

**BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION**

**IN THE MATTER OF SOUTHWESTERN )  
PUBLIC SERVICE COMPANY’S TRIENNIAL )  
ENERGY EFFICIENCY PLAN APPLICATION )  
REQUESTING APPROVAL OF: (1) SPS’S )  
2020-2022 ENERGY EFFICIENCY PLAN AND )  
ASSOCIATED PROGRAMS; (2) A FINANCIAL )  
INCENTIVE FOR PLAN YEAR 2020; (3) )  
RECOVERY OF THE COSTS ASSOCIATED )  
WITH A POTENTIAL ENERGY EFFICIENCY )  
STUDY OVER A TWO-YEAR TIME PERIOD; )  
AND (4) CONTINUATION OF SPS’S ENERGY )  
EFFICIENCY TARIFF RIDER TO RECOVER )  
ITS ANNUAL PROGRAM COSTS AND )  
INCENTIVES, )  
)  
SOUTHWESTERN PUBLIC SERVICE )  
COMPANY, )  
)  
APPLICANT. )  
)**

**CASE NO. 19-00\_\_\_\_-UT**

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**DIRECT TESTIMONY**

*of*

**RUTH M. SAKYA**

*on behalf of*

**SOUTHWESTERN PUBLIC SERVICE COMPANY**

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## **GLOSSARY OF ACRONYMS AND DEFINED TERMS**

<b><u>Acronym/Defined Term</u></b>	<b><u>Meaning</u></b>
2017 Plan or EE/LM Plan	SPS's 2017 Energy Efficiency and Load Management Plan
Court	New Mexico Supreme Court
Commission	New Mexico Public Regulation Commission
EE	Energy Efficiency
EE/LM	Energy Efficiency and Load Management
EE Potential Study	Energy Efficiency Potential Study
EE Rider	Energy Efficiency Rider
EE Rule	Energy Efficiency Rule, 17.7.2 NMAC
EUEA	Efficient Use of Energy Act (NMSA 1978, Sections 62-17-1 through 62-17-11)
FERC	Federal Energy Regulatory Commission
GWh	Gigawatt-hour
kWh	kilowatt-hour
NMAG	New Mexico Attorney General
NMAG Decision	<i>New Mexico Attorney General v. New Mexico Public Regulation Commission</i> , 150 N.M. 174, 258 P.3d 453
PNM	Public Service Company of New Mexico
PSCo	Public Service Company of Colorado

<b><u>Acronym/Defined Term</u></b>	<b><u>Meaning</u></b>
PUA	Public Utility Act (NMSA 1978, Section 62-3-1 et seq.)
PUCT	Public Utility Commission of Texas
SPS	Southwestern Public Service Company, a New Mexico corporation
Triennial Plan	SPS's Triennial Energy Efficiency Plan
UCT	Utility Cost Test
WACC	Weighted Average Cost of Capital
Xcel Energy	Xcel Energy Inc.
XES	Xcel Energy Services Inc.

## LIST OF ATTACHMENTS

### Attachment

### Description

RMS-1

Table of Energy Efficiency Rule Requirements  
and Assignments

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Direct Testimony  
of  
Ruth M. Sakya

1           **I. WITNESS IDENTIFICATION AND QUALIFICATIONS**

2   **Q. Please state your name and business address.**

3   A. My name is Ruth M. Sakya. My business address is 150 Washington Avenue,  
4       Suite 201, Santa Fe, New Mexico 87501.

5   **Q. On whose behalf are you testifying in this proceeding?**

6   A. I am filing testimony on behalf of Southwestern Public Service Company, a New  
7       Mexico corporation (“SPS”) and wholly-owned electric utility subsidiary of Xcel  
8       Energy Inc. (“Xcel Energy”). Xcel Energy is a registered holding company that  
9       owns several electric and natural gas utility operating companies, a regulated  
10      natural gas pipeline company, and transmission development companies.<sup>1</sup>

11 **Q. By whom are you employed and in what position?**

12 A. I am employed by SPS, as Manager, Regulatory Administration.

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<sup>1</sup> Xcel Energy is the parent company of four utility operating companies: Northern States Power Company, a Minnesota corporation; Northern States Power Company, a Wisconsin corporation; Public Service Company of Colorado, a Colorado corporation (“PSCo”); and SPS. Xcel Energy’s natural gas pipeline subsidiary is WestGas InterState, Inc. Through a subsidiary, Xcel Energy Transmission Holding Company, LLC, Xcel Energy also owns three transmission-only operating companies: Xcel Energy Southwest Transmission Company, LLC; Xcel Energy Transmission Development Company, LLC; and Xcel Energy West Transmission Company, LLC, all of which are either currently regulated by the Federal Energy Regulatory Commission (“FERC”) or expected to be regulated by FERC.

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1 **Q. Please briefly outline your responsibilities as Manager, Regulatory**  
2 **Administration.**

3 A. I am responsible for determining the appropriate regulatory policy for SPS. In  
4 this role, I direct and prepare comments, testimony, and briefing materials for  
5 policy matters impacting SPS. I also advocate on behalf of SPS and its customers  
6 before the Southwest Power Pool Inc. Among my responsibilities are SPS's  
7 renewable energy, energy efficiency, and load management matters before the  
8 New Mexico Public Regulation Commission ("Commission") and the Public  
9 Utility Commission of Texas ("PUCT"), including changes to the Commission's  
10 rules related to renewable energy, energy efficiency, and cost recovery riders. In  
11 carrying out my responsibilities regarding these matters, I have become familiar  
12 with the Commission's rules and the applicable statutes affecting these areas.

13 **Q. Please describe your educational background.**

14 A. I graduated from the University of Wyoming in 1998 with a Bachelor of Science  
15 degree in Finance and, in 2001, with a Master of Science degree in Finance, with  
16 an emphasis in Regulatory Economics. I completed the coursework and  
17 successfully passed the qualifying exams toward a Ph.D. in Public Affairs from  
18 the University of Colorado, Denver.

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1 **Q. Please describe your professional experience.**

2 A. I began my career in 1999 as an intern with the Illinois Commerce Commission  
3 and in 2000 joined the PUCT as a Senior Policy Analyst. I have held various  
4 other positions, including Rate Analyst at a multi-jurisdictional electric and gas  
5 utility, and Senior Analyst and then Supervising Analyst with a consulting firm  
6 specializing in services to regulatory agencies and municipal entities. In 2004, I  
7 accepted a position with Xcel Energy Services Inc. (“XES”) as Senior Rate  
8 Analyst. In 2007, I accepted a position with XES as Manager, Regulatory Policy.  
9 Beginning January 1, 2012, my position as Manager, Regulatory Policy was  
10 transferred to SPS, where my job responsibilities continue to be the same as they  
11 have been since 2007. In 2018, I became Manager, Regulatory Administration.

12 **Q. Have you testified or filed testimony before any regulatory authorities?**

13 A. Yes. I have filed testimony before the Commission, the PUCT, and the Colorado  
14 Public Utilities Commission. I have testified before each of these regulatory  
15 authorities regarding, among other things, the topics discussed in this direct  
16 testimony.



