

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 EFFICIENCY USE)
OF ENERGY ACTS,)
NEW MEXICO GAS COMPANY)
Applicant.)
_____)

Utility Case No. 11-00369-UT

POST-HEARING POSITION STATEMENT
OF NEW MEXICO GAS COMPANY, INC.

March 12, 2012

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New Mexico Gas Company, Inc. (“NMGC” or “Company”) submits this Post-Hearing Position Statement in conjunction with the filing of a Proposed Partial Recommended Decision in this case by NMGC and the Utility Division Staff (“Staff”) of the New Mexico Public Regulation Commission (“NMPRC” or “Commission”). NMGC and Staff agree that there are two issues on which they are not in accord and, as indicated in the Proposed Partial Recommended Decision, request that the Commission consider the arguments and authorities presented in NMGC’s Post-hearing Position Statement and Staff’s Brief on Disputed Issues, as well as any position statements or briefs filed by the intervenors, to determine those issues.

INTRODUCTION

NMGC’s Energy Efficiency Program Plan for Program Year 2012 does not propose the creation of any new energy efficiency programs. NMGC proposes the continuation of all of its six current residential energy efficiency programs, the continuance of two of its current commercial energy efficiency programs, and the discontinuance of two current commercial stand-alone programs on the condition that their measures continued to be offered under the umbrella of the existing Commercial Solutions program and SCORE Pilot program. NMGC is proposing a variety of modifications to most of its current residential and commercial energy efficiency programs as well as a change in administration, instituting third party administration for all of the programs that it presently administers in-house. Staff generally is supportive of NMGC’s proposed energy efficiency programs and modifications, and the intervenors, the Attorney General of the State of New Mexico, the Coalition for Clean Affordable

Energy (“CCAЕ”), and Mr. William H. Payne have not expressed opposition to NMGC’s proposed 2012 Energy Efficiency Program Plan.

The issues remaining to be resolved are:

1. Whether NMGC’s existing Residential ENERGY STAR Water Heater program and Residential ENERGY STAR Space Heating program should be approved by the Commission with the modifications proposed by NMGC in this case or should be disapproved on the grounds that they are “marginally cost effective” as indicated by their total resource cost test (“TRC”) ratios slightly above the 1.0 threshold established in the Efficient Use of Energy Act, NMSA 1978, § 62-17-1 *et seq.* (the “EUEA”), and reflected in the Commission’s Energy Efficiency Rule, 17.7.2 NMAC (the “Rule”).
2. Whether NMGC’s proposal to incorporate the measures of the current Commercial Food Service (“CFS”) and Commercial High Efficiency Water Heater programs into an expanded Commercial Solutions program as individual measures among a menu of available prescriptive measures should be disapproved if the inclusion of the measures from those two current programs has a detrimental effect on the TRC of the Commercial Solutions program.

ARGUMENT

- I. **STAFF’S POSITION THAT THE RESIDENTIAL ENERGY STAR WATER HEATER AND SPACE HEATING PROGRAMS SHOULD BE DISAPPROVED BECAUSE THEIR TRC’S ARE “MARGINALLY” ABOVE THE 1.0 THRESHOLD IS CONTRARY TO THE PLAIN MANDATES OF THE EUEA AND THE RULE, TO THE SYSTEM OF REGULATION OF ENERGY EFFICIENCY PROGRAMS DEVELOPED BY THE COMMISSION, AND TO THE EVIDENCE THAT THESE PROGRAMS HAVE ACTUALLY ACHIEVED TRC’S HIGHER THAN NMGC PROJECTED.**

In 2005, the legislature found that “it serves the public interest to support public utility development of all cost-effective energy efficiency and load management.” NMSA 1978, § 62-17-2(E) (emphasis added). “It is the policy of the Efficient Use of Energy Act that public utilities, distribution cooperative utilities and municipal utilities include all cost-effective energy efficiency and load management programs in their energy resource portfolios.” NMSA 1978, § 62-17-3 (emphasis added). “Public utilities providing electricity and natural gas service to New Mexico customers shall, subject to commission approval, acquire all cost-effective and achievable energy efficiency and load management resources available in their service territories.” NMSA 1978, § 62-17-5(G) (emphasis added). “Cost-effective” energy efficiency programs are ones that meet the total resource cost or TRC test. *See* NMSA 1978, § 62-17-4(C). The TRC standard is met “if the monetary costs that are borne by the utility and the participants and that are incurred to develop, acquire and operate energy efficiency or load management resources on a life-cycle basis are less than the avoided monetary costs association with developing, acquiring and operating the associated supply-side resources.” NMSA 1978, § 62-17-4(J).

