

**BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION**

**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 )**

**Case No. 13-00200-UT**

**Utility Division Staff,**

**Petitioner.**

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**PUBLIC SERVICE COMPANY OF NEW MEXICO'S  
RESPONSE TO STAFF'S PETITION FOR AN INQUIRY**

Public Service Company of New Mexico ("PNM"), by and through its attorneys, submits this Response to Staff's Petition for an Inquiry filed on June 17, 2013, as corrected and supplemented by Staff's Errata Notice to Staff's Petition filed on June 18, 2013 ("Staff's Petition").

Staff's Petition seeks to have the Commission initiate an inquiry into the potential service and rate impacts of 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 December 31, 2017. The "agreement in principle" is intended to settle a dispute among PNM, state and federal environmental regulators and environmental advocacy groups about what emissions control should be required in order for SJGS to meet the Best Available Retrofit Technology ("BART") requirements of the EPA's Regional Haze Rule under the federal Clean Air Act ("CAA").

Initially, it is important to note that both the Term Sheet and the letter from EPA's Regional Administrator, attached to the Errata Notice, acknowledge that implementation of the proposed Revised State Implementation Plan ("Revised SIP"), which is central to the "agreement in principle", requires approval by this Commission pursuant to its statutory authority under the New Mexico Public Utility Act ("PUA"). Letter from Ron Curry to Pat Vincent-Collawn and F. David Martin at 2 (Feb. 15, 2013); Term Sheet, §§ 1(f), 2.

PNM also notes that it has endeavored to keep the Commission apprised of significant developments regarding the BART determination for SJGS. For example, within a week of announcement of the "agreement in principle", Ron Darnell, Senior Vice President for Public Policy at PNM, made a presentation to the Commission at its Open Meeting of February 20, 2013, to describe the agreement and the impacts on rates and service projected at that time. Minutes at 2-4. The Minutes of the Open Meeting reflect that Mr. Darnell advised the Commission that PNM would seek Commission approval of the abandonment of SJGS Units 2 and 3 in a filing that was projected to be made in the last quarter of 2013. Minutes at 3. A true and correct copy of the relevant portions of the Minutes is attached to this Response as Exhibit A. PNM is scheduled to provide the Commission with additional information at the next Open Meeting scheduled for June 26, 2013. It is PNM's understanding that the Secretary-Designate of NMED will also be asked to make a presentation at that time.

Further, PNM represents that it is providing currently available information regarding the "agreement in principle" to Staff and the parties through discovery in Case No. 13-00175-UT regarding PNM's Application for a Certificate of Public Convenience

and Necessity for La Luz Energy Center and through informal discussions. In addition, PNM is commencing the process for preparation of its 2014 Integrated Resource Plan (“IRP”), which itself will provide much information and require the development of numerous planning scenarios for adoption of a 2014-2018 action plan. A true and correct copy of PNM’s Notice of Public Advisory Process for the IRP for 2014, circulated on June 11, 2013, is attached to this Response as Exhibit B. Thus, PNM has been forthcoming with providing the Commission and Staff with currently available information it has regarding the “agreement in principle” and its projected implications at this time, and will continue to do so.

PNM is concerned that establishing a docket for a formal inquiry would result in the necessity to prematurely supply data that are constantly evolving as PNM refines and revises model assumptions and updates forecasts in preparation for its comprehensive filing, resulting in confusion now and after the comprehensive filing is made. PNM is currently engaged in a Request for Proposals process for the design and procurement of equipment for the installation of selective non-catalytic reduction (“SNCR”) on SJGS Units 1 and 4. The results of that process are not yet known and will be included in the comprehensive filing. PNM has begun the resource-intensive and time-consuming process of preparing the necessary case documents in anticipation of proceedings for required regulatory approvals by the Commission and other regulatory agencies, none of which are completed and all of which are in early preparation stages subject to constant revisions as they are updated and refined in preparation for the comprehensive filing. Most importantly, waiting for the comprehensive filing rather than establishing a premature formal inquiry will save time and resources for all parties, including the

Commission and Staff, by allowing discovery to proceed in a more focused manner after the comprehensive filing is made, rather than attempting a broad, shotgun approach to seeking information, much of which may become obsolete or superceded by updated and refined information that will be timely provided through the application PNM is required to file to obtain Commission approval for its plan. For example, PNM has not yet determined the specific replacement power portfolio that it will propose to the Commission and thus does not have a final estimate of projected costs. Among options being considered and discussed with other SJGS owners is a revised SJGS participation agreement to reflect the retirement of Units 2 and 3 and potentially providing PNM with approximately 78 MW of additional capacity in Unit 4, subject to Commission approval.