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- 1 • authorize SPS to fund its Triennial Plan program and administrative  
2 costs at three percent of customer bills in accordance with Section  
3 17.7.2.8(C)(1) of the EE Rule and Section 62-17-6(A) of the EUEA  
4 and to recover these costs through its EE Rider;
- 5 • approve SPS’s proposed methodology to calculate the financial  
6 incentive for each year of the Triennial Plan;
- 7 • approve recovery of a financial incentive for 2020 through SPS’s EE  
8 Rider;
- 9 • approve SPS’s proposed reconciliation process for the authorized  
10 budget and actual plan year expenditures and collections;
- 11 • authorize SPS to recover costs associated with an Energy Efficiency  
12 Potential Study (“EE Potential Study”) over a two-year time period  
13 beginning in 2020; and
- 14 • grant all other approvals, authorizations, and relief that may be  
15 required under the EUEA, the EE Rule, and the New Mexico Public  
16 Utility Act (NMSA 1978, Sections 62 3-1 et seq., “PUA”) for SPS to  
17 implement the approved Triennial Plan and EE Rider.

18 The Plan is attached to the Direct Testimony of SPS witness Mark R.  
19 Schoenheider as Attachment MRS-1. In addition, for ease of reference, SPS has  
20 provided a copy of SPS’s Annual EE Report as Attachment MRS-2(CD) to the  
21 testimony of Mr. Schoenheider.

22 **Q. Please summarize your conclusions.**

23 A. SPS’s application and supporting filing comply with and satisfy all applicable  
24 requirements of the EUEA, PUA, and Commission regulations and orders and,

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1 accordingly, the approvals and authorizations requested in the Application should  
2 be granted by the Commission.

3 **Q. Please identify the other SPS witnesses in this case and describe their areas of**  
4 **testimony.**

5 A. Mr. Schoenheider’s testimony: (i) explains that SPS’s proposed savings goals for  
6 the Triennial Plan are achievable and reasonable; (ii) describes the process used  
7 by SPS to evaluate, select, and design its proposed portfolio of Residential and  
8 Business energy efficiency programs to meet its proposed Triennial Plan goals;  
9 (iii) explains the Utility Cost Test (“UCT”) assumptions and calculations used to  
10 evaluate the cost-effectiveness of each program; (vi) discusses the EE Potential  
11 Study; and (vii) presents SPS’s proposal for and the reasonableness of the  
12 incentive mechanism for SPS’s EE efforts for program years 2020-2022.

13 SPS witness Aleah K. Beedy’s testimony supports and addresses: (a) the  
14 calculation of SPS’s 2020 EE Rider and projected customer bill impacts;  
15 (b) recovery through the EE Rider of an incentive for spending and savings  
16 achieved as a result of SPS’s EE programs; and (c) recovery through the EE Rider  
17 of the cost of an EE Potential Study recovered over a two-year period (Plan Years  
18 2020 and 2021).

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- 1 **Q. Was Attachment RMS-1 prepared by you or under your direct supervision?**
- 2 A. Yes.



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1 **Q. Please describe SPS’s customer mix.**

2 A. Unlike many utilities, SPS serves a very large amount of commercial and  
3 industrial retail load. Indeed, approximately 79 percent of New Mexico retail  
4 sales are to industrial and commercial customers, and at least 54 percent of SPS’s  
5 New Mexico retail jurisdictional sales are to oil and natural gas businesses. Table  
6 RMS-1 illustrates SPS’s customer sales mix during 2018.

7 **Table RMS-1: 2018 Customer Sales Mix**

<b>Customer Class</b>	<b>Kilowatt Hour  (“kWh”)</b>	<b>Percent of Total</b>
Residential	1,146,646,697	18.64%
Commercial (SGS, SG, IRR)	963,501,638	15.66%
Industrial (PG, LGST)	3,880,697,743	63.08%
Muni & School	132,757,180	2.16%
Lighting	28,868,949	0.47%
<b>Total</b>	<b>6,152,472,206</b>	



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1 of the EUEA are not achievable or reasonable and therefore approve a lower goal  
2 for the utility (Section 62-17-5(H)).

3 Under the EUEA as amended, program funding is established at no less  
4 than three percent and no more than five percent of customer bills, excluding  
5 gross receipts taxes and franchise and right-of-way access fees, or seventy-five  
6 thousand dollars (\$75,000) per customer per calendar year, whichever is less. In  
7 addition, a minimum of five percent of spending must be dedicated to  
8 cost-effective, low-income programs (Section 62-17-6(A)).

9 The Commission is required to identify and remove regulatory  
10 disincentives to EE/LM and provide an opportunity for utilities to earn a profit on  
11 cost-effective EE/LM programs (Section 62-17-5(F)).

12 SPS's Triennial Plan encompasses programs and goals related to the prior  
13 EUEA requirement (through 2020) and programs and goals related to the  
14 amended EUEA requirement (2021 and 2022, which relate to the  
15 newly-established 2025 cumulative requirement).

16 **Q. What is SPS's 2020 savings requirement pursuant to the EUEA?**

17 A. In 2005, SPS's retail sales were 3,750,469 megawatt-hours. Therefore, applying  
18 the required goal of eight percent based on 2005 retail kWh sales, the EUEA

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1 requirement equates to a reduction of 300 gigawatt-hours (“GWh”) through 2020  
2 (at the customer meter). As a result of the savings achieved through 2018, SPS  
3 has already met the 2020 EUEA requirement (achieving cumulative savings of  
4 approximately 302 GWh). Based on SPS’s projected savings achievements for  
5 2019 and 2020, SPS forecasts that it will achieve cumulative energy savings of  
6 just under nine percent, exceeding the eight percent 2020 EUEA requirement.

7 **Q. What is SPS’s 2025 savings requirement pursuant to the EUEA?**

8 A. SPS cannot calculate the 2025 savings requirements until 2021 because the 2025  
9 goal is based on actual 2020 total retail kWh sales. However, as a rough estimate,  
10 when applying the five percent reduction to 2018 retail kWh sales, the 2025  
11 requirement would be 307 GWh. Given the significant oil and gas and other load  
12 growth currently being experienced by SPS in its New Mexico service area, the  
13 actual requirement will be higher than the requirement calculated based on 2018  
14 sales.

15 Although the savings achieved in Plan Years 2021 and 2022 will  
16 contribute toward the 2025 requirement, the current goal is likely to be difficult to  
17 achieve. The 2020 requirement allowed SPS to achieve a cumulative goal of 300  
18 GWh over 13 years; however, the 2025 requirement only allows SPS to achieve a

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1 similar cumulative goal (just over 300 GWh) over 5 years. Therefore, SPS  
2 anticipates its ability to meet the full 2025 requirement will be very challenging, if  
3 not unlikely.

4 **Q. Why do you believe that there will be challenges for SPS to meet the 2025**  
5 **goal requirement?**

6 A. There are both systemic and energy market conditions that will present challenges  
7 to SPS in meeting the amended goals. First, as I explained earlier, SPS has a  
8 much different customer mix than other utilities, with a significant portion of its  
9 energy sales coming from its agricultural, large commercial, and industrial  
10 customer classes, with over 50 percent of its sales to oil and gas customers.  
11 While these customers do contribute significantly to SPS's goals, there are  
12 inherent limits to what can be achieved for these classes in view of limitations on  
13 the programs available to these customers and industry market conditions that  
14 limit the level of participation by these customers. As shown in Table RMS-2,  
15 industrial customers only contributed 14 percent of total energy savings in 2018.  
16 At the same time, SPS has been very successful in delivering cost-effective EE  
17 programs to its residential customers (*see* Table RMS-2 – residential customers  
18 contributed 68 percent of total energy savings in 2018). Deeper levels of

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1 penetration may be difficult because customers have already participated in SPS's  
2 EE programs and may not see a need for additional participation.

