

TITLE 17 PUBLIC UTILITIES AND UTILITY SERVICES
CHAPTER 9 ELECTRIC SERVICES
PART 550 FUEL AND PURCHASED POWER COST ADJUSTMENT CLAUSES FOR ELECTRIC UTILITIES

17.9.550.1 ISSUING AGENCY: New Mexico Public Regulation Commission.
[17.9.550.1 NMAC - Rp, NMPSC Rule 550, 12-30-10]

17.9.550.2 SCOPE: NMPSC Rule 550, 17.9.550 NMAC shall apply to every electric utility and generation and transmission cooperative operating within the state of New Mexico and which is subject to the jurisdiction of the commission as provided by law.
[17.9.550.2 NMAC - Rp, NMPSC Rule 550.1, 12-30-10]

17.9.550.3 STATUTORY AUTHORITY: Sections 62-3-1, 62-3-2, 62-6-4, 62-8-1, 62-8-3 and 62-8-7(E) and (F), NMSA 1978.
[17.9.550.3 NMAC - N, 12-30-10]

17.9.550.4 DURATION: Permanent.
[17.9.550.4 NMAC - N, 12-30-10]

17.9.550.5 EFFECTIVE DATE: December 30, 2010, unless a later date is cited at the end of a section.
[17.9.550.5 NMAC - N, 12-30-10]

17.9.550.6 OBJECTIVE: The objective of this rule is to:

- A. provide for adequate regulatory review of a utility's operations under a fuel and purchased power cost adjustment clause ("FPPCAC");
- B. provide for the stability of utility earnings when electric fuel costs and purchased power costs are rising and permit prompt credits to customers when electric fuel costs and purchased power costs are declining; and
- C. assure that utilities collect through the FPPCAC the amount actually expended for fuel and purchased power costs;
- D. the objective of a FPPCAC is to flow through to the users of electricity the increases or decreases in applicable fuel and purchased power expense per kilowatt-hour of delivered energy above or below a base fuel and purchased power expense.

[17.9.550.6 NMAC - Rp, NMPSC Rule 550.2, 12-30-10]

17.9.550.7 DEFINITIONS: Unless otherwise specified, the following definitions will apply:

- A. **account (number)** means such account as defined and in current use by the federal energy regulatory commission;
- B. **annual report** means the report filed annually that summarizes and verifies all actual fuel and purchased power revenues and expenses during the twelve (12) months ended December 31 of each year; the annual report shall be verified under oath by an officer of the utility;
- C. **applicable fuel and purchased power expense** means the fuel and/or purchased power expense that is to be collected through the FPPCAC in accordance with a utility's commission-approved methodology and forms;
- D. **applicable kWh sales** means the kilowatt-hour ("kWh") sales associated with the applicable fuel and purchased power expense;
- E. **balancing account** means the difference between the increased or decreased fuel and purchased power expenses in the second month preceding the current month and the actual fuel and purchased power cost adjustment revenue billed in the current month; the balancing account may also include other components granted by a 17.9.550 NMAC variance;
- F. **base fuel and purchased power expense** means the cost of fuel and purchased power upon which the applicable rate schedule was based stated on a dollars per kWh basis;
- G. **billing month** or **effective month** means the month during which the FPPCAC factor is applied to customers' bills;
- H. **current month** means the most recent month for which actual fuel and purchased power volumes and costs and kWh sales data are available;

I. **fuel and purchased power cost adjustment clause** or **FPPCAC** means that clause in a rate schedule that contains the parameters under which the fuel and purchased power cost adjustment factor is determined for customer monthly billing;

J. **fuel and purchased power cost adjustment factor** or **factor** means the monthly dollars per kWh charge to be applied to customers' bills, and which represents the amount of increase or decrease in dollars per kWh to be added to or deducted from each bill; for monthly adjustable factors, the factor is the increased or decreased fuel and purchased power expense stated on a dollars per kWh basis by dividing the current month's increased or decreased fuel and purchased power expenses by the applicable kWh sales as set forth under 17.9.550.12 NMAC;

K. **increased or decreased fuel and purchased power expense** means the difference between the applicable fuel and purchased power expense and the base fuel and purchased power expense during the current month.