Under the EUEA, utilities are mandated to pursue “all” cost-effective energy efficiency and load management programs. *See* NMSA 1978, § 62-17-3. The Commission is required to “consider public utility acquisition of cost-effective energy efficiency and load management resources to be in the public interest.” NMSA 1978, § 62-17-5(A). Before approving an energy efficiency and load management program for a public utility, the Commission must find that the proposed portfolio of programs is “cost-

effective and designed to provide every affected customer class with the opportunity to participate and benefit economically.” NMSA 1978, § 62-17-5(C).

The Commission’s Rule echoes these statutory requirements. “Cost effectiveness is a mandatory criterion for program selection; only programs that are cost-effective are eligible for approval.” 17.7.2.9.C(1) NMAC. To the extent, however, that the Rule implies that a utility, or the Commission itself, may reject potential programs that are cost effective under the TRC test, it must be remembered that the Rule was enacted at a time when the EUEA contained a limitation capping the total amount of rate recovery for energy efficiency and load management programs at no more than one and one-half percent of revenues of the affected customer classes. *Compare* 2005 N.M. Laws § 6 with 2007 N.M. Laws ch. 4, § 4; *see also* 2008 N.M. Laws ch. 24, § 7 (codified as NMSA 1978, § 62-17-6); *cf.* NMPRC Case No. 06-00065-UT, Order Adopting Rules (Dec. 26, 2006); 17.7.2.5 NMAC (effective date of the Rule was March 1, 2007). The Commission recently acknowledged that the current Rule, which was reinstated by the New Mexico Supreme Court’s decision in *Attorney General v. New Mexico Public Regulation Commission*, 2011-NMSC-034, improperly reflected the statutory cap on energy efficiency rate rider collections that was eliminated by the 2007 amendments to the EUEA. *See* NMPRC Case No. 11-00439-UT, Final Order Granting Blanket Variances (Nov. 22, 2011).

Therefore, there is no basis in the EUEA or the Rule for disapproving a proposed energy efficiency program that satisfies the TRC test and is part of a portfolio of programs that is designed to provide every affected customer class with the opportunity to participate and benefit economically. *See* NMSA 1978, § 62-17-5(C). Although Staff

witness Reynolds expressed concern that NMGC faces inherent difficulty in showing that quantifiable economic benefits flow to non-participants, he conceded that concern is not enough to keep the Commission from approving NMGC's programs. *See* Staff Ex. 2, Reynolds Direct at 7-8; 2/13/12 PM Tr. 90-93. That is so because the EUEA only requires a showing that members of the affected classes are given an opportunity to benefit economically as participants, and because the EUEA requires utilities to implement cost effective energy efficiency programs. *See* 2/13/12/Tr. 92.

Staff continues, however, to oppose approval of the Residential ENERGY STAR Water Heater program and the Residential ENERGY STAR Space Heating program because their TRCs are "marginally cost effective." *See* Staff Ex. 2, Reynolds Direct at 13-16; *see also* 2/13/12/PM Tr. 100-08, 134-36. NMGC has projected the TRC for the Residential ENERGY STAR Water Heater program to be 1.05, and the TRC for the Residential ENERGY STAR Space Heating program to be 1.03. *See* NMGC Ex. 1, Casey Direct at 34.