3 **Table RMS-2: 2018 Distribution of EE Savings**

<b>Customer Class</b>	<b>% Savings by Class</b>
Residential	68%
Commercial (SGS, SG, IRR)	16%
Industrial (PG, LGST)	14%
Muni & School	2%
Lighting	0%
<b>Total</b>	<b>100%</b>

4 Second, energy savings achievements are likely to be compounded by commodity  
5 market conditions. SPS is required to deliver cost-effective programs and the  
6 cost-effectiveness of SPS's programs is influenced by avoided costs (of which  
7 natural gas costs are a significant component). As avoided costs for supply-side  
8 resources decrease, the cost-effectiveness of programs decrease and negatively  
9 affects the EE options in the resource selection process under the UCT.  
10 Accordingly, there may be fewer cost-effective programs available to customers  
11 which results in lower savings achievements.

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1 **Q. Has SPS quantified the impacts of these systemic and market conditions to**  
2 **SPS's achievable savings?**

3 A. Not yet. In order to properly evaluate these factors, it is necessary to investigate  
4 and quantify the achievable savings in its service area through an EE Potential  
5 Study. SPS plans to undertake such a study in its service area in 2020. Mr.  
6 Schoenheider discusses the EE Potential Study in his testimony.

7 **Q. What is an EE Potential Study?**

8 A. An EE Potential Study determines the opportunity for DSM programs to influence  
9 customer and market behavior in favor of selecting more efficient products and  
10 processes.

11 **Q. When does SPS propose to undertake an EE Potential Study?**

12 A. SPS plans to issue a Request for Proposals in late 2019 or early 2020 and have the  
13 study conducted in 2020. SPS anticipates a final report by the end of 2020 or  
14 early 2021.

15 **Q. How much does SPS estimate the EE Potential Study will cost?**

16 A. SPS estimates the cost to be approximately \$500,000. As a comparison, similar  
17 studies in Colorado and Minnesota have been approximately \$800,000. SPS

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1 proposes to collect the costs over two years through the EE Rider. The amount  
2 would be in addition to the proposed three percent funding level and the incentive.

3 **Q. How will the EE Potential Study impact SPS's 2025 goal?**

4 A. Until more information is available to evaluate viable EE/LM alternatives in  
5 SPS's service area, it is unclear what the impacts, if any will be. If the EE  
6 Potential Study shows less potential savings reduction opportunities, SPS will  
7 likely propose an alternative savings goal, consistent with Section 62-17-5(H) of  
8 the EUEA.

9 **Q. Aside from the EE Potential Study, does SPS have any other plans relative to**  
10 **meeting the 2025 EUEA requirements?**

11 A. Yes. SPS will take several additional steps to determine if additional savings  
12 opportunities exist and maintain open lines of communication between SPS and  
13 interested stakeholders.

14 • **Roundtable meetings:** In Colorado, SPS's affiliate, PSCo, hosts regular  
15 Roundtables to exchange information and solicit recommendations. These  
16 meetings have been well-received and SPS plans to implement a similar  
17 process in New Mexico. Specifically, SPS proposes to host two  
18 roundtable meetings in each of the interim years (2020, 2021, and 2022)  
19 between this filing and SPS's next triennial filing. In this manner, SPS  
20 will regularly update interested stakeholders on savings progress, solicit  
21 program recommendations, updates parties on program evaluation (e.g.,

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1 whether program recommendations are viable), and other information  
2 exchanges.

3 • **Pilot program evaluations:** SPS will continue to explore potential pilot  
4 programs. There may be the potential for new programs where SPS does  
5 not have sufficient market data to determine whether potential programs  
6 will be effective in SPS's New Mexico service area and/or would meet the  
7 cost effectiveness standards. However, when offered as small pilot  
8 projects, SPS would be able to gather needed data and determine the  
9 viability of new programs that could be used to meet savings goals.

10 • **Partnerships:** SPS plans to investigate partnerships with the national labs  
11 and/or local colleges. Through strategic partnerships, SPS may be able to  
12 leverage cutting edge research to develop or implement programs (or pilot  
13 projects) to help SPS meet the amended EUEA goals.

14 **B. EE Rule Requirements**

15 **Q. How does the Commission's EE Rule relate to the EUEA?**

16 A. The EE Rule implements the EUEA by establishing specific requirements  
17 regarding annual reports and triennial plan filings. Consistent with 17.7.2.8(A)  
18 NMAC, SPS has timely filed its application for 2020 through 2022 and the prior  
19 year's report (for calendar year 2018).

20 **Q. Has SPS complied with the remaining provisions of the EE Rule?**

21 A. Yes. SPS's application contains all of the information required by the EE Rule.  
22 In support of the application, Mr. Schoenheider provides SPS's plans for calendar  
23 years 2020, 2021, and 2022. SPS has separately and simultaneously filed its

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1 Annual EE Report in this case, which addresses SPS's compliance with the rules,  
2 applications, and associated filing requirements; however, Mr. Schoenheider also  
3 provides a copy as an attachment to his testimony. Attachment RMS-1 details  
4 each section of the EE Rule and where SPS addresses each of these sections in its  
5 application.

6 **Q. Has SPS complied with the requirement (17.7.2.14(B) NMAC) to post its**  
7 **Annual EE Report on a publicly accessible website?**

8 A. Yes. SPS's Annual EE Report can be accessed at the following website:

9 [http://www.xcelenergy.com/Company/Rates\\_&\\_Regulations/Filings/New\\_](http://www.xcelenergy.com/Company/Rates_&_Regulations/Filings/New_Mexico_Demand-Side_Management)  
10 [Mexico\\_Demand-Side\\_Management](http://www.xcelenergy.com/Company/Rates_&_Regulations/Filings/New_Mexico_Demand-Side_Management)

11 **Q. Is SPS requesting removal of regulatory disincentives in this proceeding**  
12 **under 17.7.2.17 NMAC?**

13 A. No. SPS will address any request for removal of regulatory disincentives in a  
14 separate filing.

15 **Q. Are there any audit costs to be recovered under 17.7.2.18 NMAC?**

16 A. No, not at this time.

17 **Q. Is SPS requesting in its application any variances under 17.7.2.19 NMAC?**

18 A. No, not at this time.

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1 **Q. Does SPS have any obligations or Commission-directives from prior cases to**  
2 **address in this case?**

3 A. Yes. SPS has several obligations from prior cases that are addressed in this case.  
4 Mr. Schoenheider's testimony identifies and discusses all but one of these  
5 obligations. In the final section of my testimony, I address an obligation from  
6 Case No. 18-00139-UT<sup>2</sup> relative to a change in the reconciliation process between  
7 a prior stipulation and the current EE rule.

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<sup>2</sup> Case No. 18-00139-UT, *In the Matter of Southwestern Public Service Company's Petition Seeking Commission Determination of an Appropriate Energy Efficiency and Load Management Filing*, Final Order (Jun. 20, 2018).



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1 **A. Incentive Basis**

2 **Q. Does the EUEA address incentives associated with EE/LM programs?**

3 A. Yes. Section 62-17-2(B) of the EUEA finds that:

4 energy efficiency and load management in New Mexico are  
5 resources that are currently underutilized, and it is necessary and  
6 appropriate to provide rate treatment and financial incentives to  
7 public utilities to develop all cost-effective and achievable energy  
8 efficiency and load management resources.

9 More specifically, Section 62-17-5(F) requires the Commission provide utilities  
10 an opportunity to earn a profit on cost-effective EE resource development that,  
11 based on satisfactory program performance, is financially more attractive to the  
12 utility than supply-side resources.

