

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

IN THE MATTER OF THE APPLICATION)
OF NEW MEXICO GAS COMPANY, INC.)
FOR APPROVAL OF REVISIONS TO ITS)
RATES, RULES, AND CHARGES PURSUANT)
TO ADVICE NOTICE NOS. 70 AND 71)
NEW MEXICO GAS COMPANY, INC.)
Applicant.)

Case No. 18-_____-UT

DIRECT TESTIMONY AND EXHIBITS

OF

NICOLE V. STRAUSER

February 26, 2018

**DIRECT TESTIMONY OF
NICOLE V. STRAUER
NMPRC CASE NO. 18- _____ -UT**

1 **Q. PLEASE STATE YOUR NAME, OCCUPATION AND BUSINESS ADDRESS.**

2 **A.** My name is Nicole V. Strauser. I am Senior Legal Counsel and Director, Legal and
3 Regulatory, for New Mexico Gas Company, Inc. ("NMGC" or the "Company"). My
4 business address is 7120 Wyoming Blvd NE, Albuquerque, NM 87109.

5
6 **Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND WORK
7 EXPERIENCE.**

8 **A.** I received a Bachelor of Arts in Business, from the University of Nebraska-Lincoln in
9 1987. I continued my studies at the University of Texas School of Law where I received a
10 Juris Doctorate in 1990.

11
12 In 1990, I began my professional career as an associate at Rodey, Dickason, Sloan, Akin
13 & Robb, P.A. in Albuquerque, New Mexico, where my practice was devoted mainly to
14 commercial litigation and bankruptcy matters. In 1993, I left the Rodey firm and continued
15 my private practice in Albuquerque, focusing on commercial matters, real estate and
16 bankruptcy law. I engaged in private practice until 1998. From 1998 until 2006, I worked
17 for Talbot Financial Corporation, a wholly owned subsidiary of SAFECO Corporation, as
18 General Counsel, as well as Chief Compliance Officer for its wholly-owned broker-dealer.
19 While at Talbot, among my other responsibilities, I was responsible for the hiring and
20 management of litigation and regulatory counsel.

21

**DIRECT TESTIMONY OF
NICOLE V. STRAUER
NMPRC CASE NO. 18-_____ -UT**

1 In 2006, I joined the Miller Stratvert Law Firm. In that position, I worked on a variety of
2 legal matters for PNM Resources and its subsidiaries, including Public Service Company
3 of New Mexico ("PNM"). I provided legal advice in matters pertaining to the wholesale
4 power market, ISDA transactions, Class II transactions, franchises, renewable energy and
5 electric and gas supply contracts, and litigation and other dispute resolution activities.
6 From late 2007 through mid-2009, I was lead outside local counsel representing PNM in
7 its sale of substantially all of PNM's gas utility assets to NMGC.

8
9 In January 2010, I joined NMGC as Senior Legal Counsel. In April 2014, I assumed the
10 responsibilities of Director, Legal and Regulatory. Currently, I represent the Company in
11 a variety of areas, including litigation, claims, employee relations, contracts negotiation
12 and administration, franchise negotiations, and regulatory matters. My administrative
13 responsibilities include supervision of in-house legal staff, and involvement in the
14 oversight of the legal department budget, including outside legal expenses.

15
16 I am currently licensed to practice law in New Mexico and Colorado.

17
18 **Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE THE NEW MEXICO PUBLIC**
19 **REGULATION COMMISSION ("NMPRC" OR THE "COMMISSION")?**

20 **A.** Yes, I submitted pre-filed direct testimony in NMPRC Case No. 11-00042-UT, NMGC's
21 last rate case.

