

Exhibit C

TITLE 17 PUBLIC UTILITIES AND UTILITY SERVICES
CHAPTER 9 ELECTRIC SERVICES
PART 570 GOVERNING COGENERATION AND SMALL POWER PRODUCTION

17.9.570.1 ISSUING AGENCY: New Mexico Public Regulation Commission.
[17.9.570.1 NMAC - Rp, NMPSC Rule 570, 3-30-07]

17.9.570.2 SCOPE:

A. 17.9.570 NMAC applies to every electric utility (investor-owned, rural electric cooperative, municipal, or an entity providing wholesale rates and service) operating within the state of New Mexico that is subject to the jurisdiction of the New Mexico public regulation commission as provided by law.

B. It is intended that the obligations of utilities provided for in 17.9.570 NMAC shall extend to both production and consumption functions of qualifying facilities irrespective of whether the production and consumption functions are singly or separately owned. In situations where the production and consumption functions are separately owned, the qualifying facility or its operator may elect to enter into the contract with the utility.

C. All interconnection contracts between utilities and qualifying facilities existing at the time 17.9.570 NMAC is adopted shall automatically continue in full force and effect with no change in rates for the purchase of power from the qualifying facilities. Any changes made to the existing interconnection contracts shall be made by mutual agreement and shall conform to the provisions of 17.9.570 NMAC.

D. Variances which have been granted by the commission from earlier versions of General Order No. 37 and under NMPSC Rule 570 shall continue in full force and effect unless the commission specifically rescinds any such variance.

[17.9.570.2 NMAC - Rp, NMPSC Rule 570.2, 3-30-07]

17.9.570.3 STATUTORY AUTHORITY: NMSA 1978, Sections 8-8-15, 62-6-4, 62-6-19, 62-6-24, and 62-8-2, and 16 USCA Section 2621.

[17.9.570.3 NMAC - N, 3-30-07]

17.9.570.4 DURATION: Permanent.

[17.9.570.4 NMAC - N, 3-30-07]

17.9.570.5 EFFECTIVE DATE: _____, 2008, unless a later date is cited at the end of a section. Applications filed prior to this effective date shall be governed by the specific orders related to those applications.

[17.9.570.5 NMAC - Rp, NMPSC Rule 570, 3-30-07]

17.9.570.6 OBJECTIVE:

A. 17.9.570 NMAC is to govern the purchase of power from and sale of power to qualifying facilities by:

- (1) enabling the development of a market for the power produced by qualifying facilities,
- (2) establishing guidelines for the calculation of utilities' avoided costs, and
- (3) providing meaningful access to critical cost information from utilities.

B. 17.9.570.14 NMAC is intended to simplify the metering procedures for qualifying facilities up to and including 10kW and encourage the use of small-scale customer-owned renewable or alternative energy resources in recognition of the beneficial effects the development of such resources will have on the environment of New Mexico.

C. 17.9.570 NMAC is intended to implement regulations of the federal energy regulatory commission, 18 C.F.R. Section 292, promulgated pursuant to the Public Utility Regulatory Policies Act of 1978, Pub. L. No. 95-617, 92 Stat. 3117 (codified as amended starting at 16 U.S.C. Section 824) and the New Mexico Public Utility Act, NMSA 1978, Sections 62-3-1 et. seq., as amended.

D. The standards and procedures for the interconnection of generating facilities with rated capacities up to and including 10 MW are set forth in 17.9.57X NMAC. The standards and procedures for the interconnection of generating facilities with rated capacities greater than 10 MW are set forth in 17.9.57Y NMAC.
[17.9.570.6 NMAC - Rp, NMPSC Rule 570.1, 3-30-07]

17.9.570.7 DEFINITIONS: When used in 17.9.570 NMAC unless otherwise specified the following definitions will apply:

A. avoided costs means the incremental costs to the electric utility of electric energy or capacity or both which, but for the purchase from the qualifying facility or qualifying facilities, the utility would generate itself or purchase from another source; avoided costs are the costs computed in accordance with Subsections B and C of 17.9.570.11 NMAC;

B. backup power means electric energy or capacity or both supplied by an electric utility during an unscheduled outage of the qualifying facility to replace energy ordinarily supplied by a qualifying facility's own generation equipment;

C. interconnection costs means the reasonable costs of connection, switching, metering, transmission, distribution, safety provisions, and administration incurred by the electric utility which are directly related to the installation and maintenance of the physical facilities necessary to permit interconnected operations with a qualifying facility to the extent such costs are in excess of the corresponding costs which the electric utility would have incurred if it had not engaged in interconnected operations but instead generated an equivalent amount of power itself or purchased an equivalent amount of power from other sources; interconnection costs do not include any costs included in the calculation of avoided costs;

