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September 2, 2025

TO PARTIES OF RECORD IN CASE NO. 25-00002-UT

This is the Recommended Decision of Hearing Examiner Christopher P. Ryan. Unless and until the Commission considers the matter and votes to approve it, the Recommended Decision has no legal effect. This matter will be considered at a future Open Meeting of the Commission. To confirm when the matter will be considered, please see the Commission's Open Meeting agenda, which is posted on the Commission's website at least 72 hours before each Open Meeting at: <https://www.nm-prc.org/nmprc-open-meeting-agenda/>.

The Commission may hold a deliberative meeting to address this matter in closed session in advance of the Open Meeting at which the matter will be considered, in accord with Section 10-15-1(H)(3) of the Open Meetings Act. NMSA 1978, § 10-15-1(H)(3) (2013). In such event, notice of the deliberative meeting will be posted on the Commission's website 72 hours in advance of the deliberative meeting at the https address set forth above.

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

**IN THE MATTER OF NEW MEXICO GAS COMPANY,)
INC.'S REQUEST FOR APPROVAL OF ADVICE) Docket No. 25-00002-UT
NOTICE NO. 105)**

RECOMMENDED DECISION

Christopher P. Ryan
Hearing Examiner

September 2, 2025

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1. EXECUTIVE SUMMARY

This case concerns New Mexico Gas Company's (NMGC) request to revise its line extension policy (LXP). I recommend that the Commission approve NMGC's proposed, revised LXP.

The LXP has existed since 2009¹ and was last amended in 2015.² It establishes how NMGC responds to customer requests for extensions to NMGC's distribution mains, and it provides the bases for determining the responsibility of the company and its customers for the cost of those extensions. Line extension policies exist in several other states and have been the subject of significant policy debate.³

The LXP permits NMGC to provide credits to new customers for installing gas infrastructure to serve that customer. The credits are based on the projected revenue NMGC expects to receive from those new customers. The credits are justified if the incremental revenues collected over time are projected to exceed the incremental costs in the form of the initial, up-front credits.

Line extension projects account for less than five percent of NMGC's capital spending in any given year, and increasing line extension spending will not materially impact NMGC's revenue growth.⁴ The LXP is, according to the company, beneficial as it attracts new customers and, in turn, NMGC can spread the total revenue requirement across a larger base of customers.⁵ All New

¹ NMGC Ex. 1 Bullard Dir p.3.

² Id.

³ NMGC Ex. 3 Lyons Dir. p.6-7 (observing that fourteen states (including New Mexico) utilize a revenue/margin multiplier in determining customer cost responsibility for line extensions). Compare WRA Ex. 1, Attachment MK-15 Abigail Lalakea Alter, Sherri Billimoria, and Mike Henchen, *Overextended: It's Time to Rethink Subsidized Gas Line Extensions*, RMI, 2021, with NMGC Ex. 3 Lyons Dir p.7 American Gas Association, *The Current State of Natural Gas Line Extension Policies* (July 2024).

⁴ NMGC Ex. 2 Bulard Reb. p.10.

⁵ NMGC Ex. 2 Bullard Reb. p.10.

Mexico electric utilities and the majority of electric and natural gas utilities throughout the country offer line extension credits to new customers.⁶

Western Resource Advocates (WRA), the Coalition for Clean and Affordable Energy (CCAEE), Prosperity Works, and the Southwest Energy Efficiency Project jointly protest the revised LXP on grounds that it incentivizes installation of gas infrastructure at a time when, according to the joint protestors, macro-economic conditions, technology developments and electrification, and environmental forces make that investment inefficient and environmentally counterproductive. They contend that the LXP incentivizes the installation of what are sure to be stranded assets.

Joint protestors offer a simple explanation why NMGC seeks approval of the revised LXP and proposes to engage in what joint protestors perceive as inefficient and counterproductive investment: “[t]he line extension credits are costs added to rate base upon which the Company earns a return, and the larger the rate base, the greater the return. Therefore, larger credits reward investors.”⁷

As this very preliminary discussion makes clear, this case (at the broadest level) requires the Commission to decide if it wishes to make a policy choice that will limit incentives for installation of gas infrastructure. I propose that the Commission decline to make that policy choice and allow that question to be decided by the Legislature.

At a more granular level, the case requires the Commission to verify that there is sufficient evidence to approve NMGC’s proposed revisions to the LXP. I propose that sufficient evidence was provided.

⁶ Id.

⁷ WRA Initial Br. p.19.

2. BACKGROUND

This case has its genesis in NMGC’s 2023 request to revise rates. That case was docketed as Case No. 23-00255-UT, and it was resolved by an uncontested stipulation.