22

**DIRECT TESTIMONY OF
NICOLE V. STRAUER
NMPRC CASE NO. 18-_____ -UT**

1 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

2 **A.** The purpose of my testimony is five -fold:

- 3 - In Section I, I describe and quantify NMGC’s Base Period litigation-related
4 expenses, demonstrate that they were reasonable and prudently incurred and
5 therefore provide a reasonable basis for the Test Period level of litigation expense
6 to be recovered in rates pursuant to Section 62-13-3 of the New Mexico Public
7 Utility Act (the “Act”) and 17.5.630.7(O) NMAC (“Rule 630.7(O)”). As used in
8 this testimony, “Base Period” expenses mean expenses incurred in the twelve-
9 month period ending September 30, 2017. In this case, there are no test period
10 adjustments to any of the litigation expenses incurred in the Base Period. “Test
11 Period” expenses are the amounts, with or without adjustments, considered to be a
12 reasonable basis for setting revised base rates in this proceeding. These Test Period
13 litigation-related expenses are included in NMGC’s revenue requirement, which is
14 sponsored by NMGC Witness Hastings.
- 15 - In Section II, I identify expenses, including legal and consultant expenses, incurred
16 (or to be incurred) in preparing and presenting this rate case, and demonstrate that
17 they are reasonable and prudently incurred.
- 18 - In Section III, I sponsor proposed revisions to NMGC Rate 31, NMGC Rate 35,
19 NMGC Rate 54, NMGC Rate 56, and NMGC Rate 58 in order to clarify the
20 methodology currently used by NMGC during its rate review process.
- 21 - In Section IV, I sponsor NMGC’s proposal to cancel NMGC Rate 1-2, as well as
22 NMGC Rate 1-7.

**DIRECT TESTIMONY OF
NICOLE V. STRAUER
NMPRC CASE NO. 18-_____ -UT**

1 - In Section V, I discuss NMGC's compliance with the requirements of
2 17.1.2.10(B)(2)(d) NMAC.

3

4 **Q. HAVE YOU PREPARED ANY EXHIBITS?**

5 **A.** Yes. The exhibits I prepared, or that have been prepared under my supervision, are:

6 NMGC Exhibit NVS-1 Summary of Litigation Expenses

7 NMGC Exhibit NVS-2 Tort Claim Litigation Expenses

8 NMGC Exhibit NVS-3 Commercial Litigation Expenses

9 NMGC Exhibit NVS-4 Human Resources Litigation Expenses

10 NMGC Exhibit NVS-5 NMPRC Litigation Expenses

11 NMGC Exhibit NVS-6 FERC Litigation Expenses

12 NMGC Exhibit NVS-7 Rate Case Expenses

13 NMGC Exhibit NVS-8 Revised Rate 31

14 NMGC Exhibit NVS-9 Revised Rate 35

15 NMGC Exhibit NVS-10 Revised Rate 54

16 NMGC Exhibit NVS-11 Revised Rate 56

17 NMGC Exhibit NVS-12 Revised Rate 58

18 NMGC Exhibit NVS-13 Final Order Report

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I. LITIGATION EXPENSES

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Q. WHAT IS THE STANDARD FOR ALLOWING RECOVERY OF LITIGATION EXPENSES?

A. Rule 630.7(O) authorizes recovery of expenses incurred for litigation, which is defined as “all contested matters before regulatory commissions, administrative bodies, and state or federal courts. Litigation also includes arbitration proceedings and other similar dispute resolution proceedings.” Litigation expenses are recoverable by a utility if they are reasonable and prudently incurred.

Q. PLEASE EXPLAIN THE TERM “REASONABLE AND PRUDENTLY INCURRED”.

A. Based on New Mexico Public Regulation Commission (the “NMPRC” or the “Commission”) precedent and generally accepted regulatory standards, reasonable and prudently incurred in this context means that a reasonable, ordinary business person would make the expenditure, based on the facts and circumstances known by the utility’s management at the time.

Q. HAVE YOU DETERMINED WHETHER NMGC'S BASE PERIOD LITIGATION EXPENSES ARE REASONABLE FOR INCLUSION IN RATES IN THIS PROCEEDING?

A. Yes. I have determined that the litigation expenses NMGC incurred during the Base Period are reasonable and were prudently incurred. They provide, therefore, a reasonable basis for setting Test Period litigation expenses for inclusion in rates in this proceeding.