It must be noted, initially, that Staff recognizes that "all the Rule requires is that their TRC be one." 2/13/12 Tr. 72. Staff does not contend that the TRCs for the Residential ENERGY STAR Water Heater program and the Residential ENERGY STAR Space Heating program are below that 1.0 standard established by the EUEA. *See* Staff Ex. 1, Martinez Direct at 9, 20; Staff Ex. 2, Reynolds Direct at 13-15; 2/13/12 PM Tr. 135. Both of Staff's witnesses agreed that NMGC's calculations produce TRCs for both programs that satisfy that test. *See id.*

Mr. Reynolds questioned the free ridership factors that NMGC used. *See* 2/13/12 PM Tr. 100-101; *cf.* Staff Ex. 2, Reynolds Direct at 13-14. Nevertheless, he

acknowledged that his opposition to the two programs is not based on NMGC's recalculations using his proposed free ridership factors, which reduced the TRC for the Residential ENERGY STAR Water Heater program to 1.03 and the TRC for the Residential ENERGY STAR Space Heating program to 1.00. *See* Staff Ex. 2, Reynolds Direct at 14 (stating that Staff would recommend approval of the two programs if their TRCs recalculated using free ridership factors of 20% instead of NMGC's 15% for the Residential ENERGY STAR Water Heater program and 25% instead of 20% for the Residential ENERGY STAR Space Heating program suggested that the programs were cost effective); *but see id.* at (stating Staff's opposition to the programs) ; *cf.* NMGC Ex. 2, Casey Rebuttal at 11-13 (recalculating the TRCs using Staff's factors but disagreeing with Staff's proposed use of the free ridership factors recommended by ADM Associates, Inc. ("ADM"), the independent measurement and verification ("M&V") evaluator chosen for all New Mexico public utilities pursuant to NMSA 1978, § 62-17-8(B) and 17.7.13.E NMAC, because the proposed Program Year 2012 modifications to these programs require the customer to purchase ENERGY STAR water heaters and furnaces with even higher efficiency ratings than did the version of the program examined by ADM).

Mr. Reynolds also stated explicitly that Staff does not take issue with the avoided cost assumptions used in NMGC's TRC calculations. *See* Staff Ex. 2, Reynolds Direct at 15. "Staff simply notes the volatile nature of these forecasts." *Id.* In his Rebuttal Testimony, NMGC witness Fernald responded that NMGC necessarily must forecast future avoided gas supply costs in order to comply with the EUEA's directive to determine cost effectiveness under the TRC test based on a comparison on a life-cycle basis of the monetary costs of developing, acquiring, and operating energy efficiency and

load management resources to the costs of developing, acquiring, and operating the associated supply side resources. *See* NMGC Ex. 4, Fernald Rebuttal at 9; *cf.* NMSA 1978, § 62-17-4(J) (definition of TRC test). Mr. Fernald explained that NMGC, like its predecessor Public Service Company of New Mexico (“PNM”), does not attempt to project future avoided gas supply costs on its own, but relies upon the Department of Energy’s Energy Information Administration’s Energy Outlook for the most recent price projections. *See id.* NMGC does so in an attempt to use the “most reliable, unbiased sources of gas price forecasts available,” and believes that its approach is “as fair, accurate and neutral as it can possibly be.” *Id.* at 10.

Mr. Fernald testified that NMGC “is aware of no other source of gas price projections, and no other method of forecasting gas prices several years into the future, that would ameliorate the price volatility that troubles Staff.” *Id.* He stated that “[i]f such a source or method exists, NMGC would be willing to consider changing the method that has been used since its predecessor, PNM, first begin offering gas energy efficiency programs pursuant to the EUEA.” *Id.*

Staff has not proposed an alternative source of avoided gas supply price forecasts or an alternative methodology for forecasting gas avoided costs for purposes of the life-cycle cost analysis mandated by the TRC test and the EUEA. *See* Staff Ex. 2, Reynolds Direct at 14-16; *see also* 2/13/12 PM Tr. 102. Nor has Staff made its own calculations of the TRCs for the Residential ENERGY STAR Water Heater and Residential ENERGY STAR Space Heating programs using alternative avoided cost assumptions. *See* 2/13/12 PM Tr. 102.

