

This rule was filed as NMPSC Rule 710.

TITLE 17 PUBLIC UTILITIES AND UTILITY SERVICES
CHAPTER 12 WATER SERVICES
PART 1 GENERAL PROVISIONS FOR WATER UTILITIES

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

17.12.1.2 SCOPE:
[Recompiled 12/30/01]

17.12.1.3 STATUTORY AUTHORITY: NMPSC Rules 710 through 780 [17.12.1 NMAC, 17.12.720 NMAC through 17.12.780 NMAC] governing the application for Certificates of Public Convenience and Necessity, the application for rate increases, and annual reporting by water utilities is issued pursuant to NMPSC Rule 120 [17.1.120 NMAC] and NMSA 1978, Sections 62-3-1, 62-3-3(F)(3), 62-3-4, 62-6-1, 62-6-4, 62-6-16, 62-6-18, 62-6-19, 62-6-20, 62-6-21, 62-6-22, 62-8-3, 62-8-10, and 62-9-1.
[Recompiled 12/30/01]

17.12.1.4 DURATION:
[Recompiled 12/30/01]

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

17.12.1.6 OBJECTIVE:

A. The adoption by the New Mexico Public Service Commission [New Mexico Public Regulation Commission] of the minimum data requirements specified in NMPSC Rules 710 through 780 [17.12.1 NMAC, 17.12.720 through 17.12.780 NMAC] is for the purpose of defining and specifying the annual filing requirements for water utilities and minimum data requirements to be filed in support for a tendered new rate schedule or rate schedules which will supersede, supplement, or otherwise change the provision of a rate schedule required to be on file with the Commission and the minimum data requirements for Certificates of Public Convenience and Necessity.

B. The failure of the applicant to fulfill the minimum data requirements specified in NMPSC Rules 710 through 780 [17.12.1 NMAC, 17.12.720 through 17.12.780 NMAC] shall constitute sufficient cause for the Commission to seek sanctions against a water utility or to reject an applicant's filing pursuant to NMPSC Rule 210 [17.1.210 NMAC].

(1) Pursuant to NMPSC Rules 110 and 210 [17.1.2 NMAC and 17.1.210 NMAC] an applicant utility unable to comply fully with any data requests contained herein due to good and sufficient cause should give notice in writing to the Commission of the applicant utility's inability to comply with the provisions of such data request at least thirty (30) days prior to the filing of any report or action governed by NMPSC Rules 710 through 780 [17.12.1 NMAC, 17.12.720 through 17.12.780 NMAC].

(2) Upon receipt of such notification and after consideration by the Commission of the applicant utility's stated reasons for inability to comply fully with the provisions of NMPSC Rules 710 through 780 [17.12.1 NMAC, 17.12.720 through 17.12.780 NMAC], the Commission shall within fifteen (15) days notify the applicant utility in writing of its decision concerning the applicant utility's notice.

[Recompiled 12/30/01]

17.12.1.7 DEFINITIONS: When used in NMPSC Rules 710 through 780 [17.12.1 NMAC, 17.12.720 through 17.12.780 NMAC] unless otherwise specified the following definitions will apply.

A. "Accounting Method" means the uniform system of accounting prescribed by the Commission.

(1) "Functional Accounting" means the grouping of plant and expense accounts according to the specified function or purpose which the plant or expense performs in rendering the utility service, such as source of supply, pumping, water treatment, transmission, distribution, etc.

(2) "Primary Account" means the grouping of plant and expenses by balance sheet account number, such as accounts 101, 102, 103, etc.

(3) "Detailed Account" means the breakdown of plant and expenses into subaccounts, that is, utility plant accounts, such as accounts 301, 302, 303, etc.

B. "Accounting Period":

(1) "Calendar Year": a consecutive twelve-month accounting period beginning with January 1 and ending with December 31; and

(2) "Fiscal Year": a consecutive twelve-month accounting period.

C. "Adjustment" means a calculation made with reasonable accuracy to the book balance of accounts to reflect a known and measurable change or estimate based on projection for the full twelve-month period of the Test Year. "Pro Forma Adjustment" means a computation made to develop the effect of a known and measurable change on the financial statements presented for Test Year purposes in a rate case.

D. "Allocation" means the process by which the total cost of service is classified into the types of services provided such as demand, commodity, base, extra capacity, and customer, and assigned to the various classes of customers served within a regulatory jurisdiction or among regulatory jurisdictions.

E. "Annualization" means a computation made to reflect a full twelve-month effect of an item of income or expense which is recorded in the utility's financial statements for only a portion of a year.

F. "Base Period" means the applicant utility's twelve (12) consecutive months of actual experience as reflected on the book balance of accounts, the last day of which shall not be more than one hundred fifty (150) days prior to the date of tender for filing with a Future Test Year Period.