13 **Q. Does the EE Rule address incentives associated with EE/LM programs?**

14 A. Yes. The EE Rule allows utilities to include proposals to earn a profit on  
15 cost-effective EE/LM resource development that, with satisfactory program  
16 performance, is financially more attractive to the public utility than a supply-side  
17 utility resource (17.7.2.8(L) NMAC). In addition, the proposed annual incentive  
18 award shall:

19 (1) be based on the utility's costs;

20 (2) be based on satisfactory performance of measures and programs;

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1                   (3)     be supported by written testimony and exhibits; and

2                   (4)     not exceed the product (expressed in dollars) of:

3                                 (i) its weighted cost of capital (expressed as a percent), and

4                                 (ii) its approved annual program costs.

5 **Q.   Are there other pertinent legal requirements that relate to EE/LM**  
6 **incentives?**

7 A.   Yes, there are two Court cases that establish the parameters for incentive  
8 recovery. The first case considered the propriety of the Commission Rule that  
9 concerned disincentives and incentives.<sup>4</sup> In that case, the Court rejected the  
10 Commission’s use of a general incentive rate for all utilities in the prior rule.<sup>5</sup>  
11 The Court further held that under the EUEA and PUA, EE/LM incentives must be  
12 evidence-based, cost-based, and utility specific.<sup>6</sup>

13                   In the second case, the Court rejected the New Mexico Attorney General’s  
14 (“NMAG”) argument that an incentive must be based on capital investment and  
15 determined that a utility could earn a return or performance-based incentive based

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<sup>4</sup> See *New Mexico Attorney General v. New Mexico Public Regulation Commission*, 150 N.M. 174, 258 P.3d 453 (“*NMAG Decision*”).

<sup>5</sup> *NMAG Decision* at 457.

<sup>6</sup> *Id.*

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1 on operating expenses incurred from EE programs, consistent with the  
2 Commission's ratemaking authority under the PUA and EUEA.<sup>7</sup> My testimony  
3 below explains how the incentive mechanism SPS proposes for the Triennial Plan  
4 is consistent with the Court decisions discussed above.

5 **B. SPS's Proposed Incentive Mechanism**

6 **Q. Please describe the proposed incentive mechanism.**

7 A. SPS's proposed incentive mechanism provides SPS an opportunity to earn an  
8 incentive based on actual performance and achievements. Specifically, the  
9 proposed incentive ensures satisfactory performance by targeting key  
10 performance metrics: (i) actual measured and verified savings achievements (*i.e.*,  
11 kWh reductions used for compliance) (Section 62-17-5(G)); and (ii) statutory  
12 spending requirement (Section 62-17-6(A)). Mr. Schoenheider discusses this in  
13 more detail in his testimony.

14 **Q. Does SPS's proposed incentive comport with the EUEA requirements?**

15 A. Yes. Consistent with the EUEA, the proposed incentive: (i) provides an  
16 opportunity (not guarantee) for SPS to earn an incentive; (ii) is based on SPS's

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<sup>7</sup> See *New Mexico Attorney General v. New Mexico Public Regulation Commission*, 309 P.3d 89, Util. L. Rep. P 27,225, 2013-NMSC-042 (Aug 29, 2013).

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1 actual performance, where performance is measured by EUEA spending and  
2 achievement goals; and (iii) at this time, provides a satisfactory basis for SPS to  
3 prefer demand-side over supply-side resources.

4 **Q. Please explain further how the proposed incentive furthers the policies of the**  
5 **EUEA.**

6 A. The EUEA represents the legislature's policy for utilities to use their best efforts  
7 to develop cost-effective and achievable EE programs, and thereby furthers  
8 opportunities to increase New Mexico's energy security, protects SPS's customers  
9 from price increases, preserves the state's natural resources, protect the  
10 environment, and provides significant economic benefits to New Mexico (*see*  
11 Sections 62-17-2(A) through 62-17-2(D)). The proposed incentive promotes  
12 these policies by rewarding the best efforts of SPS to implement available, cost-  
13 effective EE/LM programs that are designed to allow every affected customer  
14 class with the opportunity to participate and benefit economically.

15 The incentive also properly balances the interests of SPS's customers and  
16 investors by: (i) establishing a reasonable range for the proposed incentive  
17 recovery; and (ii) ensuring the vast majority of the energy savings benefits are  
18 derived by SPS's customers (*see* Sections 62-17-2(E), 62-17-3, and 62-17-5(F)).

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1 **Q. Please explain how the incentive is evidence-based, cost-based, and utility**  
2 **specific.**

3 A. As previously noted in the discussion of the *NMAG Decision*, the Court held  
4 EE/LM incentives must be evidence-based, cost-based, and utility specific. SPS's  
5 proposed incentive is both cost-based and utility-specific because it is based on  
6 SPS's portfolio budget level consistent with the three percent funding  
7 requirement. The incentive will also be determined by the performance of SPS's  
8 EE programs in meeting the SPS-specific cumulative net customer savings goal,  
9 which is an indicator of progress towards SPS's EUEA goals. Therefore, the  
10 incentives: (a) will be calculated directly from SPS's actual EE/LM portfolio  
11 budget in the program year; (b) will reflect verified energy savings for; and thus  
12 (c) are unique to SPS for the program year.

13 The incentive is evidence-based because the testimony provided herein  
14 provides SPS-specific cost and performance data. Thus, the incentive meets the  
15 requirements for the incentive approval in the *NMAG Decision*.

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1 **Q. How does the proposed incentive properly balance the interests of customers**  
2 **with that of SPS?**

3 A. As required by 17.7.2.8(L)(4) NMAC, the proposed incentive does not exceed the  
4 product (in dollars) of SPS’s weighted average cost of capital (“WACC”)  
5 multiplied by annual program costs. The incentive properly balances the interests  
6 of customers with that of SPS.

7 **Table RMS-3: Incentive Cap Calculation**

	2020	2021	2022
Approved WACC (%) <sup>8</sup>	7.24%	7.24%	7.24%
Multiplied by Annual Program Costs (\$)	\$9,511,304	\$10,404,002	\$10,404,002
Equals Annual Incentive Maximum (\$)	\$688,618	\$753,250	\$753,250

8 **Q. Please elaborate on how customers retain the vast majority of the energy**  
9 **savings benefits under the proposed incentive mechanism.**

10 A. Table RMS-4 quantifies the customer share of the estimated net benefits (*see*  
11 Appendix A of Attachment MRS-1 to Mr. Schoenheider’s direct testimony) under  
12 the proposed incentive.

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<sup>8</sup> See Case No. 17-00255-UT, *In the Matter of Southwestern Public Service Company’s Application for Revision of its Retail Electric Rates Pursuant to Advice Notice No. 272*, New Final Order on Partial Mandate from the New Mexico Supreme Court (Mar. 6, 2019).

