

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

**IN THE MATTER OF NEW MEXICO GAS COMPANY,)
INC.'S INTEGRATED RESOURCE PLAN FOR THE)
PLANNING PERIOD OF 2024 THROUGH 2033 IN)
COMPLIANCE WITH 17.7.4.9 NMAC)
_____)**

Case No. 24-00203-UT

PROCEDURAL ORDER

THIS MATTER comes before John F. Kreienkamp and Alejandro Rettig y Martinez, co-presiding Hearing Examiners for the New Mexico Public Regulation Commission (the “Commission”), upon their own motion. Being fully informed, the Hearing Examiners **FIND** and **CONCLUDE** as follows:

1. On April 16, 2024, New Mexico Gas Company (“NMGC”) filed its integrated resource plan (“IRP”) for the planning period of 2024 through 2033 pursuant to 17.7.4.9 NMAC.
2. On May 16, 2024, Western Resource Advocates (“WRA”) filed its protest against NMGC’s IRP. On the following day, May 17, 2024, the Coalition for Clean Affordable Energy (“CCAЕ”) filed its concurrence with WRA’s protest.
3. On May 30, 2024, the Commission issued an Initial Order finding that WRA’s protest demonstrated to the Commission’s reasonable satisfaction that a hearing was necessary. The Initial Order commenced proceedings to determine whether NMGC’s IRP complies with the requirements of 17.7.4 NMAC.
4. On June 10, 2024, the Commission appointed the undersigned Hearing Examiners to preside over this proceeding.
5. Subsequently on June 10, 2024, the Hearing Examiners entered an Order Setting Prehearing Conference and scheduled a prehearing conference to be held on June 18, 2024. This prehearing conference occurred as scheduled and was attended by representatives of NMGC,

WRA, CCAE, the Commission's Utility Division Staff ("Staff"), the New Mexico Department of Justice, and the City of Albuquerque.

6. At the prehearing conference, the primary issue discussed by the parties and Hearing Examiners was whether the resolution of this case requires an evidentiary hearing or could be accomplished through a hearing consisting of oral argument following the submission of legal briefs.¹ NMGC's position was that the latter was sufficient; WRA and CCAE contended that the former was more appropriate.

7. The discussion during the prehearing conference enabled the parties present to reach a consensus on a proposed procedural schedule that would bifurcate this proceeding into two stages:

a. In the first stage of the case, the parties would submit legal briefing to the Hearing Examiners on the following issues: 1) whether NMGC's IRP complied with the Commission's administrative rules,² 2) what specific deficiencies, if any, are found in the IRP and what re-filing instructions the Commission should provide NMGC if it ultimately determines that the IRP is deficient,³ and 3) whether the resolution of this case requires an evidentiary hearing and, if so, what specific issues of fact and witness testimony are

¹ The Commission's rules allow for hearings consisting of oral argument. *See* 1.2.2.7(P)(6) (defining a "public hearing" as "a portion of a proceeding, open to the public and conducted by the commission or presiding officer, that affords an opportunity to present such evidence, argument, or other appropriate matters as the commission or presiding officer deems relevant or material to the issues").

² Specifically, the administrative rules in question are 17.7.4.10 NMAC and 17.7.4.11 NMAC.

³ *See* 17.7.4.15(A) NMAC ("If the commission determines the proposed IRP does not comply with the requirements of this rule, the commission will identify the deficiencies and return it to the utility with instructions for re-filing.").

necessary to resolve it. Following the briefing period, the Hearing Examiners would conduct a hearing consisting of oral argument.

b. If the Hearing Examiners determined, following the conclusion of the first stage of the proceeding, that specific issues of fact existed requiring the taking of evidence at an evidentiary hearing, the case would proceed to a second stage. This would entail scheduling an evidentiary hearing following a period of time allowing for discovery and the pre-filing of written testimony.

8. As discussed during the prehearing conference, NMGC provided a draft form of public notice of this proceeding to the Hearing Examiners via e-mail on June 19, 2024. In its e-mail to the Hearing Examiners, NMGC stated that it had distributed the draft notice to the existing service list and “did not receive any objections or requests for changes.”

9. The procedural schedule developed at the prehearing conference, being agreeable to the parties, along with the other matters discussed there should be and are approved as ordered below.

IT IS THEREFORE ORDERED:

A. The following schedule is adopted for this proceeding:

1) By close of business on Tuesday, July 2, 2024, NMGC shall cause, at its sole expense, the Notice attached to the Procedural Order and incorporated herein by reference to be published once in a newspaper of general circulation available in every county where NMGC provides service in New Mexico. By the same date, NMGC shall also post copies of the Notice to a prominent space on its website. NMGC shall ensure that an affidavit confirming such publication and posting is promptly filed in the docket.

