

TITLE 17 PUBLIC UTILITIES AND UTILITY SERVICES
CHAPTER 7 ENERGY CONSERVATION
PART 3 INTEGRATED RESOURCE PLANS FOR ELECTRIC UTILITIES

17.7.3.1 ISSUING AGENCY: New Mexico Public Regulation Commission.
[17.7.3.1 NMAC - N, 4/16/2007]

17.7.3.2 SCOPE:

A. This rule applies to all electric utilities subject to the commission’s jurisdiction over integrated resource planning.

BA. Impact on Other Rules:- Except as specifically provided herein, this rule does not supersede any other rule of the commission but is to be construed as a supplement to such rules.

CB. Severability:- If any part or application of this rule is held invalid, the remainder of its application shall not be affected.

[17.7.3.2 NMAC - N, 4/16/2007; A, 9/14/2022]

17.7.3.3 STATUTORY AUTHORITY: ~~This rule is adopted under the authority vested in this commission by the New Mexico Public Regulation Commission Act, Section 8-8-15 NMSA 1978; the Public Utility Act, Section 62-3-1 NMSA 1978, et seq.; and the Efficient Use of Energy Act, Section 62-17-1 NMSA 1978, et seq.~~ [17.7.3.3 NMAC - N, 4/16/2007; A, 8/29/2017] This rule is adopted under the authority vested in this commission by the New Mexico Constitution, Article XI, Section 2; the Public Regulation Commission Act, Sections 8-8-4(B)(10) and 8-8-15 NMSA 1978; the Public Utility Act, Section 62-3-1 NMSA 1978, et seq., Section 62-3-2, Section 62-3-3(H), Section 62-6-4, Section 62-8-1, and Section 62-8-13; the Efficient Use of Energy Act, Section 62-17-1 NMSA 1978, et seq., and Section 62-17-10; the Renewable Energy Act, Section 62-16-1 NMSA 2004, as amended 2021, et seq.; the Energy Transition Act, 62-18-1 NMSA 2019 et seq.; the grid modernization statute, Section 62-8-13 NMSA 1978; and the Community Solar Act, Section 62-16B-1 NMSA 1978, et seq.
[17.7.3.3 NMAC - N, 4/16/2007; A, 8/29/2017; A, 9/14/2022]

17.7.3.4 DURATION: Permanent.
[17.7.3.4 NMAC - N, 4/16/2007]

17.7.3.5 EFFECTIVE DATE: April 16, 2007, unless a later date is cited at the end of a section.
[17.7.3.5 NMAC - N, 4/16/2007]

17.7.3.6 OBJECTIVE: ~~The purpose of this rule is to set forth the commission’s requirements for the preparation, filing, review and acceptance of integrated resource plans by public utilities supplying electric service in New Mexico in order to identify the most cost effective portfolio of resources to supply the energy needs of customers. For resources whose costs and service quality are equivalent, the utility should prefer resources that minimize environmental impacts.~~
[17.7.3.6 NMAC - N, 4/16/2007]

A. The objective of this rule is to set forth the commission’s requirements for the preparation, filing, review, and acceptance of integrated resource plans by public utilities supplying electric service in New Mexico in order to identify the most cost-effective portfolio of resources to supply the energy needs of customers. This rule regulates utility integrated resource planning and procurement consistent with the Commission’s statutory obligations to ensure fair, just, and reasonable rates.

B. This rule serves the Commission’s objectives of increasing transparency, involving stakeholder participation early in the process, and tying the IRP outcome directly to the procurement process.

C. To assist utilities in identifying the most cost-effective portfolio, this rule establishes a transparent, competitive format for analyzing alternative resource portfolio plans.

D. This format promotes fair and robust competition in selection of resources to ensure consistency, efficiency, and harmony with the integrated resource planning and procurement process.

(1) In proposing cost-effective resources, utilities shall prioritize those that best comply with the state’s requirements for reducing greenhouse gas emissions, fostering equitable clean energy development, and grid modernization.

(2) Utilities shall consider the following resources, including but not limited to: distributed energy resources, demand response, energy efficiency, renewable energy, flexible generation, , low-emission or zero carbon resources, energy storage systems, and transmission and distribution grid improvements.
 [17.7.3.6 NMAC – N, 4/16/2007; A, 9/14/2022]

17.7.3.7 DEFINITIONS: When used in this rule, unless otherwise specified the following definitions will apply:

- ~~A. **availability factor** means the ratio of the time a generating facility is available to produce energy at its rated capacity, to the total amount of time in the period being measured;~~
- ~~B. **capacity factor** means the ratio of the net energy produced by a generating facility during a given time period, to the amount of net energy that could have been produced if the facility operated continuously at full capacity during that same time period;~~
- ~~C. **demand-side resources** means energy efficiency and load management, as those terms are defined in the Efficient Use of Energy Act;~~
- ~~D. **energy efficiency** means measures, including energy conservation measures, or programs that target consumer behavior, equipment or devices to result in a decrease in consumption of electricity without reducing the amount or quality of energy services;~~
- ~~E. **energy storage resource** means a commercially available technology that is capable of absorbing energy, storing it for a period of time, and thereafter delivering the energy;~~
- ~~F. **heat rate** means the ratio of energy inputs used by a generating facility expressed in BTUs (British thermal units), to the energy output of that facility expressed in kilowatt hours;~~
- ~~G. **integrated resource plan (IRP)** means a public utility’s plan to meet New Mexico jurisdictional retail customers’ existing and future demand in accordance with this rule;~~
- ~~H. **load forecasting** means the prediction of the demand for electricity over the planning period for the utility;~~
- ~~I. **load management** means measures or programs that target equipment or devices to decrease peak electricity demand or shift demand from peak to off-peak periods;~~
- ~~J. **most cost effective resource portfolio** means those supply-side resources and demand-side resources that minimize the net present value of revenue requirements proposed by the utility to meet electric system demand during the planning period consistent with reliability and risk considerations;~~
- ~~K. **planning period** means the future period for which a utility develops its IRP; for purposes of this rule, the planning period is 20 years;~~
- ~~L. **public utility or utility has the same** meaning as in the Public Utility Act, except that it does not include a distribution cooperative utility, as defined in the Efficient Use of Energy Act;~~
- ~~M. **renewable energy** means electrical energy generated by means of a low or zero emissions generation technology with substantial long-term production potential and generated by use of renewable energy resources that may include solar, wind, hydropower, geothermal, fuel cells that are not fossil fueled and biomass resources; biomass resources are fuels, such as agriculture or animal waste, small diameter timber, salt cedar and other phreatophyte or woody vegetation removed from river basins or watersheds in New Mexico, landfill gas and anaerobically digested waste biomass; renewable energy does not include fossil fuel or nuclear energy.~~
 [17.7.3.7 NMAC – N, 4/16/2007; A, 8/29/2017]