G. "Book Balance Accounts" means the amounts actually recorded by the applicant utility on its books of account. Whenever property and/or services are acquired for other than cash, the basis for valuation for book purposes shall be explained.

H. "Classification" means the separation of plant and expenses into the principal categories of the services rendered, such as demand related, commodity related, customer related, etc.

I. "Classification of Water Utilities": For purposes of efficient administration of the Commission's regulatory authority under NMPSC Rules 710 through 780 [17.12.1 NMAC, 17.12.720 through 17.12.780 NMAC], water utilities are divided into three (3) groups:

(1) "Class A and B Water Utilities" are those jurisdictional water utilities having annual operating revenues which have averaged more than \$500,000 for a consecutive three-year period;

(2) "Class C Water Utilities" are those jurisdictional water utilities having annual operating revenues which have averaged more than \$50,000 but less than \$500,000 for a consecutive three-year period; and

(3) "Class D Water Utilities" are those jurisdictional water utilities having annual operating revenues which have averaged less than \$50,000 for a consecutive three-year period.

J. "Cost of Service" means the total annual cost of rendering the utility service expressed in monetary value, including a rate of return on invested capital.

K. "Department" or "Division" means a responsibility center within the corporate structure of a public utility enterprise where revenues and expenses are accumulated as a result of a commodity or service rendered by such Department or Division.

L. "Depreciated Original Cost" (Book Value of Property) means the cost of property on the books of the utility to the person first devoting it to the public service less the accrued depreciation reserve. Depreciated original cost shall not include the cost of reproduction as a going concern nor any other consideration of other than book value.

M. "Filing" means notification to the Commission by means of a tendered change in tariff sheets and payment of the required fees by a public utility regarding such change pursuant to the provisions of the Commission's Code of Rules and Regulations.

(1) The "Filing Date" shall occur on the date on which the tendered change in tariff sheets is received at the offices of the Commission.

(2) The "Effective Date" shall occur on the date that such tendered change in tariff sheets is permitted to become effective by the Commission -- thirty (30) days after the filing date or on such other date as may be ordered by the Commission.

N. "Functionalization" means the separation of costs according to major function or purpose which the plant or expense performs in rendering the utility service; for example, source of supply, pumping, water treatment, transmission and distribution, etc.

O. "Lead-Lag Study" is a method sometimes employed in developing the amount of cash working capital to be included in a Rate Base determination for a utility company. The study seeks to measure and quantify the lag (delay) in receipt of revenues from customers from the time service is rendered offset by the lead, that is, the period the utility company has from the time it incurs an expense until cash is actually disbursed in payment of the expense.

P. "Litigation" means all contested matters before regulatory commissions, administrative bodies, and state or federal courts. Litigation also includes arbitration proceedings and other similar dispute resolution proceedings. Uncontested regulatory filings, contract drafting, negotiation and management, routine legal advice and other similar legal matters which are not in dispute are not considered litigation for the purposes of this rule.

Q. "Rate Base" means the net investment value upon which the applicant utility shall be permitted to earn a specified return. Generally the Rate Base represents the value of utility property used and useful in rendering the public utility service and may contain elements of value reflecting the cost of the utility property to the person first devoting it to the public service and other items, such as cash working capital, materials, supplies, and prepayments. In accordance with New Mexico statutes the applicant's Rate Base may also reflect the cost of reproduction as a going concern and other elements of value.

R. "Rate Class" means a group of customers which exhibit similar use characteristics and which are grouped together for cost allocation, rate design, and billing purposes.

S. "Reproduction Cost" means the estimated cost to reproduce an item or property or other asset currently owned at current prevailing prices.

T. "Test Year Period": Nothing herein shall preclude an applicant utility from adopting either an Historical Test Year Period or a Future Test Year Period, each as defined below, as the basis of the determination by the Commission of the applicant utility's total revenue requirements.

(1) "Historical Test Year Period": The applicant utility's twelve (12) months of actual experience adjusted for known and measurable changes, annualizations, or other changes for which period the applicant utility's total revenue requirements shall be determined.

(2) "Future Test Year Period": The twelve (12) consecutive months immediately following the last day of the applicant utility's twelve (12) months of actual experience [otherwise the Base Period] adjusted for known and measurable changes or estimates based on projections for which period the applicant utility's total revenue requirements shall be determined. The Test Year Period prescribed in the individual data request schedules shall incorporate the necessary adjustments in conformance with the definition given above for the type of Test Year Period selected by the applicant utility.

U. "Water Unit Measurement": The standard unit measure of water consumption shall be expressed in gallons. To change cubic feet of water to gallons, the conversion factor of 7.481 shall be used. To change barrels of water to gallons, the conversion factor of 42 shall be used.