2) Any person desiring to become a party (“Intervenor”) to this case must file a motion for leave to intervene in conformity with 1.2.2.23(A) and (B) NMAC on or before the close of business on July 16, 2024. All motions for leave to intervene shall be served on all existing parties and other proposed intervenors of record. As of the date of this Order, the existing parties to this case are NMGC, WRA, CCAE, and Staff.⁴

3) On or before the close of business on September 5, 2024, all parties⁵ shall file initial briefs addressing the following issues:

i. Whether NMGC’s IRP complied with 17.7.4.10 NMAC and 17.7.4.11 NMAC;

ii. What specific deficiencies, if any, are found in the IRP and what re-filing instructions the Commission should provide the NMGC if it ultimately determines that the IRP is deficient; and

iii. Whether the resolution of this case requires an evidentiary hearing and, if so, what specific issues of fact and witness testimony are necessary to resolve it.

4) Response briefs may be filed on or before September 20, 2024.

5) Oral argument shall be held before the Hearing Examiners on October 1, 2024, at 10:00 a.m. Mountain Time (MT). Time limits, participation requirements, and other procedural items regarding the oral argument shall be addressed in a further order from the Hearing Examiners.

⁴ As a result of their previous filings in this case, WRA and CCAE are “original parties” for the purposes of 1.2.2.23(A) NMAC and are not required to file motions for leave to intervene.

⁵ Parties are welcome to file joint briefing along with other parties, but all parties (including intervenors) must file briefing.

6) Due to the ongoing COVID-19 pandemic, the oral argument shall be conducted via the Zoom videoconference platform. Access to and participation in the oral argument shall be limited to counsel for the parties, the Commissioners, and other Commission personnel.⁶ The oral argument will also be livestreamed through YouTube and will be displayed on the Commission's website at <https://www.nm-prc.org>. Persons not participating in the oral argument may view the argument on the Commission's website or otherwise via YouTube and shall not participate in the argument via Zoom except to provide oral comment as allowed below.

7) Interested persons who are not affiliated with a party may make oral or written comment pursuant to Rule 1.2.2.23(F) NMAC. Oral comment shall be taken at the commencement of the oral argument in this matter on October 1, 2024, at 10:00 a.m. MT and shall be limited to 3 minutes per commenter. As part of the oral argument, public comment will be taken via the Zoom platform. Therefore, persons wishing to make an oral comment must register in advance, not later than 9:30 a.m. MT on October 1, 2024, by e-mailing Ana Kippenbrock at Ana.Kippenbrock@prc.nm.gov. Written comments may be submitted before the Commission takes final action in this matter by sending the comment, which shall reference Case No. 24-00203-UT, to prc.records@prc.nm.gov. Public comments, whether oral or written, shall not be considered as evidence in this proceeding.

8) It appears that the Commission is not bound by a specific statutory or regulatory deadline to resolve this case. Therefore, although the Commission and Hearing

⁶ Zoom information shall be distributed to the parties listed on the service list by the close of business on September 27, 2024. Zoom invitation information shall not be shared.

Examiners intend to resolve this case as quickly as possible, it may be necessary to revise the procedural dates specified herein if complications or additional issues arise.

9) The procedural dates and requirements provided herein are subject to further order of the Hearing Examiners. Most importantly, following the conclusion of the oral argument, if the Hearing Examiners determine that specific issues of fact exist requiring the taking of evidence, they shall enter additional orders allowing for this case to proceed to an evidentiary hearing.

B. Initial and response briefs shall comply with all applicable content and format requirements set forth under Rule 1.2.2.36(E) NMAC and Rule 23-112 NMRA (governing citations for pleadings and other papers in state court) and the Appendix thereto, which contains additional citation guidelines and correct forms of citation.

C. The Commissioners may, at their discretion, conduct a public-comment hearing to receive oral comments at some point in the days immediately prior to the scheduled oral argument or any subsequent evidentiary hearing. The Commissioners may alternatively elect to receive only written public comments. Notice of a public-comment hearing, if one is conducted, will be provided to the service list and will be posted on the Commission's website. The protocols that will govern that public-comment hearing will be determined by the Commissioners and set out in an order that may supersede this or other orders issued by the Hearing Examiners. The purpose of a public comment hearing would be to receive oral comment from the public about WRA and CCAE's protest against NMGC's IRP. If the Commission convenes a separate public comment hearing, the Hearing Examiners in their discretion may dispense with the public comment opportunity set forth in paragraph A(7) above. Additionally, to reiterate, comments received by the Commission or Hearing Examiners are not evidence.