~~**17.7.3.8 GENERAL PROVISIONS:** The commission adopts this rule in order to fulfill the requirements of Section 62-17-10 NMSA 1978.~~
 [17.7.3.8 NMAC – N, 4/16/2007; A, 8/29/2017]

- A. **action plan** means the proposed process and specific actions the utility shall carry out to implement the integrated resource plan spanning a three (3) year period following the filing of the utility’s integrated resource plan;
- B. **availability factor** means the ratio of the time a generating facility is available to produce energy at its rated capacity to the total amount of time in the period being measured;
- C. **capacity factor** means the ratio of the net energy produced by a generating facility during a given time period to the amount of net energy that could have been produced if the facility operated continuously at full capacity during that same time period;
- D. **demand response** means a form of load management that involves changes in electric usage by end-use customers from their normal consumption patterns, either in response to changes in the price of electricity

over time, or to incentive payments designed to induce lower electricity use at times of high wholesale market prices or when system reliability is jeopardized;

E. demand-side resource means storage, responsive distributed generation, and loads engaged in demand response programs that can support the grid by responding to market signals or direct load control;

F. derating means a temporary or permanent reduction in the expected power output of a generating facility;

G. distributed energy resource (DER) means the equipment used by an interconnection customer to generate and/or store electricity that operates in parallel with the electric distribution system. DER may include, but is not limited to: an electric generator and/or energy storage system, a prime mover, or combination of technologies capable of injecting power and energy into the electric distribution system, which also includes the interconnection equipment necessary to safely interconnect with the distribution system. DER may not always be interconnected with the bulk power system. DER may include distributed generation resources, distributed energy storage, demand response energy efficiency, and electric vehicles and chargers that are connected to the electric distribution power grid. DER may be capable of exporting active power to an electric power system. DER includes the customer's interconnection facilities but shall not include the area electric power system operator's interconnection facilities;

H. emergency procurement means a utility's procurement to address a system-based emergency condition including a serious threat to public health, welfare, safety, or property caused by a flood, fire, epidemic, riot, act of terrorism, equipment failure, or similar event.

I. energy efficiency means measures, including energy conservation measures, or programs that target consumer behavior, equipment, or devices, to result in a decrease in consumption of electricity without reducing the quantity or quality of energy services;

J. energy storage resource means a commercially available technology that is capable of absorbing energy, storing it for a period of time, and thereafter delivering the energy. Specifically, it means a commercially available technology that:

(1) uses mechanical, chemical, or thermal processes to:

(a) store energy, including energy generated from renewable energy resources and energy that would otherwise be wasted, and deliver the stored energy for use at a later time; or

(b) store thermal energy for direct use for heating or cooling at a later time in a manner that reduces the demand for electricity at the later time;

(2) is composed of stationary equipment;

(3) if being used for electric grid benefits, is operationally visible and capable of being controlled by the distribution or transmission entity managing it, to enable and optimize the safe and reliable operation of the electric system; and

(4) achieves any of the following:

(a) reduces peak electrical demand;

(b) defers the need, or substitutes for, an investment in electric generation, transmission, or distribution assets;

(c) improves the reliable operation of the electrical transmission or distribution systems; or

(d) lowers customer costs by storing energy when the cost of generating or purchasing it is low and delivering it to customers when the costs are high;

K. facilitated stakeholder process means the statutory public advisory process pursuant to NMSA 1978, Section 62-17-10 (2005), conducted by a Commission appointee to facilitate advisory discussions among stakeholders, including members of the public, to advise the public utility and reach potential agreement in the utility's development of its statement of need and action plan;

L. flexibility means the ability of a power system or resource to timely respond as needed to changes in supply and demand through deployment or curtailment of resources by system managers or other control methods, to maintain a balanced load, and to compensate for the variability of renewable energy resources;

M. flexible generation means generation resources that can start, ramp up, and ramp down quickly and efficiently, can be dispatched, and run at low output levels, and can serve frequency response and ancillary service needs, as needed;

N. heat rate means the ratio of energy inputs used by a generating facility expressed in British thermal units, to the energy output of that facility expressed in kilowatt-hours;

O. integrated resource plan (IRP) means a public utility's plan to meet New Mexico jurisdictional retail customers' existing and future demand in accordance with this rule and applicable state policies. Specifically, it means a set of resource options that a utility could use to meet the service needs of its customers over a forecast period, including an explanation of the supply and demand circumstances under which, and the

extent to which, each resource option would be used to meet those service needs. These resource options include, but are not limited to, using, refurbishing, and constructing utility plant and equipment, buying power generated by other entities, controlling customer loads, and implementing customer energy conservation;

P. independent monitor (IM) means a person or entity appointed by the commission to oversee the conduct of a utility's competitive procurement process as addressed in this rule. The IM shall report to the commission regarding the utility's conformance with the most recently accepted statement of need and action plan and the sufficiency, reasonableness, competitive fairness, and completeness of that process;

Q. load forecasting means the prediction of the demand for electricity and energy over the planning period for the utility;

R. load management means measures or programs that target equipment or devices to decrease peak electricity demand or shift demand from peak to off-peak periods;