V. "Water Utility": means every corporation, individual, partnership, company, builder, developer, or other person not otherwise engaged solely in interstate commerce which owns, operates, leases, or controls any plant, property, or facility for supply, storage, or furnishing to or for the public water for manufacturing, municipal, domestic, or other uses. The definition excludes:

- (1) irrigation districts, the principal business of which is to supply water for irrigation;
- (2) municipal water systems, which are governed under the provisions of NMSA 1978, Sections 3-23-1 et seq. and 3-27-1 et seq.;
- (3) railroads, which only incidental to their railroad business or occasionally furnish water under limited or revocable agreements, or which sell to a utility or municipality for resale, or which sell to another railroad or to the state or federal government or an agency thereof, water out of surplus water supplies acquired and held primarily for railroad purposes;
- (4) cooperatives, organized under NMSA 1978, Section 53-4-1 et seq., which provide water service to members only;
- (5) water and sanitation districts, which are governed under the provisions of NMSA 1978, Section 73-2-1 et seq.

[Recompiled 12/30/01]

17.12.1.8 TABLE OF CONTENTS:]

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[Recompiled 12/30/01]

17.12.1.9 INTRODUCTION: NMPSC Rules 710 through 780 [17.12.1 NMAC, 17.12.720 NMAC through 17.12.780 NMAC] govern annual reporting; Certificates of Public Convenience and Necessity; system design, construction, and operation; customer services; rate filings; and utility accounting for water utilities operating under the Commission's jurisdiction.

A. Annual Report Forms are required to be filed for every calendar year by April 30 of each year. Attached to this report shall be SEC Form 10K, if applicable, and NMPSC Rule 710 [17.12.1 NMAC] Form 1 regarding jurisdictional customer numbers. NMPSC Rule 720 [17.12.720 NMAC] provides that water utilities shall file Annual Reports in either of two (2) formats. Smaller water utilities may file an abbreviated Annual Report form.

B. Under NMPSC Rule 720 [17.12.720 NMAC] regulated water utilities are required to maintain financial accounts in either of two (2) formats. Larger water utilities shall keep their financial records according to the NARUC Uniform System of Accounts for Class A and B Water Utilities. Smaller water utilities may keep their financial records either pursuant to the New Mexico Uniform System of Accounts for Class C and D Water Utilities or according to the NARUC Uniform System of Accounts for Class C and D Water Utilities.

C. Provision for rate filings is divided into the levels of operation set out in the classification of water utilities herein below. NMPSC Rules 730 and 780 [17.12.730 NMAC and 17.12.780 NMAC] provide that water utilities shall file for rates in one (1) of three (3) formats. The larger utilities must file the most comprehensive package. Middle-sized utilities may file a simpler package. The smaller utilities may file the most abbreviated package.

D. No water utility subject to the Commission's jurisdiction shall commence construction nor operation without first obtaining a Certificate of Public Convenience and Necessity. NMPSC Rule 740 [17.12.740 NMAC] provides that every filing for a certificate from the Commission shall be made pursuant to NMPSC Rules 110.35 through 110.38 [17.1.2 NMAC] and must demonstrate proposed system and service compliance when operational.

E. The Minimum Standards for Design, Construction, and Operation set forth in NMPSC Rule 750 [17.12.750 NMAC] establish the measurements the Commission will require in connection with questions which pertain to expense, capital, Rate Base, prudence, adequacy, or convenience and necessity. These system standards may reasonably be exceeded in any particular application. The minimum standards apply to all new water utilities seeking initial certification after the effective date of General Order No. 42, codified by NMPSC Rules 710 through 780 [17.12.1 NMAC, 17.12.720 through 17.12.780 NMAC], and to new expansion, construction, and repair of existing facilities of already certified utilities.

F. The Customer Service Rules and Regulations, NMPSC Rule 760 [17.12.760 NMAC], establish the responsibilities and rights of jurisdictional water utilities and their residential customers in their water service relationship. Nothing herein shall prevent any utility from adopting Service Rules and Regulations which do not conflict with but which are additional to those set forth herein to cover special circumstances.

[Recompiled 12/30/01]

17.12.1.10 [HISTORY: Codified by NMPUC Case No. 2086, Order dated June 30, 1988; amended by NMPUC Case No. 2232, Order dated December 19, 1988; amended by NMPUC Case No. 2561, Order dated April 4, 1994. Formerly NMPUC Second Revised General Order No. 10, superseded for purposes of rule reorganization and codification.]

[Recompiled 12/30/01]

HISTORY OF 17.12.1 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.

G.O. 42, General Order Number 42, Regulations Governing Water Utilities, 5-2-84.

NMPSC Rule 710, General Provisions For Water Utilities, 6-30-88.

History of Repealed Material: [RESERVED]