**DIRECT TESTIMONY OF
NICOLE V. STRAUER
NMPRC CASE NO. 18-_____ -UT**

1 **Q. WHAT STANDARD DID YOU USE TO DETERMINE THAT THE COMPANY'S**
2 **BASE PERIOD LITIGATION EXPENSES ARE REASONABLE AND PRUDENT?**

3 **A.** The issue is whether a particular level of litigation expense is reasonable for use as a Test
4 Period estimate of rate-effective period costs. In other words, Base Period litigation
5 expenses are a proxy for rate-effective period expenses and thus should not be evaluated
6 solely by the nature of the claims or even the results of the litigation. Nor is it appropriate
7 to trace every dollar spent, to second-guess whether it was reasonably incurred, again in
8 view of the forward-looking nature of the rate-setting exercise. Instead, in my mind,
9 reasonableness of the Test Period level of litigation expense must be determined by
10 evaluating generally whether the Company has instituted reasonable procedures for
11 controlling litigation costs and thus has a prudent litigation management system. Further,
12 I considered whether the level of litigation expenses was reasonable in light of NMGC's
13 overall business operations and the business, legal, and regulatory environments in which
14 the Company operates.

15
16 By New Mexico standards, NMGC is a relatively large, well-capitalized and well-insured
17 company doing business in an environment in which litigation is a frequently-used method
18 for resolving disputes. Company personnel interact routinely with customers and other
19 members of the public in providing service and conducting business generally. NMGC
20 operates in a heavily regulated industry. NMGC will be sued, and will bring suit, in the
21 regular course of its business. In addition, NMGC, as a utility, will necessarily and
22 routinely initiate, defend, or intervene in proceedings before state and federal regulatory
23 bodies. In all these matters, NMGC must be represented by counsel.

**DIRECT TESTIMONY OF
NICOLE V. STRAUER
NMPRC CASE NO. 18- _____ -UT**

1 **Q. WHAT STEPS DID YOU TAKE TO ANALYZE THESE EXPENSES?**

2 **A.** I and members of NMGC's Legal Department reviewed data retrieved from the NMGC
3 accounting systems against billings for the Base Period to ensure the accuracy and to
4 determine the applicability of Rule 630.7(O) to such recoverable litigation expenses.

5
6 **Q. BRIEFLY DESCRIBE THE TYPE OF LITIGATION IN WHICH NMGC HAS
7 BEEN INVOLVED DURING THE BASE PERIOD.**

8 **A.** Based on the definition in Rule 630.7(O), I have considered “litigation” to be all contested
9 matters pending before regulatory commissions, administrative bodies, arbitrators, and
10 state and federal courts. Litigation also includes arbitration proceedings and other similar
11 dispute resolution proceedings. As is the case with other types of businesses, NMGC is
12 routinely involved in the following kinds of civil litigation: 1) personal injury and property
13 damage cases (referred to as “Tort Claims”); 2) general civil litigation, including contract
14 disputes and land disputes (referred to as “Commercial Litigation”); and 3) employment,
15 labor and workers’ compensation cases (referred to as “Human Resources Claims”). In
16 addition, as a regulated public utility, NMGC is regularly involved in regulatory
17 proceedings before the NMPRC and the Federal Energy Regulatory Commission
18 (“FERC”) (referred to as “NMPRC Matters” and “FERC Matters”).

19
20 **Q. DOES NMGC EXPECT TO BE INVOLVED IN SIMILAR MATTERS,
21 GENERALLY TO THE SAME EXTENT DURING THE PERIOD RATES WILL
22 BE IN EFFECT?**

**DIRECT TESTIMONY OF
NICOLE V. STRAUER
NMPRC CASE NO. 18-_____ -UT**

1 **A.** Yes, in general. In my experience, these types of matters are representative of the litigation
2 in which NMGC will likely be involved on an ongoing basis.

3

4 **Q. WHAT HAVE YOU DONE TO DETERMINE THAT THE BASE PERIOD**
5 **LITIGATION EXPENSES WERE PRUDENTLY INCURRED?**

6 **A.** I carefully reviewed the litigation expenses related to the categories of claims discussed
7 earlier in my testimony. My evaluation of the prudence of these expenses and a brief
8 description of these matters are summarized in this testimony and in NMGC Exhibits NVS-
9 1 through 6. All of these expenses shown on these exhibits were incurred in the Base
10 Period.