[17.9.550.7 NMAC - Rp, NMPSC Rule 550.7, 12-30-10]

17.9.550.8 VARIANCES: Applications for a variance shall:

A. describe with particularity the reasons which prompted the filing of the variance application;
B. set out the effect of complying with 17.9.550 NMAC on the utility and its customers as a result of the condition;

C. identify the section(s) of 17.9.550 NMAC from which the variance is requested;

D. describe the result which the request will have if granted;

E. state how the variance will achieve the purposes of 17.9.550 NMAC as stated in 17.9.550.6 NMAC;

F. state why the proposed variance is a reasonable alternative to the requirements of this rule.
[17.9.550.8 NMAC - Rp, NMPSC Rule 550.3, 12-30-10]

17.9.550.9 SERVICE OF APPLICATIONS: A utility filing an application for an initial or continued FPPCAC, or a variance, shall, contemporaneously with such filing, mail copies of such application by first class mail to the attorney general and the intervenors in the utility's most recent rate case.

[17.9.550.9 NMAC - Rp, NMPSC Rule 550.4, 12-30-10]

17.9.550.10 HEARINGS:

A. Unless otherwise ordered by the commission, formal hearings will not be held prior to the effective date of any factor adjustment made in accordance with the provisions of 17.9.550 NMAC. The commission may, upon its own motion or upon the filing of a complaint, and after notice to the utility, public, attorney general, and intervenors of record in the utility's last filed rate case, suspend any adjustment pending hearing. However, the commission may allow the factor in effect immediately preceding the period in which the suspended adjustment otherwise would have become effective, to remain in effect, subject to refund or surcharge, during the interim time period in which an adjustment is suspended pending hearing. In the event that a suspended adjustment ultimately is approved, in whole or in part, following a hearing, interest charges computed at the statutory rate established under NMSA 1978, Section 62-13-13, or any amendment to it, and computed for the period commencing with the date the suspended adjustment actually becomes effective, shall, as provided by the commission, be added to the calculation resulting from the approved adjustment.

B. The matters which the commission might notice for hearing may include but are not limited to:
(1) any unusual or substantial increases in the cost for fuel and purchased power;
(2) the development of any dispute over the interpretation of contracts or laws concerning the pricing of any significant amount of power supply;

(3) any new or amended contractual arrangements for provision of services related to power supply;
and

(4) any other matter that the commission determines requires a hearing.

[17.9.550.10 NMAC - Rp, NMPSC Rule 550.5, 12-30-10]

17.9.550.11 EFFECT OF RULE: This rule shall in no way relieve any electric utility subject to the jurisdiction of the commission of any of its duties prescribed under the laws of New Mexico or the tariff regulations, orders and rules of the commission.

[17.9.550.11 NMAC - Rp, NMPSC Rule 550.6, 12-30-10]

17.9.550.12 CALCULATION OF FUEL AND PURCHASED POWER COST ADJUSTMENT FACTOR; PURPOSE OF BALANCING ACCOUNT:

A. Calculation of a factor shall be made using the methodology, required format and data calculations approved for the utility by the commission, and shall be submitted on commission-approved forms. A sample format is provided in 17.9.550.20 NMAC of this rule. A utility's methodology for calculation of its factor shall be proposed in its initial tariff filing or continuation filing pursuant to 17.9.550.16 and 17 NMAC of this rule. A methodology approved by the commission may be based on monthly, rolling average, or fixed period calculations. Where applicable, a utility's methodology shall take into consideration the utility's multi-state and jurisdictional operations and shall identify any allocation factors applied by the utility. Costs associated with an investor-owned utility's long term purchase power contracts with a term of two or more years may be recovered through the utility's FPPCAC if consistent with all commission orders or rules regarding such contracts or with commission approval.

B. Unless otherwise ordered by the commission the methodology for calculating a monthly-adjustable factor shall employ the use of a balancing account. The purpose of the balancing account is to insure that only the appropriate revenue is recovered through the application of the factor. The balancing account shall compensate for under-collections and over-collections of revenue by increasing or decreasing the factor for the next following billing month. A utility may make additional adjustments to the factor to mitigate the effect on customers of monthly changes in the balancing account, and the adjusted factor shall go into effect unless suspended by the commission. Additional amounts may be applied to the balancing account as the commission may authorize or direct. These additional items may include such amounts as refunds received by the utility or extraordinary payments by the utility, provided that these payments have received written approval of the commission prior to inclusion in the balancing account.