One of the obligations NMGC accepted in that stipulation was to file a revised LXP.⁸ NMGC agreed to “consult with WRA, Staff, and any other interested party” in that process. The stipulation made clear that “parties and Staff retain the right to object to the new [LXP] and seek Commission review and hearing.”

NMGC filed the revised LXP on December 31, 2024, through advice notice number 105. Consistent with 17.10.650.10(G) NMAC, the LXP outlines the procedures for addressing requests by customers for extending gas distribution mains and determining the responsibility of the Company and its customers for the cost of installing the equipment necessary to provide Customers with reliable natural gas service that best satisfies their service needs.

Joint protestors filed their protest. The Commission suspended advice notice number 105 until October 30, 2025, and assigned a hearing examiner. The joint protestors were granted automatic intervenor status. Intervenors filed testimony. A public hearing was conducted, and the parties filed post-hearing briefs.

3. DISCUSSION

3.1. Applicable Law

3.1.1. PRC Line Extension Rule

The numerous subparts existing at 17.10.650 NMAC all concern service standards for gas utilities. Subpart 10(G) of 17.10.650 NMAC is titled “[e]xtension plan.” As the title suggests, it concerns requirements for line-extensions plans. The rule provides as follows:

⁸ Case No. 23-00255-UT, Certification of Stipulation p.93 (6/6/2024).

Each utility shall develop a plan acceptable to the commission for the installation of extensions of mains and service lines where such facilities are in excess of those included in the regular rates for service and for which the customer shall be required to pay all or part of the cost. This plan must be related to the investment that can be made prudently for the probable revenue and expenses to be incurred.

The significance of the specific words appearing in this provision is addressed in the discussion section of this writing.

3.1.2. Generally Applicable Statutes

There are three statutory provisions at play here. First, “[e]very rate made, demanded or received by any public utility shall be just and reasonable.”⁹ Second, “[n]o public utility shall, as to rates or services, make or grant any unreasonable preference or advantage to any corporation or person within any classification or subject any corporation or person within any classification to any unreasonable prejudice or disadvantage.”¹⁰ Third, the Commission is expressly directed to ensure that investor owned utilities operating in the state provide service “without unnecessary duplication and economic waste[.]”¹¹

3.1.3. Evidentiary Burden

“[U]nless a statute provides otherwise, the proponent of an order or moving party has the burden of proof.”¹² That burden “is two-prong[ed]: it includes both the prima facie burden of adducing sufficient evidence to go forward with a claim and the burden of ultimate persuasion.”¹³

The proof an applicant must satisfy is “a preponderance of record evidence.”¹⁴ This means “the

⁹ NMSA 1978, § 62-8-1 (1941).

¹⁰ NMSA 1978, § 62-8-6 (1941, as amended through 2025).

¹¹ NMSA 1978, 62-3-1(B) (2008).

¹² Case No. 22-00270-UT, Recommended Decision, p.16 (12/08/2023)

¹³ *Id.*

¹⁴ *Id.*

greater weight of the evidence. That is, evidence that—when weighed with that opposed to it—has more convincing force.”¹⁵

3.2. Evidence Provided by NMGC to Support the LXP Revisions

NMGC supplied the revised LXP—second revised Rule 16—in advice notice 105. The first part of the filed rule explains the basic purposes of the LXP. As noted above, it establishes NMGC’s procedures for “addressing requests by Customers for extending the Company’s gas distribution mains and determining the responsibility of the Company and its customers for the cost of installing the field equipment necessary to provide customers with reliable natural gas service. . . .”¹⁶ The LXP goes on to explain that it operates from the principle that investments in extensions to satisfy a customer’s natural-gas-service needs should be made “only when it is economically prudent for the Company to do so based on the probable revenues and expenses to be incurred.”¹⁷

NMGC’s witnesses explain that the revisions to the LXP and amended credits offered new customers under the revised LXP are necessary for the following reasons:

- The revisions reflect rate changes that have occurred since 2015, incorporate the base rates approved by the Commission in Case No. 23-00255-UT, and “better reflect[] revenue contributions from new customers.”¹⁸
- The revised LXP incorporates transmission revenues and costs in addition to distribution revenues and costs whereas the current LXP incorporates only distribution revenues and costs.¹⁹
- The revised LXP better reflects incremental revenue contributions from new customers as well as incremental costs of line extensions since natural gas is delivered from the Company’s transmission system to the Company’s distribution system and then to customers.²⁰

¹⁵ *Id.* at 16-17

¹⁶ Case No. 25-00002-UT, Advice Notice No.105 (New Mexico Gas Company, Inc.) Rule, pdf p.5 of 73 (12/31/2024).

¹⁷ *Id.*

¹⁸ NMGC Ex. 3 Lyons Dir. p.3

¹⁹ *Id.*

²⁰ *Id.* at 3-4.