11

12 **Q. BRIEFLY DESCRIBE WHAT COMPRISES THE COMPANY’S LITIGATION**
13 **EXPENSES.**

14 **A.** Litigation expenses consist primarily of the legal fees associated with outside counsel and
15 their staffs incurred specifically in connection with litigation as defined by Rule 630.7(O).
16 Litigation-related costs also include matter-related costs, such as expert witness fees, court
17 reporter expenses, court fees, reproduction costs, and miscellaneous litigation-related
18 charges. NMGC’s internal labor costs associated with litigation are incorporated in
19 administrative and general costs in the Company’s cost of service.

20

21 **Q. PLEASE DESCRIBE THE LITIGATION-RELATED OUTSIDE COUNSEL FEES**
22 **AND COSTS INCURRED BY NMGC IN THE BASE PERIOD.**

**DIRECT TESTIMONY OF
NICOLE V. STRAUER
NMPRC CASE NO. 18-_____-UT**

1 **A.** Generally, the fees associated with outside counsel are based on hourly billing rates for
2 outside counsel and paralegals. As noted, the Company also reimburses litigation-related
3 costs incurred or paid by outside counsel in connection with their representation of NMGC
4 in litigated matters. Outside counsel bill NMGC in statements showing what services were
5 provided by attorneys and paralegals, the hourly rates for such services, and other costs
6 incurred or paid by outside counsel. Litigation-related outside counsel fees and costs are
7 directly charged to the appropriate internal NMGC account for that matter.

8

9 **Q. HOW DOES NMGC TREAT INTERNAL LEGAL EXPENSES FOR LITIGATED**
10 **MATTERS IN NMGC’S COST OF SERVICE?**

11 **A.** Internal costs associated with litigation work by attorneys and paralegals employed by the
12 Company are included in the Company’s administrative and general accounts, which are
13 indirectly allocated to operations and maintenance accounts. Salaries and internal
14 litigation-related costs are not considered part of the litigation expenses addressed in my
15 testimony. Rather, this testimony relates only to outside legal fees and costs for litigated
16 matters.

17

18 **Q. WHAT IS THE PERIOD OF TIME FOR WHICH LITIGATION EXPENSES**
19 **WERE ANALYZED?**

20 **A.** All of the litigation expenses incurred in the Base Period were analyzed.

21

**DIRECT TESTIMONY OF
NICOLE V. STRAUER
NMPRC CASE NO. 18-_____ -UT**

1 **Q. WHAT IS THE AMOUNT OF LITIGATION EXPENSES INCURRED DURING**
2 **THE BASE PERIOD THAT NMGC IS SEEKING TO RECOVER AS A TEST**
3 **PERIOD EXPENSE?**

4 **A.** NMGC seeks to recover \$442,789.52 in litigation expenses, not including rate case
5 expenses which are discussed later in my testimony, incurred in the Base Period as the
6 appropriate level of Test Period litigation expense. Please see NMGC Exhibit NVS-1 for
7 a summary of these expenses.

8
9 **Q. WHAT GENERAL MEASURES HAS NMGC TAKEN TO MANAGE AND,**
10 **WHERE POSSIBLE, REDUCE LITIGATION EXPENSES?**

11 **A.** The mission of the NMGC Legal Department is to provide high quality, cost-effective and
12 efficient legal services to assist NMGC in achieving its business goals. Qualified and
13 experienced in-house counsel have been employed by the Company to: 1) provide legal
14 advice, including taking steps to avoid or mitigate the risks of litigation before lawsuits or
15 other litigation is initiated and, where appropriate, to represent the Company in litigated
16 matters; 2) select cost-effective, qualified outside counsel to represent NMGC in litigation;
17 3) oversee what outside counsel does in representing the Company, to help ensure that
18 matters are handled efficiently; 4) make strategic and important tactical decisions in all
19 litigation; 5) establish budgets for certain matters; and 6) control legal fees and costs in all
20 legal matters, including routinely reviewing invoices for litigation-related legal services.

21
22 **Q. DID YOU CONSIDER ANYTHING ELSE IN EVALUATING THE COMPANY'S**
23 **LITIGATION EXPENSES?**

**DIRECT TESTIMONY OF
NICOLE V. STRAUER
NMPRC CASE NO. 18-_____ -UT**

1 **A.** Even though litigation expenses should be evaluated in the aggregate, I also considered
2 several factors commonly used by New Mexico courts to determine if the attorneys' fees
3 incurred by NMGC in the Base Period were reasonable. These factors include the level of
4 skill required, the nature and character of the controversy, the amount of damages claimed,
5 the importance of the litigation, and the benefits derived from the litigation. This listing is
6 not exhaustive, and other considerations may come into play in any given case, such as the
7 amount of time spent on the case and the importance of the litigation for precedential
8 purposes.