[17.9.550.12 NMAC - Rp, NMPSC Rule 550.8, 12-30-10]

17.9.550.13 INFORMATION TO BE FILED:

A. Each electric utility that has a FPPCAC as a part of a filed rate schedule shall file each month all the data and calculations called for in 17.9.550.12 NMAC. The monthly data shall be submitted in electronic format to the director of the utility division or his designee on the earliest possible date after the end of each month, but in no event less than five (5) days before the factor becomes effective for customer billing. The utility shall also file its monthly data with the commission's records bureau prior to the effective date of the factor. Where a utility has more than one base fuel and purchased power expense in various rate schedules, a separate calculation shall be filed for each base fuel and purchased power expense and a separate balancing account shall be maintained for each base fuel and purchased power expense.

B. An investor-owned utility shall provide the total charges that were incurred under purchased power contracts with a term of not less than fifteen days and entered into by the utility to replace normally available or scheduled power and energy from the utility's generating resources that operate at annual capacity factors of 40 percent or more and that were unavailable due to an unplanned outage and included in each month's FPPAC report. The utility shall make available each underlying purchased power contract to utility division staff upon request, in a manner consistent with any applicable confidentiality provisions in such contract. This reporting requirement shall not apply to economy energy transactions and transactions entered into for solely economic dispatch purposes.

C. Upon the utility division's receipt of the factor, a review of the calculations will be conducted by utility division staff to ensure compliance with this rule. In the event a utility fails to timely file the calculations of its factor in accordance with this section, or if the data filed by the utility is incomplete or inaccurate, utility division staff may immediately petition the commission for the appropriate relief provided by law and these rules, including the suspension, or collection subject to refund, of the factor.

D. Whenever the utility or the commission has good reason to believe on the basis of factual data that the adjustment factor would result in a substantial under-collection or over-collection of revenue in the following billing month with the further result that adjustment factors for future billing months would fluctuate excessively, the utility may apply to the commission for permission to place into effect or the commission may direct the utility to place into effect a specified increase or decrease in the amount of the adjustment factor which is to remain in effect for such period of time as the commission may direct.

E. Each utility that has a FPPCAC shall file by April 30 of each year the annual report defined in Subsection B of 17.9.550.7 NMAC.

[17.9.550.13 NMAC - Rp, NMPSC Rule 550.9, 12-30-10]

17.9.550.14 ELIMINATION OR IMPOSITION OF CONDITIONS: The commission may eliminate or impose conditions on a particular FPPCAC if it finds such action is consistent with the purposes of the Public Utility

Act, including serving the goal of providing reasonable and proper service at fair, just and reasonable rates to all customer classes; provided however that no such elimination or imposition of conditions shall be ordered if to do so would place the affected utility at a competitive disadvantage. The commission may provide for separate examination of a utility's FPPCAC based upon that utility's particular operating characteristics.
[17.9.550.14 NMAC - Rp, NMPSC Rule 550.10, 12-30-10]

17.9.550.15 RENDITION AND STATEMENT OF FUEL AND PURCHASED POWER COST

ADJUSTMENT FACTOR: The factor shall be expressed in dollars per kWh, and the resultant monthly charge or credit shall be shown on each customer's monthly bill.

[17.9.550.15 NMAC - Rp, NMPSC Rule 550.11, 12-30-10]

17.9.550.16 INITIAL TARIFF FILING:

A. No utility shall have a FPPCAC included in its tariff unless it complies with the requirements of 17.9.550 NMAC in the design of its FPPCAC and tariff and files an application with the commission requesting approval of its use of a FPPCAC. The utility shall submit testimony along with its initial tariff filing and application under 17.9.550 NMAC showing that all of the objectives stated in 17.9.550.6 NMAC are met by its tariff and that:

- (1) the costs of fuel and purchased power are a significant percentage of the total cost of service;
- (2) the costs of fuel and purchased power periodically fluctuate and cannot be precisely determined in a rate case;
- (3) the utility's fuel and purchased power policies and practices are designed to assure that electric power is generated and purchased at the lowest reasonable cost.

