-5(F) of the EUEA to be recovered in concert with program costs.

A. As addressed above, the Stipulation modifies PNM's original shared incentive approach in this case with a set monetary amount predicated on a minimum evaluated performance. The stipulated profit incentives are $1,750,000 for 2015 and $1,850,000 for 2016. The minimum evaluated performance calls for the cumulative net savings from programs to be at least 5.5% and 6% of 2005 retail kWh sales during 2015 and 2016 respectively. Should PNM's performance fall short of this linear track toward its 2020 EUEA savings requirement in any given year, PNM would not earn the profit incentive that year.

Concerning the timing of incentive recovery, Staff recommends that the Commission order an extended recovery period of up to two years to reduce the unfair burden on ratepayers of wholly funding PNM's profit incentive before it is finally established by an independent evaluation of its performance. With the approval of the extended recovery period, the Commission should further order PNM to revise Tariff Rider No. 16 in order to reflect the impact of the extended period on the rate at which the profit incentive is recovered.

Q. With respect to the seventh requested approval in PNM's Application, please summarize the requirements of the statute and rule governing any further approvals, authorizations and actions that may be required to

implement PNM's proposed Plan, please describe any such requirements of the statute and the rule.

A. Staff is unaware at this time of any further approvals, authorizations or actions required under the EUEA, the New Mexico Public Utility Act (§ 62-3-1 et seq., NMSA 1978, NMPUA), or provided for by the rule, that would be necessary for PNM to implement its proposed Plan for 2015 and 2016 as modified by the Stipulation.

Q. Please summarize Staff's recommendation in this case.

A. Staff recommends that the Commission adopt the Stipulation along with Staff's recommendation that the duration of PNM's profit incentive recovery period be extended for up to two years instead of the current one-year period that is concurrent with program spending to reduce its premature funding by the ratepayers.

Q. Does this conclude your testimony?

A. Yes.

NMPRC Utility Division
Case Experience of John J. Reynolds

NMPRC Case Number	Company(ies)	Type of Filing
07-00316-UT	IOSPs: Evercom, T-Netix, Public Communications Services, Inmate Calling Solutions and Conversant Technologies	Inquiry into Rates and Charges
07-00316-UT	IOSPs: Evercom, T-Netix, Public Communications Services, Inmate Calling Solutions and Conversant Technologies	In Support of Stipulation with PCS & ICS
07-00364-UT	IOSPs: Evercom, T-Netix, Public Communications Services, Inmate Calling Solutions and Conversant Technologies	In Support of Stipulation with PCS & ICS
07-00442-UT	IOSPs: Evercom, T-Netix, Public Communications Services, Inmate Calling Solutions and Conversant Technologies	In Support of Stipulation with PCS & ICS
09-00410-UT	Neutral Tandem - New Mexico, LLC	Staff Protest of Replacement Tariff
09-00426-UT	Globalcom, Inc. DBA First Communications	Staff Protest of Tariff Revision
09-00430-UT	First Communications, LLC	Staff Protest of Tariff Revision
09-00431-UT	Qwest Corporation	Staff Protest of Tariff Revision
10-00045-UT	Talton Communications, Inc.	Order to Show Cause re Application
10-00198-UT	Institutional Operators Service Providers (IOSPs)	Rulemaking
10-00280-UT	Public Service Company of New Mexico	Energy Efficiency 2010 Program Approval
10-00379-UT	Kit Carson Electric Cooperative, Inc.	Rates
11-00047-UT	El Paso Electric Company	Energy Efficiency 2011 Program Approval
11-00123-UT	Public Service Company of New Mexico	Energy Efficiency Tariff Rider Reconciliation
11-00369-UT	New Mexico Gas Company, Inc.	Energy Efficiency 2012 Program Approval
11-00400-UT	Southwestern Public Service Company	Energy Efficiency 2012 Program Approval
11-00047-UT	El Paso Electric Company	2012/2013 Combined Stipulated Adder
12-00217-UT	El Paso Electric Company	2012 Renewable Energy Procurement Plan
12-00317-UT	Public Service Company of New Mexico	Energy Efficiency 2012 Program Approval
13-00168-UT	Sierra Electric Cooperative, Inc.	Asset Transfer
13-00176-UT	El Paso Electric Company	Energy Efficiency 2013 Program Approval
13-00183-UT	Public Service Company of New Mexico	2014 Renewable Energy Procurement Plan
13-00286-UT	Southwestern Public Service Company	Energy Efficiency 2014 Program Approval
14-00158-UT	Public Service Company of New Mexico	2015 Renewable Energy Procurement Plan
15-00002-UT	Securus Technologies, Inc.	2015 Renewable Energy Procurement Plan