9

10 In evaluating Base Period litigation expenses in individual cases for prudence and to
11 ascertain whether Base Period litigation expenses are reasonably representative of Test
12 Period conditions, I considered these factors and the circumstances of each matter in
13 making my determination. No one factor is dispositive in my analysis, as litigation
14 expenses reflect both events within NMGC's control as well as those outside the Company's
15 control. I have not described the details of settlements in the matters identified in my
16 exhibits because: 1) a settlement may be subject to court confidentiality orders or there
17 may be confidentiality provisions in the settlement agreements themselves; and, 2) public
18 disclosure of the settlement amounts and the way in which the Company reached a
19 particular settlement figure may make it more difficult for NMGC to negotiate settlements
20 in future cases or may provide information that could be used to undermine the Company's
21 settlement strategy in pending or future matters.

22

**DIRECT TESTIMONY OF
NICOLE V. STRAUER
NMPRC CASE NO. 18-_____-UT**

1 **Q. ARE THE BASE PERIOD LITIGATION EXPENSES PERTAINING TO TORT**
2 **CLAIMS REASONABLE AND PRUDENT?**

3 **A.** Yes. These expenses are summarized in NMGC Exhibit NVS-2. These claims involve
4 property damage and personal injury claims filed by and against NMGC. For claims filed
5 against NMGC, the Company hired qualified defense counsel experienced in personal
6 injury and property damage litigation. On the other side of the equation, the Legal
7 Department contracted with commercial practitioners to collect money from third parties
8 who damaged NMGC's property. NMGC also hired qualified counsel to seek temporary
9 restraining orders to protect NMGC employees from customers who made threats of
10 imminent harm or death while NMGC field employees were performing their duties. These
11 litigation expenses are also necessary to achieving recoveries that reduce the overall costs
12 of repairing NMGC's property and are, in my opinion, reasonable and prudent.

13

14 **Q. ARE THE BASE PERIOD LITIGATION EXPENSES PERTAINING TO**
15 **COMMERCIAL LITIGATION REASONABLE AND PRUDENT?**

16 **A.** Yes. These expenses are summarized in NMGC Exhibit NVS-3. The Legal Department
17 retains qualified litigators with expertise in commercial disputes, land use disputes, and
18 other specialized areas where necessary, and these expenses are, in my opinion reasonable
19 and prudent.

20

21 **Q. ARE THE BASE PERIOD LITIGATION EXPENSES PERTAINING TO HUMAN**
22 **RESOURCES LITIGATION REASONABLE AND PRUDENT?**

**DIRECT TESTIMONY OF
NICOLE V. STRAUER
NMPRC CASE NO. 18-_____-UT**

1 **A.** Yes. These expenses are summarized in NMGC Exhibit NVS-4. The Legal Department
2 retains qualified litigators with expertise in human resources and personnel disputes and
3 other specialized areas where necessary, and these expenses are, in my opinion reasonable
4 and prudent.

5
6 **Q.** **ARE THE BASE PERIOD LITIGATION EXPENSES PERTAINING TO NMPRC**
7 **MATTERS REASONABLE AND PRUDENT?**

8 **A.** Yes. These expenses are summarized in NMGC Exhibit NVS-5. NMGC is required by
9 law to file with the NMPRC to obtain approval to engage in various activities related to its
10 business. The Company must also respond to orders issued by the NMPRC. In some
11 instances, it is necessary to intervene in proceedings that may set an important precedent
12 applicable to NMGC in future cases. NMGC retains qualified counsel in state regulatory
13 proceedings who have substantial experience with the Act and regulatory law in general to
14 represent NMGC in these matters. In my opinion, the litigation expenses pertaining to
15 NMPRC matters are reasonable and prudent.