S. most cost-effective resource portfolio means those supply-side resources and demand-side resources that minimize the net present value of revenue requirements proposed by the utility to meet electric system demand during the planning period consistent with reliability and risk considerations;

T. net capacity means the amount of flexible capacity necessary to supply instantaneous demand over and above the available capacity from variable energy resources, including wind and solar generation;

U. net load means the difference between forecasted load and expected electricity production from variable generation resources;

V. planning period means the future period for which a utility develops its IRP, which, for purposes of this rule, is 20 years;

W. public utility or utility has the same meaning as in the Public Utility Act, except that it does not include a distribution cooperative utility as defined in the Efficient Use of Energy Act;

X. regional energy market means an organized interstate market for energy, ancillary services, or capacity, operated by an independent entity (Independent System Operator or Regional Transmission Operator) subject to regulatory authority of the Federal Energy Regulatory Commission;

Y. renewable energy means electrical energy generated by use of renewable energy resources and delivered to a public utility;

Z. renewable energy resource means the following energy resources, with or without energy storage:

(1) solar, wind and geothermal;

(2) hydropower facilities brought in service on or after July 1, 2007;

(3) biomass resources, limited to agriculture or animal waste, small diameter timber, not to exceed eight inches, salt cedar and other phreatophyte or woody vegetation removed from river basins or watersheds in New Mexico; provided that these resources are from facilities certified by the energy, minerals and natural resources department to:

(a) be of appropriate scale to have sustainable feedstock in the near vicinity;

(b) have zero life cycle carbon emissions; and

(c) meet scientifically determined restoration, sustainability and soil nutrient principles;

(4) fuel cells that do not use fossil fuels to create electricity; and

(5) landfill gas and anaerobically digested waste biogas; and

AA. statement of need means a description and explanation of the amount and type of new resources, expressed in terms of energy and/or capacity, necessary to reliably meet an identified level of electricity demand in the planning horizon and to effect state policies

[17.7.3.7 NMAC - N, 4/16/2007; A, 8/29/2017; A, 9/14/2022]

17.7.3.89 INTEGRATED RESOURCE PLANS FOR ELECTRIC UTILITIES: ~~Public utilities supplying electric service to customers shall file an IRP, along with an action plan, with the commission every three years.~~

~~**A.** Initial filings. Utilities with greater than 200,000 New Mexico retail customers shall file 15 months after the effective date of this rule. Utilities with less than 200,000 New Mexico retail customers shall file 27 months after the effective date of this rule. An original and fourteen copies of the IRP shall be filed with the commission.~~

~~**B.** Contents of IRP for electric utilities. The IRP submitted by an electric utility shall contain the utility's New Mexico jurisdictional:~~

~~**(1)** description of existing electric supply side and demand side resources;~~

~~**(2)** current load forecast as described in this rule;~~

- ~~_____ (3) load and resources table;~~
- ~~_____ (4) identification of resource options;~~
- ~~_____ (5) description of the resource and fuel diversity;~~
- ~~_____ (6) identification of critical facilities susceptible to supply source or other failures;~~
- ~~_____ (7) determination of the most cost effective resource portfolio and alternative portfolios;~~
- ~~_____ (8) description of public advisory process;~~
- ~~_____ (9) action plan; and~~
- ~~_____ (10) other information that the utility finds may aid the commission in reviewing the utility's planning processes.~~

~~_____ C. Description of existing resources. The utility's description of its existing resources used to serve its jurisdictional retail load at the time the IRP is filed shall include:~~

- ~~_____ (1) name(s) and location(s) of utility owned generation facilities;~~
- ~~_____ (2) rated capacity of utility owned generation facilities;~~
- ~~_____ (3) fuel type, heat rates, annual capacity factors and availability factors projected for utility-owned generation facilities over the planning period;~~
- ~~_____ (4) cost information, including capital costs, fixed and variable operating and maintenance costs, fuel costs, and purchased power costs;~~
- ~~_____ (5) existing generation facilities' expected retirement dates;~~
- ~~_____ (6) amount of capacity obtained or to be obtained through existing purchased power contracts or agreements relied upon by the utility, including the fuel type, if known, and contract duration;~~
- ~~_____ (7) estimated in-service dates for utility owned generation facilities for which a certificate of public convenience and necessity (CCN) has been granted but which are not in service;~~
- ~~_____ (8) amount of capacity and, if applicable, energy, provided annually to the utility pursuant to wheeling agreements and the duration of such wheeling agreements;~~
- ~~_____ (9) description of existing demand side resources, including~~
 - ~~_____ (a) demand side resources deployed at the time the IRP is filed; and~~
 - ~~_____ (b) demand side resources approved by the commission, but not yet deployed at the time the IRP is filed; information provided concerning existing demand side resources shall include, at a minimum, the expected remaining useful life of each demand side resource and the energy savings and reductions in peak demand, as appropriate, made by the demand side resource.~~
- ~~_____ (10) description of each existing and approved energy storage resources, to include, at a minimum, the expected remaining useful life of the resource, its maximum capacity and dispatch characteristics, and operating costs;~~
- ~~_____ (11) reserve margin and reserve reliability requirements (e.g. FERC, power pool, etc.) with which the utility must comply and the methodology used to calculate its reserve margin;~~
- ~~_____ (12) existing transmission capabilities:~~
 - ~~_____ (a) the utility shall report its existing, and under construction, transmission facilities of 115 kV and above, including associated switching stations and terminal facilities; the utility shall specifically identify the location and extent of transfer capability limitations on its transmission network that may affect the future siting of supply side resources;~~
 - ~~_____ (b) the utility shall describe all transmission planning or coordination groups to which it is a party, including state and regional transmission groups, transmission companies, and coordinating councils with which the utility may be associated.~~
- ~~_____ (13) environmental impacts of existing supply side resources:~~
 - ~~_____ (a) the utility shall provide the percentage of kilowatt hours generated by each fuel used by the utility on its existing system, for the latest year for which such information is available;~~
 - ~~_____ (b) to the extent feasible, for each existing supply side resource on its system, the utility shall present emission rates (expressed in pounds emitted per kilowatt hour generated) of criteria pollutants as well as carbon dioxide and mercury;~~
 - ~~_____ (c) to the extent feasible, for each existing supply side resource on its system, the utility shall present the water consumption rate.~~
- ~~_____ (14) a summary of back-up fuel capabilities and options.~~

