

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

IN THE MATTER OF THE APPLICATION OF)
PUBLIC SERVICE COMPANY OF NEW)
MEXICO FOR APPROVAL TO ABANDON)
SAN JUAN GENERATING STATION UNITS)
2 AND 3, ISSUANCE OF CERTIFICATES OF)
PUBLIC CONVENIENCE AND NECESSITY)
FOR REPLACEMENT POWER RESOURCES,)
ISSUANCE OF ACCOUNTING ORDERS AND)
DETERMINATION OF RELATED RATE-)
MAKING PRINCIPLES AND TREATMENT)

Case No. 13-00390-UT

PUBLIC SERVICE COMPANY OF NEW)
MEXICO,)

Applicant)

NEW MEXICO
PUBLIC REGULATION
COMMISSION
FILED
2015 JAN 20 PM 4 13

NEW MEXICO INDEPENDENT POWER PRODUCERS'
NOTICE OF WITHDRAWAL FROM STIPULATION

COMES NOW New Mexico Independent Power Producers (“NMIPP”), by and through its undersigned counsel, and hereby provides notice that, effective immediately, it is withdrawing from the October 1, 2014 Stipulation filed in this matter. The grounds for NMIPP’s withdrawal from the Stipulation are set forth in the Affidavit of Robb Hirsch, attached hereto as Exhibit 1. Mr. Hirsch still intends to testify on the Reserved Issue at the hearing.

Respectfully submitted,

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BY: Susan C Kery
SUSAN C. KERY

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OF PUBLIC SERVICE COMPANY OF NEW)
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RESOURCES, ISSUANCE OF ACCOUNTING)
ORDERS AND DETERMINATION OF)
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)
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Case No. 13-00390-UT

AFFIDAVIT OF ROBB HIRSCH

Robb Hirsch, Executive Director of the New Mexico Independent Power Producers (“NMIPP”), upon being duly sworn, deposes and states:

1. I am the Executive Director of the New Mexico Independent Power Producers (“NMIPP”). I previously provided testimony in this matter on August 29, 2014 (Intervenor Testimony of Robb Hirsch), October 31, 2014 (Direct Testimony in Support of Stipulation Offered by Robb Hirsch on Behalf of New Mexico Independent Power Producers) and November 25, 2014 (Direct Testimony on Reserved Issued Offered by Robb Hirsch on Behalf of New Mexico Independent Power Producers).
2. NMIPP is a signatory to the Stipulation filed in this matter on October 1, 2014.

EXHIBIT 1

3. Although we commend the Public Service Company of New Mexico (“PNM”) for originally reaching agreement with EPA and the State of New Mexico to retire Units 2 and 3 of the San Juan Generation Station and we appreciate that the company is now finally offering coal-related conditions, NMIPP has concluded for the reasons stated below that we must withdraw from the Stipulation. In doing so, we focus squarely on issues pertaining to San Juan Generating Station and a commensurate more balanced replacement plan. The other aspects of the Stipulation by and large we are not opposing. However, stepping out of the legal jargon of this case and into the light of a new day we note Churchill’s timeless advice “never let a good crisis go to waste.” We believe there is opportunity hidden in this challenging case about our electrical generation future and New Mexico should seize it.

4. On January 13, 2015, PNM informed NMIPP and other parties to this matter that the City of Farmington will not be acquiring an additional 65 MW of coal from San Juan Generating Station (“SJGS”) Unit 4. Although PNM has indicated it will not acquire this additional 65 MW of coal, NMIPP understands that PNM Resources (“PNMR”) plans to take on this additional capacity (as a merchant resource), and this is unacceptable to us.

5. NMIPP believes that picking up an additional 65 MW is not a well thought out decision. Rather, it continues to set a troublesome precedent - on top of the proposed new 132 MW acquisition by PNM - that PNMR and PNM will fill the void left as other co-participants/utilities reduce their SJGS coal commitments. In fact, every time a business entity steps back from SJGS, PNM steps forward: as BHP Billiton withdraws from the San Juan Coal Mine, PNM plans to step in to own it; as California utilities relinquish SJGS coal assets, PNM

plans to take on 132 MW of additional coal capacity; as Tucson Electric Power (TEP) withdraws from consideration as a minority 18% coal mine owner - and no other co-participants fill in for their respective SJGS shares - PNM plans to be a 100% owner of the mine; and now as the City of Farmington decides not to procure 65 additional MW from SJGS Unit 4, PNMR plans to take it on. Each of these events is an important market signal and added all together warrant serious reflection and reconsideration of the overall picture; yet PNM keeps renewing and upping its coal commitments at a time when it could be diversifying its portfolio. We understand that these commitments are being made to keep the Restructuring Agreement intact. Although NMIPP is sympathetic to PNM's situation, we think there is a better, more market oriented and less risky path forward.

