

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

**IN THE MATTER OF THE APPLICATION BY)
RATON NATURAL GAS COMPANY FOR)
APPROVAL OF ITS 2024-2026 ENERGY)
EFFICIENCY PROGRAM PLAN AND)
FOURTH REVISED RATE NO. 6 IN ADVICE)
NOTICE NO. 56 PURSUANT TO THE NEW)
MEXICO PUBLIC UTILITY ACT AND THE)
EFFICIENT USE OF ENERGY ACT)**

Docket No. 23-00297-UT

PROCEDURAL ORDER

THIS MATTER comes before the New Mexico Public Regulation Commission (the “Commission”) upon Staff’s Response to Order Requiring Staff to Provide Recommendation (“Staff’s Response”), filed by Staff of the Utility Division of the Commission (“Staff”), and Raton Natural Gas Company’s Response to Staff’s December 7, 2023 Filing (“RNGC’s Response”), filed by Raton Natural Gas Company (“RNGC”).

The Commission, for the reasons discussed below: (1) suspends Advice Notice No. 56 through February 23, 2024; (2) orders Staff to file recommendations concerning the energy efficiency programs and the budgets therefor proposed by RNGC; and (3) orders RNGC to publish Notice of this proceeding by newspaper and by posting on RNGC’s website.

JURISDICTION AND PROCEDURAL HISTORY

1. The Commission has jurisdiction over this matter pursuant to Section 62-17-5 of the Efficient Use of Energy Act (the “EUEA”). NMSA 1978, § 62-17-5.

2. On August 29, 2023, RNGC filed the Application. In the Application, RNGC seeks approval of its 2024-2026 Energy Efficiency Plan, pursuant to the EUEA and the Commission's Energy Efficiency Rule, 17.7.2 NMAC (the “Rule”). The Application is supported by the Direct Testimony of David N. Link, RNGC’s President and General Manager.

3. On November 27, 2023, the Commission issued, via single-signature order, its Order Requiring Staff to Provide Recommendation (the “Nov. 27th Order”). In the Nov. 27th Order, the Commission ordered Staff to review the Application and Advice Notice No. 56 (“AN 56”), and to provide a recommendation as to whether AN 56 should be allowed to take effect on its stated effective date of January 1, 2024. The Commission stated that Staff need only review AN 56 to determine whether Fourth Revised Rate No. 6 is correctly formulated to recover the lawful and reasonable costs of RNGC’s compliance with the EUEA and the Rule. The Commission further stated that Staff need not provide a recommendation concerning the EE Programs as all of the programs have been approved by the Commission in previous cases.

4. On December 7, 2023, Staff filed Staff’s Response.

5. On December 13, 2023, RNGC filed RNGC’s Response.

I. DISCUSSION

6. In the Application, RNGC requests the necessary approvals and authorizations to continue offering all of the Residential and Commercial Energy Efficiency programs (the “EE Programs”) that the Commission approved in Docket Nos. 18-00312-UT and 20-00177-UT. RNGC also seeks approval of its proposed Fourth Revised Rate No. 6, as shown in AN 56, filed concurrently with the Application. RNGC’s Rate No. 6 is its Energy Efficiency Rate Rider.

7. RNGC states that, if approved, RNGC’s Fourth Revised Rate No. 6 would increase Rate No. 6 to \$0.01308/centum cubic feet (“CCM”) for all commercial and residential customers.

8. RNGC further states that its approved EE Programs include the following four energy efficiency programs: (1) Water Heating, (2) Space Heating, (3) Income Qualified Services, and (4) Education Outreach. RNGC states that these programs provide the opportunity for all of

RNGC's customers to participate and to achieve the savings afforded by energy efficiency measures.

9. In Staff's Response, Staff states that it has reviewed AN 56 in conjunction with the Application and has determined that RNGC's proposed Fourth Revised Rate No. 6 is correctly formulated. Staff further states that, of the proposed total budget of \$57,376.00 for 2024, RNGC estimates that \$3,761.00, corresponding to administrative costs, is to be recovered through the existing base rate, while the remaining budget amount of \$53,615.00 is to be recovered through the proposed Fourth Revised Rate No. 6. This reflects a projection of 4,100,000 CCF of natural gas sales in 2024.

10. Staff adds, however, that "there are components of the rider that Staff believes should be evaluated in [RNGC's] energy efficiency plan."¹ Staff notes that the total budget requested for each year, \$57,376.00, would increase by 85% RNGC's 2022 total budget. Staff further states that the allocation of the budget among the four EE Programs would also change considerably, resulting in a higher proportion allocated to the Income Qualified Residential Program. Staff is unable to make any further recommendations including that no hearing is necessary in this case without undertaking additional review, analysis, and filing of testimony. Accordingly, Staff recommends that AN 56 not be allowed to become effective on its stated effective date of January 1, 2024, and that AN 56 be suspended pending the outcome of this matter.

11. In RNGC's Response, RNGC states that the EUEA requires public utilities, such as RNGC, to evaluate and to implement cost-effective programs that reduce energy demand and consumption. NMSA 1978, § 62-17-5(B). RNGC further states that the EUEA authorizes a public utility that undertakes cost-effective energy efficiency and load management programs to recover

¹ Staff's Response, Exhibit 1, Affirmation of Edison Jimenez in Response to Order Requiring Staff to Provide Recommendation, p. 3.

the costs of all programs from those customers that have the opportunity to participate through an approved tariff rider or in base rates, or by a combination of the two. NMSA 1978, § 62-17-6(A). RNGC notes that, for investor-owned gas utilities like RNGC, the charges for EE Programs must not exceed more than five percent (5%) of total annual revenues, or \$75,000 per customer per calendar year, whichever is less. NMSA § 62-17-6(A)(2).