16
17 **Q.** **ARE THE BASE PERIOD LITIGATION EXPENSES PERTAINING TO FERC**
18 **MATTERS REASONABLE AND PRUDENT?**

19 **A.** Yes. These expenses are summarized in NMGC Exhibit NVS-6. The Legal Department
20 retains qualified counsel in FERC law and procedures to represent NMGC in these matters.
21 In my opinion, the litigation expenses pertaining to FERC matters are reasonable and
22 prudent.

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II. RATE CASE EXPENSES

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Q. IS NMGC SEEKING TO RECOVER THE EXPECTED COST OF LITIGATING THE CURRENT RATE CASE AND, IF SO, IN WHAT AMOUNT?

A. Yes. The total projected rate case expenses in this case are \$1,165,000, which includes incremental expenses for consulting, outside legal expenses, reproduction costs and miscellaneous charges. These expenses are summarized in NMGC Exhibit NVS-7. This exhibit provides both actual and projected litigation-related rate case expenses. At the time I testify in this proceeding, I will provide an update to NVS-7 that will reflect expenses incurred up through that date and a projection of the costs to be incurred through the remainder of the case. This information can also be found in Schedule H-16, Workpaper H-16-4, sponsored by NMGC Witness Hastings.

Q. ARE THE CURRENT PROJECTIONS OF RATE CASE EXPENSES REASONABLE AND PRUDENT?

A. Yes. Based on the criteria described above, I have reviewed the expenses already incurred and expected to be incurred in litigating this proceeding and determined them to be prudently incurred or, in the case of projected amounts, a reasonable estimate of future costs.

Q. DO THE COMMISSION AND COURTS TYPICALLY LOOK AT ANYTHING SPECIFIC TO DETERMINE WHETHER RATE CASE EXPENSES ARE RECOVERABLE?

**DIRECT TESTIMONY OF
NICOLE V. STRAUER
NMPRC CASE NO. 18-_____ -UT**

1 **A.** Yes. In *In re PNM Gas Services*, 2000-NM-12, ¶¶ 68-75, 129 N.M. 1, 1 P.3d 383, the New
2 Mexico Supreme Court recognized that reasonable and prudently incurred rate case
3 expenses are recoverable as a part of a utility's operating expenses. Typically, when
4 considering such expenses, the Commission starts with estimated rate case expenses.
5 Because rate case expenses are part of a utility's operating costs, a utility ordinarily
6 provides projected rate case expenses in a rate case in order to avoid constant adjustments
7 in the proposed revenue requirement that relying on frequent updates of actual expenses
8 would necessarily entail during the proceeding. The Commission then must base its
9 decision on the evidence about the expenses. Historically, the Commission has considered
10 evidence of actual expenditures provided at the end of the case, efforts to minimize legal
11 expenses, and the Commission's own expertise and experience with amounts of rate case
12 expenses typically incurred by a utility in a comparable rate case proceeding. Under
13 standards described by the New Mexico Supreme Court in *In re PNM Gas Services*, the
14 Commission is not bound to or limited to considering those factors and can consider other
15 types of information such as those reviewed by courts in awarding attorneys' fees. *Id.*

16
17 **Q. ON WHAT BASIS WERE THESE ESTIMATES DERIVED?**

18 **A.** First of all, while the Company has attempted to present a straight-forward request for an
19 increase in base rates, this rate case involves several complex issues. Based on past
20 experience, NMGC believes that many of these issues may be contested. Further, as
21 discussed earlier, NMGC has implemented processes and mechanisms to effectively
22 control the expenses, including the assignment of qualified in-house counsel to oversee and
23 participate in proceedings and the selection of qualified outside counsel from Keleher &

**DIRECT TESTIMONY OF
NICOLE V. STRAUER
NMPRC CASE NO. 18-_____ -UT**

1 McLeod, P.A., who have substantial experience with the Act and regulatory law in general,
2 to assist in this proceeding.

