

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)	
)	Case No. 11-00369-UT
NEW MEXICO GAS COMPANY,)	
)	
Applicant.)	
_____)	

NEW MEXICO GAS COMPANY, INC.'S
MOTION FOR VARIANCE FROM FINAL ORDER
AUTHORIZING MODIFICATION OF BUDGET

Pursuant to 17.7.2.15.C NMAC of the Energy Efficiency Rule¹ and 1.2.2.40 NMAC, New Mexico Gas Company, Inc. ("NMGC") moves the New Mexico Public Regulation Commission ("Commission" or "NMPRC") to reopen the above-captioned docket for the limited purpose of considering modification to the ENERGY STAR Homes program approved in the Final Order Adopting Recommended Decision issued on April 26, 2012. In support, NMGC states as follows:

1. The ENERGY STAR Homes program was initially proposed by Public Service Company of New Mexico ("PNM"), NMGC's predecessor, in NMPRC Case No. 08-00220-UT and was approved in the Commission's Final Order Adopting Recommended Decision of the Hearing Examiner on April 2, 2009.

2. In NMPRC Case No. 11-00369-UT, NMGC projected that during Program Year 2012, the ENERGY STAR Homes program would achieve participation of 650 units and a TRC of 1.67. See Affidavit of Steve L. Casey in Support of NMGC's Motion for Variance from Final

¹ In light of the New Mexico Supreme Court's opinion issued on July 27, 2011, in *Attorney General v. New Mexico Public Regulation Commission*, Docket No. 32,475, throughout this motion citations are to the original Energy Efficiency Rule as adopted in NMPRC Case No. 06-00065-UT on December 26, 2006.

Order Authorizing Modification of Budget for Energy Efficiency Program (“Casey Affidavit”), attached hereto as Exhibit “A,” at ¶ 8. Based on this participation level, the Commission approved Program Year 2012 budget of \$485,676 for the ENERGY STAR Homes program. *See id.* at ¶ 6.

3. Since Program Year 2012 began on May 1, 2012, participation in the ENERGY STAR Homes program has continued to be low. As reported to the Commission on April 30, 2013, in NMGC’s Energy Efficiency Informal Quarterly Update, First Quarter 2013, there were a total of 299 participants in the ENERGY STAR Homes program during the twelve months of Program Year 2012. *See id.* at ¶ 8. Fifty-one additional ENERGY STAR Homes rebates requests were received after the reporting cycle bringing the total to 350.

4. NMGC reports the actual achieved TRC for the ENERGY STAR Homes program as 0.83 as determined by independent measurement and verification (“M&V”) provider ADM in its “Evaluation of New Mexico Gas Company’s 2012 DSM Portfolio,” filed June 28, 2013 with the NMPRC. *See id.* at ¶ 6.

5. The Rule 17.7.2.15.C NMAC threshold of 25% less than the \$485,676 budget for the ENERGY STAR Homes program is \$364,257. Program Year 2012 actual costs for the ENERGY STAR Homes program was \$342,617, which is approximately 29.46% less than the approved budget. *See id.* at ¶ 6. The Final Order Partially Approving Recommended Decision in NMPRC Case No. 11-00123-UT established that Rule 17.7.2.15.C NMAC requires utilities to obtain authorization for budget modifications when actual program costs will be more than 25% below the approved budget, as well as more than 25% above the approved budget. *See* NMPRC Case No. 11-00123-UT, Final Order at 23-25, ¶¶ 43-45 (Nov. 1, 2011). Since that order was issued on November 1, 2011, PNM, Southwestern Public Service Company and NMGC have filed motions for approval to reduce the budgets for several of their energy efficiency programs for calendar year 2011, and the Commission acted promptly to grant such permission prior to the end

of the program year at issue. *See* NMPRC Case No. 10-00280-UT, PNM's Motion to Lower the Calendar Year 2011 Budgets for Certain Energy Efficiency Programs, etc. (Dec. 1, 2011); NMPRC Case No. 10-00280-UT, Order Granting Motion (Dec. 28, 2011); PNM's Motion to Modify the 2012 Calendar Year Budgets for Certain Energy Efficiency Programs, etc. (Aug. 1, 2012); NMPRC Case No. 10-00280-UT, Order on Budget Modification (Nov. 8, 2012); NMPRC Case No. 09-00352-UT, SPS's Unopposed Motion to Reopen Case and to Modify Program Budgets, etc. (Dec. 2, 2011); Order Granting Unopposed Motion, etc. (Dec. 28, 2011); NMPRC Case No. 10-00295-UT, NMGC's Unopposed Motion for Variance From Final Order Authorizing Modification of Energy Efficiency Budget (September 1, 2011); Order on NMGC's Unopposed Motion, etc. (September 13, 2011); NMGC's Unopposed Motion for Variance From Final Order Authorizing Modification of Budgets for Two Energy Efficiency Programs (March 12, 2012); Order on NMGC's Unopposed Motion, etc. (March 20, 2012).