Mr. Reynolds testified that it is not appropriate to burden ratepayers with the cost of marginally cost effective programs without any “risk adjustment to the measure of cost effectiveness.” *See id.* at 15. However, Staff has not proposed any methodology for making such a “risk adjustment” or offered a principled basis under the EUEA for doing so. *See id.* Instead, Mr. Reynolds testified that to deal with the issues regarding the difficulty of quantifying benefits to non-participants and the risks inherent to the avoided cost calculations, “I tried to raise the bar on the TRC for certain programs.” *See* 2/13/12 PM Tr. 91. Asked where Staff would draw the line if a TRC of 1.0 is not used as the standard and you want to put in a little margin for error, Mr. Reynolds answered, “I think it’s a gray line. I don’t know that there is a specifically defined black line, but I don’t think that staff should robotically support every program that has a stated, projected TRC of 1.00, because there are many, many assumptions that go into the TRC.” *See* 2/13/12 PM Tr. 101. “[P]rograms that are in this case three percent above or five percent above a minimum TRC of one . . . in the context of avoided cost that . . . have varied 14 or 16 percent in the last three filings” by NMGC are “marginal enough that I don’t think the Commission should support this.” *See id.* at 135.

As NMGC witness Casey testified, however, “NMGC cannot arbitrarily dismiss programs that are close to but above a TRC of 1.0 or because they are under 1.2, 1.4, or 1.5. The EUEA has established a single threshold, which is 1.0.” NMGC Ex. 2, Casey Rebuttal at 10. Contrary to Staff’s interpretation of the EUEA, the legislature chose to establish a black line, not a gray line, and that line is a TRC of 1.0. The legislature mandated public utilities to “acquire all cost-effective and achievable energy efficiency and load management resources available in their service territories,” and further ordered

the Commission to “consider public utility acquisition of cost-effective energy efficiency and load management resources to be in the public interest.” NMSA 1978, §§ 62-17-5(A), (G). The legislature hardly could have been clearer in limiting the discretion of both public utilities and the Commission in order to achieve its stated policy: that utilities “include all cost-effective energy efficiency and load management programs in their energy resource portfolios.” *See* NMSA 1978, § 62-17-3. Staff’s proposal to recognize a gray area in which the Commission, or Staff, or presumably any public utility or intervenor, may contend that a particular energy efficiency or load management program is too marginally cost effective to be approved and implemented violates both the language and the intent of the EUEA.

Staff’s admission that there is no “precise” numerical limit to this zone around a TRC of 1.0 hints at the uncertainty and confusion that would ensue if, every year, NMGC and other utilities had to justify the appropriate parameters of the gray area for each and every energy efficiency program they proposed to offer. *See* 2/13/12 Tr. 135. Worse yet, as Mr. Reynolds himself pointed out, the TRC results that Staff proposes to blur are projections that in any event can more effectively be analyzed “after the fact” through the M&V process. *Cf.* Staff Ex. 2, Reynolds Direct at 19, 20 (supporting approval of NMGC’s proposals to expand the Commercial Solutions program and the SCORE Pilot program despite the “increased uncertainty inherent in [their] blended TRC ratio[s]” due to the addition of menus of prescriptive measures). NMGC submits that Staff’s attempt to protect ratepayers from the burden of programs that are projected to have “marginal” TRCs is not only contrary to the express provisions of the EUEA, but also to sound public policy. While an after the fact assessment of the TRCs achieved by energy

efficiency programs necessarily entails use of certain assumptions, such as avoided gas supply costs over the life cycle of the measure, it establishes a firmer basis for evaluating the cost effectiveness of programs than does Staff's attempt to create an ill-defined gray zone in which pure projections of TRC ratios may, or may not, be deemed acceptable. NMGC's annual Energy Efficiency Program Plan does not emerge from a vacuum, but is the product of an extensive system of regulatory checks and balances in which public utilities conduct energy efficiency and load management programs under the watchful eyes of the Commission and the M&V evaluator.