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1

**Table RMS-4: Customer Share Calculation**

2020			
	<i>Amount</i>	<i>SPS Share</i>	<i>Customer Share</i>
<b>Net Benefits</b>	\$14,015,606		
<b>Base Incentive</b>	\$595,408	4.2%	95.8%
<b>Maximum Incentive</b>	\$638,208	4.6%	95.4%
2021			
	<i>Amount</i>	<i>SPS Share</i>	<i>Customer Share</i>
<b>Net Benefits</b>	\$16,532,192		
<b>Base Incentive</b>	\$651,291	3.9%	96.1%
<b>Maximum Incentive</b>	\$698,109	4.2%	95.8%
2022			
	<i>Amount</i>	<i>SPS Share</i>	<i>Customer Share</i>
<b>Net Benefits</b>	\$17,747,334		
<b>Base Incentive</b>	\$651,291	3.7%	96.3%
<b>Maximum Incentive</b>	\$698,109	3.9%	96.1%

2 **Q. Does the proposed incentive meet the satisfactory performance criteria of**  
3 **17.7.2.8(L) NMAC?**

4 A. Yes. SPS’s incentive is based on energy savings achievements used to meet the  
5 EUEA goals. In addition, the incentive mechanism authorizes additional  
6 incentive amounts if SPS exceeds the minimum cumulative energy savings  
7 threshold.

1                                   **VI. RIDER RECONCILIATION AND INTEREST**

2   **A. Rider Reconciliation**

3   **Q. Please discuss the annual reconciliations needed.**

4   A. Consistent with the EUEA and EE Rule, SPS needs to reconcile, on an annual  
5   basis:

6                   (i) program funding (actual collection) to program spending; and

7                   (ii) actual incentive earned compared to recovered incentive.

8                   In addition, SPS has Commission-approved prior-period adjustments to  
9   reconcile.

10 **Q. Beginning with the annual program funding, please explain SPS's proposal.**

11 A. Consistent with the EE Rule, SPS will annually compare its actual levels of  
12 program funding collected to its actual program spending. Based on the results of  
13 this comparison, SPS will make adjustments to the following year's budget, either  
14 increasing or reducing the budget. For example, in 2020, SPS will compare its  
15 2019 actual collections (funding) to its actual spending and will apply the total  
16 deviation (over- or under-spending) to the 2021 budget. In this regard, the  
17 reconciliation will adjust the next Plan Year's budget and will not impact SPS's

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1 EE Rider. SPS will present the reconciliation its annual EE reports filed with the  
2 Commission.

3 **Q. How does this proposal compare to the 2016 EE Stipulation?**

4 A. This proposed treatment is different in two respects. First, the 2016 EE  
5 Stipulation contemplated two program spending reconciliations, based on the EE  
6 Rule in effect at the time of the Stipulation. The first reconciliation is the one I  
7 described earlier – comparing actual collections (funding) to actual spending. The  
8 second reconciliation requires a comparison of budget (estimated funding) to  
9 actual spending, with any deviation applied as an adjustment to the future year  
10 budget. SPS recommends the Commission relieve SPS of its obligation to apply  
11 the difference of this reconciliation to future budgets because it is unnecessary.

12 **Q. Please explain.**

13 A. The proposed budget is based on estimates and allows SPS to develop a plan for  
14 program development and spending. However, while the proposed budget is  
15 necessary for plan development, it is not an actual reflection of either funds  
16 collected or expended. Therefore, while an analysis of budget to spending may be  
17 informative in regards to budget development, it is not necessary or reasonable to  
18 apply the deviations to future budgets because it is not based on actual results. In

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1 other words, the proposed budget, which is merely a projection – using past  
2 experience – is artificially increased or decreased to reconcile the budget to  
3 actual spending. Additionally, applying the *budget to spend* reconciliation to  
4 future budgets complicates the reconciliation review process without any  
5 corresponding benefits. Accordingly, and consistent with the EE Rule and SPS’s  
6 development of its 2019 budget, SPS proposes to eliminate the application of the  
7 *budget to spend* reconciliation to future budgets.

8 **Q. Please explain the second difference.**

9 A. Currently, SPS amortizes its over- or under-spending amounts over two plan  
10 years. At the time the 2016 Stipulation was approved, SPS had significant  
11 balances and applying those balances in one calendar year would have unduly  
12 impacted the next year’s budget. However, as a result of practices implemented  
13 by SPS, the over- or under-collection amounts have been decreased to more  
14 manageable levels. At this time, SPS believes that it would simplify the process  
15 and promote energy efficiency to follow the EE Rule and eliminate the  
16 amortization. However, SPS will continue to regularly monitor the balances and  
17 annually advise the Commission and participants in SPS’s EE cases regarding the  
18 status of differences between collections and spending on a periodic basis. If the

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1 annual deviations become unmanageable, SPS will make a proposal to the  
2 Commission.

3 **Q. Did the parties to the 2016 EE Stipulation discuss these issues?**

4 A. Yes. However, given the number of cases and other business of the parties, no  
5 resolution was reached.

6 **Q. How does SPS propose to address the annual incentive component?**

7 A. On an annual basis, SPS will file an advice notice, amended tariff, and supporting  
8 documentation regarding the annual incentive reconciliation.

9 **B. Interest Calculation**

10 **Q. Does SPS propose to apply interest to the EE Rider?**

11 A. Yes. SPS proposes to use the annual customer deposit interest rate set by the  
12 Commission under Section 62-13-13 of the PUA and 17.9.560.12(B)(2)(A)  
13 NMAC to assess symmetrical carrying charges. At the beginning of each year,  
14 SPS will use the new customer deposit interest rate set by the Commission. If  
15 SPS's expenditures exceed its revenues, then the carrying charges will be negative  
16 (SPS earns interest), whereas if the revenues exceed expenditures, the carrying  
17 charges will be positive (SPS pays interest). The inclusion of interest on incentive  
18 reconciliations was approved by the Commission in previous SPS EE proceedings

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1 in Case Nos. 17-00159-UT, 16-00110-UT, and 15-00119-UT and has also been  
2 approved for SPS's renewable portfolio standard rider.

3 **Q. Why is it appropriate to apply interest for outstanding balances?**

4 A. Interest is appropriate due to the timing differences and application of the  
5 reconciliation balance. That is, there will be a somewhat significant lag for the  
6 correction of the EE Rider balance. For example, under SPS's proposal, the 2019  
7 balance will be calculated and reviewed in 2020 and then  
8 collected/returned/applied to the budget in 2021. In total, there will be a two-year  
9 difference between the first accrual and the last balance. Accordingly, reasonable  
10 carrying charges (which are symmetrical between customers and SPS) should be  
11 applied.

12 **Q. Does this conclude your pre-filed direct testimony?**

13 A. Yes.



**Applicable Electric Utility EE Rule Requirements and Where  
Addressed in SPS's Filing**

NMAC	Requirement	Witness and/or Plan Section
17.7.2.8	<b>Public Utility Filing Requirements for Annual Applications and Annual Reports</b>	
A.	<i>Timing</i> – Southwestern Public Service Company shall file its application and report annually on May 1.	Sakya
B.	Solicitation of non-binding public comment and Commission required competitive bids.	Schoenheider; Triennial Plan Section I(A)
C.	Identification of estimated plan year funding for energy efficiency and load management program costs	Sakya; Triennial Plan Section III(D)
1.	Plan year funding shall be 3% of billing revenues from all of its customers' bills excluding:	Sakya; Triennial Plan Section III(D)
a.	gross receipts taxes and franchise and right of way access fees;	Sakya
b.	revenues that the utility estimates to bill during the plan year to any single customer that exceed \$75,000;	Sakya
c.	any customer's plan year self-directed program credits approved by the utility or by a commission approved self-direct administrator; and	N/A
d.	any customer's plan year self-directed program exemptions approved by the utility or a commission approved self-direct administrator.	N/A
D.	Calculation of difference between its actual prior year plan expenditures and the Commission's authorized funding.	Sakya
1.	Calculation of any plan year overage; and	Sakya
2.	Calculation of any plan year underage.	Sakya
E.	A utility shall make its best efforts to expend its plan commission authorized funding as calculated in 17.7.2.8.C NMAC above subtracting any applicable prior plan year overage or adding any applicable prior plan year underage.	Sakya; Schoenheider
F.	Inclusion of Executive Summary.	Schoenheider; Triennial Plan Executive Summary
G.	The use of well known, commercially available or standard engineering, economic, and financial calculations, rating, and simulations, or other reasonable methods to determine monetary costs and avoided monetary costs of measures and programs.	Schoenheider; Triennial Plan Section I(J), Appendix A, Appendix B
H.	For each program and measure, including previously approved measures and programs submitted for reauthorization, the application shall provide:	
1.	a statement that the measure or program is estimated to be cost-effective and meets the utility cost test;	Schoenheider; Triennial Plan Appendix A
2.	a detailed description of the proposed measure or program;	Schoenheider; Triennial Plan Section III
3.	the expected useful life of the measure or program;	Schoenheider; Triennial Plan Appendix B
4.	any participation requirements and restrictions of the measure or program;	Schoenheider; Triennial Plan Section III
5.	the time period during which the measure or program will be offered;	Schoenheider; Triennial Plan Section III
6.	a description of any competitive bid process for utility measures or programs;	N/A