3
4 In addition, it is reasonable to retain outside experts to testify on specific issues in a general
5 rate case proceeding. In this case, NMGC has engaged Adrien McKenzie to provide expert
6 financial evaluation and testimony concerning the cost of equity capital for ratemaking
7 purposes, which is a main component in a rate of return determination. NMGC has
8 engaged Dr. Deirdre Kann to provide expert testimony on the appropriate heating degree-
9 day data to use to estimate the heating degree-days that should be used in setting billing
10 determinants in this case. NMGC has retained John Fernald to provide expert testimony
11 on cost of service. NMGC has engaged Daniel Yardley to provide expert testimony on
12 alternative rate design and mechanisms that have been adopted in other jurisdictions and
13 are being presented for consideration by this Commission. Finally, consistent with
14 Paragraph 7 of Subsection R of Rule 630, NMGC has engaged the accounting firm of
15 PricewaterhouseCoopers. Other costs included in these rate case expenses are reasonable
16 due to the number of parties and witnesses and the volume of documents likely to be
17 involved.

18
19 **Q. SHOULD RECOVERY OF THE RATE CASE EXPENSES THAT YOU HAVE**
20 **DESCRIBED BE AUTHORIZED IN THIS PROCEEDING?**

21 **A.** Yes. In my opinion, the estimate reflects fair and proper expense amounts that are
22 reasonable and will be prudently incurred in presenting this rate case.

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III. PROPOSED REVISIONS TO RATE SCHEDULES

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Q. IS NMGC PROPOSING CHANGES TO SOME OF ITS RATE SCHEDULES?

A. Yes, NMGC proposes to revise certain language to NMGC Rates 31, 35, 54, 56, and 58, to better reflect NMGC’s current practices when determining which commercial customer rates apply to current customers.

Changes to NMGC Rates 31 and 35 addresses the access fee provision within the rate schedule, and proposed revised schedules are attached as NMGC Exhibits NVS-8 and -9. Changes to NMGC Rates 54, 56, and 58 clarify the rate determination provision in the rate schedules, and proposed revised new schedules are attached as NMGC Exhibits NVS-10, -11 and -12.

Q. WHY IS NMGC PROPOSING CHANGES TO THESE RATE SCHEDULES?

A. NMGC regularly reviews its commercial customer’s usage to ensure that they are being billed in compliance with 17.10.650.11 NMAC (“Rule 650.11”) to ensure that each customer is on the most economical rate schedule appropriate for its class of service. The proposed revisions better reflect the current practices used during this annual evaluation.

Q. WHAT ARE NMGC’S CURRENT PRACTICES WHEN DETERMINING WHICH COMMERCIAL CUSTOMER RATE APPLIES TO A GIVEN CUSTOMER?

A. Annually, NMGC reviews the preceding three years of usage for all of its consumption dependent commercial customers. Each year of usage is defined as starting cycle 1 July and ending the last cycle of June of the following year. NMGC determines the appropriate

**DIRECT TESTIMONY OF
NICOLE V. STRAUER
NMPRC CASE NO. 18-_____ -UT**

1 rate schedule or access fee for each consumption dependent commercial customer based
2 on at least two of the last three years of consumption. At that point in the review process,
3 NMGC takes into account any extenuating circumstances it is aware of experienced by a
4 given customer, such as plant closures, changes to production levels and the like, so that
5 the customer is placed on the appropriate rate schedule or charged the appropriate access
6 fee. The changes NMGC is proposing to its tariffs incorporate the details of the current
7 practice.

8
9 **Q. ARE THE PROPOSED CHANGES TO THE TARIFFS IN THE PUBLIC**
10 **INTEREST?**

11 **A.** Yes, making changes to help clarify the current process used in applying rates is in the
12 public interest and complies with Rule 650.11.

13
14 **IV. PROPOSAL TO CANCEL CERTAIN RATES**

15
16 **Q. IS NMGC PROPOSING TO CANCEL ANY CURRENTLY EXISTING RATES IN**
17 **THIS CASE?**

18 **A.** Yes. As part of its preparation for this case, NMGC reviewed all of its current rates to
19 ensure they were operating as intended. During its review, NMGC determined that the
20 following two rate schedules were no longer necessary because they were no longer being
21 used:

22 1) NMGC Original Rate No. 1-2 Rate Rider No. 2 – NTUA Transportation Charge
23 (“Rate Rider No. 2”); and

**DIRECT TESTIMONY OF
NICOLE V. STRAUER
NMPRC CASE NO. 18-_____ -UT**

1 2) NMGC Original Rate No. 1-7 Rate Rider No. 7 – Special Charges (“Rate Rider
2 No. 7”).
3

