

This rule was filed as NMPS Rule 590.

TITLE 17 PUBLIC UTILITIES AND UTILITY SERVICES
CHAPTER 9 ELECTRIC SERVICES
PART 590 ECONOMIC DEVELOPMENT RATES

17.9.590.1 ISSUING AGENCY: New Mexico Public Service Commission [New Mexico Public Regulation Commission.]
[Recompiled 12/30/01]

17.9.590.2 SCOPE:
[Recompiled 12/30/01]

17.9.590.3 STATUTORY AUTHORITY: This Rule is adopted under the authority vested in the Commission pursuant to NMSA 1978, Sections 62-3-1, 62-6-1, 62-6-4, 62-8-6, and 1989 N.M. Laws, ch. 5.
[Recompiled 12/30/01]

17.9.590.4 DURATION:
[Recompiled 12/30/01]

17.9.590.5 EFFECTIVE DATE:
[Recompiled 12/30/01]

17.9.590.6 OBJECTIVE: This Rule permits electric utilities to provide economic development rates from excess capacity to qualified customers in their service area. Providing utilities with the option of reducing rates to customers in certain rate classes who qualify under the criteria set out in the Rule would:

- A. Encourage a greater utilization of utility resources which would result in increased system load and improved system efficiency;
- B. Spread utilities' fixed costs over a larger base thus permitting lower average rates to all customers;
- C. Permit utilities to market their excess capacity at reduced rates within their service area rather than to sell this excess capacity to industries in other states at reduced rates;
- D. Encourage new industry to locate in the state;
- E. Promote expansion and greater production by existing industry; and
- F. Assure the protection of nonparticipating customers.

[Recompiled 12/30/01]

17.9.590.7 DEFINITIONS:

- A. "Approved" or "Approval" includes, but is not limited to, affirmative action by the Commission and a filing with the Commission which becomes effective by operation of law.
- B. "Commission" is the New Mexico Public Service Commission [New Mexico Public Regulation Commission].
- C. "Economic development rate" is a rate set at a level lower than the corresponding service rate for which a participating customer would otherwise qualify.
- D. "Excess capacity" is the amount of generating and purchased capacity available to the supplier or to the utility which is greater than its peak load plus some fixed percentage reserve margin. The reserve margin used to determine excess capacity will be filed on an individual basis for each supplier or utility. When the utility purchases its total requirements, its excess capacity shall be that of its supplier, unless the Commission determines otherwise.
- E. "Incremental load" is the amount of load above some established base level for an individual customer. Incremental load shall include the total load for new customers or the additional firm load for existing customers.
- F. "Investment unit" is a certain percentage increase in employment or a certain dollar increase in capital investment by a customer necessary to qualify for an economic development rate. Investment units will be filed on an individual basis for each utility and may differ between urban and rural areas. Utilities served by a

common supplier may coordinate their programs and if the supplier's rates to those utilities are regulated by the Commission, investment units shall be determined in accordance with such requirements as may be established by the supplier and approved by the Commission.

G. "Non-participating customer" is a customer of a utility who is being charged the service rate approved by the Commission.

H. "Participating customer" is a customer of a utility who otherwise qualifies for one of the utility's service rates, but who also qualifies for and has signed an agreement for an economic development rate for his incremental load.

I. "Supplier", whether itself a utility or a person subject to the Commission's jurisdiction under NMSA 1978, Section 62-6-4(B), or subject to the exclusive regulation of the Federal Energy Regulatory Commission, is the person supplying wholesale service to a utility to meet all or substantially all of its requirements.

J. "Utility" is every person defined as a public utility by NMSA 1978, Section 62-3-3(G).
[Recompiled 12/30/01]

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[Recompiled 12/30/01]

17.9.590.9 AVAILABILITY:

A. The use of economic development rates is not mandatory for utilities. Utilities may use economic development rates as a part of their marketing program and as a management tool in dealing with excess capacity on a voluntary basis.

B. A utility may sign agreements with eligible customers for economic development rates only so long as the utility or its supplier reasonably projects in advance that it will possess excess capacity for the time period covered by the agreement, and pursuant to a tariff approved in accordance with the Public Utility Act.

C. A utility which chooses to use economic development rates as a marketing tool to deal with excess capacity shall first use excess capacity which is in rate base for said sales.

D. Agreements between a utility and a participating customer to provide service under economic development rates shall be limited to a maximum period of 5 years.

[Recompiled 12/30/01]

17.9.590.10 ELIGIBILITY:

A. Economic development rates shall apply only to a participating customer's incremental load.

B. A participating customer shall qualify for service under economic development rates only if the customer meets the minimum investment units established by the utility providing it service and approved by the Public Service Commission [Public Regulation Commission].