NMAC	Requirement	Witness and/or Plan Section
7.	the estimated number of measure or program participants, supported by written testimony and exhibits;	Schoenheider; Triennial Plan Executive Summary; Appendix B
8.	the estimated economic benefit to the participants attributable to the measure or program, supported by written testimony and exhibits;	Schoenheider; Triennial Plan Appendix A
9.	the estimated annual energy savings and the estimated energy savings over the useful life for the measure or program, supported by written testimony and exhibits;	Schoenheider; Triennial Plan Appendix B
10.	the estimated annual demand savings and the estimated demand savings over the useful life for the measure or program, supported by written testimony and exhibits;	Schoenheider; Triennial Plan Executive Summary, Appendix A, Appendix B
11.	the proposed program costs to be incurred by the utility to support more than one measure or program, along with the associated allocation of the cost to each measure or program, and the method used to determine each allocation, supported by written testimony and exhibits;	Schoenheider; Triennial Plan Executive Summary, Section II(D)
12.	a detailed separate measure or program budget that identifies the estimated monetary program costs to be incurred by the utility in acquiring, developing, and operating each measure and program on a life cycle basis, for each year of the expected useful life of the measure or program;	Schoenheider; Triennial Plan Appendix A
13.	the estimated monetary program costs to be incurred by the utility in acquiring, developing, and operating each measure or program on a life cycle basis, supported by written testimony and workpapers that:	
a.	demonstrate and justify how the <i>estimated</i> monetary program costs will be equal to or greater than the <i>actual</i> monetary program costs; and	Schoenheider; Triennial Plan Section III(D)
b.	explain the utility's rationale and methodology used to determine the estimated monetary program costs;	Schoenheider; Triennial Plan Section I(J)
14.	the estimated avoided monetary cost associated with developing, acquiring, and operating associated supply-side resources, supported by written testimony and exhibits that:	
a.	demonstrate and justify how the estimated avoided monetary cost will be equal to or greater than the actual avoided monetary cost; and	Schoenheider; Triennial Plan Appendix A
b.	explain the utility's rationale and methodology used to estimate the avoided monetary cost associated with acquiring, developing, and operating the associated supply-side resource;	Schoenheider; Triennial Plan Section I(J)
15.	supporting documentation, underlying data, calculations, estimates, and other items shall be presented in a manner that facilitates the preparation of a measurement and verification report by an independent program evaluator, along with compilation and preparation of the utility's report requirements, and that facilitates a simple comparison of measure or program estimated results to actual results, including the utility's cost of capital and discount rate.	Schoenheider; Triennial Plan Section I(J), Appendix A, Appendix B
16.	if the utility cost test is not met, justify why the utility is proposing to implement the program within its portfolio of proposed programs.	N/A
I.	Demonstration of measure or program cost-effectiveness.	Schoenheider; Triennial Plan Appendix A

NMAC	Requirement	Witness and/or Plan Section
J.	Demonstration of portfolio cost-effectiveness and that every affected customer class has the opportunity to participate and benefit.	Schoenheider; Triennial Plan Section III, Appendix A
K.	Demonstration of 5% funding for low-income customers.	Schoenheider
L.	Proposal for incentive shall:	
1.	be based on the utility's costs;	Sakya; Schoenheider
2.	be based on satisfactory performance of measures and programs;	Sakya; Schoenheider
3.	be supported by written testimony and exhibits; and	Sakya; Schoenheider
4.	shall not exceed the product (expressed in dollars) of:	
i.	its weighted cost of capital (expressed as a percent), and	Sakya
ii.	its approved annual program costs.	Sakya
M.	For each approved large customer self-directed program, the utility's application shall describe, in an annual report, the process that enabled the utility to determine that a large customer self-directed program met the cost-effective definition set forth in Section 62-17-9.B NMSA 1978 and merited credit or exemption.	N/A
<b>17.7.2.9</b>	<b>Residential Programs</b>	
A.	The programs should enable residential customers or households to conserve energy, reduce demand, or reduce residential energy bills.	Schoenheider; Triennial Plan Section III
B.	No less than 5% of funding is specifically directed to programs for low-income customers.	Sakya/Schoenheider
1.	A utility may coordinate with existing community resources, including affordable housing programs, and low-income weatherization programs managed by federal, state, county, or local governments. This section does not preclude the utility from designing and proposing other low-income programs.	Schoenheider; Triennial Plan Section III(A)(3)
2.	Whenever possible, providers of low-income energy efficiency measures or programs should have demonstrated experience and effectiveness in the design, administration, and provision of low-income measures and programs, along with experience in identifying and conducting outreach to low-income households. In the absence of qualified independent agencies, a utility that does not provide measure or programs directly, may solicit qualified competitive bids for these services.	Schoenheider; Triennial Plan Section III(A)(3)
3.	Utilities shall notify customers experiencing ability-to-pay problems of the availability of energy efficiency and load management measures and programs, as well as hardship funds.	Schoenheider; Triennial Plan Section III(A)(3)
4.	In developing the utility cost test for energy efficiency and load management measures and programs directed to low-income customers, unless otherwise quantified in a commission proceeding, the utility shall assume that twenty percent (20%) of the calculated energy savings is the reasonable value of reduction in working capital, reduced collect costs, lower bad-debt expense, improved customer service, effectiveness, and other appropriate factors qualifying as utility system economic benefits.	Schoenheider
<b>17.7.2.10</b>	<b>Self-Directed Program Credits for Large Customers</b>	
A.	The expenditures made by the large customer at its facilities shall be cost-effective according to the utility cost test.	N/A
B.	Projects that have received rebates, financial, or other program	N/A

