

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

IN THE MATTER OF THE PETITION OF THE)	
UTILITY DIVISION STAFF OF THE PUBLIC)	
REGULATION COMMISSION FOR A RULEMAKING)	
TO AMEND RULE 572 TO CONFORM TO)	
THE NEW MEXICO RENEWABLE ENERGY ACT)	
)	Case No.04-00211-UT
UTILITY DIVISION STAFF OF THE)	
PUBLIC REGULATION COMMISSION,)	
)	
Petitioner.)	
<hr style="border: 0.5px solid black;"/>		

NOTICE OF PROPOSED RULEMAKING

NOTICE is hereby given that the New Mexico Public Regulation Commission ("NMPRC" or the "Commission") is commencing a rulemaking proceeding for the purpose of repealing NMPRC Rule No. 572 [17.9.572 NMAC] *Renewable Energy as a Source of Electricity*, and replacing it with a new Rule 572. The proposed new rule would be adopted under authority granted to the Commission by the Legislature pursuant to NMSA 1978 Sections *8-8-4(B)(10) (1999) and 8-8-15 (2001)*.

THE COMMISSION FINDS AND CONCLUDES:

1. On June 28, 2004, Commission Utility Division Staff filed a Petition for Rulemaking and to Docket a Cost Threshold Case. Staff requested that the Commission commence a rulemaking proceeding to adopt certain amendments to NMPRC Rule No. 572. The proposed amendments to Rule 572 involve bringing this Rule into conformance with a new act entitled "Renewable Energy Act" that was enacted by the 46th Legislature for the State of New Mexico during its second session. Chapter 65, Laws of 2004. In effect, Staff asks the

Commission to repeal existing Rule 572 and replace it with a new Rule 572. The changes to the existing Rule are too extensive to make them by amendment. The Commission proposes to repeal Rule 572 and replace it with proposed new Rule 572, attached as Exhibit 1.

2. The Commission will take written comments on the proposed new Rule 572 from any interested person. Interested persons shall file their written comments no later than August 27, 2004. Any person wishing to respond to such comments may do so by submitting written response comments no later than September 14, 2004. Comments suggesting changes to the proposed new Rule 572 shall state and discuss the particular reasons for the suggested changes and shall include all specific language necessary or appropriate to effectuate the changes being suggested. Specific proposed language changes to the proposed new Rule 572 shall be in legislative format. Copies of the proposed Rule in electronic format may be obtained from the Commission's web site (www.nmprc.state.nm.us) to facilitate this requirement. Any proposed changes to the new Rule shall be submitted in hard copy, and the Commission strongly encourages all persons proposing such changes to file an additional copy in electronic format (3.5-inch floppy disk in Microsoft Word 95 or Microsoft Office 97 formats). The label on the floppy disk shall clearly designate the name of the person submitting the proposed changes and the docket number of this proceeding.

3. All pleadings, including comments, shall bear the caption and case number contained at the top of this notice. Comments on the proposed new rule, shall be sent to:

Ron X. Montoya, Records Manager
Attn: Case No. 04-00211-UT
NMPRC-Utility Division
Marian Hall
224 East Palace Avenue
Santa Fe, New Mexico 87501
Telephone: (505) 827-6940

4. Additional copies of the proposed Rule may also be downloaded from the Commission's web site, www.nmprc.state.nm.us, by first clicking on "Meetings," then clicking on "Public Notices," and finally clicking "Notice of Proposed Rulemaking, Case No. 04-00211-UT."

5. The Commission will review and consider all timely submitted written comments and responses that are filed pursuant to this NOPR. The Commission will hold a public hearing to take oral comment regarding the proposed Rule. The hearing will be held at the following time and place:

Wednesday, September 29, 2004, at 10:00 a.m., at Marian Hall, 2nd floor hearing room, 224 East Palace Avenue, Santa Fe, New Mexico.

6. Interested persons should contact the Commission to confirm the date, time and place of any public hearing, since hearings are occasionally rescheduled.

7. Any person with a disability requiring special assistance in order to participate in the hearing should contact Deanna Vigil at (505) 827-4084 at least 48 hours prior to the commencement of the hearing.

8. Copies of this NOPR should be sent to all person on the service list in Case No. 3619, and to any other person requesting service. This NOPR should be published in two newspapers of general circulation in the state and in the *New Mexico Register*.

9. Copies of any Final Order adopting the proposed new Rule will be sent to all affected utilities, commenters in the case, and individuals requesting such copies.

10. The Renewable Energy Act, Chapter 65, Laws of 2004, requires that by December 31, 2004, the Commission establish, after notice and hearing, the reasonable cost threshold above which level a public utility shall not be required to add renewable energy to its electric energy supply portfolio pursuant to the renewable portfolio standard. In its Petition Staff asks the Commission to docket an expedited case to establish the cost threshold as required by the Renewable Energy Act. The Commission should docket such a case.

IT IS THEREFORE ORDERED:

A. The new Rule 572 attached to this NOPR as Exhibit 1 is proposed for adoption as a permanent rule as provided by this NOPR. It is proposed that existing Rule 572 be repealed.

B. Interested persons shall file their written comments on the proposed Rule as provided in this NOPR. Responses to any such comments may be filed as provided in this NOPR.

C. Staff of the Legal Division (“Staff”) shall mail a copy of this NOPR to all persons on the mailing list for Utility Case 3619, and to any other person

requesting service. Staff shall cause this NOPR to be published, without Exhibit 1, in two newspapers of general circulation and in the New Mexico *Register*, shall provide this NOPR by e-mail or by facsimile transmission to any persons who have so requested, and shall post a copy of the proposed Rule 572 on the Commission's Web Site.

D. This NOPR is effective immediately.

E. The Commission docket a new case to establish the required reasonable cost threshold. The case will be assigned to a Hearing Examiner and will have the following caption:

IN THE MATTER OF THE COMMISSION'S)
DETERMINATION OF THE REASONABLE) Case No. 04-_____-UT
COST THRESHOLD FOR RENEWABLE)
ENERGY.)
_____)

ISSUED under the Seal of the Commission at Santa Fe, New Mexico
this 27th day of July, 2004.

NEW MEXICO PUBLIC REGULATION COMMISSION

DAVID W. KING, CHAIRMAN

HERB H. HUGHES, VICE CHAIRMAN

JEROME D. BLOCK, COMMISSIONER

LYNDA M. LOVEJOY, COMMISSIONER

E. SHIRLEY BACA, COMMISSIONER