~~_____ D. Current load forecast.~~

- ~~_____ (1) The utility shall provide a load forecast for each year of the planning period; the load forecast shall incorporate the following information and projections:~~

_____ (a) _____ annual sales of energy and coincident peak demand on a system-wide basis, by customer class, and disaggregated among commission-jurisdictional sales, FERC-jurisdictional sales, and sales subject to the jurisdiction of other states;

_____ (b) _____ annual coincident peak system losses and the allocation of such losses to the transmission and distribution components of the system;

_____ (c) _____ weather normalization adjustments;

_____ (d) _____ assumptions for economic and demographic factors relied on in load forecasting;

_____ (e) _____ expected capacity and energy impacts of existing and proposed demand-side resources; and

_____ (f) _____ typical historic day or week load patterns on a system-wide basis for each major customer class.

_____ (2) _____ The utility shall develop base case, high growth and low growth forecasts, or an alternative forecast that provides an assessment of uncertainty (e.g., probabilistic techniques).

_____ (3) _____ Required detail:

_____ (a) _____ The utility shall explain how the demand-side savings attributable to actions other than the utility-sponsored demand-side resources for each major customer class are accounted for in the utility's load forecast and the effect, as appropriate, on its load forecast of the utility-sponsored demand-side resources on each major customer class.

_____ (b) _____ The utility shall compare the annual forecast of coincident peak demand and energy sales made by the utility to the actual coincident peak demand and energy sales experienced by the utility for the four years preceding the year in which the plan under consideration is filed. In addition, the utility shall compare the annual forecast in its most recently filed resource plan to the annual forecast in the current resource plan. In its initial IRP filing, the utility shall provide information demonstrating how well its forecasts during the preceding four years predicted demand.

_____ (c) _____ The utility shall explain and document the assumptions, methodologies, and any other inputs upon which it relied to develop its load forecast.

_____ E. _____ Load and resources table. The utility shall provide a load and resources table of its existing loads and resources at the time of its IRP filing. The load and resources table, to the extent practical, shall contain the appropriate components from the load forecast. Resources shall include:

_____ (1) _____ utility-owned generation;

_____ (2) _____ energy storage resources;

_____ (3) _____ existing and future contracted-for purchased power including qualifying facility purchases;

_____ (4) _____ purchases through net metering programs, as appropriate;

_____ (5) _____ demand-side resources, as appropriate; and

_____ (6) _____ other resources relied upon by the utility, such as pooling, wheeling, or coordination agreements effective at the time the plan is filed.

_____ F. _____ Identification of resource options:

_____ (1) _____ In identifying additional resource options, the utility shall consider all feasible supply-side, energy storage, and demand-side resources. The utility shall describe in its plan those resources it evaluated for selection to its portfolio and the assumptions and methodologies used in evaluating its resource options, including, as applicable: life expectancy of the resources, the recognition of whether the resource is replacing/adding capacity or energy, dispatchability, lead-time requirements, flexibility and efficiency of the resource.

_____ (2) _____ For supply-side resource options, the utility shall identify the assumptions actually used for capital costs, fixed and variable operating and maintenance costs, fuel costs forecast by year, and purchased power demand and energy charges forecast by year, fuel type, heat rates, annual capacity factors, availability factors and, to the extent feasible, emission rates (expressed in pounds emitted per kilowatt-hour generated) of criteria pollutants as well as carbon dioxide and mercury.

_____ (3) _____ The utility shall describe its existing rates and tariffs that incorporate load management or load-shifting concepts. The utility shall also describe how changes in rate design might assist in meeting, delaying or avoiding the need for new capacity.

_____ G. _____ Determination of the most cost effective resource portfolio and alternative portfolios:

_____ (1) _____ To identify the most cost-effective resource portfolio, utilities shall evaluate all feasible supply, energy storage, and demand-side resource options on a consistent and comparable basis, and take into consideration risk and uncertainty (including but not limited to financial, competitive, reliability, operational, fuel supply, price volatility and anticipated environmental regulation). The utility shall evaluate the cost of each

resource through its projected life with a life cycle or similar analysis. The utility shall also consider and describe ways to mitigate ratepayer risk.

~~(2) Each electric utility shall provide a summary of how the following factors were considered in, or affected, the development of resource portfolios:~~

- ~~(a) load management and energy efficiency requirements;~~
- ~~(b) renewable energy portfolio requirements;~~
- ~~(c) existing and anticipated environmental laws and regulations, and, if determined by the commission, the standardized cost of carbon emissions;~~
- ~~(d) fuel diversity;~~
- ~~(e) susceptibility to fuel interdependencies;~~
- ~~(f) transmission constraints; and~~
- ~~(g) system reliability and planning reserve margin requirements.~~

~~(3) Alternative portfolios. In addition to the detailed description of what the utility determines to be the most cost-effective resource portfolio, the utility shall develop a reasonable number of alternative portfolios by altering risk assumptions and other parameters developed by the utility and the public advisory process.~~

~~H. Public advisory process. Public input is critical to the development and implementation of integrated resource planning in New Mexico. A utility shall incorporate a public advisory process in the development of its IRP. At least one year prior to the filing date of its IRP, a utility shall initiate a public advisory process to develop its IRP. The purpose of this process shall be to receive public input, solicit public commentary concerning resource planning and related resource acquisition issues. This process shall be administered as follows:~~

~~(1) The utility shall initiate the process by providing notice at least 30 days prior to the first scheduled meeting to the commission, interveners in its most recent general rate case, and participants in its most recent renewable energy, energy efficiency and IRP proceedings; the utility shall at the same time, also publish this notice in a newspaper of general circulation in every county which it serves and in the utility's billing inserts; this notice shall consist of:~~