Sec	To be provided with application to Commission and interested parties	Staff Review
E	Executive summary to facilitate Commission review	Filed with Application. Follows Cover Letter. Also, SMB-1, Section 1, pp. 3-4
(1)	Summary of existing programs and description of their relationship to the proposed programs, including a detailed explanation of all customer education efforts	Bean Direct; p. 12. Also, SMB-1, Table 1-2, Section 1.1, p. 4
(2)	Program objectives, including measures and projected savings	Bean Direct; SMB-1, p. 14, Table 4-3 Bean Direct; SMB-1, Sec 5, pp. 17-30
(3)	Rate impact and customer bill impact, including data showing that the tariff rider will not cause any customer to be charged an amount greater than that permitted by the Efficient Use of Energy Act	Chan Direct; pp. 5-6 & p. 9, PNM Exhibit SC-2. As proposed by PNM and subject to revision per Stipulation
(4)	Program implementation and administration plan	Bean Direct; SMB-1, pp. 9-10
(5)	Description of the responsibilities which will be assigned to utility personnel and to contractors	Bean Direct; SMB-1, pp. 9-12
(6)	Targeted market segment, and the program's marketing and outreach plan	Bean Direct; SMB-1, pp. 17-30
(7)	Program participation requirements, if any	Bean Direct; SMB-1, pp. 17-30
(8)	Time period during which the program will be offered	Stipulation §7
(9)	Expected useful life of the measures	Bean Direct; SMB-1, Appendix C
(10)	Detailed program budgets with projected expenditures, identifying program costs which will be borne by the utility and collected from its customers, with customer class allocations if appropriate	Bean Direct; SMB-1, Table 1-2
(11)	Participant costs	Not applicable with UCT
(12)	Demonstration that the program is cost effective pursuant to the ~~total resource~~utility cost test	Bean Direct; p. 49 Bean Direct; SMB-1, Appendix C
(13)	Plan for how program energy and capacity savings can be measured and verified	Bean Direct; SMB-1, pp. 16-17
(14)	Rationale and methodology used by the utility to estimate the proposed expenditures, and allocate the expenditures across programs and customer classes	Bean Direct; SMB-1, pp. 7-12
(15)	Proposed market transformation, and building code and appliance standard reforms, if any, which they have studied or propose as part of their program portfolios	Bean Direct; pp. 30-32
(16)	Forecasts of proposed program expenditures, energy and capacity savings, cost effectiveness and other items in a manner that facilitates comparison with actual results for purposes of measurement and verification, and compilation of annual reports	Bean Direct; Table 1 (p. 4), Table 4 (p. 41), Table 5 (p. 44), Table 6 (p. 46) and Table 7 (p. 47)
(17)	General description of the programs which the utility specifically studied and rejected	Bean Direct; pp. 16-17 & pp. 27-30