D. design capacity means the total AC nameplate power rating of the Power Conversion Unit(s) at the Point of Common Coupling; E. interruptible power means power supplied by an electric utility subject to interruption by the electric utility under specified conditions;

F. maintenance power means power supplied by an electric utility during scheduled outages of the qualifying facility;

G. net metering means the difference between the energy produced by the qualifying facility's generation and the energy that would have otherwise been supplied by the utility to the qualifying facility absent the qualifying facility's generation;

H. New Capacity Addition:

(1) New capacity addition means the capacity added to a utility's resource mix after the effective date of 17.9.570 NMAC through normal utility resource procurement activities which shall include but not necessarily be limited to:

(a) construction of or participation in new generating facilities;
(b) augmenting the capacity of or extending the life of existing generating facilities through capital improvements; or

(c) entering into new contracts or exercising options in existing contracts which will result in additional capacity.

(2) New capacity addition does not include the following:

(a) renegotiation of existing contracts for anything other than increasing capacity in the resource mix;

(b) renegotiation of existing full power requirements contract between a distribution cooperative and its full power requirements supplier; and

(c) seasonal uprating in capacity achieved without any capital improvements to existing generating facilities;

I. point of common coupling (PCC) means the point where the interconnection facilities connect with the utility's system; J. power means electric energy or capacity or both;

K. power conversion unit (PCU) means an inverter or AC generator, not including the energy source;

L. qualifying facility means a cogeneration facility or a small power production facility which meets the criteria for qualification contained in 18 C.F.R. Section 292.203;

M. rate means any price, rate, charge, or classification made, demanded, observed, or received with respect to the sale by the utility of power or purchase of power from the qualifying facility;

N. supplementary power means power which is regularly used by a consumer, supplied by the electric utility, in addition to that power which may be supplied by a qualifying facility;

O. system emergency means a condition on a utility's system which is likely to result in imminent significant disruption of service to customers or is imminently likely to endanger life or property;

P. tariff means the document filed by a utility with the commission pursuant to 17.9.570 NMAC containing that utility's rules, rates, services and forms;

Q. Utility means a utility or public utility as defined in NMSA 62-3-3 (G) serving electric customers subject to the jurisdiction of the Commission.

[17.9.570.7 NMAC - Rp, NMPSC Rule 570.3, 3-30-07]

17.9.570.8 [RESERVED]

17.9.570.9 OBLIGATION TO PURCHASE:

A. Each utility shall purchase power from a qualifying facility from the date of interconnection at the utility's avoided cost. An electric utility is obligated to purchase power from a qualifying facility at the utility's avoided cost regardless of whether the electric utility making such purchase is simultaneously selling power to the qualifying facility.

B. The qualifying facility shall give the Utility at least sixty (60) days written advance notice to interconnect. Such notice shall specify the date the qualifying facility will be ready for interconnection, the date the qualifying facility will be able to commence testing, and the anticipated date of operation after testing. The qualifying facility shall pay the estimated costs of interconnection in full at the time the notice to interconnect is given. The Utility shall pay a qualifying facility for any energy produced during testing of the qualifying facility at the appropriate energy rate pursuant to 17.9.570.11(B) NMAC.

C. If the Utility determines that it cannot interconnect the qualifying facility within the time set in the notice to interconnect because adequate interconnection facilities are not available, it shall, within fifteen (15) Business Days of receipt of the notice to interconnect, notify the qualifying facility specifying the reasons it cannot interconnect as requested by the qualifying facility and specifying the date interconnection can be made. If the Qualifying Facility objects to the date for interconnection specified by the Utility, objects to the Utility's determination that adequate interconnection facilities are not available, or disputes the good faith efforts of the Utility to interconnect, the qualifying facility may initiate a proceeding before the Commission pursuant to the complaint process of this 17.9.570 NMAC. If the Commission finds that the Utility's position on the time for interconnection or unavailability of interconnection facilities was not justified, the qualifying facility shall be deemed to have been interconnected and the qualifying facility shall be deemed to have otherwise complied with its contractual duties on the sixtieth (60th) day following the notice to interconnect and payments by the Utility to the qualifying facility shall commence at the appropriate power rate which shall be applied to the amount of imputed or expected power as if the qualifying facility were producing, provided that the qualifying facility's power was available.

[17.9.570.9 NMAC - Rp, NMPSC Rule 570.4-10, 3-30-07]

17.9.570.10 METERING OPTIONS:

A. General.

(1) A qualifying facility contracting to provide power may displace its own load. The utility may require appropriate metering. Billing for any power from the utility will be at the utility's approved rate applicable to the service provided to the qualifying facility in accordance with Subsections A - G of 17.9.570.12 NMAC.