As acknowledged by the EPA Regional Administrator, timely consideration and approval by this Commission pursuant to its regulatory authority is a necessary step for EPA to consider and approve a Revised SIP. PNM fully intends to make a comprehensive, timely filing for Commission consideration and approval. This filing and any subsequent filings that may emanate from Commission orders regarding the filing, will provide more complete and accurate information to the Commission as to how PNM proposes to meet its obligation to provide its electric customers with adequate, safe and reliable service at fair, just and reasonable rates, than information that could be obtained prematurely through a formal inquiry process at this time. The filing will necessarily address the areas Staff's Petition seeks to have addressed, including PNM's justification for abandoning SJGS Units 2 and 3, its proposal for providing replacement power and the rate implications associated with its proposals and feasible alternatives that PNM considered and believes are not as good as its proposed plan. The Commission, Staff and

intervenors will have ample time to examine PNM's filing and its ramifications since Commission approval is not expected to be needed before the last quarter of 2014.

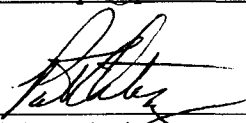
In order to accommodate Staff's concerns, PNM believes that, instead of opening a formal inquiry docket, the Commission should require PNM to make periodic presentations to the Commission at the Commission's last Open Meeting in each month, explaining the steps it has taken since the prior presentation in furtherance of final approval of the "agreement in principle" and any other information PNM may have that will assist the Commission in understanding the progress PNM is making in the preparation of a formal filing to the Commission, including a summary of meetings related to the IRP public advisory process. The requirement for monthly presentations should end upon the filing of PNM's application.

WHEREFORE, PNM respectfully requests the Commission to require PNM to make monthly update presentations to the Commission at the Commission's last open meeting each month until PNM files its application for approval of its plan to comply with the "agreement in principle", as more fully described in this Response, instead of opening a formal inquiry as Staff has requested in its Petition.

Respectfully submitted this 24<sup>th</sup> day of June, 2013,

**PUBLIC SERVICE COMPANY OF NEW MEXICO**

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Attorneys for Public Service Company of New Mexico

**MINUTES OF THE  
REGULAR OPEN MEETING  
NEW MEXICO PUBLIC REGULATION COMMISSION  
February 20, 2013**

**TIME: 9:30 a. m.**

**PLACE: PERA Building  
4<sup>th</sup> Floor Hearing Room  
1120 Paseo de Peralta  
Santa Fé, New Mexico 87501**

A quorum was present as follows:

**Members Present:**

Commission Chairman Ben L. Hall  
Commissioner Vice-Chair Valerie Espinoza  
Commissioner Theresa Becenti-Aguilar  
Commissioner Patrick H. Lyons  
Commissioner Karen L. Montoya

**Members Absent:**

**Staff Present**

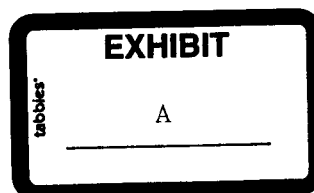
Johnny Montoya, Chief of Staff  
Robert Parker, Deputy Chief of Staff for Legal Affairs  
Michael C. Smith, Associate General Counsel  
Sandra Skogen, Associate General Counsel  
Anthony Medeiros, Hearing Examiner  
Dwight Lamberson, Utility Division Director  
Ryan Jerman, Transportation Division Director  
Patrick López, Legal Division Director  
Mike Ripperger, Telecommunications Bureau Chief  
Mark Cessarich, Telecommunications Bureau  
Eugene Evans, Utility Division  
Arthur Bishop, PIO

**Others Present**

Carl Boaz, Stenographer

**CALL TO ORDER**

The Regular Open Meeting was scheduled at 9:30 a.m., pursuant to proper notice under NMSA 1978, 10-15-1(c), and the Commission's Open Meeting Policy. Commission Chairman Ben L. Hall called the



Regular Open meeting to order at 9:30 a.m., in the Fourth Floor Hearing Room, PERA Building, 1120 Paseo de Peralta, Santa Fé, New Mexico.

