

choices.

C. Response to the Energy Conservation and Management Division of the New Mexico Energy, Minerals and Natural Resources Department ("ECMD")

- CCAE strongly agrees with ECMD that the proposed rule provides useful and easy-to understand information that will help consumers make informed choices about their electricity supplier. We also agree that more frequent provision of the disclosure information will facilitate comparison shopping. In our initial comments, we suggested that monthly reporting would allow consumers the opportunity to reconsider decisions as new options became available.

In addition, for reasons stated in our initial comments, we agree with ECMD that the fuel mix disclosure information be compared to a regional mix, that the subcategories of renewables be individually listed, and that Appendix B provides important explanatory information on the environmental impacts of electricity generation.

D. Response to Public Service Company of New Mexico ("PNM")

1. Areas of Agreement

CCAIE agrees with PNM that fuel mix and emissions information must be uniform, reliable and understandable to be best used by consumers. We agree that price information would be an important and useful piece in the disclosure requirements. The proposed Consumer Protection Rule (NMPRC Utility Case No. 3145) contains provisions regarding price disclosure. CCAIE believes that the public will be best served if the information on price, fuel source and emissions are presented together.

CCAIE agrees with PNM that emissions data should be verifiable. We would encourage the Commission to use the annual reconciliation reports filed by the utilities to verify the accuracy of disclosure information and any claims made about fuel source and emissions.

CCAIE agrees with PNM that the Commission should offer green power suppliers the option to be certified (i.e. by using the Green-e standard). Third party verification can be useful in providing additional consumer protection measures. However, we wish to emphasize that this does not replace the need for the disclosure rule and should be considered an option available to utilities that goes above and beyond the requirements of the disclosure rule. CCAIE agrees with PNM that the emissions proxies used for a comparison should be based on the suppliers' purchasing region. In our initial comments, we suggested that the WSCC region provides the best comparison data.

CCAIE agrees with PNM that standard offer service customers should have access to disclosure information. We agree that standard offer service suppliers should provide information on generation source, fuel mix and emissions to public utilities who will then distribute the information to standard offer service customers. We support logical modifications to the rule that clarify the role of standard office service suppliers and public utilities in providing standard offer customers with disclosure information, as outlined in PNM's initial comments.

2. Areas of Disagreement

CCAIE disagrees that the disclosure of environmental impacts (as provided in Appendix B of the proposed rule) was not intended by the Restructuring Act. Section 9(F)(1) of the Act requires the Commission to promulgate rules governing the protection of customers including generation sources and fuel mix and associated emissions. The Act also states (Section 2(B)(6)) that one purpose of the Act is to "require that customer information about customer

choice be appropriate and adequate to ensure informed decisions by the state's citizens." CCAE strongly believes that consumers are entitled to detailed information about the environmental impacts of their energy use. For the disclosure information to be useful to consumers in making informed decisions, they require an explanation of the impacts of such emissions, not just the raw data. Thus the statements on environmental impacts are not only appropriate, but are necessary to meet the intended purpose of the Act.

CCAЕ disagrees with PNM that the disclosure rule should require only reporting of air emissions. As stated above, an important purpose of the disclosure rule is to provide information on the environmental impacts of electric power generation to consumers. Spent nuclear fuel and mercury produced by electric power generation have potentially serious environmental impacts. Although neither substance is included in the emissions section of the E-Grid database, data for spent nuclear fuel and mercury are readily available. Data on spent nuclear fuel are reported by nuclear power plant operators to the US Department of Energy. CCAE suggests this data be used to fulfill the disclosure requirement. Mercury releases are reported by power plant operators to the EPA and are included in the EPA's Toxics Release Inventory. CCAE would also like to point out that E-Grid was only one suggested data source, and that utilities are not required to use data from E-Grid for complying with the disclosure rule.

CCAЕ disagrees with PNM that the rule should not apply to pre-offer advertisements and marketing. To give consumers the opportunity to shop among suppliers and products, competitive power suppliers should at least be required to give their website and toll-free number in pre-offer advertisements so that potential customers have access to disclosure information. If the information is given only at the time of offer of service, consumers will not have an opportunity to base their purchase decisions on fuel mix and emissions information.

CCAЕ disagrees with PNM's suggestion that the Commission allow suppliers to use an internet site in lieu of a toll free number to provide information to consumers. Although use of the internet is increasing, access to the internet is not nearly as universal as access to telephones. We believe that both are needed to ensure that all customers have access to the information.

CCAЕ disagrees with PNM that the penalties associated with deviation of actual fuel mix and emissions from the disclosed fuel mix and emissions should be eliminated. CCAE believes that the Commission needs to have an ability to enforce compliance with the rule and eliminating penalties could potentially reduce compliance with the rule.

E. Response to Southwestern Public Service Company ("SPS")

CCAЕ supports SPS's recommendation to include in Appendix B statistics on the percentage of total emissions of CO₂, SO₂, NO_x and mercury in the US that are attributable to electric power generation. We believe this will provide balanced information on the relative environmental impacts of electric power generation on a national scale.