- ~~(a) a brief description of the IRP process;~~
- ~~(b) time, date and location of the first meeting;~~
- ~~(c) a statement that interested individuals should notify the utility of their interest in participating in the process; and~~
- ~~(d) utility contact information.~~

~~(2) Upon receipt of the initial notice, the commission may designate a facilitator to assist the participants with dispute resolution.~~

~~(3) The utility or its designee shall chair the public participation process, schedule meetings, and develop agendas for these meetings. With adequate notice to the utility, participants shall be allowed to place items on the agenda of public participation process meetings.~~

~~(4) Meetings held as part of the public participation process shall be noticed and scheduled on a regular basis and shall be open to members of the public who shall be heard and their input considered as part of the public participation process. Upon request, the utility shall provide an executive summary containing a non-technical description of its most recent IRP.~~

~~(5) The purposes of the public participation process are for the utility to provide information to, and receive and consider input from, the public regarding the development of its IRP. Topics to be discussed as part of the public participation process include, but are not limited to, the utility's load forecast; evaluation of existing supply and demand-side resources; the assessment of need for additional resources; identification of resource options; modeling and risk assumptions and the cost and general attributes of potential additional resources; and development of the most cost-effective portfolio of resources for the utility's IRP.~~

~~(6) In its initial IRP advisory process, the utility and participants shall explore a procedure to coordinate the IRP process with renewable energy procurement plans and energy efficiency and load management program proposals. Any proposed procedure shall be designed to conserve commission, participant and utility resources and shall indicate what, if any, variances may be needed to effectuate the proposed procedure.~~

~~I. Action plan.~~

~~(1) The utility's action plan shall detail the specific actions the utility will take to implement the integrated resource plan spanning a four-year period following the filing of the utility's IRP. The action plan will include a status report of the specific actions contained in the previous action plan.~~

~~(2) An action plan does not replace or supplant any requirements for applications for approval of resource additions set forth in New Mexico law or commission regulations.~~

~~[17.7.3.9 NMAC - N, 4/16/2007; A, 12/31/12, A 8/29/2017]~~

- ~~A. A public utility supplying electric service to customers shall file with the commission every three (3) years a proposed integrated resource plan (IRP) to meet the service needs of its customers over the planning period. The plan shall show the resource options the utility intends to use to meet those needs. The plan shall also specify how the implementation and use of those resource options would vary with changes in supply and demand. The utility is only required to identify a resource option type, unless a commitment to a specific resource exists at the time of the filing. The utility shall also discuss any plans to reduce emissions from existing resources through sales, leases, deratings, or retirements.~~
- ~~B. The IRP submitted to the commission by an electric utility shall contain the utility’s New Mexico jurisdictional information as follows:

 - ~~(1) description of existing resources, see Appendix A;~~
 - ~~(2) current load forecast, see Appendix A;~~
 - ~~(3) load and resources table, see Appendix A;

 - ~~(a) new load and facilities arising from special service agreements, economic development projects, and affiliate transactions;~~~~
 - ~~(4) identification of resource options, see Appendix A;~~
 - ~~(5) statement of need, see 17.7.3.10 NMAC;~~
 - ~~(6) determination of the resource portfolio, see Appendix A; and~~
 - ~~(7) action plan, see 17.7.3.11 NMAC.~~~~
- ~~C. The utilities shall file their IRP on a staggered schedule, as follows:

 - ~~(1) Public Service Company of New Mexico shall file an IRP pursuant to 17.7.3.8 NMAC on or before September 1, 2023.~~
 - ~~(2) Southwestern Public Service Company shall file an IRP pursuant to 17.7.3.8 NMAC on or before September 1, 2024.~~
 - ~~(3) El Paso Electric Company shall file an IRP pursuant to 17.7.3.8 NMAC on or before September 1, 2025.~~~~
- ~~D. A multi-jurisdictional utility shall include in its IRP a description of its resource planning requirements in the other state(s) where it operates, and a description of how it is coordinating the IRP with its out-of-state resource planning requirements.~~
- ~~E. The utility shall promptly notify the commission and participants of material events that would have the effect of changing the statement of need or action plan had those events been recognized when the statement of need or action plan was accepted.

 - ~~(1) The utility shall, within two (2) weeks of knowledge of the material event or events, submit a filing in its most recent IRP docket detailing the material events and options being considered as proposed modifications to the accepted action plan.~~
 - ~~(2) This notice shall occur prior to the development of any proposed action plan modifications to ensure that the commission has advance notice. The utility shall serve the filing on everyone on the service list as well as each commissioner.~~
 - ~~(3) The utility bears the burden of explaining why the events qualify as material and whether it shall file a variance, pursuant to 1.2.2.40 NMAC or 17.7.3.17 NMAC, from the accepted statement of need or action plan.~~~~

~~[17.7.3.8 NMAC - N, 4/16/2007; A, 12/31/2012; A 8/29/2017; A 9/14/2022]~~

17.7.3.9 FACILITATED STAKEHOLDER PROCESS; IRP PROCESS:

- ~~A. At least six (6) months prior to the filing of its IRP, the utility shall notify the commission, members of the public, the New Mexico Attorney General, and all parties to its most recent base rate case and most recent IRP case of its intent to file an IRP. The commission, upon notification, shall initiate a facilitated process for the utility, commission utility division staff, and stakeholders to reach a potential agreement on a proposed statement of need pursuant to 17.7.3.10 NMAC and an action plan pursuant to 17.7.3.11 NMAC. The commission, aside from utility division staff and the appointed facilitator, shall not participate in the facilitated stakeholder process.

 - ~~(1) The utility shall provide commission utility division staff and stakeholders who have signed a confidentiality agreement reasonable access to the same modeling software used by the utility on equal footing as the utility, and shall perform a reasonable number of modeling runs, not to exceed five (5) modeling runs per staff or a stakeholder, if requested by staff or a stakeholder, in accordance with commission precedent, and the utility shall share all modeling information.~~~~

(2) Nothing in this section shall preclude commission utility division staff from providing an analysis based on an alternative, open-source modeling software.