(2) The tariff filed by each utility pursuant to Subsection H of 17.9.570.13 NMAC shall include the offer to any qualifying facility that has not contracted to receive capacity payments, the metering options in Subsections B, C and D of 17.9.570.10 NMAC.

(3) The options of Subsections B, C and D of 17.9.570.10 NMAC may involve time-of-day metering if the utility has in effect time-differentiated rates and metering for the class of customer to which the qualifying facility belongs or if the parties negotiate time-differentiated payments to the qualifying facility.

B. Load Displacement Option. If the qualifying facility wishes primarily to serve its own load, the utility shall agree to interconnect with a single meter or meter set measuring flow from the utility to the qualifying facility; billing for any power from the utility will be at the utility's approved tariff

applicable to the service provided to the qualifying facility; there will be no additional customer charge and no payment by the utility for any excess energy which might be generated by the qualifying facility.

C. Net Metering Option.

(1) The utility shall install the metering necessary to determine the net energy delivered from the qualifying facility to the utility or from the utility to the qualifying facility for each time-of-use or single rate period, as applicable, during a billing period; the net energy delivered to either the qualifying facility or to the utility is the difference between the energy produced by the qualifying facility's generation and the energy that would have otherwise been supplied by the utility to the qualifying facility absent the qualifying facility's generation.

(2) The net energy delivered from the qualifying facility to the utility shall be purchased by the utility at the utility's applicable time-of-use or single period energy rate as described in Subsection B of 17.9.570.11 NMAC; the qualifying facility shall be billed for the net energy delivered from the utility in accordance with the tariffs that are applicable to the qualifying facility absent the qualifying facility's generation; the qualifying facility shall also be billed for all demand and other charges in accordance with the applicable tariffs. At the end of the billing period the utility shall net all charges owed to the utility by the qualifying facility and all payments owed by the utility to the qualifying facility. If a net amount is owed to the qualifying facility for the billing period, and is less than \$50, the payment amount may be carried over to the following billing period. If a net amount is owed to the qualifying facility and is \$50 or more, the utility shall make payment to the qualifying facility prior to the end of the next billing period.

(3) If provision of the net metering option requires metering equipment and related facilities that are more costly than would otherwise be necessary absent the requirement for net metering, the qualifying facility shall pay all incremental costs associated with installing the more costly metering equipment and facilities. An additional customer charge to cover the added costs of billing and administration may be included in the tariff if supported with evidence of need for such charge.

D. Separate Load Metering (simultaneous buy/sell) Option. The utility shall install the metering necessary to determine separately 1) all the energy produced by the qualifying facility's generator and 2) all of the power consumed by the qualifying facility's loads; the utility shall purchase all energy produced by the qualifying facility's generator at the utility's applicable time-of-use or single period energy rate as described in Subsection B of 17.9.570.11 NMAC. The qualifying facility shall purchase all power consumed at its normally applicable rate; an additional customer charge to cover the added costs of billing and administration may be included in the tariff if supported with evidence of need for such charge.

E. Metering Configurations. Metering configurations used to implement the provisions of 17.9.570 NMAC shall be reasonable, nondiscriminatory, and shall not discourage cogeneration or small power production.

[17.9.570.10 NMAC - Rp, NMPSC Rule 570.11-15, 3-30-07]

17.9.570.11 DETERMINATION OF RATES FOR PURCHASES FROM QUALIFYING FACILITIES:

A. General. A utility shall pay a qualifying facility avoided costs for power purchased from the qualifying facility. Avoided costs are defined in Subsection A of 17.9.570.7 NMAC. The energy rate represents avoided energy costs for the purposes of 17.9.570 NMAC. The energy rate and the avoided capacity costs to be paid to the qualifying facility for the power it sells to the utility shall be developed pursuant to Subsections B and C of 17.9.570.11 NMAC, respectively.

B. Energy Rate. The energy rate to be paid for the energy supplied by the qualifying facility in any month shall be that respective month's rate from the utility's current schedule on file with the commission. Each utility shall file with the commission its schedule containing monthly energy rates that will be applicable to the next twelve-month period. These monthly energy rates shall be listed for each voltage level of interconnection and shall be expressed in cents/kWh. Each month's energy rate contained in the schedule shall be the average of the economy energy purchases by the utility for the corresponding month of the immediately preceding twelve-month period. In the event a utility does not engage in economy energy purchases in any given month, the energy rate to be included in its schedule for that month shall be either: the monthly average of hourly incremental energy costs including variable operation and maintenance expenses for generating utilities, or the energy charge of the highest energy cost contract as adjusted for appropriate retail fuel and purchase power pass through for nongenerating utilities.

(1) In addition to the schedule described above, those utilities with retail time-of-use rates on file with the commission shall file schedules reflecting monthly energy rates calculated for peak