- The revised LXP applies a revenue multiplier of five times annual revenues whereas the present LXP uses a revenue multiplier of four, and the increased multiplier better reflects the revenue contribution from new customers toward the economic feasibility of line extensions.²¹ As to this last justification, NMGC emphasizes that fourteen states (including New Mexico) utilize a revenue/margin multiplier in determining customer cost responsibility for line extensions.²²

There are three types of credits contemplated by the present and revised LXP. This includes revenue credits, lot credits, and system improvement credits. A broad explanation of each follows.

Revenue credits

May be provided to new customers served from a line extension. The present, pre-revision amount is \$1,100 for each new residential customer who signs a line extension agreement for new service. This present value is four times the annual distribution revenues from NMGC's most recent Commission approved rate case. NMGC proposes increasing this to approximately \$1,800 which is five times annual revenues.²³

Lot credits

If the line extension passes and can serve lots not presently receiving gas service, a lot credit may be provided. Presently, there is a credit of \$950 for each vacant or undeveloped lot on a line extension, and a credit of \$475 for each existing building or developed lot on a line extension not presently served by natural gas. Customers receiving revenue credits are ineligible for lot credits. NMGC proposes increasing this credit to roughly \$1,800.²⁴

System improvement credits

These are provided for system-wide improvements.²⁵ NMGC witness Bullard explains that "[i]n cases where the Company installs additional capacity for area-wide system improvements—such as for system reliability—the Company shall bear responsibility for those portions of the costs."²⁶ He supplies a helpful example. "[I]f the Company installs a [four] inch main rather than a [two] inch main for area-wide system improvements, then the Company shall bear the incremental cost of installing" the larger main. Witness Bullard also points out that system improvement credits are relatively rarely issued. He notes that, "[f]or the period from 2019 through 2023, there were 113 projects that included a system improvement credit out of 4,127 customer funded mainline extensions[. This] represents roughly 2.7% of the total projects."

²¹ Id. at 4.

²² Id. at 6-7.

²³ NMGC Ex. 3 Lyons Dir. p.5-6.

²⁴ Id. at 6.

²⁵ Id.

²⁶ NMGC Ex. 2 Bullard Reb. p.11.

The proposed revisions to the LXP are shown below in table form. The table was created and supplied by NMGC.²⁷

Line Extension Credits	Proposed Credit	Current Credit
Revenue Credits	\$1,814	\$1,100
Lot Credits	\$1,814	\$950/\$450

To show that the credits the LXP permits are cost effective, NMGC analyzed a sample of recent line extension projects (twenty-three to be exact) completed between 2016 and 2024 and found that the revenues from the new customers exceeded the incremental costs of the line extensions.²⁸ NMGC explains that the NPV “of incremental revenues from new customers served from the line extension over twenty years exceed the NPV of line extension costs over twenty years for each of the twenty-three projects.”²⁹

NMGC performed the same analysis using the revised credit amounts, and the company found that the benefit-to-cost ratio still weighed in favor of offering the credits.³⁰

NMGC identifies three benefits that flow from the revisions to the LXP:³¹ (1) the updated credits incorporate recent rate adjustments; (2) the updated credits help facilitate connection of new homes and businesses to the company’s distribution system; and, (3) the addition of new customers will, in turn, benefit existing customers by spreading system costs over a larger number of customers.

This evidence is sufficient to satisfy NMGC’s evidentiary burden. It shows that the revisions to the LXP are in the public interest. The writing that follows addresses joint protestors’

²⁷ NMGC Ex. 3 Lyons Dir. p.11.

²⁸ NMGC Initial Br. p.7.

²⁹ Id.

³⁰ Id. at 6.

³¹ NMGC Ex. 3 Lyons Dir. p.12.

varying arguments why NMGC has failed to and cannot fulfill its evidentiary burden and why the proposed revisions to the LXP should be rejected and the LXP terminated. Those arguments are both evidentiary in nature and policy driven.

3.3. Joint Protestors' Evidence & Arguments in Opposition to the LXP

The discussion that follows addresses joint protestors' broadest claims first and then moves to the more granular reasons. Arguments that share similar foundations or have some shared significance are addressed together for efficiency. The varying parties here comprising the joint protestors make several duplicative arguments. This is common in Commission proceedings which are almost always multi-party cases. Where there is duplicative argument, only one party's treatment of the issue is discussed. This is done purely for efficiency.

3.3.1. Future of Gas in New Mexico

At the broadest level, joint protestors are asking the Commission to make a significant policy judgment about the future use of natural gas in New Mexico.³² They point to the LXP as a mechanism that is contributing—counter productively in their view—to the continued reliance on natural gas by the residents of New Mexico. For this reason, they oppose the LXP generally and the revisions to it.