6. NMGC seeks similar relief in this motion, and requests that the Commission authorize NMGC to lower the budget for the ENERGY STAR Homes program to the level that NMGC reports as its actual cost for Program Year 2012, \$342,617 for a reduction of \$143,059. *See* Casey Affidavit at ¶ 9.

7. NMGC is not proposing to change the Rate Rider 15 surcharge factor, which was recently updated and approved by the Commission in its Final Order to NMPRC Case No. 12-00339-UT for approval of NMGC's Energy Efficiency Program Plan for Program Year 2013 on March 20, 2013. The requested program reduction of \$143,059 does not have a material effect on the total approved budget of \$3,953,461 or on the current Rider 15 surcharge factor of \$0.0088 per therm, approved in NMPRC Case No. 12-00339-UT.

8. The requested budget reduction for the ENERGY STAR Homes program does not materially affect the overall budget for Program Year 2013 or Rider 15 tariff factors.


9. In accordance with 1.2.2.12.E NMAC, NMGC has contacted Staff and each of the parties in NMPRC Case No. 11-00369-UT. Positions of the parties that provided responses prior to the filing of this Motion are as follows: Staff and the Coalition for Clean Affordable Energy do not oppose.

10. NMGC does not believe that a hearing is required to consider this request for budget modification, and asks that the Commission grant this Motion without hearing, as the performance level of the ENERGY STAR Homes program and its discontinuation has been addressed in Case No. 12-00339-UT. *See* Casey Affidavit at ¶ 7.

WHEREFORE, NMGC requests that the Commission reopen this proceeding for the limited purpose of approving the proposed decrease in its approved budget for the ENERGY STAR Homes program for the 2012 Program Year.

Respectfully submitted,

NEW MEXICO GAS COMPANY

By 
for Thomas M. Domme
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BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

**IN THE MATTER OF THE APPLICATION)
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APPROVAL OF 2012 ENERGY EFFICIENCY)
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RIDER PURSUANT TO THE NEW MEXICO)
PUBLIC UTILITY AND EFFICIENT USE)
OF ENERGY ACTS)**

NEW MEXICO GAS COMPANY,)

Applicant.)

Utility Case No. 11-00369-UT

**AFFIDAVIT OF STEVE L. CASEY
IN SUPPORT OF NEW MEXICO GAS COMPANY'S
MOTION FOR VARIANCE FROM FINAL ORDER AUTHORIZING MODIFICATION
OF ENERGY EFFICIENCY PROGRAM BUDGET**

STATE OF NEW MEXICO)

) ss

COUNTY OF BERNALILLO)

Steve L. Casey, being first on his oath duly sworn, deposes and states as follows:

1. I am the Manager of Energy Efficiency Programs for New Mexico Gas Company ("NMGC"). I have been employed in that position since January 30, 2009, when NMGC acquired Public Service Company of New Mexico's ("PNM's") gas utility assets. I am responsible for NMGC's energy efficiency program development and management in compliance with the rules and final orders of the New Mexico Public Regulation Commission ("Commission" or "NMPRC").
2. Among my duties are implementation of Energy Efficiency Programs approved by the Commission in accordance with the Efficient Use of Energy Act and the Commission's

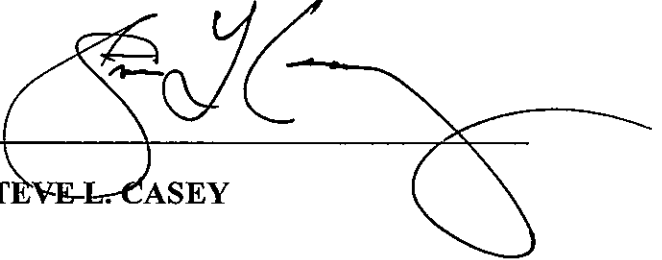
Energy Efficiency Rule, 17.7.2 NMAC, and development of additional energy efficiency programs and initiatives.