In addition to violating the clear statutory requirements of the EUEA and contradicting well-developed regulatory practices and policy, Staff's proposal to disapprove the Residential ENERGY STAR Water Heater program and the Residential ENERGY STAR Space Heating program because of their "marginal" projected TRC ratios is inconsistent with the evidence in the record of this case about NMGC's implementation of those programs to date. Mr. Casey explained that NMGC "is comfortable proposing new or modified programs that are projected to have low TRC's because of its track record with M&V analyses. NMGC's TRC model has traditionally been conservative in calculating TRC's when compared to subsequent M&V of the actual performance of its programs." NMGC Ex. 2, Casey Rebuttal at 10.

Staff's own comparison of NMGC's projected TRC ratios to ADM's M&V calculations of actual results achieved in fact supports this conclusion. *See id.; see also* Staff Ex. 2, Reynolds Direct, Ex. JJR-2; Staff Ex. 3, Ex. JJR-2.1. NMGC projected a Program Year 2010 TRC of 1.05 for the Residential ENERGY STAR Water Heater Program, based on 1,500 participants; the actual TRC was 2.56 with only 122

participants. *See* Staff Ex. 3. NMGC projected a Program Year 2010 TRC of 1.33 for the Residential High Efficiency Furnace program (now called the ENERGY STAR Space Heating program), based on 100 participants; the program actually achieved a TRC of 1.80 with 800 participants. *See id.* The same pattern of higher than projected TRCs, usually with significantly lower participation than was anticipated, is seen in almost every program evaluated by ADM for Program Year 2010. *See id.*

Instead of drawing comfort from this clear demonstration of the conservative nature of NMGC's TRC projections, Staff concludes that NMGC "should be in a better position to project as years go on, so that what they file in 2012 I expect New Mexico Gas to file a more informed better projection than I would have expected them to file in 2010. . . . So I don't accept the premise that New Mexico Gas was conservative in their projections in 2010, therefore they are conservative in their projections in 2012." *See* 2/13/12 PM Tr. 104-05. This is pure speculation; the only evidence in the record of any revisions in NMGC's practices in projecting TRCs are NMGC's responses in its 2010 Energy Efficiency Program Annual Report to ADM's recommendations regarding free ridership ratios and participation levels. *See* NMGC Ex. 1, Casey Direct, NMGC Ex. SLC-3 at 7-17.

Staff's recommended disapproval of the Residential ENERGY STAR Water Heater program and the Residential ENERGY STAR Space Heating program also ignores the evidence in the record regarding the significance of these programs to NMGC's overall portfolio of energy efficiency programs. First, NMGC's ability to obtain the lowest price per therm saved when it bid out the third party administrative services depended in part upon the comprehensiveness of the providers' proposals, which

would be compromised if the contract had excluded the Residential ENERGY STAR Water Heater program and the Residential ENERGY STAR Space Heating program. *See* 2/13/12 AM Tr. 28-29; *see also id.* at 65-68 (discussing performance-based compensation for the third party administrators). Second, the table of projected lifetime therm savings included in NMGC's 2012 Energy Efficiency Program Plan indicates that these two programs represent 43% of the projected residential energy savings and 11% of the total projected savings, including residential and commercial programs. *See id.*, NMGC Ex. SLC-2 at 12. Looking at the historical results for Program Year 2010, which preceded commencement of the Commercial Solutions and SCORE Pilot programs, the Residential ENERGY STAR Water Heater program and the Residential ENERGY STAR Space Heating program represented approximately 16% of residential and overall energy savings. *See id.*, NMGC Ex. SLC-3 at 4. Although NMGC as a gas utility is not under a statutory obligation to achieve specific levels of energy savings by certain dates, it is obvious that the overarching objectives of the EUEA would be compromised if the Commission were to eliminate two such significant sources of energy savings because initial TRC projections for Program Year 2011 TRC were close to the 1.0 threshold. *Cf.* NMSA 1978, § 62-17-5(G) (establishing percentage savings requirements for electric utilities to achieve by 2014 and 2020).