This is a fair characterization of the joint protestors' claims, and CCAE's articulation of the point in its own words makes this clear. CCAE writes that

[NMGC's] existing line extension credits, as well as its proposed expansion of those credits, promote increased emissions of greenhouse gases and other harmful air pollutants. The credits are therefore inconsistent with New Mexico policy to reduce

³² See, e.g., WRA Initial Br. p.29 ("NMGC admits that [its] line extension credits are designed to encourage growth and incentivize new connections, but system expansion necessarily increases emissions and WRA has shown in this brief and in testimony that the credits and subsidies embedded therein distort the price signals sent to developers and even individual property owners who may otherwise choose electrification alternatives if the playing field were level. Thus, the policies underlying pro-growth gas line extension credits are contrary to the Executive Order and would make it harder to achieve the Executive Order's climate goals across other sectors in New Mexico, specifically the buildings sector.").

emissions of greenhouse gases (and other pollutant[s]) and combat climate change, as expressed by the Governor, the Legislature, and this Commission.³³

NMGC persuasively replies that “the Commission does not have the authority to do what the [i]ntervenors request.”³⁴ The Commission is not, the company argues, empowered by the Public Utility Act or any other law “to evaluate greenhouse gas emissions in connection with line extension policies of natural gas utilities.” The intervenors are, the company contends, inviting the Commission to act outside of its statutorily conferred power.³⁵

NMGC also contends that the joint protestors’ arguments are “inconsistent with the Commission’s conferral of a monopoly service territory to NMGC.” NMGC emphasizes that spreading fixed costs over as large a customer base as possible “puts downward pressure on rates” and that the downward pressure is desirable. In NMGC’s view, “[t]he premise[s]” underlying the joint protestors’ argument here are “in conflict with the concept of regulated monopolies and New Mexico’s regulatory scheme.”³⁶

Moreover, NMGC points out that the Company’s justification for the LXP and the revisions to it are patently reasonable. NMGC witness Lyons concisely expresses the core thought underlying why the LXP credits are offered: “[e]xisting customers benefit when the Company expands its service to new customers and the incremental revenues from the new customers under Rule No. 16 exceed the incremental cost of the line extensions.” He states that line extension credits must and do “strike a balance between the need to offer energy options to New Mexico’s citizens and the requirement that service connections to new customers should not be subsidized by existing customers.”³⁷

³³ CCAE Initial Br. p.10.

³⁴ NMGC Resp. Br. p.4.

³⁵ Id. at 5.

³⁶ NMGC Initial Br. p.25.

³⁷ NMGC Ex. 4 Lyons Reb. p.4.

The company is correct that the joint protestors are asking the Commission to make a policy judgment about the continued use of gas services in New Mexico. Joint protestors attack the LXP as a vehicle that ensures continued use of gas and expansion of the gas system and, thus, object to it. NMGC is correct that the Commission does not have authority to render such broad judgment. This is more than the mere filling of gaps in legislative pronouncements that an administrative adjudicatory body like the Commission generally provides.³⁸ Joint protestors' request asks the Commission to resolve a significant question of public policy. The Commission should not act as joint protestors request and should defer to the Legislature on such matters. In sum, the Commission should decline the invitation to reject the LXP as part of a broader move to wind down use of natural gas in the state.

3.3.2. Executive Order

Joint protestors argue that “the Commission should unequivocally consider Executive Order 2019-003” in resolving this case “because the [o]rder enunciates climate goals and policies, and associated actions that relate to the gas utility business[.]”³⁹ They contend that the line extension policy is “completely at odds” with the executive order and “state and regional decarbonization policies” more generally.⁴⁰

NMGC responds that joint protestors' reliance on the executive order is misplaced, and that the order is inapposite. This is for two reasons: (1) the order includes a disclaimer that makes plain the order has no bearing on the question here; and, (2) as a matter of separation of powers, an

³⁸ See *City of Albuquerque v. N.M. Pub. Regulation Comm'n*, 2003-NMSC-028, ¶ 16, 134 N.M. 472, 79 P.3d 297 (“[I]t is presumed, in the context of administrative matters that the Legislature has delegated to an agency, that the Legislature intended for the agency to interpret legislative language, in a reasonable manner consistent with legislative intent, in order to develop the necessary policy to respond to unaddressed or unforeseen issues.”).

³⁹ WRA Initial Br. p.28.

⁴⁰ Id. at 30.

executive order cannot amend, modify, or nullify statutes enacted by our Legislature.⁴¹ As explained below, NMGC’s responses are persuasive.

The disclaimer in the executive order is clear. It states that the order does not diminish or expand any rights. The text of the disclaimer is as follows:

Nothing in this Executive Order is intended to create a private right of action to enforce any provision of this Order or to mandate the undertaking of any particular action pursuant to this Order, nor is this Order intended to diminish or expand any existing legal rights or remedies.