B. Not later than six (6) months after the facilitated stakeholder process commences, the utility shall file the IRP with the commission, explaining all resolved and unresolved issues resulting from the facilitated process.

(1) Written public comments may be filed within 30 days of the utility's filing of the IRP.

(a) Written public comments may include the commenter's own draft statement of need and action plan for commission review.

(b) Written public comments shall be made part of the utility's IRP as addendums.

(2) The utility shall file, within 60 days of the utility's filing of the IRP, a written response to all timely filed written public comments, stating whether it adopts any of the written comments as amending the IRP and the reasons why or why not.

(3) The commission's utility division staff shall consider the filed written public comments and the utility's written responses and shall file a statement with the commission within 90 days of utility's filing of the IRP as to whether the statement of need and action plan comply with the policies and procedures of this rule.

(4) If the commission has not acted within 120 days of the filing of the IRP, the statement of need and action plan are deemed accepted as compliant with this rule. If the commission determines that the statement of need and/or action plan do not comply with the requirements of this rule, the commission shall identify the deficiencies and return it to the utility with instructions for re-filing.

[17.7.3.9 NMAC - N, 9/14/2022]

~~**17.7.3.10 — OBLIGATION TO NOTIFY OF MATERIAL CHANGES AND UPDATE ACTION PLAN:**~~

~~The utility shall promptly notify the commission and participants of material events that would have the effect of changing the results of the utility's IRP had those events been recognized when the IRP was developed. As part of this notification, the utility shall explain how this event(s) has changed the action plan.~~

~~[17.7.3.10 NMAC - N, 4/16/2007]~~

17.7.3.10 STATEMENT OF NEED:

A. The statement of need is a description and explanation of the amount and type of new resources, expressed in terms of energy and/or capacity, necessary to reliably meet an identified level of electricity demand in the planning horizon and to effect state policies.

B. The statement of need shall not solely be based on projections of peak load. The need may be attributed to, but not limited by, incremental load growth, renewable energy customer programs, or replacement of existing resources, and may be defined in terms of meeting net capacity, providing reliability reserves, securing flexible and/or demand-side resources, securing renewable energy, expanding or modifying transmission or distribution grids, or securing energy storage as required to comply with resource requirements established by statute or Commission decisions.

[17.7.3.10 NMAC - N, 9/14/2022]

17.7.3.11 ACTION PLAN:

A. The utility's action plan shall:

(1) detail the specific actions the utility shall take to implement the IRP spanning a three (3) year period following the filing of the utility's IRP;

(2) detail the specific actions the utility shall take to develop any resource solicitations or contracting activities to fulfill the statement of need as accepted by the Commission; and

(3) include a status report of the specific actions contained in the previous action plan.

B. The utility shall update the commission by filing two (2) reports describing the utility's implementation of the action plan. These reports shall be filed in the existing IRP docket one (1) year after the filing of the IRP, and two (2) years after the filing of the IRP, respectively.

C. An action plan does not replace or supplant any requirements for applications for approval of resource additions set forth in New Mexico law or commission regulations.

D. The utility shall promptly notify the commission and participants of material events that would have the effect of changing the results of the utility's action plan had those events been recognized when the action plan was developed.

E. In accepting the action plan, the commission shall take into consideration contractual obligations as between the utility and any regional transmission organizations or balancing authorities of which the utility is a member.

[17.7.3.11 NMAC - N, 9/14/2022]

17.7.3.12 REQUEST FOR PROPOSALS PROCESS:

- A. Scope and Purpose: Unless the commission grants a public utility's variance application pursuant to 17.7.3.17 NMAC for a variance from section 12 of this rule, the utility shall follow the request for proposals process to ensure cost competitiveness and fairness in procurement by comparing proposals among bidders through a transparently designed and monitored request for proposals.
- B. To address the utility's procurement need, if any, as described in the statement of need, and to fulfill the objectives of the utility's action plan, the utility shall issue a request for proposals (RFP) in the current IRP docket, within five (5) months of the commission's acceptance of its statement of need and action plan.
- C. Prior to the utility's commencement of an RFP solicitation, the utility shall provide the commission, the IM, and parties to the utility's pending IRP case with the documents and contracts that constitute the RFP solicitation (RFP documents) and a timeline for soliciting, accepting, evaluating, and ranking bids.
- D. Within 21 days of receipt of the RFP documents, commissioners, commission utility division staff, and intervenors may submit comments to the utility, including on whether its proposed RFP conforms with its accepted statement of need and action plan and is not unduly discriminatory. Comments shall be considered, and may be incorporated, by the utility prior to the issuance of the RFP.
- E. The utility may issue the RFP after comments are submitted on the independent monitor's design report pursuant to paragraph I of 17.7.3.14 NMAC. The utility shall file a notice with the commission of any final changes to the RFP design upon issuance.
- F. The proposed RFP(s) shall include:
- (1) bid evaluation and ranking criteria;
 - (2) the overall amount and duration of power the utility is soliciting and any other details concerning its resource needs;
 - (3) a request for bidders' reasonable estimates of any new transmission costs and transmission upgrade costs for resources, if known;
 - (4) the extent and degree to which resources shall be dispatchable, including the requirement, if necessary, that resources be able to operate under automatic dispatch control;
 - (5) the utility's proposed contract(s) for the acquisition of resources;
 - (6) proposed contract term lengths;
 - (7) the applicable discount rate;
 - (8) the timeline, including the solicitation period, the ranking period, and the expected selection period;
 - (9) all security requirements and the rationale behind them; and
 - (10) any other information necessary to implement a competitive RFP process.
- G. For a proposed RFP, each utility shall provide:
- (1) a description of information that the utility claims is confidential;
 - (2) descriptions of proposed protection methods for:
 - (a) bid prices; and
 - (b) other bid details.
- H. Not later than 75 days after the utility receives bids for its projected needs, the utility shall provide the IM with a ranking of proposals that meet the above stated criteria, a detailed description of price and non-price criteria, its preferred portfolio of resources, along with a timeline for resource development.
- I. The utility shall rank bids submitted in response to an RFP using the following price and non-price criteria:
- (1) consistency with the terms and requirements of the Efficient Use of Energy Act and the Renewable Energy Act; and other public policies regarding resource preferences adopted by New Mexico or the federal government;
 - (2) cost of the resource that would be borne by ratepayers, described in terms of the net present value of capacity cost and/or lifetime cost of energy calculation;
 - (3) resource effect on system operations and reliability, credit, and financial risks to the utility;
 - (4) any risks imposed on ratepayers, including assessment of relative amounts of risk inherent among different technologies, fuel sources, or financing arrangements;
 - (5) environmental impacts including, but not limited to, those associated with resources that emit carbon dioxide and/or create long-term waste disposal issues;