NMAC	Requirement	Witness and/or Plan Section
	support from a utility are not eligible for a credit.	
C.	Eligible expenditures must have a simple payback period of more than one year, but less than seven years.	N/A
D.	Large customers shall seek and receive approval for credits from the utility or a commission-approved self-direct administrator.	N/A
E.	Large customers applying for an investor-owned electric utility bill credit must meet the electricity consumption size criteria set forth in Section 62-17-4.G NMSA 1978 and the utility cost test.	N/A
G.	Large customers seeking a credit shall provide, to the utility or the commission approved self-direct program administrator, access to all relevant engineering studies and documentation needed to verify energy savings of the projects, and allow access to its site for reasonable inspections, at reasonable times. All records relevant to a self-direct program shall be maintained by the large customer for the duration of that program, which shall be evaluated in accordance with 17.7.2.15 NMAC, subject to appropriate protections for confidentiality.	N/A
H.	The utility shall designate a qualified representative to review, approve, or disapprove large customer requests for credits.	N/A
I.	The commission may appoint a "commission-approved" self-direct program administrator to review, approve, or disapprove large customer requests for credits.	N/A
J.	Approvals or disapprovals by the utility representative or administrator shall be subject to commission review. Within 30 business days of the action, the utility representative or administrator shall file and serve notice of each self-direct program review, approval, or disapproval with the commission, and on all interested parties. Notice of an appeal of a utility or administrator approval or disapproval of a large customer credit request shall be filed with the commission within 30 calendar days of the approval or disapproval action by Staff, the large customer, or any interested party.	N/A
K.	Once approved, the credit may be used to offset up to 70% of the tariff rider authorized by the Efficiency Use of Energy Act, until said credit is exhausted.	N/A
L.	Any credit not fully utilized in the year it is received shall carry over to subsequent years.	N/A
M.	Implementation of credits shall be designed to minimize utility administrative costs.	N/A
N.	Self-direct program participants, or large customers seeking exemption, shall submit qualified in-house or contracted engineering studies, and such other information as may be reasonably required by the utility or program administrator, to demonstrate qualification for self-direct program credits.	N/A
O.	Large customers must respond to reasonable utility or administrator information requests and allow the utility or an administrator to perform necessary site visits.	N/A
P.	The utility or administrator shall act in a timely manner on requests for self-direct program approval.	N/A
Q.	For investor-owned electric utilities, the equivalent amount of energy	N/A

NMAC	Requirement	Witness and/or Plan Section
	savings associated with a large customer's self-directed program will be accounted for in calculating its compliance with minimum required energy savings.	
R.	Large customer expenditures incurred to produce electric energy savings or electric demand savings are only eligible for an electric utility bill credit. Large customer expenditures incurred to produce natural gas energy savings or natural gas demand savings are only eligible for a gas utility bill credit. Large customer expenditures incurred to produce both electric and natural gas energy savings, both electric and natural gas demand savings, or any combination of energy savings and demand savings for both electric and natural gas are eligible for both an electricity bill credit and a gas utility bill credit, provided that the same energy efficiency expenditures or load management expenditures cannot be accounted for twice.	N/A
S.	Upon written request by the large customer, the information provided by that customer to the utility or program administrator, program evaluator, or others, shall remain confidential, except as otherwise ordered by the commission.	N/A
<b>17.7.2.11</b>	<b>Self-Directed Program Exemptions for Large Customers</b>	N/A
A.	To receive approval for an exemption to paying 70% of the tariff rider, a large customer must demonstrate to the reasonable satisfaction of the utility or self-direct program administrator that it has exhausted all cost-effective energy efficiency measures at its facility.	N/A
B.	Projects that have received rebates, financial, or other program support from a utility are not eligible for an exemption.	N/A
C.	Eligible expenditures must have a simple payback period of more than one year, but less than seven years.	N/A
D.	Large customers shall seek and receive approval for credits from the utility or a commission-approved self-direct administrator.	N/A
E.	Large customers applying for an investor-owned electric utility bill credit must meet the electricity consumption size criteria set forth in Section 62-17-4.G NMSA 1978 and the utility cost test.	N/A
G.	The utility shall designate a qualified representative to review, approve, or disapprove large customer requests for credits.	N/A
H.	The commission may appoint a "commission-approved" self-direct program administrator to review, approve, or disapprove large customer requests for credits.	N/A
I.	Approvals or disapprovals by the utility representative or administrator shall be subject to commission review. Within 30 business days of the action, the utility representative or administrator shall file and serve notice of each self-direct program review, approval, or disapproval with the commission, and on all interested parties. Notice of an appeal of a utility or administrator approval or disapproval of a large customer credit request shall be filed with the commission within 30 calendar days of the approval or disapproval action by Staff, the large customer, or any interested party.	N/A

NMAC	Requirement	Witness and/or Plan Section
J.	Large customers seeking an exemption shall provide, to the utility or the commission approved self-direct program administrator, access to all relevant engineering studies and documentation needed to verify energy savings of the projects, and allow access to its site for reasonable inspections, at reasonable times. All records relevant to a self-direct program shall be maintained by the large customer for the duration of that program, which shall be evaluated in accordance with 17.7.2.15 NMAC, subject to appropriate protections for confidentiality.	N/A
K.	Self-direct program participants, or large customers seeking exemption, shall submit qualified in-house or contracted engineering studies, and such other information as may be reasonably required by the utility or program administrator, to demonstrate qualification for self-direct program exemptions.	N/A
L.	Large customers must respond to reasonable utility or administrator information requests and allow the utility or an administrator to perform necessary site visits.	N/A
M.	The utility or administrator shall act in a timely manner on requests for self-direct program approval.	N/A
N.	For investor-owned electric utilities, the equivalent amount of energy savings associated with a large customer's self-directed program will be accounted for in calculating its compliance with minimum required energy savings.	N/A
O.	Large customer expenditures incurred to produce electric energy savings or electric demand savings are only eligible for an electric utility bill credit. Large customer expenditures incurred to produce natural gas energy savings or natural gas demand savings are only eligible for a gas utility bill credit. Large customer expenditures incurred to produce both electric and natural gas energy savings, both electric and natural gas demand savings, or any combination of energy savings and demand savings for both electric and natural gas are eligible for both an electricity bill credit and a gas utility bill credit, provided that the same energy efficiency expenditures or load management expenditures cannot be accounted for twice.	N/A
P.	Upon written request by the large customer, the information provided by that customer to the utility or program administrator, program evaluator, or others, shall remain confidential, except as otherwise ordered by the commission.	N/A
<b>17.7.2.13</b>	<b>Filing Requirements for Cost Recovery</b>	
A.	Utility recovery of program costs shall only be from customer classes with an opportunity to participate in approved measures and programs and shall be the lesser of 3% of customers' bills or \$75,000 per customer per plan year, whichever is less.	Sakya; Triennial Plan Section II(D)
B.	The utility, at its option, may recover its prudent and reasonable program costs and approved incentives, either through an approved tariff rider, in base rates, or by combining recovery through a tariff rider and base rates.	Sakya; Triennial Plan Section II(D)