B. Sufficient financial and other necessary information and data shall be submitted to demonstrate that no amounts to be recovered under the operation of the FPPCAC are included in the base rates for service. The commission may approve all or part of the tariff filing and format with or without a formal hearing. All tariffs shall be deemed approved thirty (30) days after filing unless otherwise suspended by the commission.

[17.9.550.16 NMAC - Rp, NMPSC Rule 550.12, 12-30-10]

17.9.550.17 CONTINUATION FILINGS:

A. Each utility operating with a FPPCAC as part of its tariff shall file an application for continued use of its FPPCAC at intervals of no more than four (4) years from the date the FPPCAC is approved or continued by the commission. The application must address the considerations described in Paragraphs (1) through (4) of Subsection E of 62-8-7 NMSA 1978. A utility may elect to satisfy this requirement by submitting its continuation filing as part of a general rate proceeding that is subject to hearing by the commission or in a separate filing. Failure to file the application required in this paragraph by the prescribed time may, after notice and hearing, result in appropriate orders or sanction under the Public Utility Act, including termination of the utility's FPPCAC.

B. All applications required by this section shall be accompanied by a revenue and expense statement that shall contain, at minimum, an analysis of costs and revenues included in or affected by the operation of the utility's FPPCAC. In addition, the utility shall make the same showings required of an initial tariff filing set out in 17.9.550.16 NMAC.

C. A continuation filing shall be deemed approved thirty (30) days after filing unless suspended by the commission. Unless otherwise ordered by the commission, an existing FPPCAC shall remain in effect pending the outcome of a proceeding in which a request for continued use of an FPPCAC has been suspended.

[17.9.550.17 NMAC - Rp, NMPSC Rule 550.13, 12-30-10]

17.9.550.18 REFUNDS RIGHT: The commission in its discretion may order refunds of charges collected under the provisions of 17.9.550 NMAC to the customers of an electric utility where the commission determines, after notice and hearing, that the utility's collection of such amounts is contrary to the provisions of 17.9.550 NMAC, the previously approved adjustment factor, or otherwise is unfair, unjust or unreasonable.

[17.9.550.18 NMAC - Rp, NMPSC Rule 550.14, 12-30-10]

17.9.550.19 PRUDENCE REVIEW: The commission in its discretion may order that a prudence review be conducted to assure that fuel and purchased power costs collected by a utility through its FPPCAC are prudently incurred. Any prudence review shall be conducted under such procedures as the commission may direct. Unless otherwise ordered by the commission for good cause shown, the costs of the prudence review shall be paid by the utility and the costs treated as a regulatory asset, which shall accrue carrying costs at a rate to be set by the

commission in its order authorizing the prudence review, until included in base rates and recovered in the utility's next general rate proceeding.
[17.9.550.19 NMAC - N, 12-30-10]

17.9.550.20 NMPRC RULE 550 FPPCAC SAMPLE FORM: A utility shall submit a monthly report and calculation of its factor to the commission, using a standard format that is not inconsistent with the format and data requirements of this section. Supporting workpapers shall accompany the monthly report. **FPPCAC Factor Sample Report Form:**

**NEW MEXICO PUBLIC REGULATION COMMISSION
NEW MEXICO JURISDICTION RETAIL FUEL AND PURCHASED POWER DATA**

17.9.550 NMAC FPPCAC REPORT FORM

UTILITY NAME _____
BILLING MONTH _____
CURRENT MONTH _____

I. SUMMARY FPPCAC FACTOR INFORMATION

1. Type of Factor (fixed, rolling average, monthly): _____
2. Effective Date of Factor: _____
3. Billing Month's System Factor: _____ /kWh
4. Per kWh Base Rate Cost of Fuel and Purchased Power (if applicable): _____ /kWh
5. Number of Months Factor is Applicable: _____
6. Time Period of Data Used to Calculate Factor: _____
7. Cumulative Over/Under Collection at end of Current Month: _____
8. Applicable Case No(s). for FPPCAC Approvals: _____
9. Supporting Workpapers (attached)

II. CURRENT MONTH (OR OTHER APPLICABLE PERIOD) JURISDICTIONAL FUEL AND PURCHASED POWER EXPENSES

FUEL EXPENSE (Investor-Owned Utilities)

(Attach supporting workpapers)

