

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

2013 JUN 17 10 4 00

**IN THE MATTER OF STAFF'S PETITION)
TO INITIATE AN INQUIRY INTO THE)
SERVICE AND RATE IMPACTS OF PUBLIC)
SERVICE COMPANY OF NEW MEXICO'S)
"AGREEMENT IN PRINCIPLE" TO RETIRE)
SAN JUAN GENERATING STATION UNITS)
2 AND 3 BY 2017)
)
Utility Division Staff,)
)
Petitioner.)
_____)**

Case No. 13-00 200 -UT

STAFF'S PETITION FOR AN INQUIRY

Utility Division Staff ("Staff") of the New Mexico Public Regulation Commission ("Commission" or "NMPRC"), pursuant to NMSA 1978, §§ 8-8-4(B)(7); 62-3-1; 62-6-17; 62-8-1; 62-8-2; 62-9-5; 62-9-1; and 62-9-6 and NMPRC Rules 1.2.2.22 NMAC and 17.7.3.13 NMAC, petitions the Commission to initiate an inquiry into the potential service and rate impacts of Public Service Company of New Mexico's ("PNM's") "agreement in principle" with the New Mexico Environment Department ("NMED") and the U.S. Environmental Protection Agency ("EPA") to retire San Juan Generating Station ("SJGS") Units 2 and 3 by 2017, or 36 years earlier than anticipated by both PNM's Integrated Resource Plan ("IRP") and PNM's current rate structure which is designed to recover PNM's SGJS plant costs for years to come.¹ PNM entered into the "agreement in principle" to settle a state and federal dispute about what pollution control

¹ The current book life of all SJGS units is 2053 which means PNM's current rates are based on plant associated with all four SJGS units for many years to come unless the Commission acts. PNM's depreciation rates for SJGS, based on a terminal life of 2053, were implemented on January 1, 2006 pursuant to PNM's Rule 17.3.340 NMAC Annual Review and Report dated and filed October 19, 2005; and PNM's Five Year Depreciation Study filed pursuant to Rule 17.3.340(C)(2) NMAC with PNM's rate application in Case No. 08-00273-UT.

technology is required the SJGS for PNM to comply with federal haze regulations under the Clean Air Act (“CAA”). Copies of a press release, an EPA letter to PNM and the State and the “agreement in principle” are attached and incorporated herein by reference. Compliance with required pollution control technology, or in the alternative outlined in the “agreement in principle”, is estimated by PNM to cost PNM’s ratepayers hundreds of millions of dollars, is imminent and has not yet been brought to this Commission for consideration of the potential rate and service impacts on PNM and PNM’s ratepayers. It would be prudent and in the public interest for the Commission to immediately initiate an inquiry into the potential impacts on PNM and PNM’s ratepayers. As further grounds for Staff’s petition, Staff states as follows.

I. Factual Basis of Staff’s Petition

1. In order to provide electric service for customers, PNM maintains a diverse portfolio of power supply including coal and nuclear base load generation, gas, solar and wind generation, and purchased power.

2. The SJGS, a mine-mouth coal facility, is one of PNM’s base load generating facilities, and it is a generating facility certificated by this Commission. SJGS consists of four coal-fired units with 1,701 net megawatts (“MW”) of electric generation capacity. The facility is located in northwestern New Mexico, 15 miles west of Farmington. The net generation capacity and in-service date for each of the four units at SJGS are:

- Unit 1: 340 MW, on line in 1976.
- Unit 2: 340 MW, in service in 1973.
- Unit 3: 498 MW, in service in 1979.
- Unit 4: 523 MW, in service in 1982.