Staff Proposal - Extended Duration of EE Incentive Recovery

	2012 Plan	2014 Plan		Total Recovery by Month	Total Recovery by Year
		2015 Incentive	**2016 Incentive**		
Annual	$1,700,000	**$1,750,000**			
To Be Recovered:		$1,041,667			
Jan-15	$141,667			$141,667	
Feb-15	$141,667			$141,667	
Mar-15	$141,667			$141,667	
Apr-15	$141,667			$141,667	
May-15	$141,667			$141,667	
Jun-15		$45,290		$45,290	
Jul-15		$45,290		$45,290	
Aug-15		$45,290		$45,290	
Sep-15		$45,290		$45,290	
Oct-15		$45,290		$45,290	
Nov-15		$45,290		$45,290	
Dec-15		$45,290		$45,290	$1,025,362
Annual			**$1,850,000**		
Jan-16		$45,290		$45,290	
Feb-16		$45,290		$45,290	
Mar-16		$45,290		$45,290	
Apr-16		$45,290		$45,290	
May-16		$45,290	$77,083	$122,373	
Jun-16		$45,290	$77,083	$122,373	
Jul-16		$45,290	$77,083	$122,373	
Aug-16		$45,290	$77,083	$122,373	
Sep-16		$45,290	$77,083	$122,373	
Oct-16		$45,290	$77,083	$122,373	
Nov-16		$45,290	$77,083	$122,373	
Dec-16		$45,290	$77,083	$122,373	$1,160,145
Jan-17		$45,290	$77,083	$122,373	
Feb-17		$45,290	$77,083	$122,373	
Mar-17		$45,290	$77,083	$122,373	
Apr-17		$45,290	$77,083	$122,373	
May-17			$77,083	$77,083	
Jun-17			$77,083	$77,083	
Jul-17			$77,083	$77,083	
Aug-17			$77,083	$77,083	
Sep-17			$77,083	$77,083	
Oct-17			$77,083	$77,083	
Nov-17			$77,083	$77,083	
Dec-17			$77,083	$77,083	$1,106,159
Jan-18			$77,083	$77,083	
Feb-18			$77,083	$77,083	
Mar-18			$77,083	$77,083	
Apr-18			$77,083	$77,083	
May-18				$0	
Jun-18				$0	
Jul-18				$0	
Aug-18				$0	
Sep-18				$0	
Oct-18				$0	
Nov-18				$0	
Dec-18				$0	$308,333
Check Total Recovery:	$708,333	$1,041,667		$3,600,000	$3,600,000
	$1,750,000		$1,850,000		
	$3,600,000				

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE COMPANY OF NEW MEXICO FOR APPROVAL OF ELECTRIC ENERGY EFFICIENCY PROGRAMS AND PROGRAM COST TARIFF RIDER PURSUANT TO THE NEW MEXICO PUBLIC UTILITY AND EFFICIENT USE OF ENERGY ACTS	)	Case No. 14-00310-UT
PUBLIC SERVICE COMPANY OF NEW MEXICO,	)	
Applicant.	)	

AFFIDAVIT OF JOHN J. REYNOLDS

STATE OF NEW MEXICO)
)ss.
COUNTY OF SANTA FE)

I, JOHN J. REYNOLDS, do hereby swear, depose and state as follows:

I hereby attest that I have read the foregoing **TESTIMONY IN SUPPORT OF PARTIAL STIPULATION OF JOHN J. REYNOLDS,** and the statements contained therein are true and accurate to the best of my knowledge and information.

JOHN J. REYNOLDS

2/6/2015
DATE

SUBSCRIBED AND SWORN TO AND ACKNOWLEDGED before me this 6th **day of February, 2015.**

NOTARY PUBLIC

My Commission Expires:

1-24-16

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

NEW MEXICO
COMMISSION
FILED
2015 FEB 6 PM 1 44

IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE COMPANY OF NEW MEXICO FOR APPROVAL OF ELECTRIC ENERGY EFFICIENCY PROGRAMS AND PROGRAM COST TARIFF RIDER PURSUANT TO THE NEW MEXICO PUBLIC UTILITY AND EFFICIENT USE OF ENERGY ACTS	)	Case No. 14-00310-UT
PUBLIC SERVICE COMPANY OF NEW MEXICO, Applicant.	)	

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing ***Testimony in Support of Partial Stipulation of John J. Reynolds*** was delivered as specified below to each of the following:

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DATED this **6th** day of February 2015.

NEW MEXICO PUBLIC REGULATION COMMISSION

Elizabeth Iddings

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