6. NMIPP joined the Stipulation in large part because of the ability that was preserved therein for signatories to contest the coal issues in this case which we think are most consequential. We have testified there should be conditions to the CCN for 132 MW of new coal procurement including (a) Commission pre-approval of the coal supply agreement, (b) retirement of SJGS Unit 1 under the same time frame and conditions as Units 2 & 3 and (c) no allowance for PNM to pick up additional new coal resources at SJGS. We have recommended all of these conditions in order to facilitate and encourage a more diversified energy portfolio that is cleaner, less risky and in the long term, more cost effective. When we filed this testimony, PNM challenged it on the grounds that I was not qualified to offer such testimony. While we may not be privy to all the complexities of the coal related issues in this case, it is uncomplicated to claim that New Mexico rate payers deserve protections from the contingent

coal liabilities in this case. It is clear to NMIPP that I am qualified to testify that effective integrated resource planning calls for balancing reliability, affordability and environmental stewardship; re-investing in coal to the extent being proposed by PNM (and now potentially PNMR) is not the optimal way to achieve this integration of objectives.

7. The more SJGS co-participants relinquish control or withdraw from consideration, the more we learn about the mounting coal concerns in this case (including fuel supply and coal mine questions, the growing cost of liabilities regarding pending environmental regulations, Clean Power Plan compliance concerns, newly anticipated methane and VOC pollution rules, coal ash risks and a host of other serious concerns to do with O & M, mining, and reclamation.) We are concerned about the vulnerability of SJGS as a whole and the prospective “house of cards” phenomenon ensuing there. We appreciate PNM’s agreement to now stipulate that there will be no coal supply agreement past 2022 without Commission approval. Although this helps preserve future optionality and is a step in the right direction, it is insufficient to address the monumental and growing concerns in this proceeding. A more comprehensive solution is needed. For starters, conditions should be established that prevent PNM and PNMR from making new coal commitments at SJGS; and conditions should be established to prevent PNM (or a PNMR Affiliate or Single Purpose Entity) from becoming the owner of the San Juan Coal Mine.

8. NMIPP would advocate for an alternative solution which can be achieved as a condition to the CCN for 132 MW of new coal or achieved through negotiation in conjunction with this case. The components of a better solution are as follows: (a) seek cooperation with

Tucson Electric Power (TEP) to jointly retire SJGS Unit 1 on the same timeframe, terms and conditions as Units 2 & 3 (saving ratepayers on the respective SNCR and balanced draft investment for Unit 1); (b) encourage TEP to partially replace its retired half share of Unit 1 with any other gaps that may be pending at Unit 4 along with the 65 MW of Unit 4 coal assets that the City of Farmington has rejected; (c) grant PNM a conditional CCN for 132 MW in Unit 4 and allow SJGS Unit 4 to operate at full capacity, but stipulate that there will be no coal supply agreement beyond 2022 without Commission approval, disallow PNM or PNMR from picking up any additional capacity at Unit 4 beyond the 132 MW, and establish a reasonable threshold of reliability below which ratepayers would receive protection from the associated cost increases (all of which will help address recently expressed concerns from the City of Farmington about the "significant degradation in SJGS Unit 4 reliability performance"); (d) neither PNM nor a PNMR Affiliate or Single Purpose Entity should be allowed to become the owner of the San Juan Coal Mine but instead PNM and the co-participants of Unit 4 should transition to a third-party mine owner by 2020 by stockpiling the maximum allowable amount of coal until 2018 (and use existing gas plant capacity or if necessary utilize short-term power purchase agreements (PPAs) to fill any gaps); (e) SJGS and San Juan Coal Mine employees should receive early retirement compensation as well as work transition training, and low income (LIHEAP recipient) rate payers should be assisted once rates are affected from the SJGS transition beginning in 2018 (to do all this adequately we recommend that from 2016-2020 the Commission initiate a fund of two million dollars per year raised evenly from general rates and PNMR contributions and simultaneously pursue additional contributions from federal,