3. PNM is the operator of SJGS and has the single largest ownership interest in SJGS. PNM owns 50% of Units 1, 2 and 3 and 38.5% of Unit 4. PNM's total ownership share is approximately 46.4% of the plant's capacity or 790 MW. The allocation of SJGS ownership is summarized in the following Table:

SJGS Ownership Structure

Owner	Unit 1	Unit 2	Unit 3	Unit 4
PNM	50.0 %	50.0 %	50.0 %	38.5 %
City of Farmington	--	--	--	8.5%
Los Alamos County	--	--	--	7.2%
Tri-State G&T	--	--	8.2%	--
Tucson Electric Power	50.0 %	50.0 %	--	--
Southern California Public Power Authority	--	--	41.8%	--
M-S-R Public Power Agency	--	--	--	28.8%
City of Anaheim	--	--	--	10.0%
Utah Associated Municipal Power	--	--	--	7.0%

4. SJGS is a base load resource supplying electricity for PNM's customers and for approximately two million electricity customers in New Mexico, Arizona, Colorado, Utah and California. In addition to PNM's approximately 500,000 customers, SJGS supplies electricity to approximately 200,000 rural electric cooperative customers in New Mexico through Tri-State Generation and Transmission Association, Inc. and to customers served by the City of Farmington and the County of Los Alamos.

5. Most of the energy supplied to PNM's customers comes from base load generation. SJGS supplied approximately 52.7% of PNM's NMPRC jurisdictional generation during 2011 and has been projected to supply approximately 35% of PNM's energy needs in 2013.

6. PNM's existing and ongoing need for base load generation is demonstrated in PNM's 2008 and 2011 IRPs on file with the Commission. PNM's 2011 IRP demonstrates that replacement resources for SJGS would be more expensive for customers, even with anticipated new and more stringent environmental regulations. PNM's 2014 IRP process is scheduled to commence soon.

7. Rule 17.7.3.10 NMAC requires PNM to "promptly notify the commission and [IRP] participants of material events that would have the effect of changing the results of the utility's IRP had those events been recognized when the IRP was developed. As part of the notification, the utility shall explain how this event(s) has changed the action plan."

8. The February 15, 2013 "agreement in principle" to retire SJGS Units 2 and 3 by 2017 qualifies as a "material event" under Rule 17.7.3 NMAC that would have the effect of changing the results of PNM's 2011 IRP had those events been known when the IRP was developed.

9. While the “agreement in principle” has been made public, Rule 17.7.3.10 NMAC requires PNM to both provide specific notice to the Commission and IRP participants of any material event and to update its IRP action plan.

10. The “agreement in principle” if authorized through revised federal and state rules, as well as Commission proceedings authorizing the abandonment of SJGS Units 2 and 3, would resolve a federal and state dispute over what pollution control technology is required for SJGS in order for PNM to comply with federal haze regulations under the CAA.

11. As set forth in the attachment, EPA has provided PNM a letter recognizing that PNM may defer steps required to comply with its current September 21, 2016 compliance deadline and stating if the “agreement in principle” is not implemented by an agreed to timeline, EPA will work with PNM and the State to create a new compliance schedule for federal requirements. The Term Sheet Attachment to the “agreement in principle” contains the following deadlines, among others:

- A revised state rule to be presented to the New Mexico Environmental Improvement Board (“EIB”) by September 2013 ;
- The revised state rule to be presented to the EPA within 30 days of presentation to the EIB;
- EPA Final Action (revised federal rule) on revised state rule within approximately one year of presentation, or about October 2014.

12. Given the fast approaching timeline for development and approval of a revised state rule by October 2013 and a revised federal rule by October 2014, it would be prudent and in the public interest for the Commission to immediately initiate an inquiry into the potential service and rate impacts of the “agreement in principle” on PNM and PNM’s ratepayers.