ACCOUNT 501 -FUEL EXPENSE

- | | | |
|----|-------------|----------|
| a) | Coal | \$ _____ |
| b) | Natural Gas | \$ _____ |
| c) | Oil | \$ _____ |

TOTAL ACCOUNT 501 \$ _____

ACCOUNT 518 - NUCLEAR FUEL EXPENSE (Investor-Owned Utilities)

\$ _____

2.A. PURCHASED POWER EXPENSE (Investor-Owned Utilities)

(Attach supporting workpapers)

ACCOUNT 555-PURCHASES

a) Firm/Capacity \$ _____
 Capacity \$ _____
 Firm \$ _____
 Bank (Net) \$ _____
 Spinning Reserves \$ _____
 b) Contingent/Unit Commitment \$ _____
 c) Economy \$ _____
TOTAL PURCHASED POWER EXPENSE \$ _____

LESS ACCOUNT 447-SALES FOR RESALE

a) Firm/Capacity \$ _____
 Capacity \$ _____
 Firm \$ _____
 Bank (Net) \$ _____
 Spinning Reserves \$ _____
 b) Contingent/Unit Commitment \$ _____
 c) Economy \$ _____
 d) Firm Surplus \$ _____
 System Sales \$ _____
 Block Sales \$ _____
 Other Firm Sales \$ _____
 e). Other Adjustments
 (Renewable Energy, Margin Sharing, Etc.) \$ _____
TOTAL SALES FOR RESALE \$ _____

NET PURCHASED POWER EXPENSE \$ _____

2.B PURCHASED POWER EXPENSE (Distribution Cooperatives)

(Attach supporting workpapers, with purchased power billing invoice to be provided as available)

a) Demand \$ _____
 b) Energy \$ _____
 c) Transmission \$ _____
 d) Misc Adjustments \$ _____
 e) Supplier Adjustments \$ _____
 f) Other Charges \$ _____
TOTAL PURCHASED POWER EXPENSE \$ _____

3. BALANCING ACCOUNT OR CUMULATIVE OVER/UNDER COLLECTION (If Applicable)

(Investor-Owned Utilities and Distribution Cooperatives)
(Attach supporting workpapers)

\$ _____

4. APPLICABLE TOTAL FUEL AND PURCHASED POWER EXPENSE

(Investor-Owned Utilities and Distribution Cooperatives)

\$ _____

III. CURRENT MONTH (OR OTHER APPLICABLE PERIOD) FUEL AND PURCHASED POWER REVENUES

(Investor-Owned Utilities and Distribution Cooperatives)

1. APPLICABLE KWH SALES _____ kWh

2. FUEL AND PURCHASED POWER REVENUES

- a) Base Rate Revenues: \$ _____/kWh times kWh Sales \$ _____
- b) FPPCAC Revenues: \$ _____/kWh times kWh Sales \$ _____
- c) Revenue Adjustments \$ _____

TOTAL FUEL AND PURCHASED POWER REVENUES \$ _____

[17.9.550.20 NMAC - Rp, NMPSC Rule 550 Forms I & II, 12-30-10]

HISTORY OF 17.9.550 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the commission of public records-state records center and archives.

PSC-GO 28, (Case No. 1083) General Order No. 28, Rules Governing Fuel And Purchased Power Cost Adjustment Clause For Electric Utilities, filed 4/17/74.

NMPSC Rule 550, Fuel and Purchased Power Cost Adjustment Clauses for Electric Utilities, filed 6/30/88.

NMPSC Rule 550, Fuel and Purchased Power Cost Adjustment Clauses for Electric Utilities, filed 8/17/92.

NMPSC Rule 550, Fuel and Purchased Power Cost Adjustment Clauses for Electric Utilities, filed 8/25/92.

History of Repealed Material:

NMPSC Rule 550, Fuel and Purchased Power Cost Adjustment Clauses for Electric Utilities (promulgated by former NM Public Service Commission and filed 8/25/92), repealed 12/30/2010.

Other History:

NMPSC Rule 550, Fuel And Purchased Power Cost Adjustment Clauses For Electric Utilities (filed 8/25/92) was renumbered, reformatted and replaced by 17.9.550 NMAC, Fuel and Purchased Power Cost Adjustment Clauses For Electric Utilities, effective 12/30/2010.