SPS suggested using the New Mexico average fuel mix and emissions data rather than national data for a comparison because the national data includes more hydroelectric and nuclear power generation and therefore is not representative of New Mexico's supply options. CCAE believes our suggestion to use the WSCC region for comparison addresses these concerns.

CCAЕ supports SPS's proposal to strike the section of the rule requiring detailed disclosure during telemarketing and instead require the provision of the supplier's toll free number and web site during the call. This would probably be more consistent and could help avoid potential deceptiveness by telemarketers.

F. Response to El Paso Electric Company ("EPE")

CCAIE disagrees with EPE's suggestion that the reporting of fuel mix and emissions be based only on firm purchases. We believe that it is appropriate to use the emissions and fuel characterization of net system power as a proxy for purchases where the exact generation source is unknown. The proposed rule defines net system power based on using the owned generation and purchased power of New Mexico's investor-owned utilities (IOUs). As stated in our initial comments, at this time CCAIE believes that this is a reasonable assumption. However, as the market opens to new suppliers, there is a potential for the contribution of the IOUs to the system to decrease. Thus, over time, using the IOUs' resource mix as the proxy for net system power may be less appropriate. As stated in our initial comments, CCAIE recommends that the Commission annually review the appropriateness of using the IOUs' resource mix as the proxy for net system power and if necessary consider revising the definition.

For reasons given in our response to PNM, CCAIE strongly disagrees with EPE's proposal to strike spent nuclear fuel and mercury reporting requirements and their proposal to strike the explanation of environmental impacts in Appendix B from the proposed rule. Furthermore, we disagree with EPE that suppliers should be able to provide their own descriptions of the environmental impacts. To be fair to both consumers and suppliers, disclosure must be uniform across all suppliers. To address EPE's concerns, we suggest adopting SPS's suggestion that the environmental impact statements in Appendix B include "statistics regarding the relative contribution of electric power generation to total emissions in the United States."

CCAIE disagrees with EPE that Section 11 B-2(c) of the proposed rule should appear instead under Section 11B-1(c). Consumers of non-claims based sale products need to know that the electricity they buy may differ slightly from what the supplier reports. Providers of claims-based sales should not have to use this disclaimer, as they are presumably providing electricity from a specified source (i.e. renewables), and do not make purchases of whatever supply is available on the market.

CCAIE believes it is good public policy for all customers to be provided with disclosure information. Therefore, we disagree with EPE that public utilities and distribution co-ops should not be required to provide disclosure information.

G. Response to Texas-New Mexico Power Company ("TNMP")

CCAIE disagrees with TNMP that the disclosure rule should not apply to suppliers of standard offer service. CCAIE strongly believes that all consumers, including standard offer service customers, should receive information on the environmental impacts of their electricity use.

H. Response to New Mexico Rural Electric Cooperative Association ("NMRECA")

NMRECA questions the accuracy, comprehensiveness and future existence of the E-Grid database. As mentioned in our initial comments, we believe the Commission Staff did an excellent job of balancing the need for reliable, accurate emissions information and the cost of obtaining such information in selecting E-Grid as an acceptable source of data. Although we believe E-Grid will be in existence for some time, there are other potential sources of data if E-Grid is not continued by future administrations. In addition, CCAIE would like to point out that the disclosure rule does not require utilities to base calculations on data obtained from E-Grid, rather it is listed as one potential source of data.

For reasons stated in our response to PNM, CCAIE strongly disagrees with NMRECA's notion that the required disclosure of environmental impacts in Appendix B exceeds the boundaries of the Restructuring Act. Similarly, as stated above in our response to TNMP, CCAIE disagrees that suppliers of standard offer service should not be required to disclose information on generation source, fuel mix and emissions.

* * *

CCAЕ appreciates the opportunity to provide response comments on these issues and look forward to working with the Commission and other interested parties on implementation of the disclosure rule.

Respectfully submitted,

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BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

IN THE MATTER OF THE PETITION OF THE)
UTILITY DIVISION STAFF OF THE)
PUBLIC REGULATION COMMISSION FOR)
RULEMAKING, ADOPTING NMPRC RULE 573,)
ESTABLISHING DISCLOSURE OF GENERATION)
SOURCE, FUEL MIX AND EMISSIONS FOR) Utility Case No. 3349
COMPETITIVE POWER SUPPLIERS UNDER THE)
RESTRUCTURING ACT,)
)
UTILITY DIVISION STAFF OF THE)
PUBLIC REGULATION COMMISSION,)
)
Petitioner)
_____)

CERTIFICATE OF SERVICE

I hereby certify that the original and fourteen copies of the RESPONSE COMMENTS OF THE COALITION FOR CLEAN AFFORDABLE ENERGY were hand-delivered to the New Mexico Public Regulation Commission, 224 East Palace Avenue, Santa Fe, New Mexico 87501-2013, on this 21st day of July, 2000, and a true and correct copy was sent by U.S. mail, first-class and postage prepaid, to each of the following:

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