13. A Commission inquiry into this matter would allow a more timely review of the information required to support and justify the various applications that PNM will need to submit to the Commission regarding future resources, resource plans and costs resulting from the contemplated changes at the SJGS. To this end, the scope of the inquiry should be limited and yet be flexible enough to allow the Commission to expand or contract the scope as circumstances may warrant. Currently, two pending cases before Commission are directly associated with the subject of this inquiry; namely, Case No. 11-00317-UT (Coalition for Clean Affordable Energy, Protests to the 2011 PNM Integrated Resource Plan) and Case No. 13-00175 (PNM Application for a CCN and related Approvals for the La Luz Energy Center). However, the matters addressed in this inquiry will result in other cases before the Commission in the near term, such as the abandonment cases, the replacement capacity and energy CCN cases or PPA agreement applications, the 2014 and 2017 IRP plans submissions, rate and cost recovery cases, upcoming annual renewable energy and biannual energy efficiency applications, etc. Staff therefore recommends that the scope of the inquiry be initially limited to gathering appropriate factual information from PNM so that, through a formal and public process, the Commission, Staff, and the public have enough information and sufficient time to analyze and become familiar with the issues that are likely to be presented in future imminent applications, including future costs of SJGS, future costs or replacement power and replacement energy; and associated system and reliability issues to provide the Commission with an ongoing understanding of potential rate and service impacts associated with these issues.

II. Legal Basis of Staff's Petition

14. PNM is a New Mexico corporation that owns, operates and controls plant, property and facilities for the generation, transmission, distribution and sale of electric energy to the public in portions of New Mexico (i.e., retail service), and to purchasers for resale (i.e., wholesale services).

15. PNM is a public utility in New Mexico, as defined in NMSA 1978, § 62-3-3-(G), and is subject to the jurisdiction and authority of the Commission.

16. The Public Utility Act provides that “[i]t is the declared policy of the state that the public interest, the interests of consumers and the interests of investors require the regulation and supervision of such public utilities to the end that reasonable and proper services shall be available at fair, just and reasonable rates, and to the end that capital and investment may be encouraged and attracted so as to provide the construction, development, and extension, without unnecessary duplication and economic waste, of proper plants and facilities for the rendition of service to the general public and to industry.” NMSA 1978, §62-3-1(B).

17. Rule 1.2.2.22(B) NMAC provides “Formal proceedings may be initiated by the commission to consider any matter within its jurisdiction...”

18. Rule 17.7.3.13 NMAC provides “[t]he commission may conduct an investigation of any matter pertaining to a public utility’s IRP where it deems appropriate and may require additional information.”

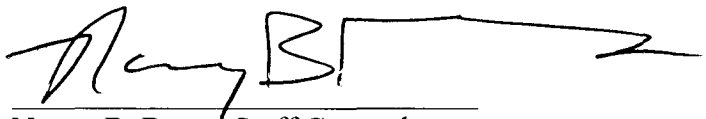
19. A copy of this Staff’s Petition will be served on the persons listed on the certificate of service in PNM’s last general rate case, NMPRC Case No. 10-00086-UT.

III. Relief Requested

Wherefore, Staff respectfully requests the Commission issue an order initiating an inquiry into the potential rate and service impacts of PNM's "agreement in principle", including future costs of SJGS, future costs or replacement power and replacement energy; and associated system and reliability issues to provide the Commission with an ongoing understanding of potential rate and service impacts associated with these issues.

Respectfully Submitted,

**NM Public Regulation Commission
Utility Division Staff**

A handwritten signature in black ink, appearing to read "Nancy B. Burns", written over a horizontal line.

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Utility Division Staff,

Petitioner.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing **Staff's Petition for an Inquiry**, issued June 17, 2013, was sent on the same date by U.S. mail to the persons whose mailing addresses are listed below and by e-mail to the persons whose e-mail addresses are listed below.

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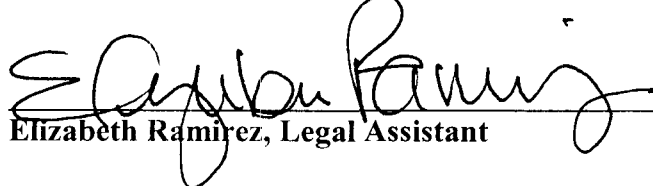
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Dated this 17th day of June, 2013.

NEW MEXICO PUBLIC REGULATION COMMISSION


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