[Recompiled 12/30/01]

17.9.590.11 RATE FLEXIBILITY:

A. The most recent rate schedule approved by the Commission for a customer class is the maximum rate a utility is permitted to charge that customer class.

B. A utility may provide an economic development rate lower than the rate schedule approved by the Commission for a customer class. The economic development rate shall be designed so as to recover at least the incremental cost of providing electric utility service to that customer. The utility shall file the variable cost of providing electric utility service to the customer classes for which economic development rates are being offered.

The variable cost of the supplier's wholesale service for resale to that customer shall be used to determine the variable cost in circumstances where the utility purchases its requirements.

C. If the utility decides to provide economic development rates, it must provide the economic development rates to all participating customers pursuant to NMSA 1978, Section 62-8-6.

[Recompiled 12/30/01]

17.9.590.12 RATE SCHEDULE:

A. A utility or a person subject to the Commission's regulation pursuant to NMSA 1978, Section 62-6-4(B), shall not provide, and a customer or a utility which receives wholesale service the charges for which are regulated pursuant to NMSA 1978, Section 62-6-4(B), shall not accept, service under an economic development rate until the utility or such person has filed an economic development rate schedule and the rate schedule shall have become effective in accordance with the Public Utility Act. Wholesale economic development rates which are subject to the Commission's regulation shall not make or grant any unreasonable preference or advantage to a purchasing utility within any classification, or subject any purchasing utility within any classification to any unreasonable prejudice or disadvantage.

B. The rates charged under any service agreements involving economic development rates that are executed on or after the effective date of this Rule shall be as set forth in the economic development rate schedule on file with the Commission.

C. The fuel and purchased power adjustment charge in any economic development rate schedule shall be the same as those in the rate schedule that would be otherwise applicable to the participating customer.

D. Economic development rates shall be filed with the Commission for approval. In addition to an explanation of the operations of the tariff and the situations for which it applies, the applicant shall show that the tariff complies fully with the requirements of its filing for tariffs as described in this rule. Since economic development rates represent a decrease from tariffs currently on file with the Commission, the requirements of NMPS Rule 530 [17.5.530 NMAC] shall not apply to economic development rate tariffs. The economic development tariff shall become effective after 30 days unless the Commission suspends the filing pursuant to NMSA 1978, Section 62-8-7. In the event the Commission suspends the filing, the utility shall have the option within ten days of the suspension date to withdraw the suspended filing without prejudice.

[Recompiled 12/30/01]

17.9.590.13 PROTECTION OF NONPARTICIPATING CUSTOMERS: The regulatory rate treatment of sales made under economic development rates established by this Rule is designed to protect nonparticipating customers because power sold by utilities to participating customers under an economic development rate schedule is from excess capacity and applies only to the incremental load of the participating customer. Excess capacity is typically sold on the economy energy market. Revenues derived from economy energy sales are used to offset or reduce the revenue requirement in rate cases. Since the economic development rate will almost always be higher than the economy energy rate, sales made under economic development rates will result in a larger reduction in revenue requirements for utilities than would otherwise be the case and thus will benefit all classes of ratepayers.

[Recompiled 12/30/01]

17.9.590.14 APPLICABILITY TO OTHER RATES AND SERVICE: This Rule does not apply to rates for interruptible or non-firm, peak and similar kinds of service. It does not prohibit rates which otherwise comply with the Public Utility Act, but which become effective in accordance with that Act and which are not the subject matter of this Rule.

[Recompiled 12/30/01]

17.9.590.15 EXEMPTIONS OR VARIANCES: Any interested person may file an application for a variance or an exemption from the requirements of this Rule. Such application may include a motion that the Commission stay the affected portion of this Rule for the transaction specified in the motion. Such application shall:

- A. describe the situation which necessitates the exemption or variance;
- B. set out the effect of complying with this Rule on the person or utility and its customers if the exemption or variance is not granted;
- C. identify the section(s) of this Rule for which the exemption or variance is requested;
- D. define the result which the request will have if granted; and

- E. state how the exemption or variance will promote the achievement of the purposes of this Rule.
 - F. The Commission may, at its discretion, require an informal conference or formal evidentiary hearing prior to making its determination.
- [Recompiled 12/30/01]

17.9.590.16 [HISTORY: Amended by NMPSC Case No. 2225 (Remand), order dated June 19, 1989, unless otherwise noted; Adopted in Case No. 2225, Order dated November 21, 1988.]
[Recompiled 12/30/01]

HISTORY OF 17.9.590 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.

NMPSC Rule 590, Economic Development Rates, 11/22/88.

History of Repealed Material: [RESERVED]