12. RNGC further states that it is seeking Commission approval to continue the same EE Programs that have been approved in its previous two energy efficiency dockets, Case Nos. 20-00177-UT and 18-00312-UT. The EE Programs include the following:

1) an education program that incorporates (i) RNGC-supported forums on energy efficiency measures in various community settings, (ii) energy efficiency presentations in the elementary schools, and (iii) public service announcements on local radio;

2) residential measures, which include (i) the provision of low-flow showerheads, (ii) incentives and rebates for the installation of high efficiency rated natural gas water heaters, (iii) incentives and rebates for the installation of high efficiency rated natural gas space heating appliances and energy conservation devices;

3) an income qualified program that includes a package of energy efficiency offerings for RNG's low-income customers; and

4) commercial measures, which (i) provide incentives and rebates for the installation of high efficiency rated commercial natural gas water heaters, (ii) free energy assessments and installation of commercial low-flow pre-rinse spray valves for restaurants, (iii) incentives and rebates for the installation of high efficiency rated commercial natural gas furnaces, and (iv) free commercial grade programmable thermostats.²

13. RNGC states that it is seeking Commission approval to make only two changes to its EE Programs: (a) to increase the annual budget from \$25,585 to \$57,376; and (b) to increase its EE Rate Rider, Rider No. 6, to \$0.01308 per CCF, to collect its proposed program costs.

² RNGC's Response, ¶ 2.
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14. RNGC states that the purpose of these proposed changes is to allow RNGC to increase its funding of the programs that have been the most successful in producing cost-effective energy savings for its customers. RNGC further states that the proposed increased annual budget of \$57,376.00 is equal to 1.69% of RNGC's projected billing revenues of \$3,388,645.00 for the period from May 1, 2023 through April 30, 2024. RNGC notes that this is far less than the statutorily authorized cap of 5%.

15. RNGC concludes that it welcomes any additional review that Staff believes is necessary. RNGC notes that its most recent two energy efficiency plans have been approved without formal hearings. RNGC argues that its current Application should be equally uncontroversial.

16. RNGC requests that the Commission order Staff to undertake its additional review in an expeditious fashion and in a way that serves the public interest and conserves the scarce regulatory resources of both the Commission and RNGC.

II. FINDINGS AND CONCLUSIONS

17. The Commission finds that it should suspend AN 56, which bears an effective date of January 1, 2024, through February 23, 2024, the maximum suspension period of 180 days from the date of filing, as per Section 62-17-6(D) of the EUEA.

18. The Commission finds that, given that Staff has not recommended a public hearing be held at this time, there is no need to schedule a hearing. The Commission may decide to hold a hearing if circumstances warrant it.

19. The Commission further finds that Staff should be required to provide detailed recommendations and support therefor concerning the EE Programs proposed by RNGC as well as the budgets for each program.

IT IS THEREFORE ORDERED:

A. RNGC shall, at its sole expense, cause an amended version of the Notice to Raton Natural Gas Customers proposed by RNGC in its Application to be published one time in a newspaper of general circulation in the Raton, New Mexico area on or before **January 10, 2024**, and shall post a copy of the amended Notice on its website within two business days of the issuance of this Order.

B. The Notice shall be amended as follows: (1) at Paragraph 6 of the Notice, fill in the blank with this docket number; (2) at Paragraph 7, replace the phrase that begins, “The Hearing Examiner . . .,” with “The Commission does not, at this time, plan to hold a hearing in this matter, though the Commission may hold a hearing if circumstances warrant it.”; (3) Renumber subparagraph 7(A) as Paragraph 8, and fill in the blank for the deadline to file motions to intervene with “**January 25, 2024**”; (4) Renumber subparagraph 7(B) as Paragraph 9; (5) Eliminate subparagraphs 7(C) through 7(F); (6) Renumber Paragraph 9 as Paragraph 10, and eliminate “or the Hearing Examiner”; (7) Renumber Paragraph 10 as Paragraph 11, and replace “at the time and place of hearing,” with “at any open meeting of the Commission”; and (8) Renumber Paragraph 11 as Paragraph 12, and remove “at least 24 hours prior to the commencement of the hearing.”

C. RNGC shall file an affidavit of publication within two business days of receipt of the affidavit by RNGC from the newspaper. RNGC shall file an affidavit of posting on its website within two business days of posting.

D. AN 56 is hereby **SUSPENDED** through **February 23, 2024**.

E. Staff is ordered to file, on or before **January 8, 2024**, the recommendations and support therefor, described in Paragraph 19, above. RNGC shall file, on or before **January 22, 2024**, a response to Staff’s recommendations.

F. This Order is effective immediately.

G. A copy of this Order shall be served upon all parties listed on the attached certificate of service via email, if the email addresses are known, and if not known, by regular mail.

ISSUED under the seal of the Commission at Santa Fe, New Mexico, this 21st day of December 2023.

NEW MEXICO PUBLIC REGULATION COMMISSION



/s/ Gabriel Aguilera, electronically signed
Gabriel Aguilera, Commissioner

/s/ James F. Ellison, Jr., electronically signed
James F. Ellison, Jr., Commissioner

/s/ Patrick J. O'Connell, electronically signed
Patrick J. O'Connell, Commissioner

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CERTIFICATE OF SERVICE

I CERTIFY that on this date I served upon the parties listed below, via email, a true and correct copy of the Procedural Order issued December 21, 2023.

Peter J. Gould	peter@thegouldlawfirm.com ;
Kelly Gould	kelly@thegouldlawfirm.com ;
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DATED this December 26, 2023.

NEW MEXICO PUBLIC REGULATION COMMISSION

Ana C. Kippenbrock

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