NMGC contends that the plain terms of this disclaimer “forecloses the [argument] that getting rid of line extension credits somehow comports with the” executive order or that the order is relevant legal authority supporting elimination of line extension credits generally or the revised LXP proposed here specifically.⁴² This is persuasive.

NMGC also contends that, as a basic matter of separation of powers, “the Legislature has not conferred policymaking authority on the Governor or the Commission to rewrite the Public Utility Act” and “institute” new “decarbonization efforts” as this “would infringe on the power of the Legislature by imposing, via executive order, a substantive change in the law.”⁴³ This is also persuasive.

The governor cannot decide by executive order what laws—and the attendant policies that animate them—control in New Mexico. That is a legislative task.⁴⁴

⁴¹ NMGC Initial Br. p.3.

⁴² NMGC Initial Br. p.3.

⁴³ Id. at 4.

⁴⁴ *State ex rel. Taylor v. Johnson*, 1998-NMSC-015, ¶ 21, 125 N.M. 343, 961 P.2d 768 (recognizing “that only the legislative branch is constitutionally established to create substantive law” and emphasizing “the unique position of the Legislature in creating and developing public policy.”).

3.3.3. Cost Causation and Detriment to Existing Customers

Joint protestors argue that the LXP does not appropriately assign costs to cost causers and, for this reason, should be rejected.⁴⁵ They point out that “the costs of a line extension” under the LXP are not “collected in full from the requesting customer;” rather, the requesting “customer receives a discount in the form of a line extension credit, and the amount of that credit or discount is collected through rates charged to all existing customers.”⁴⁶ Joint protestors argue that this constitutes an impermissible and undesirable “subsidy of new customers by existing customers.”⁴⁷

To be sure that the reader comprehends the point, it’s worth quoting joint protestors’ own, straightforward words in briefing: “even though the requesting customer is causing the costs of the new pipeline and other facilities that must be constructed to extend service to that new customer, and the new customer is benefitting from the service, it is the existing customer base that is expected to pick up all or part of the tab.”⁴⁸ They add that the “subsidy” produced by the LXP credits “consistently contributes to cost burdens for existing gas customers, even though that investment is not required to deliver safe and reliable service to those customers.”⁴⁹ Joint protestors also contend that the subsidies the credits produce unfairly benefit housing developers at the expense of homeowners.⁵⁰

NMGC responds that that these arguments are patently flawed as they ignore that the “subsidy” the protestors say is unacceptable is expressly contemplated and allowed by the Commission’s line extension rule.⁵¹ The company points out that 17.10.650.10(G) expressly

⁴⁵ WRA Initial Br. p.4.

⁴⁶ Id. at 5.

⁴⁷ Id. at 6.

⁴⁸ WRA Initial Br. p.5.

⁴⁹ Id. at 6.

⁵⁰ Id. at 14.

⁵¹ NMGC Initial Br. p.5.

contemplates that a new customer may pay only “part of the cost” for the installation and extension of mains and service lines. The words “part of the cost” mean, by their plain terms, that the regulation expressly “anticipates a mechanism by which the utility is able to decrease the portion of the line extension cost that the customer is responsible for paying.”⁵²

NMGC also notes that the joint protestors cost-causation argument runs contrary to Commission precedent. The company points out that “the Commission has approved NMGC’s line extension tariffs repeatedly over the years,” and further emphasizes that all “iterations” of the tariff “have contained revenue credits and lot credit amounts.”⁵³ The reason all iterations of the rule include revenue and lot credits is, NMGC asserts, to “encourage development.” This is accurate and joint protestors are taking a position inconsistent with the Commission’s past treatment of the issue here.

The joint protestors’ argument that the LXP produces invalid and unlawful subsidies and fails to apportion costs to cost causers must fail given that the plain language of Rule 17.10.650.10(G) permits the utility to spread costs between new and existing customers for the extensions. Moreover, the Commission has repeatedly authorized NMGC to utilize line extensions credits both to incentivize and facilitate the addition of new customers and to expand its system so that more customers absorb the costs needed to maintain the gas system.

NMGC also offers an persuasive response to joint protestors’ claim that the impermissible subsidies produced by the credits unfairly benefit housing developers. The company explains that it “cannot provide line extension credits to individual property owners but not residential-neighborhood developers.”⁵⁴ The company points out that “[d]evelopers are customers within the

⁵² Id.

⁵³ NMGC Initial Br. p.6.