In short, Staff's recommendation that the Residential ENERGY STAR Water Heater program and the Residential ENERGY STAR Space Heating program be disapproved because their projected TRCs are marginally above the statutory minimum of 1.0 is misguided. Such a ruling would be contrary to the EUEA, the Rule, sound public policy, and the evidence in the record of this case. Staff's position must be

rejected, and the Residential ENERGY STAR Water Heater and Residential ENERGY STAR Space Heating programs should be approved with the modifications proposed by NMGC.

II. STAFF'S POSITION THAT THE COMMERCIAL FOOD SERVICE AND COMMERCIAL HIGH EFFICIENCY WATER HEATER PROGRAM MEASURES SHOULD NOT BE INCORPORATED INTO THE MENU OF PRESCRIPTIVE MEASURES TO BE OFFERED UNDER NMGC'S PROPOSED EXPANDED COMMERCIAL SOLUTIONS PROGRAM SHOULD BE REJECTED BECAUSE STAFF MISAPPLIES THE TRC TEST AND IGNORES THE EVIDENCE IN THE RECORD THAT OFFERING SUCH MEASURES WITHIN THE COMMERCIAL SOLUTIONS PROGRAM WILL NOT HAVE A DETRIMENTAL EFFECT ON THE TRC OF THE COMMERCIAL SOLUTIONS PROGRAM.

Staff “conceptually supports” turning the CFS program and the Commercial High Efficiency Water Heater program into measures of the existing Commercial Solutions program “to the extent there is an appropriate adjustment in costs” and only if the incorporation of the measures from those existing programs causes “no detrimental impact” on cost effectiveness of the Commercial Solutions program, for which NMGC has projected a TRC of 1.49 including those measures. *See* Staff Ex. 2, Reynolds Direct at 16-19, 29; *see also* 2/13/12 PM Tr. 108-11. As with Staff’s recommendation to disapprove the Residential ENERGY STAR Water Heater and Residential ENERGY STAR Space Heating programs, NMGC disagrees with Staff’s position on statutory, public policy, and evidentiary grounds.

As previously discussed, the EUEA establishes a single threshold for cost effectiveness, a TRC of 1.0, and mandates that public utilities offer, and the Commission approve, all such cost effective energy efficiency and load management programs. *See* NMSA 1978, §§ 62-17-2(E), 62-17-3, 62-17-5(A), (C), (G). The Commission’s own gloss on the statutory standard is that “while each program proposed by a utility must be

cost effective, each measure within a program need not be cost effective.” *See* 17.7.2.9.F NMAC. Staff’s position on incorporating the CFS program and Commercial High Efficiency Water Heater program measures into the Commercial Solutions program means that those measures should be excluded from the Commercial Solutions program if their inclusion would cause the projected TRC of the Commercial Solutions program to decline from 1.49 to 1.48. *See* 2/13/12 PNM Tr. 108-09; *see also* Staff Ex. 2, Reynolds Direct at 19.

In effect, Staff is establishing a minimum TRC standard of 1.49 for the Commercial Solutions program alone. Even worse, it is doing so arbitrarily, based solely on the TRC ratio NMGC projected for the Commercial Solutions program including the measures now offered under the CFS program and the Commercial High Efficiency Water Heater program. *See id.* The EUEA does not give Staff, the Commission, or NMGC authority to change the TRC standard at will. Staff’s recommendation to disapprove incorporation of the CFS and Commercial High Efficiency Water Heater program measures into the Commercial Solutions program must be rejected as a matter of law.

Sound regulatory policy also dictates against accepting Staff’s recommendation. Staff proposes to eliminate from an umbrella-type program such as Commercial Solutions not just individual measures that have been projected—or demonstrated—not to be cost effective under the TRC test, but also to eliminate any measures whose individual TRCs exceed the statutory threshold but fall below the program-wide TRC ratio. NMGC concurs in Staff’s view that any measures that are not cost-effective should be removed from any energy efficiency program, notwithstanding the fact that Rule

