

Transmittal Form

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Issuing agency name and address: New Mexico Public Regulation Commission Agency DFA code: 430

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Type of rule action: New [] Amendment [] Repeal [x] Repeal/Replace [] Renumber [] Emergency [] (ALD Use Only) Most Recent Filing Date: 4/16/2010

Title number: 17 Title name: PUBLIC UTILITIES AND UTILITY SERVICES

Chapter number: 7 Chapter name: ENERGY CONSERVATION

Part number: 2 Part name: ENERGY EFFICIENCY

Amendment Description (If filing an Amendment): Adjustments to expenditures in a plan year Amendment's NMAC Citation (If filing an Amendment): 17.7.2

Are there any materials incorporated by reference? Yes [] No [x] Please list attachments or Internet sites if applicable.

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Concise Explanatory Statement for rulemaking adoption:

Notice date(s): 7/11/2017; 7/12/2017; 7/16/2017 Hearing date(s): 8/30/2017 Rule Adoption date: 9/13/2017 Rule Effective date: 9/26/2017

Specific statutory or other authority authorizing rulemaking: NM Const., Art. XI, Sec. 2; NMSA 1978 8-8-4(B)(1); Efficient Use of Energy Act NMSA 1978 62-17-1, et seq.

Findings required for rulemaking adoption. Please attach and sign additional page(s) if necessary. In the final order adopting these rule amendments, the Commission made a finding finds that the purpose of the proposed revisions is to clarify and streamline the reconciliation procedures and processes directly related to the energy efficiency programs required of utility companies under the Efficient Use of Energy Act, NMSA 1978, § 62 17 1 to -11.

Issuing authority (If delegated, authority letter must be on file with ALD): Name: CYNTHIA B. HALL Check if authority has been delegated [x]

Title: COMMISSIONER

Signature: (BLACK ink only) Cynthia B. Hall Date signed: 9/13/17

Concise Explanatory Statement for rulemaking adoption:

Page number 2 of 2 for Findings required for rulemaking adoption.

The New Mexico Public Regulation Commission adopted these rules at its regularly scheduled and properly noticed open meeting, which was held on September 13, 2017. The Commission issued the Final Order Adopting Rules on that same day. The Commission finds that this rulemaking is conducted under the authority granted to it by the New Mexico Constitution, Article XI, §2 (1996), and pursuant to the New Mexico Energy Efficiency Act, found at NMSA 1978, § 62-17-1 et seq., read in conjunction with the Commission's Rulemaking Statute, found at NMSA 1978, § 8-8-15. In addition, this rulemaking was conducted under the authority of the Commission's Rule 17.1.120 NMAC. Under that rule, the Commission must include a statement of reasons for adopting utility rules. See 17.1.120.9 (E) NMAC. In the Final Order Adopting Rules, the Commission found that the amendments were adopted for the following reasons:

- a. The amended language to 17.7.2.7 (H) and (I) NMAC will clarify the definitions of "plan year overage" and "plan year underage," respectively, and, in conjunction with the amended language to 17.7.2.8 (D), will make clear that utilities must reconcile the difference between their EE Rule program collections and the amount actually spent on EE Rule programs, either as an overage or an underage, that is used to adjust a utility's EE Rule spending levels for the next calendar year. The current definitions require a reconciliation between the Commission authorized budget and the actual spending amount, which creates confusion because the reconciliation that is more important for purposes of determining the next year's program expenditure level is between the amount actually collected and the amount actually spent.
- b. Because Rule 17.7.2.8 was recently amended in the rulemaking docket of 17 00010-UT to stagger EE Rule applications among the electric and gas utilities and to enlarge the time between EE Rule applications from an annual basis to a triennial basis, the amended language to 17.7.2.8 (E) will allow a public utility, during its current and approved energy efficiency three-year plan cycle, the ability and flexibility, to modify, on an annual or other basis, its energy efficiency programs between triennial plan applications, if the modifications do not exceed ten percent of a public utility's projected level of energy efficiency plan revenue amounts which have been approved by the Commission based on the utility's EE Rule application docket that is filed every three years.
- c. The amended language to 17.7.2.12 NMAC is a logical outgrowth of the flexibility rationale given for amending 17.7.2.8 (D) above, and will expand the current language of the rule to now include, during each plan year, the ability of a utility to add a new energy efficiency program -- the current language only addresses motions to modify or terminate, but not to add, EE Rule programs -- by filing a motion in the same docket in which the public utility filed its most recent EE Rule application.
- d. The amended language to 17.7.2.14 (C) (1) expands the current rule's requirement, that utilities file annual reports regarding their EE Rule programs, to now require annual reports to also include estimates of next calendar year's EE Rule spending levels, and will require annual documentation of any adjustments to spending in the plan year and expected adjustments to the next plan year.

Issuing authority (If delegated, authority letter must be on file with
ALD): Name:

CYNTHIA B. HALL

Check if authority has been delegated



Title:

COMMISSIONER

Signature: (BLACK ink only)

Cynthia B. Hall

Date signed:

9/13/17

The Public Regulation Commission approved, at its 09/12/2017 hearing, to repeal its rule 17.7.2 NMAC, Energy Efficiency (filed 4/16/2010) and replace it with rule 17.7.2 NMAC, Energy Efficiency, adopted on 09/13/2017 and effective 09/26/2017.

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