⁵⁴ Id. at 22.

meaning of the line extension policy” and the company cannot, as a matter of law, discriminate or provide preferential treatment to similarly situated customers.⁵⁵ Moreover, joint protestors’ contention that home owners in no way benefit from the credits to developers necessarily ignores that new-home prices are based on the costs to build them. If a credit reduces cost of construction, then that will necessarily factor into home prices as the housing “market” is precisely that, a competitive market. This is not speculation. NMGC notes it has “heard from builders that [the credits] makes a difference in the cost of the house that they’re providing to homeowners, and it helps to keep the costs down.”⁵⁶

3.3.4. Stranded Assets & Electrification

Joint protestors argue that NMGC’s line extension policy will produce stranded assets. Specifically, they contend that electrification will render gas infrastructure and any investment in it unnecessary and ultimately obsolete. They put the thought this way:

As market transformation efforts bring down the cost of electric equipment and otherwise lead customers to electrify, it will become likely that customers might depart the gas system, leaving fewer customers to pay off the existing costs of the system. This is part of why limiting new, unnecessary fixed costs into the gas system is so important: to ensure that future gas customers—especially low-income customers—are not stranded with gas infrastructure costs that could easily have been avoided.⁵⁷

Joint protestors also emphasize that increasing efficiency demands in the building code in conjunction with the availability and declining cost of heat pumps will produce meaningful

⁵⁵ NMSA 1978, § 62-8-6 (2025) (“No public utility shall, as to rates or services, make or grant any unreasonable preference or advantage to any corporation or person within any classification or subject any corporation or person within any classification to any unreasonable prejudice or disadvantage.”); *Morningstar Water Users Ass’n v. NM PUC*, 1995-NMSC-062, ¶ 53, 120 N.M. 579 (“[i]mplicit in [the concept of a regulated monopoly] is an acceptance of the principle that a public utility offers its facilities and services to the public without discrimination and that it is obligated to extend its services as needed within its service area unless the supervisory agency determines that it is not practicable or economically feasible to do so.” (internal quotation marks and citation omitted)).

⁵⁶ NMGC Initial Br. p.23.

⁵⁷ WRA Initial Br. p.19.

headwinds for gas service altogether let alone expansion of that service.⁵⁸ CCAE emphasizes that New Mexico’s electric utilities offer incentives for heat pumps and that it makes little sense to incentivize electric heating options and gas (fossil fuel) options simultaneously.⁵⁹

NMGC responds that these arguments are inconsistent with the evidence supplied in this case and that intervenors are, in actuality, engaged in “baseless speculation.”⁶⁰ NMGC explains that “[o]ver the past five years (2020 through 2024), NMGC has added an average of 3,715 customers per year with 98% of the new customers being residential customers.”⁶¹ NMGC emphasizes that this number exceeds population growth in New Mexico, and that this indicates that demand for gas services must be partly based on existing residents seeking gas service.⁶² System growth cannot be explained merely by new residents entering the state.

In addition, NMGC hired an expert in this case, witness Lyons, to evaluate whether the costs associated with the LXP revisions would exceed incremental revenues from new customers.⁶³ If the costs outweighed projected benefits, then the LXP would not be desirable. Witness Lyons concluded that “the net present value of the incremental revenues from new customers served from the line extension over 20 years exceed the net present value of line extensions costs over 20 years.”⁶⁴ As noted earlier, the same result was reached by evaluating the NPV of the revised LXP credits.

As to the heat pump claim, NMGC points out that the evidence supplied by the joint protestors in support of the claim that heat pumps are more affordable than gas heating was

⁵⁸ Id. at 9.

⁵⁹ CCAE Initial Br. p.7.

⁶⁰ NMGC Initial Br. p.10.

⁶¹ Id. at 18.

⁶² Id.

⁶³ NMGC Initial Br. p.7.

⁶⁴ Id.

predicated upon analysis that is unreliable and flawed. The purported savings from heat pumps joint protestors offered in evidence did not account for certain components of the applicable electric rates. When correctly evaluated, the company contends that the evidence presented here indicates that the cost to heat a home with an electric heat pump is actually more than gas heating.⁶⁵ The Commission need not determine that this state of affairs will always be true. The conclusion credited here is merely one that applies in this limited circumstance.

Crucially, NMGC emphasizes “that the evidence in this case establishes that the proposed credits are based on reasonably forecasted usage and customer growth.”⁶⁶ NMGC asserts that the joint protestors have not shown that it has overestimated average use or that NMGC’s customer base will decline as electrification advances and electric heating becomes more affordable. According to NMGC, joint protestors have not provided “substantive evidence to support these claims and fail to provide any evidence as to when or by what magnitude gas usage in NMGC’s service territory will change.” They have, instead, engaged in speculation “about possible future developments that may or may not impact gas usage, and then broadly declare that NMGC should cease offering line extension credits altogether.”⁶⁷

As to the assertion that it is senseless to incentivize electric heat pumps and infrastructure for additional gas heating, there is no authority that precludes NMGC from providing incentives to expand its customer base. The view that the Commission cannot adopt “an-all-of-the-above” approach is one rooted in the unique interests of individual parties and not the law.