4 **Q. PLEASE DESCRIBE RATE RIDER NO. 2.**

5 **A.** Rate Rider No. 2 recovers a transportation charge of \$0.095 per MCF. Rate Rider No. 2
6 was only applicable to customers served through Navajo Tribal Utility Authority pipelines
7 and was designed to recover the transportation charge the Navajo Tribal Utility Authority
8 charged NMGC to transport gas through Navajo Tribal Utility pipelines.
9

10 **Q. WHY IS NMGC PROPOSING TO CANCEL RATE RIDER NO. 2?**

11 **A.** NMGC does not have any current customers that are subject to Rate Rider No. 2 and has
12 not used Rate Rider No. 2 for many years. NMGC also does not anticipate any new
13 customers that would be subject to Rate Rider No. 2. This makes Rate Rider No. 2
14 unnecessary.
15

16 **Q. PLEASE DESCRIBE RATE RIDER NO. 7.**

17 **A.** Rate Rider No. 7 institutes special charges for short term oil and gas well drilling services.
18

19 **Q. WHY IS NMGC PROPOSING TO CANCEL RATE RIDER NO. 7?**

20 **A.** NMGC does not have any customers that are subject to Rate Rider No. 7. Moreover, the
21 Company has not had any customers that would be subject to Rate Rider No. 7 for many
22 years. NMGC also does not foresee any new customers that would be charged for Rate
23 Rider No. 7. NMGC, therefore, believes that Rate Rider No. 7 is no longer necessary.

**DIRECT TESTIMONY OF
NICOLE V. STRAUER
NMPRC CASE NO. 18- _____ -UT**

V. COMPLIANCE WITH 17.1.2.10(B)(2)(d) NMAC – PRIOR FINAL ORDERS

Q. WHAT DOES 17.1.2.10(B)(2)(d) NMAC REQUIRE OF UTILITIES?

A. 17.1.2.10(B)(2)(d) NMAC requires all utilities applying for new rates provide a statement setting forth the utility’s compliance or failure to comply with each part of the Commission’s final orders in each of the utility’s cases decided during the preceding five years.

Q. IS NMGC IN COMPLIANCE WITH THE COMMISSION’S FINAL ORDERS IN EACH OF NMGC’S CASES DECIDED DURING THE PRECEEDING FIVE YEARS?

A. Yes, NMGC is in compliance with all Commission Final Orders in each of NMGC’s cases decided during the preceding five years. Pursuant to the provisions of 17.1.2.10(B)(2)(d) NMAC, NMGC files with the Commission each year its “Annual Final Order Report Pursuant to the New Mexico Public Regulation Commission Rule 17.1.2.10(B)(2)(d) NMAC” (the “Final Order Report”). NMGC last filed its Final Order Report on May 1, 2017, for the period January 1, 2016 through December 31, 2016. A copy of NMGC’s latest Final Order Report is attached as NMGC Exhibit NVS-13. The Final Order Report details all Final Order requirements from the preceding five years applicable to NMGC and demonstrates that NMGC is in compliance with those requirements.

Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?

A. Yes, it does.

NMGCO#3633272

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

IN THE MATTER OF THE APPLICATION)
OF NEW MEXICO GAS COMPANY, INC.)
FOR APPROVAL OF REVISIONS TO ITS)
RATES, RULES, AND CHARGES PURSUANT)
TO ADVICE NOTICE NOS. 70 AND 71)
NEW MEXICO GAS COMPANY, INC.)
Applicant.)

Case No. 18- _____ -UT

AFFIDAVIT OF NICOLE V. STRAUER

STATE OF NEW MEXICO)
) ss.
COUNTY OF BERNALILLO)

NICOLE V. STRAUER, Director, Legal and Regulatory Affairs for New Mexico Gas Company, Inc., upon being duly sworn according to law, under oath, deposes and states: I have read the foregoing Direct Testimony and Exhibits and they are true and accurate based on my own personal knowledge and belief.

SIGNED this 13th day of February, 2018.

[Signature]
NICOLE V. STRAUER

SUBSCRIBED AND SWORN to before me this 13th day of February, 2018.

[Signature]
Notary Public

My commission expires:

2/12/2019