NMAC	Requirement	Witness and/or Plan Section
C.	If a utility seeks recovery of costs through a tariff rider, a utility shall present the proposed ratemaking treatment to the commission for approval. The proposal shall reconcile recovery of any costs currently being recovered through a tariff rider or in base rates, or by a combination of the two, as well as any new costs proposed to be recovered through a tariff rider or in base rates, or by a combination of the two.	Beedy; Triennial Plan Section II(D)
1.	The tariff rider shall be applied on a monthly basis, unless otherwise allowed by the commission.	Beedy; Triennial Plan Section II(D)
2.	Unless otherwise ordered by the commission, a tariff rider approved by the commission shall require language on customer bills explaining program benefits.	Sakya
3.	A utility seeking approval of a tariff rider shall file an advice notice containing the information required by 17.1.2.210.11 NMAC and served upon the individuals and entities set forth in that rule. The proposed tariff rider shall go into effect 30 days after filing, unless suspended by the commission for a period not to exceed 180 days. If the commission has not acted to approve or disapprove the tariff rider by the end of an ordered suspension period, or within 30 days of filing, it shall be deemed approved as a matter of law.	Sakya
D.	If base rate recovery of costs is sought, a utility shall present the proposed ratemaking treatment to the commission for approval. The proposal shall reconcile recovery of any costs currently being recovered through a tariff rider or in base rates, or by a combination of the two, as well as any new costs proposed to be recovered through a tariff rider or in base rates, or a combination of the two.	N/A
E.	Program costs and incentives may be deferred for future recovery through creation of a regulatory asset. Prior commission approval is required for the utility to create a regulatory asset and to establish any associated carrying charge.	N/A
<b>17.7.2.14</b>	<b>Annual Report</b>	
A.	Annual reports shall provide information relating to the utility's actions to comply with the Efficient Use of Energy Act.	Schoenheider; Attachment MRS-2(CD)
B.	Each utility shall post its annual report on a publicly accessible website.	Sakya
C.	Annual reports shall include the following for each measure and program:	
1.	documentation of program expenditures	Attachment MRS-2(CD)
2.	estimated and actual customer participation levels	Attachment MRS-2(CD)
3.	estimated and actual energy savings	Attachment MRS-2(CD)
4.	estimated and actual demand savings	Attachment MRS-2(CD)
5.	estimated and actual monetary costs of the utility	Attachment MRS-2(CD)
6.	estimated and actual avoided monetary costs of the utility	Attachment MRS-2(CD)
7.	an evaluation of its cost-effectiveness	Attachment MRS-2(CD)
8.	an evaluation of the cost-effectiveness and pay-back periods of self-directed programs	N/A
D.	Annual reports also shall include the following:	

NMAC	Requirement	Witness and/or Plan Section
1.	The most recent measurement and verification report of the independent program evaluator, which includes documentation, at both the portfolio and individual program levels of expenditures, savings, and cost-effectiveness of all energy efficiency measures and programs and load management measures and programs, expenditures, savings, and cost-effectiveness of all self-direct programs, and all assumptions used by the evaluator.	Attachment MRS-2(CD)
2.	A listing of each measure or program expenditure not covered by the independent measurement and verification report and related justification as to why the evaluation was not performed.	Attachment MRS-2(CD)
3.	A comparison of estimated energy savings, demand savings, monetary costs and avoided monetary costs to actual energy savings, demand savings, actual monetary costs, and avoided monetary costs for each of the utility's approved measures or programs by year.	Attachment MRS-2(CD)
4.	A listing of the number of program participants served for each of the utility's approved measures or programs by year.	Attachment MRS-2(CD)
5.	A listing of the calculated economic benefits for each of the utility's approved measures or programs by year.	Attachment MRS-2(CD)
6.	Information on the number of customers applying for and participating in self-direct programs, the number of customers applying for and receiving exemptions, measurement and verification of self-direct program targets, payback periods and achievements, customer expenditures on qualifying projects, oversight expenses incurred by the utility representative or administrator.	Attachment MRS-2(CD)
7.	Any other information required by the commission.	N/A
<b>17.7.2.15</b>	<b>Measurement and Verification</b>	
A.	Every energy efficiency and load management program shall be independently evaluated at least every three years. Every year, a utility shall submit to the commission a comprehensive measurement, verification, and program evaluation report prepared by an independent program evaluator.	Schoenheider; Attachment MRS-2(CD)
1.	The independent program evaluator shall, at a minimum determine and verify energy and demand savings.	Attachment MRS-2(CD)
a.	Determine and verify energy and demand savings.	Attachment MRS-2(CD)
b.	Determine program cost effectiveness by applying the monetary values contained in utility's approved plan year application.	Attachment MRS-2(CD)
c.	Assess the utility's performance in implementing energy efficiency and load management programs.	Attachment MRS-2(CD)
d.	Assess whether the utility has failed to meet its requirements under the Efficient Use of Energy Act or has not operated in good faith.	Attachment MRS-2(CD)
e.	Provide recommended improvements on program performance for commission directed modification.	Attachment MRS-2(CD)
f.	Confirm that commission approved measure and programs were installed or implemented, meet reasonably quality standards, and are operating fully and correctly.	Attachment MRS-2(CD)
g.	Utilize applicable international performance measurement and verification protocols, describe any deviation from those protocols, and explain the reason for that deviation.	Attachment MRS-2(CD)
h.	Fulfill and other measurement and verification statutory	Attachment MRS-2(CD)

NMAC	Requirement	Witness and/or Plan Section
	requirements not specifically delineated herein.	
2.	The utility shall cooperate with the independent program evaluator and commission staff in making information and personnel available to facilitate the independent program evaluator's proper evaluation of each utility and completion of a comprehensive measurement, verification, and program evaluation report.	Attachment MRS-2(CD)
B.	The commission, through its staff, will select and direct an independent program evaluator to prepare and submit a comprehensive measurement, verification, and program evaluation report to the commission. Staff, to fulfill its obligation under subsection B of this section, may consult with utilities and other interested parties.	Attachment MRS-2(CD)
C.	Staff shall:	
1.	Undertake a competitive bid process and abide by state purchasing rules and commission policies in selecting a sole independent program evaluator to evaluate utility compliance with the Efficient Use of Energy Act.	N/A
2.	Develop a request for proposals ("RFP"), including scope, terms of work, and evaluation process to score the RFP responses.	N/A
3.	Receive, review, score, and rank the RFP responses.	N/A
4.	Subsequently rank and recommend competitive qualified bidders to the commission.	N/A
5.	Negotiate a contract with the competitive bidder awarded the contract.	N/A
6.	Administer the contract, including: confirming that contract deliverables are met, reviewing invoices and related contract performance, and approving utility invoices after staff's review and approval.	N/A
D.	Funding for services of the independent program evaluator's completion of a comprehensive measurement and verification report will be paid initially by the utility and treated as a regulatory asset; to be recovered through rates established in the utility's next general rate proceeding.	N/A
E.	Self-direct measures, programs, and expenditures, credits and exemptions shall be evaluated and reported in the utility's annual report by the independent program evaluator using the same measurement and verification standards applied to utility measures and programs by the utility of commission-approved self-direct administrator.	N/A
F.	Upon written request by the large customer, the information provided by large customers to the utility or program administrator, program evaluator, or others, shall remain confidential except as otherwise ordered by the commission.	N/A
G.	The commission may require other information.	
<b>17.7.2.17</b>	<b>Regulatory Disincentives</b>	
	The commission shall, upon petition or its own motion, identify regulatory disincentives or barriers for utility expenditures on energy efficiency and load management measures and ensure that they are removed in a manner that balances the public interest, consumers?	Sakya

NMAC	Requirement	Witness and/or Plan Section
	interests, and investors' interests.	
<b>17.7.2.19</b>	<b>Variances</b>	
A.	State the reason for the variance request.	N/A
B.	Identify each of the sections of the guideline for which a variance is requested.	N/A
C.	Describe the effect the variance will have, if granted, on compliance with this guideline.	N/A
D.	Describe how granting the variance will not compromise, or will further, the purposes of this guideline.	N/A
E.	Indicate why the proposed variance is a reasonable alternative to the requirements of this guideline.	N/A

**Abbreviations:**

Sakya – *Direct Testimony of Ruth M. Sakya*

Schoenheider – *Direct Testimony of Mark R. Schoenheider*

Beedy – *Direct Testimony of Aleah K. Beedy*

Attachment MRS-2(CD) – *Attachment MRS-2(CD) to the Direct Testimony of Mark R. Schoenheider*

Triennial Plan – *Triennial Energy Efficiency Plan*