For these reasons, the arguments here about stranded assets and electrification fail.

⁶⁵ Id. at 20-21.

⁶⁶ Id. at 9.

⁶⁷ NMGC Initial Br. p.10.

3.3.5. Accuracy of NMGC's Demand Projection & Long-Term Benefits

In the evidentiary portion of the proceeding, Staff argued that home efficiency increases undermine NMGC's projections about future gas sales and, for this reason, NMGC's revenue projections from the new customers to whom line extension credits will be issued are likely wrong.⁶⁸ Staff also attempted to show, as a factual matter, that NMGC has failed to account for regional climate variation throughout New Mexico in calculating projected sales.⁶⁹ Staff did not raise these matters in post hearing briefing.

WRA emphasizes in its briefs evidence submitted showing that NMGC's projections for future benefits realized through new customers are inaccurate, and that NMGC's cost benefit analysis of the line extension credits is fundamentally flawed.⁷⁰ WRA specifically contends that NMGC's projections fail to account for building code changes, market trends for heating equipment, and building decarbonization policies.

WRA emphasizes that nearly ninety percent of the credits in NMGC witness Lyons' analysis were directed to residential subdivision projects in climate zones three and four. WRA further points out that seventy-five percent of residential usage occurs in climate zones three and four, and that in 2024 the average gas usage in climate zone three was thirty-nine therms per month. WRA contends that this is just one example of how NMGC's projected-demand analysis necessarily overstates new customer usage. For these reasons, WRA contends that "NMGC's liberal line extension credits are contrary to the Commission's obligation to prevent unnecessary duplication and economic waste"⁷¹ To be very clear, the broad point is this: NMGC's "assumption of an average usage level of 52 therms per month for the entirety of [the] NPV

⁶⁸ Staff Ex. 1 Zigich Dir. p.5-10.

⁶⁹ Id. at 14-17, 19-20.

⁷⁰ WRA Initial Br. p.40-41.

⁷¹ WRA Initial Br. p.21.

analysis” associated with line extension credits and new-customer expected revenue “does not even align with current usage today in many parts of NMGC’s system.”⁷²

The company responds to these claims with a host of arguments. It points out that it has examined usage in modern homes and found no appreciable decline in gas usage.⁷³ Therm usage is largely constant. This is explained, in part, by the fact that newly constructed homes tend to be larger than homes constructed in the past. New homes also have features—steam showers, double ovens, high ceilings, open-floor plans, etc.—that older homes do not.⁷⁴

As to the critique about climate variations and whether the company’s projected demand accurately accounts for those variations, NMGC explains that it does consider geographic location in the calculation of line extension credits.⁷⁵ The company “divides the state into three zones—north, central, and south—and adjusts the estimate based on the zone.” Location, square footage of any proposed building, and appliance information is utilized in usage estimation as well. NMGC emphasizes that it is often difficult to “provide a tailored estimate of usage,” and this is particularly so for lot credits, “because the company does not have information about what is going to be built.” In these circumstances, the company “believes that using a system-wide average is fairer and more appropriate than an average based on climate zones.”

The company also points out that it “has added an average of 3,715 customers per year with 98% of the new customers being residential customers.” This constitutes “a five-year average growth rate of 0.69%, compared to the New Mexico population five-year average growth rate of 0.29%.” This means that demand for gas services is increasing at a rate that cannot be explained purely by population growth.

⁷² Id. at 9.

⁷³ NMGC Initial Br. p.12.

⁷⁴ Id.

⁷⁵ Id. at 13.

NMGC also emphasizes that “the residential average usage per customer has remained relatively stable, only moving plus or minus 5% from the five-year average usage of 52 therms per month on a non-weather normalized basis.”⁷⁶ There is no reason to doubt the validity of this contention.

The company also points out that “the majority of line extensions and line extension credits are related to development of land wherein there will be gas appliances in use” and “[t]he average furnace lasts more than 15 years.”⁷⁷ The company contends that “it is very unlikely for people to take out an expensive appliance like a furnace, when it is still functioning, and replace it with a different technology entirely.” The company contends that “once a residence or business hooks up to natural gas, they continue service for many years.”⁷⁸

This last point is one that gets at the core of the debate here. Joint protestors’ position is that it is undesirable for New Mexico utility-service users to initiate gas services and that it is more desirable to end incentives that would push potential customers in that direction. This is indeed joint protestors’ position as they expressly argue that NMGC’s line extension credit encourages “growth and facilitate[s] new customer connections to the gas system.”⁷⁹ According to joint protestors, this is undesirable because it encourages “economically inefficient decisions and incentivize[s] unnecessary expansion of the gas system.”⁸⁰

NMGC agrees to track usage data for homes built to the 2021 codes and report the data to Staff. This would provide stakeholders with actual data about the impact of building codes on gas usage. This is desirable.