- (6) resource dispatchability and/or operational flexibility benefits or constraints;
- (7) the utility shall include in its evaluation the estimated cost and/or environmental impact of transmission upgrades or distribution infrastructure upgrades necessary to deliver the project's energy, capacity, or services;
 - (a) each bidder shall be responsible for all costs associated with interconnecting its project to the transmission grid or, if applicable, to local distribution facilities; and
- (8) completeness and credibility of a detailed critical path schedule, and ability to meet scheduled construction start date and commercial operational date, including completing the interconnection process.
- J. Additional criteria used by the utility for ranking may not establish a preference for utility ownership or for projects proposed by a utility-affiliated company. The utility shall not unreasonably discriminate between proposals for a utility-owned or utility affiliate-owned resource and proposals for a resource owned by an independent power producer through a purchased power agreement.
- K. The bid evaluation shall ensure that all bids are compared and evaluated on a consistent basis that is competitive, fair, and shall be subject to review by the commission.
- L. The utility may issue additional RFPs in the current IRP docket, adhering to the processes and procedures described in 17.7.3.12 NMAC, if prudent following a material event pursuant to 17.7.3.11(D) NMAC.
- M. Nothing in this rule shall be construed to prevent a public utility from procuring resources as required by the REA, NMSA 1978, Section 62-16-4 (2019), the EUEA, NMSA 1978, Section 62-17-5 (2020), or Rule 17.9.570 NMAC. Such procurements shall be included in the utility's forecasting, statement of need, and action plan.

[17.7.3.12 NMAC - N, 9/14/2022]

17.7.3.13 COST RECOVERY:

- A. Acceptance of the utility's statement of need and action plan does not constitute a finding of prudence or pre-approval of costs associated with acquiring additional resources.
- B. Any costs incurred to implement an accepted action plan shall be considered in a general rate case, resource acquisition proceeding, or appropriate application for a CCN.

[17.7.3.13 NMAC - N, 9/14/2022]

17.7.3.14 INDEPENDENT MONITOR:

- A. Scope and Purpose: The independent monitor's role is to help the commission determine that the request for proposals design and execution is fair, competitive, and transparent. The independent monitor shall advise the commission and report on the RFP process, but the independent monitor shall not make or participate in the public utility's decisions regarding the procurement process or the selection of resources.
- B. Following commission acceptance of a public utility's statement of need and action plan, the commission shall appoint an independent monitor to monitor the procurement process of a public utility for competitive resource procurements pursuant to 17.7.3.12 NMAC. The independent monitor, as provided in this section, shall assist the commission in ensuring that all such processes are reasonable and competitively fair and shall report to the commission regarding those matters as provided in this rule. The commission may appoint an IM for emergency procurements pursuant to 17.7.3.17 NMAC.
- C. The commission shall, through its designee:
 - (1) undertake a process consistent with state purchasing rules and commission policies in recommending a pool of qualified IMs;
 - (2) develop an RFP, including the scope, terms of work, and evaluation process to score the RFP responses;
 - (3) receive, review, score, and rank the RFP responses;
 - (4) confer with the public utility on the recommendation of the IM;
 - (5) recommend qualified bidders to the commission for appointment as the IM; and
 - (6) administer the contract with the appointed IM, including: confirming that contract deliverables are met, reviewing invoices and related contract performance, and approving utility invoices after staff's review and approval.
- D. In selecting the IM, the commission, through its designee, may solicit recommendations of the names of independent firms or individuals that demonstrate independence from public utilities supplying electric service in the state, their affiliates, and likely bidders, and demonstrate the qualifications, expertise, and experience to perform the functions of an IM as provided in this rule.

- (1) For all contacts with the public utility, commission utility division staff, and any parties in the resource plan proceeding, the independent monitor shall maintain a log that briefly identifies the entities communicating with the IM, the date and duration of the communication, the means of communication, the topics discussed, and the materials exchanged, if any.
- (2) The communications log shall be contained in the IM’s report to the commission pursuant to paragraph G(1)(b) of 17.7.3.14 NMAC.
- K. The independent monitor shall serve as an advisor to the commission and shall not be a party to the proceedings in accordance with 1.2.3.9 NMAC. As such, the independent monitor shall not be subject to discovery nor cross-examination at hearing, if one is held, but the public utility, commission utility division staff, and any parties shall have the opportunity to respond to any reports or findings of the IM pursuant to 17.7.3.14(I)(1) NMAC.
- L. The commission shall not appoint an independent monitor for a utility’s procurement for which the commission grants a variance pursuant to paragraph D of 17.7.3.17 NMAC.
[17.7.3.14 NMAC - N, 9/14/2022]

17.7.3.151 CONFIDENTIALITY OF INFORMATION: ~~The utility may submit any portions of its IRP under seal to the extent the utility deems specific information to be confidential. The utility shall seek a protective order under Subsection B of 17.1.2.8 NMAC for those portions of its IRP it considers confidential, and the utility shall have the burden of proving its right to such protection. Any information submitted under seal pursuant to this paragraph shall remain under seal for a period of two years, after which time it shall become public unless the utility seeks and obtains further protection from the commission. Information submitted under seal shall be available for review by the commission and its designated representatives and by any person who has entered into a confidentiality agreement with the utility in a form approved by commission order.~~
[17.7.3.11 NMAC - N, 4/16/2007; A, 8/29/2017]