A copy of the sign-in sheet for the Regular Open Meeting is incorporated herewith to these minutes as Exhibit 1.

A copy of the Agenda for the Regular Open meeting is incorporated herewith to these minutes as Exhibit 2.

## **1. PLEDGE OF ALLEGIANCE**

## **2. INTRODUCTIONS**

Commissioner Becenti-Aguilar introduced a Navajo member who works for PNM, Ms. Shelly Groenhurst.

Chairman Hall introduced his wife, Maria.

Ms. Gloria Skeet identified herself on the bridge.

Mr. Ron Darnell, Senior Vice President for Public Policy at PNM provided an update to the Commission on the San Juan Generating Station and shared some facts on the recent agreement with the New Mexico Environment Department and the Environmental Protection Agency with PNM. He provided a printed PPT. The new agreement would support three goals: Lessen cost impact for consumers; provide broad environmental benefits; and consider the economic impact to the Four Corners area and the State. PNM was also looking to diversify their fuel mix and to help protect against the future cost of coal regulation. This agreement would accomplish all of those objectives.

He said the federal plan regulated Nitrous Oxides but other than that, the plan for almost \$1 billion would do nothing for any other pollutants. However, the alternative plan would reduce the other pollutants.

He explained that the conflict was all about how to improve visibility at Class 1 areas (National Parks and Wilderness Areas). The goal was to return the visibility to the pre-industrial age by 2064. For that purpose, the alternative plan achieved as much as the federal plan.

In the agreement, PNM agreed to build up to 200 MW peakers at San Juan with natural gas

Regarding the workforce, 88 of 400 staff were Native Americans.

PNM offered \$1 million from shareholders for workforce retraining programs to be developed in collaboration with the Navajo Nation.



Among next steps, PNM would submit a new state implementation plan to the NMED for retrofit technology. Then NMED would file the plan with the Environment Improvement Board in 2013 and a hearing held.

On page 8 it talked about mitigation if the agreement was derailed. Right now EPA was requiring SCRs would be installed by 2016.

Commissioner Becenti-Aguilar understood Superintendent Leonard Tsosie was on the bridge (BIA) and Gloria Skeet from the BÁÁHÁÁLI Chapter. She was happy they were working with Navajo Nation and it gave her comfort. She didn't get involved in the negotiations at all because it belonged to the Navajo Nation.

Commissioner Lyons noted on page 3 that in 2018 customers would have a 15% increase in electric rates.

Mr. Darnell said that was their estimate, based on their projections.

Commissioner Lyons said that would require a rate case.

Mr. Darnell explained that the increase was driven by replacement costs and would be handled in a rate case. They would seek retirement in the filing and that filing would be in last quarter of the year. The rate case would be filed in 2016 and implemented by 2018.

While PNM had not locked in the exact replacement capacity, whether by natural gas or nuclear sources, the rates would be about 15% higher. The return of unappreciated investment was included in that number.

Commissioner Lyons asked on page 6 where it said there would not be one layoff, if that was good for everyone. That didn't make sense to him.

Mr. Darnell explained that the workforce at SJGS was an older workforce and there would be a lot of natural attrition between now and then and there would be enough other jobs for them to be retrained for. During the interim they would be hiring new employees out there.

In response to Commissioner Lyons Mr. Darnell said the coal contract with BHP would expire at the end of 2017.

Commissioner Lyons said the coal contract would have to be approved by the PRC. Mr. Darnell agreed.

Commissioner Lyons asked if shareholders would have to approve the million dollars for retraining.

Mr. Darnell said they already approved it.

Commissioner Lyons asked if the additional relief was only if the agreement didn't go through.

Mr. Darnell said they would explore that anyway because they were trying to get the Tenth Circuit to stay the SCR compliance. They have not filed since the agreement was reached and now were exploring that.

Chairman Hall appreciated PNM's efforts and the Secretary and Governor for their efforts. It was not over yet and he asked PNM to keep the Commission informed.

### **3. MISCELLANEOUS ANNOUNCEMENTS**

Commissioner Becenti-Aguilar recognized Kathy Newby, a Navajo working for PNM.

She also noted that the All Indian Pueblo Council was meeting in Apodaca Hall and after this meeting they would return there.

### **4. CONSIDERATION AND APPROVAL OF THE AGENDA**

Chairman Hall wanted to move item B to A because Superintendent Tsosie was on the phone now and he had a meeting at ten o'clock.