17.7.2.9.F NMAC permits—but of course does not require—their inclusion. *See* NMGC Ex. 2, Casey Rebuttal at 16. Indeed, “NMGC has always conscientiously avoided including any measures that could not stand up on their own merits,” and has declined to include measures such as steamers in the CFS program, floor and duct insulation in the Residential Insulation program, and residential boiler systems in the Residential ENERGY STAR Space Heating program. *Id.*

Staff’s recommendation to eliminate measures whose TRC is above 1.0 but lower than the program-wide TRC will eliminate the measures that are projected to be somewhat less cost effective than others within the program, with the inevitable effect, over time, of reducing the number of measures offered within any program, especially ones like the Commercial Solutions and SCORE Pilot programs that offer a wide menu of prescriptive, direct install, and custom measures. *Cf.* 2/13/12 PM Tr. 22 (“There may be some of those measures that we don’t have any participation in or we may have measures that there is more participation than we thought there would be.”) In such programs, there isn’t any cost involved if a customer does not decide to purchase a particular measure, but there would not be any energy savings either. *See id.* Nevertheless, Staff’s proposal would compel NMGC to shed the relatively less cost effective measures, ultimately eviscerating the umbrella-style programs.

Staff’s suggestion is diametrically opposed to ADM’s recommendation that NMGC combine the Residential ENERGY STAR Water Heater program and the Residential ENERGY STAR Space Heating program into a more comprehensive Commercial Equipment Rebates Program that would avoid unneeded administrative costs associated with marketing two separate, stand-alone programs. *See* NMGC Ex. 1, Casey

Direct, NMGC Ex. SLC-3 at 12. Mr. Reynolds testified that he gives ADM's numbers and estimates significant weight, because "that is what they do for a living." See 2/13/12 PM Tr. 134. There is nothing in the record to suggest that ADM's advice on how to improve energy efficiency programs is less valuable.

Finally, the evidence presented by NMGC directly refutes Staff's implication that incorporating the Residential ENERGY STAR Water Heater and Residential ENERGY STAR Space Heating programs into the Commercial Solutions program would have a detrimental effect on the overall TRC for the Commercial Solutions program. See NMGC Ex. 2, Casey Rebuttal at 15. "If NMGC were to remove the CFS and commercial water heater measures from the Commercial Solutions and SCORE Pilot programs, the estimated savings attributed to those measures also would need to be removed," Mr. Casey testified. *Id.* "The only program-wide cost savings to be derived from such a move would be to eliminate the incentives budgets to those measures. Customers would not have as many options to choose from and the program TRC would actually go down since there would not be as many opportunities for savings." *Id.*

In sum, not only is Staff's recommendation to disapprove of incorporation of the CFS program measures and the Commercial High Efficiency Water Heater program measures into an expanded Commercial Solutions program contrary to the TRC criteria established definitively by the EUEA. It also is contrary to sound policy regarding the design of umbrella-type energy efficiency programs and to the recommendations of the M&V evaluator, ADM, and is flatly contradicted by NMGC's testimony that eliminating those measures will decrease, not increase, the projected TRC for the Commercial Solutions program.

CONCLUSION

For the foregoing reasons, Staff's recommendations against approval of NMGC's 2012 Energy Efficiency Program Plan as proposed in its Application and testimony and exhibits in this case should be rejected, and NMGC's Program Plan, including various modifications to its current energy efficiency programs, should be approved for Program Year 2012.

Respectfully submitted,

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CERTIFICATE OF SERVICE

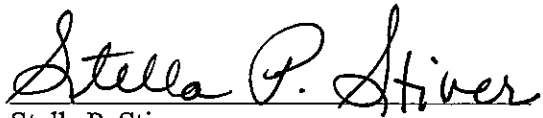
I HEREBY CERTIFY that on March 12, 2012, a true and correct copy of **New Mexico Gas Company's Post-Hearing Position Statement** was delivered by electronic mail and hand delivery to each of the following persons:

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Respectfully submitted,

A handwritten signature in cursive script that reads "Stella P. Stiver". The signature is written in black ink and is positioned above the typed name.

Stella P. Stiver

Sr. Administrator, Regulatory Affairs

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A

March 12, 2012

NMGCO #2414373