D. Any interested person may examine NMGC's IRP, WRA and CCAE's protest, and any other documents filed in the public record of this case on the Commission's website, <https://edocket.prc.nm.gov>, or at NMGC's website, www.nmgco.com/en/regulatory_filings. Additionally, such documents may be examined at NMGC's office, 7120 Wyoming Blvd. NE, Suite 20, Albuquerque, New Mexico 87109, telephone: (505) 697-4426, or at the Commission's offices, 142 W Palace Ave, Santa Fe, New Mexico 87501. The case number assigned to this matter is 24-00203-UT.

E. Interested persons should contact the Commission at (505) 690-4191 for confirmation of the hearing date, hearing time, and place of the hearing as hearings are occasionally rescheduled or canceled. Similarly, members of the public who wish to make public comment should take the steps necessary to receive updates about this case as the Commissioners may schedule a public comment hearing.

F. Anyone filing briefs, pleadings, or other documents in this case will comply with the Commission's electronic-filing policy as posted on the Commission's website and as amended from time to time. That policy specifies that all filings must be in ".pdf" format, include electronic signatures, and be sent to the Commission's Records Bureau's e-mail address prc.records@prc.nm.gov within regular business hours of the due date. Documents received after regular business hours will be considered as filed the next business day. Regular business hours at the Commission are from 8:00 a.m. to 12:00 p.m. and from 1:00 p.m. to 5:00 p.m. MT Monday through Friday. All filings will be e-mailed to the Hearing Examiners on the date filed by no later than 5:00 p.m. MT.

G. The Commission's Rules of Procedure under 1.2.2 NMAC shall apply in this case except as modified or varied by order of the Hearing Examiners or Commission. The Rules of

Procedure and other Commission rules are available online at the State Records Center and Archives website at <http://www.srca.nm.gov/nmac-home/nmac-titles>.

H. The Certificate of Service for this case is attached to this Order. Subject to the issuance of an official service list after the deadline for intervention has passed in this proceeding pursuant to 1.2.2.10(C)(4) NMAC, the attached service list shall be used for service of all pleadings and other documents in the manner indicated to the individuals and addresses listed thereon.

PERSONS WITH DISABILITIES

IF YOU ARE AN INDIVIDUAL WITH A DISABILITY WHO IS IN NEED OF A READER, AMPLIFIER, QUALIFIED SIGN LANGUAGE INTERPRETER, OR ANY OTHER FORM OF AUXILIARY AID OR SERVICE TO ATTEND OR PARTICIPATE IN THE HEARING OR MEETING, OR FOR A SUMMARY OR OTHER TYPE OF ACCESSIBLE FORMAT OF PUBLIC DOCUMENTS, PLEASE CONTACT THE DIRECTOR OF ADMINISTRATIVE SERVICES OF THE COMMISSION AT (505) 827-8019 AS SOON AS POSSIBLE PRIOR TO THE MEETING.

ISSUED under the seal of the Commission at Santa Fe, New Mexico, this **20th** day of **June** **2024**.



NEW MEXICO PUBLIC REGULATION COMMISSION

A handwritten signature in black ink, appearing to read "John F. Kreienkamp", written over a horizontal line.

John F. Kreienkamp
Hearing Examiner
john.kreienkamp@prc.nm.gov

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

**IN THE MATTER OF NEW MEXICO GAS COMPANY,)
INC.'S INTEGRATED RESOURCE PLAN FOR THE) Case No. 24-00203-UT
PLANNING PERIOD OF 2024 THROUGH 2033 IN)
COMPLIANCE WITH 17.7.4.9 NMAC)
_____)**

NOTICE OF PROCEEDING AND HEARING

To New Mexico Gas Company customers: this document is required by the New Mexico Public Regulation Commission (“Commission”). The purpose of this document is to provide you with notice of the above captioned case pending before the Commission.

1. On April 16, 2024, New Mexico Gas Company, Inc. (“NMGC”) filed its Integrated Resource Plan for the Planning Period of 2024 through 2033 with the Commission pursuant to and in compliance with 17.7.4.9 NMAC.

2. An integrated resource plan (“IRP”) is a public utility’s plan to meet existing and future demand from New Mexico jurisdictional retail customers, which for natural gas utilities incorporates the evaluation of supply- and demand-side options that create a reliable resource mix to accommodate customer demand. Public utilities supplying natural gas services are required to file an integrated resource plan at least every four years.

3. On May 16, 2024, Western Resource Advocates (“WRA”) timely filed a Protest to NMGC’s IRP, stating that WRA believed that NMGC’s IRP was not compliant with the requirements of the Commission’s regulations governing IRP filings. On May 17, 2024, the Coalition for Clean Affordable Energy filed its Concurrence in WRA’s protest.