Commissioner Lyons wanted to remove the executive session and have it all in open session.

**Commissioner Lyons moved to approve the agenda as amended. Commissioner Espinoza seconded the motion and it passed by unanimous voice vote.**

### **5. REGULAR ACTION**

#### **B. Utility Matters**

**12-00321-UT      IN THE MATTER OF THE FORMAL COMPLAINT OF BÁÁHÁÁLÍ CHAPTER AND CHICHILTAH CHAPTER, COMPLAINANTS, V. CENTURYLINK, RESPONDENT.**

**13-00050-UT      IN THE MATTER OF THE PROVISIONING OF TELECOMMUNICATIONS SERVICE TO THE RESIDENTS OF BÁÁHÁÁLÍ AND CHICHILTAH CHAPTER COMMUNITIES.  
(Margaret Caffey-Moquin)      Order**

**Patrick Ortiz**

**From:** Wander, Thomas [Thomas.Wander@pnmresources.com]  
**Sent:** Tuesday, June 11, 2013 1:30 PM  
**To:** Margaret Caffey-Moquin (Margaret.Moquin@state.nm.us); Chairman Ben Hall (Ben.Hall@state.nm.us); Commissioner Karen Montoya (KarenL.Montoya@state.nm.us); Commissioner Patrick Lyons (Patrick.Lyons@state.nm.us); Commissioner Theresa Becenti-Aguilar (T.Becenti@state.nm.us); Commissioner Valerie Espinoza (Valerie.Espinoza@state.nm.us); Stevens, Anastasia (Keleher); Brack, James A. - PRC; Bruno Carrara; Charles F. Noble Esq. ; Don Hancock; Doug Gegax; Dwight Lamberson; Ed Reyes ; Frank Lacey; Glenda Murphy ; Howard Geller ; Jeff Taylor Esq. ; Jeffrey H. Albright Esq. ; Joanne C. Reuter Esq. ; John Curl ; John Reynold; Ken Baker; Fenton, Mark; Maureen Quaid; Mona Tierney-Lloyd ; Nancy Burns, Esq. - NMPRC; Natisha Demko; NMAG - Loretta Martinez; Patrick Ortiz; Patrick Griebel; Peter Gould; Phillips, Ben; Rebecca Dempsey; Stacey Goodwin ; Stephen Fischmann ; Steven S. Michel ; Tammy Fiebelkorn; Thomas Domme, Esq. ; Tom Singer; Tracy Caswell; Donna Crawford; Jim Crawford (jamesr.crawford61@gmail.com); Allan Sindelar (allan@positiveenergysolar.com); Andrew Dicamillo (wannabelen@yahoo.com); Angelica Anaya Allen (aaallenjd@aol.com); Brendan Miller (brendan@nmipp.com); Bruce Throne (bthroneatty@newmexico.com); Bryan Biedscheid (bryan@swbpc.com); Charles W. Kolberg (ckolberg@abcwua.org); Dan Najjar (VNajjar@aol.com); David Griscom (davidgriscom@gmail.com); David Van Winkle (david@vw77.com); Elisha Leyba-Tercero (Elisha.Leyba-Tecero@state.nm.us); Evan Evans (evan.evans@epelectric.com); Geno Zamora Esq. (gizamora@santafenm.gov); Gregory K. Lawrence Esq. (glawrence@mwe.com); Jami Porter Lara (jporterlara@gmail.com); Jeffrey Fornaciari (jfornaciari@hinklelawfirm.com); Joseph Goldberg (jg@fbdlaw.com); Julia Broggi (jbroggi@hollandhart.com); Justin Lesky (jlesky@leskylawoffice.com); Kurt J. Boehm (kboehm@bkllawfirm.com); Lisa Tormoen Hickey (lisahickey@coloradolawyrs.net); Marcos Martinez (mdmartinez@santafenm.gov); Maura Yates (myates@sunedison.com); Megan Anderson (anderson@westernlaw.org); Michael Stewartt (michael@310solar.com); mkurtz@bkllawfirm.com; Nancy Long (lpk@nm.net); Nann M. Winter (nwinter@stelznerlaw.com); Phillips, Ben; Rachel A. Brown (Rabrown@santafecounty.org); Randall Childress (randy@childresslaw.com); Randy Sadewic (randy@positiveenergysolar.com); Rick D. Chamberlain (Rdc\_law@swbell.net); Robert D. Kidd Jr (rkidd@cabq.gov); Robert J. Sutphin Jr. (rsutphin@hollandhart.com); Sara Berger (skb@fbdlaw.com); Sarah Cottrell Propst (propst@interwest.org); Stephen Ross (sross@co.santa-fe.nm.us); Tom Young (youngt@directpower.com); Wander, Thomas; William Templeman (wtempleman@cmtisantafe.com); Ashley Schannauer (Ashley.Schannauer@state.nm.us); Bettis, Lucy; Collins, Mary; Jack Sidler (jack.sidler@state.nm.us); Lewis Campbell (lcampbell@abqenergy.net); Mariel Nanasi (mariel@seedsbeneaththesnow.com); Maurice W. Wildin (wildin@unm.edu); Mike Eisenfeld (meisenfeld@frontier.net); Natisha Demko (ndemdo@nrdc.org); Saul J. Ramos Esq. (sramos@doeal.gov); Steven A. Porter Esq. (steven.porter@hq.doe.gov); William Herrmann (william.herrmann@state.nm.us)