3. I have testified on behalf of NMGC in the four energy efficiency program plan applications it has presented to the NMPRC since it acquired PNM's gas utility assets. Those include NMPRC Case No. 09-00256-UT, concerning NMGC's 2010 Energy Efficiency Program Plan, NMPRC Case No. 10-00295-UT, concerning NMGC's 2011 Energy Efficiency Program Plan, NMPRC Case No. 11-00369-UT concerning NMGC's 2012 Energy Efficiency Program Plan, and NMPRC Case No. 12-00339-UT, concerning NMGC's 2013 Energy Efficiency Program Plan which is currently in effect. I also submitted affidavits in support of NMGC's requests for variances to increase the 2009 Program Plan budget that PNM proposed in NMPRC Case No. 08-00220-UT, to increase the Residential High Efficiency Furnace program budget in NMPRC Case No. 10-00295-UT, to decrease the budget for both the Commercial Food Service and Commercial High Efficiency Water Heater programs in NMPRC Case No. 10-00295-UT, all of which the Commission granted.
4. I am filing this Affidavit in support of NMGC's Motion for Variance from Final Order Authorizing Modification of Energy Efficiency Program Budget for NMPRC Case No. 11-00369-UT. In accordance with the Commission's Energy Efficiency Rule, 17.7.2.15.C NMAC, utilities shall request program modification for any budget changes exceeding 25%.
5. On September 29, 2011, NMGC filed its Application for Approval of Energy Efficiency Programs and Program Cost Tariff Rider pertaining to Program Year 2012. The Application was docketed as NMPRC Case No. 11-00369-UT and was approved by the

Commission in its Final Order Partially Approving Recommended Decision issued on April 26, 2012. NMGC began promoting its Program Year 2012 energy efficiency programs on May 1, 2012.


6. After closing out the final costs associated with the ENERGY STAR Homes Program in April 2013, NMGC found the program to be 29.46% under budget. The Commission had originally approved a \$485,676 budget for the program and the actual costs were \$342,617. This shortfall contributed to the actual achieved TRC for the ENERGY STAR Homes program as 0.83 as determined by independent measurement and verification (“M&V”) provider ADM in its “Evaluation of New Mexico Gas Company’s 2012 DSM Portfolio,” filed June 28, 2013 with the NMPRC.
7. The failure to meet the minimum TRC for the ENERGY STAR Homes Program was expected. During the 2012 Program Year, homebuilders indicated that the increased standards that were brought about under ENERGY STAR Version 3.0 were becoming too onerous and expensive and they would no longer continue to build ENERGY STAR qualified homes. This reduced the number of homes that the homebuilders had estimated would be built and therefore reduced the estimated savings. Based on this trend and low savings achieved from the more stringent and expensive criteria, NMGC proposed, and the NMPRC approved, that the program be discontinued in NMPRC Case No. 12-00339-UT.
8. After receiving the Final Order for NMPRC Case No. 12-00339-UT on March 20, 2013, NMGC was able to close out the 2012 ENERGY STAR Homes program. The primary reason the program was under budget was lack of homebuilders’ support of the program part-way through Program Year 2012 providing only 350 applications where originally 650 were budgeted.

9. NMGC is notifying the NMPRC of a budget shortfall in excess of 25% of what was approved and requesting a retroactive decrease to the Program Year 2012 budget for the ENERGY STAR Homes program by \$143,059 due to lower participation than originally projected.



STEVE L. CASEY

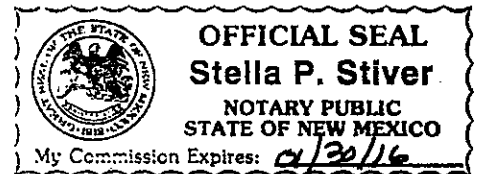
SUBSCRIBED AND SWORN before me this 9th day of August, 2013, by Steve L. Casey.



Stella P. Stiver

Stella P. Stiver

My commission expires: January 30, 2016



NMGCO #2642145

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PUBLIC UTILITY AND EFFICIENT)
USE OF ENERGY ACTS,)
NEW MEXICO GAS COMPANY,) **Utility Case No. 11-00369-UT**
Applicant.)
_____)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on August 9, 2013, a true and correct copy of **New Mexico Gas Company Inc.'s Motion for Variance From Final Order Authorizing Modification of Budget** was delivered by electronic mail and hand delivery to each of the following persons:

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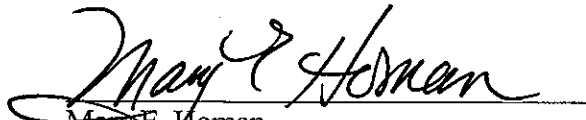
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Respectfully submitted,



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August 9, 2013

NMGCO #2414373