

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

**IN THE MATTER OF THE APPLICATION)
OF NEW MEXICO GAS COMPANY FOR)
APPROVAL OF 2012 ENERGY EFFICIENCY)
PROGRAMS AND PROGRAM COST TARIFF)
RIDER PURSUANT TO THE NEW MEXICO)
PUBLIC UTILITY AND EFFICIENT USE OF)
ENERGY ACTS,)
)
NEW MEXICO GAS COMPANY,)
)
)
Applicant.)
_____)**

Case No. 11-00369-UT

FINAL ORDER PARTIALLY ADOPTING RECOMMENDED DECISION

THIS MATTER comes before the New Mexico Public Regulation Commission (Commission) upon the Recommended Decision (RD) issued April 12, 2012, by Elizabeth C. Hurst, the Hearing Examiner designated for this case. Having considered the RD (attached hereto as Exhibit 1 and incorporated herein by reference) and the exceptions of the Commission’s Utility Division Staff (Staff) and the Record in this case and being duly advised,

THE COMMISSION FINDS AND CONCLUDES:

1. The Statement of the Case, Discussion, and all findings and conclusions contained in the Recommended Decision are hereby incorporated by reference as if fully set forth in this Final Order, and are **ADOPTED, APPROVED, and ACCEPTED** as Findings and Conclusions of the Commission except to the extent expressly modified or disapproved herein.

2. NMGC’s Residential Energy Star Water Heater Program and Residential High Efficiency Furnace Program should be terminated because these programs have marginal

TRC's as projected by NMGC, a high percentage of free ridership, and low savings of therms as shown by the evidence. See respectively: RD at p. 38, ADM's June 2011 M & V report at pages 5-4 to 5-8, and RD at p. 40.

3. Staff filed its exceptions to the RD on April 16, 2012. No other exceptions were filed.

4. Staff's Exception A is well-taken. That is, Staff's assertions as to the Commission's discretion to approve programs and to question (along with Staff and interveners) the assumptions underlying the value of a program are appropriate.

5. Staff's Exception B raised a valid concern --- the elimination of two failing commercial stand-alone programs, the Commercial Food Service (CFS) and the Commercial High Efficiency Water Heater (CHEWH) and the incorporation of the measures currently offered under those programs into the Commercial Solutions and Schools Conserving Resources (SCORE) programs. As part of a Bench Request Order filed April 20, 2012, the Commission ordered NMGC to provide recalculated TRC's for all of its energy efficiency programs and for its overall portfolio.

6. As to Staff's request in Exception B that the RD be modified to make explicit that by having found substantial evidence to support NMGC's position on the commercial programs the Hearing Examiner had also thereby denied NMGC's request to reject Staff's position as a matter of law, the Commission notes that "whether sufficient evidence exists to support a claim or defense is a question of law." See *Atler v. Murphy Enterprises, Inc.*, 2005-NMCA-006, ¶ 29, 136 N.M. 701, 710, 104 P.3d 1092, 1101.

IT IS THEREFORE ORDERED:

A. The Orders contained in the Recommended Decision as set forth in Exhibit 1 are incorporated by reference as if fully set forth herein and are ADOPTED, APPROVED, and ACCEPTED as Orders of the Commission except to the extent expressly modified or disapproved herein.

B. The Recommended Decision as set forth in Exhibit 1 is ADOPTED, APPROVED, and ACCEPTED by the Commission except to the extent expressly modified or disapproved herein.

C. NMGC's Residential Energy Star Water Heater Program and Residential High Efficiency Furnace Program shall be terminated within thirty days of the issuance of this Final Order because these programs have marginal TRC's as projected by NMGC based in part to gas pricing forecasts issued by the United States Energy Information Administration, a high percentage of free ridership, and low savings of therms as shown by the evidence.

D. NMGC shall reduce its projected 2012 Energy Efficiency Program budget as follows:

- 1) By eliminating the projected external administrative costs for the two programs named in Paragraph C above, a total of \$259,706.00;
- 2) By eliminating the projected internal administrative costs for the two programs named in Paragraph C above, a total of \$41,730.00 ; and
- 3) By further reducing the portfolio's internal administrative costs by \$50,564.00.

E. Copies of this Order shall be sent to all persons on the attached Certificate of Service via email if an email address is known, and if not known, via regular mail. In order to
Final Order Partially Adopting Recommended Decision
Case No. 11-00369-UT

conserve resources, and because all parties have already been served with a copy of the Recommended Decision this Order shall be served without Exhibit 1 attached.

F. This Order is effective immediately.

G. This Docket is closed.

ISSUED under the Seal of the Commission at Santa Fe, New Mexico, this 26th day of April, 2012.

NEW MEXICO PUBLIC REGULATION COMMISSION

TELEPHONICALLY APPROVED

PATRICK H. LYONS, CHAIRMAN



Theresa Becenti-Agular
THERESA BECENTI-AGUILAR, VICE-CHAIR

TELEPHONICALLY APPROVED

JASON A. MARKS, COMMISSIONER

Douglas J. Howe
DOUGLAS J. HOWE, COMMISSIONER

Ben L. Hall
BEN L. HALL, COMMISSIONER

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)
NEW MEXICO GAS COMPANY, Applicant.)
)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing **Final Order Partially Adopting Recommended Decision** adopted April 26, 2012, was sent on the same date, by electronic mail and by first-class postage pre-paid mail on April 27, 2012, to the parties listed below.

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<u>Hand delivered to:</u> Nancy Bums NMPRC-Legal Division 1120 Paseo de Peralta Santa Fe, NM 87504-1269	<u>Hand delivered to:</u> Elizabeth C. Hurst NMPRC-Hearing Examiner 1120 Paseo de Peralta Santa Fe, NM 87504-1269	<u>Hand delivered to:</u> Rick Blumenfeld NMPRC-OGC 1120 Paseo de Peralta Santa Fe, NM 87504-1269
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Dated this 26th day of April, 2012.

NEW MEXICO PUBLIC REGULATION COMMISSION



ANA C. KIPPENBROCK, PARALEGAL