**Subject:** PNM's Notice of Public Advisory Process for the IRP for 2014

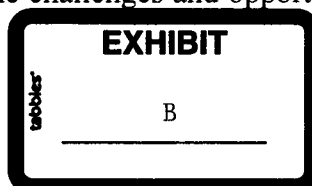
Consistent with the notification requirements of 17.7.3 NMAC (IRP Rule), Section 9.H(1), PNM hereby provides notice that it will begin as of July, 2013 the public advisory process for preparation of its IRP due to be filed by July 2014. Notice is also being provided in customer bill inserts, by publication in certain newspapers serving counties in which PNM provides customer services, and by posting on PNM's web page.

### **NOTICE OF PUBLIC ADVISORY PROCESS FOR PNM'S IRP FOR 2014**

#### **Subject line: Where will Your Electricity Come From in the Future?**

Public Service Company of New Mexico wants input from customers and industry experts to help us in our preparation of the PNM Integrated Resource Plan (IRP) for 2014.

The state's IRP rule requires us to examine the challenges and opportunities for providing energy in the



6/21/2013

future and to identify the most cost-effective power generation portfolio. Although planning is ongoing at PNM, every three years we file an IRP with the New Mexico Public Regulation Commission that includes a four-year action plan and a look at energy needs for the next 20 years. We will file our next plan by June 30, 2014.

To kick-off this year-long planning process, we will hold public meetings in July where we will present an overview of the IRP process, review our existing power resources from wind and solar energy to coal, gas and nuclear energy, and explore those things that impact energy planning such as the projected need for electricity, regulations, cost to customers, the environment and the need to keep power reliable.

### **Meeting Information**

Meetings are open to the public, however you must RSVP in advance so that we can plan by calling (888) 413-0064 or sending an email to [irp@pnm.com](mailto:irp@pnm.com). Leave your name, phone number and the meeting you wish to attend. Refreshments will be provided. The official kickoff meeting will be in Albuquerque at the time and location shown below.

**Albuquerque:** Thursday, July 25, 2013 at 8 a.m.  
PNM Corporate Offices  
414 Silver Street, SW  
Fourth Floor Meeting Room

Additional meetings will be held at the following locations and times:

**Alamogordo:** Thursday, July 18, 2013 at Noon  
1st National Bank of Alamogordo  
414 10<sup>th</sup> Street  
In the basement meeting room

**Silver City:** Friday, July 19, 2013 at 8:00 a.m.  
Western New Mexico University  
Bessie Forward Global Resource Center  
12th and Florida Streets  
Meeting Rooms A, B and C

**Santa Fe:** Tuesday, July 30, 2013 at 8 a.m.  
Santa Fe Community College  
6401 Richards Avenue  
Jemez Room

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) Case No. 13-00200-UT  
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**Utility Division Staff,**

**Applicant.**

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**CERTIFICATE OF SERVICE**

I hereby certify that true and correct copies of **Public Service Company of New Mexico's Response to Staff's Petition for an Inquiry** were delivered by courier to the New Mexico Public Regulation Commission, mailed by first class mail, postage prepaid, and sent electronically to the following individuals with e-mail addresses listed below on June 24, 2013.

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