state, private sector, foundation and individual donor sources to meaningfully grow the fund); (f) assume the rest of non-Reserved Issue Stipulation terms, subject of course to Commission approval, stay the same (with the exception of a proportional increase in Distributed Generation and withdrawal of the proposed solar access fee); and to replace PNM's 170 MW share of SJGS Unit 1 (refer to NMIPP's replacement proposal (g)-(k) as follows): (g) issue a Request For Proposals for a new 80 MW Combustion Turbine gas plant sited near load; (h) increase the capacity factors from 25% to 35% for the existing Luna and Afton Combined Cycle (CC) gas plants and if approved, marginally increase the capacity factor for the proposed new 177 MW Combustion Turbine (CT) gas plant at San Juan; (i) issue a Request For Proposals and enter a Power Purchase Agreement (PPA) for 100 MW of new solar photovoltaic (pv) with single access trackers (to be put in operation before 2017 in order to capitalize on the federal solar Production Tax Credit and Investment Tax Credit) and issue a Request for Proposals and enter a PPA for 100 MW of new wind generation (these new wind and solar additions would complement the new and existing gas plant usage and help satisfy the capacity needed to replace PNM's 170 MW share of SJGS Unit 1, as well as better diversify PNM's generation portfolio, serve as a hedge to any future volatility in gas prices and maintain some reasonable balance between PNM asset owned generation and PPAs); (j) utilize an additional 20 MW of demand response and/or new energy storage resources (if cost competitive) to strengthen the peak period resiliency of the system; and (k) a more sustainable Alternative Option to consider for SJGS Unit 1 replacement, keeping all other factors the same, is instead of a new 80 MW Combustion Turbine gas plant, to procure 220 MW of solar (the majority of which should be

installed loadside but an important component between 50-100 MW of which could be installed at SJGS and all of which should be in operation before 2017 to capitalize on the federal solar Production Tax Credit and Investment Tax Credit), 150 MW of wind and 30 MW of demand response and/or energy storage. Altogether, NMIPP's proposed plan would meaningfully address the major coal liability and mine ownership concerns while enabling a cleaner, more 21st century-oriented and cost effective replacement plan that customers are seeking in this case

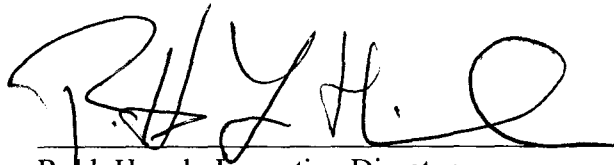
9. In addition to the recent significant developments exposing the liability of making new SJGS coal commitments and the inadequacy of PNM and PNMR's response, we are withdrawing from the Stipulation because we were not properly informed by PNM about the major accounting error and modeling runs revealing that the cost of a four unit shutdown is more competitive than previously advised.

In light of these important findings (which we did not learn about until the day before and during the hearing), NMIPP believes that it would be beneficial if a transparent cost assessment of the components of NMIPP's plan set forth above (assuming 50% stranded cost sharing for Unit 1 retirement and no SNCR/balance draft investment at Unit 1) – as well as the more sustainable Alternative Option - were compared to the Stipulation. This would provide the Commission, PNM, its customers, and parties with helpful information to discern the costs and benefits of our proposed three unit shutdown and balanced replacement plan, as well as the more sustainable Alternative Option, compared to the Stipulation.

10. NMIPP originally joined the Stipulation hoping that parties would increasingly cooperate instead of litigate on issues such as the outstanding Reserved Issue. But it has not

been until this week - with the final straw being the City of Farmington rejecting the 65 MW - that PNM has moved in its position. We believe the conditions proposed by PNM to address the issues raised by Farmington's recent announcement are insufficient and unlikely to be acceptable to many parties. NMIPP believes that it is important to strive for a common solution that most parties - including both signatory and not signatory as well as customers, shareholders as well as other key stakeholders - can support. An inclusive solution will avoid an over commitment to coal as a replacement resource, will avoid PNM owning the San Juan Coal Mine, will support ways to help offset impacts to low income rate payers, will assist Navajo and Farmington SJGS-related employees through retirement compensation and transition training, will better diversify the portfolio to include a meaningful amount of new renewable energy to complement and serve as a hedge for the new gas generation and will spur on new job creation and economic development in New Mexico. Even though we are withdrawing from the Stipulation, we will remain actively interested in and intent on helping facilitate constructive ways to cooperate with all parties in this case to forge a common solution. As the Hearing Examiner stated in his order denying the requests to vacate the hearing on the Reserved Issue, "this should not, however, prevent parties from attempting to arrive at a common position on the Reserved Issue during the course of the proceeding."

I state, under oath, that the statements contained in the testimony are true and correct to the best of my knowledge, information and belief.



Robb Hirsch, Executive Director
New Mexico Independent Power Producers

Subscribed and sworn to before me this 14th day of January, 2015.



Donna J. Smith
Notary

My Commission Expires:

7.30.2016