⁷⁶ NMGC Initial Br. p.18.

⁷⁷ Id, at 24.

⁷⁸ Id.

⁷⁹ WRA Initial Br. p.22.

⁸⁰ Id. at 22-23.

In sum, NMGC has persuasive arguments that respond to the joint protestors' varying contentions about why the company's future demand projections are wrong. NMGC's projections are credible.

3.3.6. Other Matters

Two miscellaneous matters can be addressed in condensed form.

3.3.6.1. *Compliance with Stipulation in 23-00255-UT*

As noted, this case and potential revisions to NMGC's LXP were first addressed in the 2023 rate case filing. The parties there agreed to defer the issue of revisions to the LXP to this case. The stipulation expressed the parties' expectations about the process for NMGC to propose revisions and then file request for authorization to institute those revisions. There is agreement NMGC complied with that process.⁸¹

3.3.6.2. *Customer Access Fee*

Staff witness Zigich, in direct testimony, asked NMGC to remove some of the probable revenues from its analysis related to the portion of the monthly customer access fee used to pay for individual customer services and equipment. NMGC witness Lyons agreed to remove \$8.77 of probable revenue per month. Staff raised this as an issue in both its post-hearing initial and response brief.

NMGC explains that witness Lyons agreed with Staff witness Zigich that this portion of the access fee is not part of the revenue that should go towards cost recovery. NMGC witness

⁸¹ Staff Initial Br. p. 5 ("As drafted, Staff discern that NMGC is in compliance with the terms of the uncontested stipulation of Docket No. 23-00255-UT."); WRA Initial Br. p.37 ("WRA submits that NMGC complied with the letter of the stipulated agreement but not fully with the spirit of the agreement."); CCAE Initial Br. p.12 ("CCAЕ is not aware of any non-compliance with the Uncontested Stipulation in Case No. 23-00255-UT on the part of [NMGC] or any other party."); NMGC Initial Br. p.26 ("NMGC complied with every stipulated agreement in Case No. 23-00255-UT relating to the formulation and filing of a revised Rule 16.").

Lyons nevertheless demonstrated that the proposed credits were still prudent even with that amount removed.

4. CONCLUSION

The Commission should approve NMGC's revisions to its LXP as described in advice notice No. 105 which contains the second revised Rule No. 16. Joint protestors' arguments attacking the LXP as a general matter and the revisions to it as a more specific matter should all be rejected.

5. FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties to and subject matter of this case.
2. Reasonable, proper, and adequate notice was provided as required by law.
3. NMGC's second revised rule number 16 as set out in advice notice number 105 is approved.
4. NMGC should track the impact of new building codes as it indicated it would and share that data with Staff and intervenors here as it becomes available.

6. DECRETAL PARAGRAPHS

- A. Any conclusions or recommendations not specifically stated here but that are or may be necessary to make this writing coherent and complete is adopted by the Commission as if they were stated.
- B. The Commission has taken administrative notice of all Commission orders, rules, decisions, and other relevant materials in all Commission proceedings cited in this recommended decision.
- C. Any matter not specifically ruled on during the hearing or in this writing is resolved consistent with this recommended decision.

D. If no motions for rehearing are filed, or if all motions for rehearing are denied by operation of law, this docket will close by operation of law.

E. The Commission shall serve a copy of this recommended decision on all persons listed on the attached certificate of service via e-mail.

F. In computing time in accordance with statute, regulation, or Commission order, the computation shall begin on the date that this recommended decision is filed with the clerk of the Commission's records bureau.

ISSUED under the seal of the Commission at Santa Fe, New Mexico, this **2nd** day of **September 2025**.



NEW MEXICO PUBLIC REGULATION COMMISSION

A handwritten signature in black ink, appearing to read "C. Ryan", is written over a solid black horizontal line.

Christopher P. Ryan

Hearing Examiner

Christopher.ryan@prc.nm.gov

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

**IN THE MATTER OF NEW MEXICO GAS)
COMPANY, INC.'S REQUEST FOR APPROVAL) Case No. 25-00002-UT
OF ADVICE NOTICE NO. 105)**

CERTIFICATE OF SERVICE

I certify that on this date I sent via email to the parties listed here a true and correct copy of the **Recommended Decision** of Christopher P. Ryan.

Records Management Bureau

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BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

Amended Official Service List – 8/25/25

Case No. 25-00002-UT

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Dated this September 2, 2025.

NEW PUBLIC REGULATION COMMISSION

/s/ Ana Kippenbrock (Electronically signed)
Ana Kippenbrock, Paralegal