- A. The utility may submit any portions of its IRP under seal to the extent the utility deems specific information to be confidential.
- B. The utility shall seek a protective order under paragraph B of 17.1.2.8 NMAC for those portions of its IRP it considers confidential, and the utility shall have the burden of proving its right to such protection.
 - (1) Any information submitted under seal pursuant to this paragraph shall remain under seal for a period of three (3) years, after which time it shall become public unless the utility seeks and obtains further protection from the commission.
 - (2) Information submitted under seal shall be available for review by the commission and its designated representatives and by any person who has entered into a confidentiality agreement with the utility in a form approved by commission order, provided, however, that bidders or potential bidders shall not have access to competitively sensitive information of other bidders.
- C. The utility shall not disclose any bid information for which a non-winning bidder has requested confidential treatment except in accordance with a commission protective order limiting disclosure of such information to persons who execute and file a confidentiality agreement with the commission as provided in that order.

[17.7.3.15 NMAC - N, 4/16/2007; A, 8/29/2017; A, 9/14/2022]

~~**17.7.3.12 COMMISSION REVIEW, ACCEPTANCE AND ACTION:** The commission will review the utility’s proposed IRP for compliance with the procedures and objectives set forth herein. Written public comments may be filed within 20 days of the utility’s filing of the proposed IRP in support or in opposition of the proposed IRP as filed. The utility shall file, within 40 days of the utility’s filing of the proposed IRP, a written response to all written public comments that were timely filed in support or in opposition, stating whether or not it will incorporate any of the written comments into its proposed IRP and state its reasons why or why not. The commission’s utility division staff shall review the utility’s proposed IRP as filed and shall consider the filed written public comments in support or in opposition and the utility’s written response and shall file a written recommendation to the commission within 60 days of utility’s filing as to whether or not the IRP complies with the procedures and objectives of this rule and whether or not it recommends that the commission accept the proposed IRP as filed. If the commission has not acted within 90 days after the filing of the proposed IRP, that IRP is deemed accepted as compliant with this rule. 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.~~
[17.7.3.12 NMAC - N, 4/16/2007; A, 8/29/2017; A, 01/30/2018]

~~17.7.3.13 ——— ADDITIONAL INVESTIGATIONS AND INFORMATION: The commission may conduct an investigation of any matters pertaining to a public utility’s IRP where it deems appropriate and may require additional information to be filed.
[17.7.3.13 NMAC – N, 4/16/2007]~~

17.7.3.164 EXEMPTIONS:

- A. Motion for Exemption from Rule:– Upon motion by a utility and for good cause shown, the commission may exempt public utilities with fewer than five thousand customers and distribution-only public utilities from the requirements of this rule.
- B. Multi-State Resource Planning: -The commission shall take into account a public utility’s resource planning requirements in other states and shall authorize utilities that operate in multiple states to implement plans that coordinate the applicable state resource planning requirements.
[17.7.3.14 NMAC - N, 4/16/2007; A, 9/14/2022]

~~17.7.3.175 VARIANCES AND AMENDMENTS: A utility may file a request for a variance from the requirements of this rule. Such application shall describe the situation which necessitates the variance; set out the effect of complying with this rule on the utility and its customers if the variance is not granted; identify the section(s) of this rule for which the variance is requested; describe the expected result which the request will have if granted; and state how the variance will aid in achieving the purposes of this rule. The commission may grant a request for a procedural variance through an order issued by the chairman, a commissioner or a designated hearing examiner. Other variances shall be presented to the commission as a body for determination.
[17.7.3.15 NMAC – N, 4/16/2007]~~

- A. A utility may file a request for a variance from the requirements of this rule.
- B. Such application shall:
 - (1) describe the situation which necessitates the variance;
 - (2) set out the effect of complying with this rule on the utility and its customers if the variance is not granted;
 - (3) identify the section(s) of this rule for which the variance is requested;
 - (4) describe the expected result which the request shall have if granted; and
 - (5) state how the variance shall aid in achieving the purposes of this rule.
- C. The commission may grant a request for a procedural variance through an order issued by the chair, a commissioner, or a designated hearing examiner.
- D. The following types of procurements that deviate from the utility’s Commission-accepted action plan shall be submitted to the commission as an application for a variance pursuant to 17.7.3.17 NMAC:
 - (1) emergency procurements;
 - (2) capacity and/or energy from newly-constructed, utility-owned, supply-side resources with a nameplate rating of 20 megawatts or less;
 - (3) capacity and/or energy from the generation facilities of other utilities or from non-utility generators pursuant to agreements for a two (2) year term or less (including renewal terms) or for 20 megawatts of capacity or less;
 - (4) improvements or modifications to existing utility generation facilities that change the production capability of the generation facility site in question by 20 megawatts or less based on the utility’s share of the total power generation at the facility site and that have an estimated cost of \$20 million or less;
 - (5) interruptible service provided to the utility’s electric customers;
 - (6) modification to, or amendment of, existing power purchase agreements provided that the modification or amendment does not extend the agreement more than four (4) years, does not add more than 20 megawatts of nameplate capacity to the utility’s system, and is cost effective in comparison to other supply-side alternatives available to the utility; and
 - (7) utility administered demand-side programs.

[17.7.3.17 NMAC - N, 4/16/2007; A, 9/14/2022]

HISTORY of 17.7.3 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the state records center and archives under:
Public Service Commission, NMPSC Rule 420, Energy Conservation Programs For Electric and Gas Utilities, filed 06-30-1988.

Exhibit B

History of Repealed Material: NMPSC Rule 420, Energy Conservation Programs For Electric and Gas Utilities (filed 06-30-1988) repealed 4/16/2007.

Other History:

Only that applicable portion of NMPSC Rule 420, Energy Conservation Programs For Electric and Gas Utilities (filed 06-30-1988) was renumbered, reformatted and replaced by 17.7.3 NMAC, Integrated Resource Plans for Electric Utilities, effective 4/16/2007.