4. On May 30, 2024, the Commission ordered that a proceeding be commenced to further evaluate whether NMGC’s IRP filing complied with the Commission’s regulations governing IRP filings.

5. The Hearing Examiners have established the following schedule for this case:

A. Any person who desires to become a party to this case must file a Motion for Leave to Intervene, pursuant to 1.2.2.23 NMAC, by July 16, 2024.

B. Initial briefs addressing the following issues shall be filed on or before September 5, 2024:

i. Whether NMGC's IRP complied with 17.7.4.10 NMAC and 17.7.4.11 NMAC;

ii. What specific deficiencies, if any, are found in the IRP and what re-filing instructions the Commission should provide the NMGC if it ultimately determines that the IRP is deficient; and

iii. Whether the resolution of this case requires an evidentiary hearing and, if so, what specific issues of fact and witness testimony are necessary to resolve it.

C. Response briefs shall be filed on or before September 20, 2024.

D. A public hearing will begin at **10 a.m. Mountain Time on October 1, 2024**, via the Zoom videoconference platform. The oral argument will also be livestreamed through YouTube and will be displayed on the Commission's website at <https://www.nm-prc.org>. The purpose of the hearing will be to hear oral argument from the parties regarding the issues described in paragraph 5(B) above.

E. Depending on the Commission's rulings on the issues addressed in the briefs, the Commission may determine additional proceedings, up to and including an evidentiary hearing, are necessary in this case. If the Commission determines additional

proceedings are necessary, those proceedings will be scheduled in the future by order of the Commission entered in this docket.

F. The procedural dates and requirements provided herein are subject to further order of the Commission or the Hearing Examiners. Interested persons should contact the Commission to confirm the hearing date, time, and place of the hearing in this case, because hearings are occasionally rescheduled.

6. The Commission has assigned Case No. 24-00203-UT to this proceeding and all inquiries or written comments concerning this proceeding should refer to that case number.

7. Interested persons who are not affiliated with a party may make oral or written comment pursuant to Rule 1.2.2.23(F) NMAC. Oral comment shall be taken at the commencement of the hearing in this matter, via the Zoom platform, and shall be limited to 3 minutes per commenter. Therefore, persons wishing to make an oral comment must register in advance, not later than 9:30 a.m. MT on October 1, 2024, by e-mailing Ana Kippenbrock at Ana.Kippenbrock@prc.nm.gov. Written comments may be submitted before the Commission takes final action in this matter by sending the comment, which shall reference Case No. 24-00203-UT, to prc.records@prc.nm.gov. Public comments, whether oral or written, shall not be considered as evidence in this proceeding.

8. Anyone filing briefs, pleadings, or other documents in this case will comply with the Commission's electronic-filing policy as posted on the Commission's website and as amended from time to time. All filings will be e-mailed to the Hearing Examiners on the date filed by no later than 5:00 p.m. MT.

9. The Commission's Rules of Procedure under 1.2.2 NMAC shall apply in this case except as modified or varied by order of the Hearing Examiners or Commission. The Rules of

Procedure and other Commission rules are available online at the State Records Center and Archives website at <http://www.srca.nm.gov/nmac-home/nmac-titles>.

10. Any interested person may examine NMGC's IRP, WRA and CCAE's protest, and any other documents filed in the public record of this case on the Commission's website, <https://edocket.prc.nm.gov>, or at NMGC's website, www.nmgco.com/en/regulatory_filings. Additionally, such documents may be examined at NMGC's office, 7120 Wyoming Blvd. NE, Suite 20, Albuquerque, New Mexico 87109, telephone: (505) 697-4426, or at the Commission's offices, 142 W Palace Ave, Santa Fe, New Mexico 87501. The case number assigned to this matter is 24-00203-UT.

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ISSUED under the seal of the Commission at Santa Fe, New Mexico, this **20th** day of **June** **2024**.



NEW MEXICO PUBLIC REGULATION COMMISSION

A handwritten signature in black ink, appearing to read "John F. Kreienkamp".

John F. Kreienkamp
Hearing Examiner

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

**IN THE MATTER OF NEW MEXICO GAS COMPANY,)
INC.'S INTEGRATED RESOURCE PLAN FOR THE) Docket No. 24-00203-UT
PLANNING PERIOD OF 2024 THROUGH 2033 IN)
COMPLIANCE WITH 17.7.4.9 NMAC)
_____)**

CERTIFICATE OF SERVICE

I CERTIFY that on this day I sent via email a true and correct copy of the *Procedural Order* to the parties listed below:

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DATED this June 20, 2024

NEW MEXICO PUBLIC REGULATION COMMISSION



Ana C. Kippenbrock, Law Clerk