

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

**IN THE MATTER OF THE JOINT APPLICATION OF)
PUBLIC SERVICE COMPANY OF NEW MEXICO,)
TXNM ENERGY, INC. AND TROY PARENTCO LLC)
FOR APPROVAL OF AN ACQUISITION AND MERGER)
OF TROY MERGER SUB INC. WITH TXNM ENERGY,)
INC.; APPROVAL OF A GENERAL DIVERSIFICATION)
PLAN; AND ALL OTHER AUTHORIZATIONS AND)
APPROVALS REQUIRED TO CONSUMMATE AND)
IMPLEMENT THIS TRANSACTION (“JOINT)
APPLICATION”))**

Docket No. 25-00060-UT

RECOMMENDED DECISION
FOR SHOW CAUSE PROCEEDING

Jocelyn Barrett
Chief Hearing Examiner

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Hearing Examiner

June 8, 2026

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ABBREVIATIONS

| | |
|--------------------------|---|
| Commission | New Mexico Public Regulation Commission |
| Financing Transaction | June 2025 Troy TopCo LP purchase of TXNM common stock |
| GDP | General Diversification Plan |
| LLC | Limited liability company |
| LP | Limited partnership |
| Merger Agreement | Agreement and Plan of Merger |
| NEE | New Energy Economy |
| NMDOJ | New Mexico Department of Justice |
| NMAC | New Mexico Administrative Code |
| NMPRC | New Mexico Public Regulation Commission |
| NMSA 1978 | New Mexico Statutes Annotated 1978 |
| NMSC | New Mexico Supreme Court |
| ParentCo / Troy | Troy ParentCo LLC |
| PIPE | Private investment in public equity |
| PNM | Public Service Company of New Mexico |
| PUA | Public Utility Act |
| SB | Senate Bill |
| SEC | Securities and Exchange Commission |
| Staff | Commission Utility Staff |
| Stock Purchase Agreement | Stock Purchase Agreement between TXNM and Troy TopCo LP |
| TopCo | Troy TopCo LP |
| TXNM | TXNM Energy, Inc. |

(1) Jocelyn Barrett and Patrick C. Schaefer, hearing examiners for the New Mexico Public Regulation Commission (“Commission”), submit this Recommended Decision pursuant to NMSA 1978 § 62-19-20 (2020) and 1.2.2.29(D)(4) and 1.2.2.37(B) New Mexico Administrative Code (“NMAC”). The Hearing Examiners recommend that the Commission adopt the following executive summary, discussion, findings of fact, conclusions of law, and decretal provisions in a final order.

I. EXECUTIVE SUMMARY

(2) This matter comes before the Hearing Examiners pursuant to the March 11, 2026, Order Directing Joint Applicants to Show Cause (“Show Cause Order”). The Show Cause Order directed Public Service Company of New Mexico (“PNM”), TXNM Energy, Inc. (“TXNM”), and Troy ParentCo LLC (“Troy” or “ParentCo”) (collectively, “Joint Applicants”) to demonstrate why a stock acquisition transaction involving TXNM and Troy TopCo LP (“TopCo”) did not violate NMSA 1978, Section 62-6-12, by occurring without prior authorization from the New Mexico Public Regulation Commission (“Commission”).

(3) The transaction at issue involved TopCo’s acquisition of approximately eight million shares of TXNM common stock in exchange for a \$400 million investment in TXNM (the “Financing Transaction” or “PIPE Transaction”) in June 2025.¹ A PIPE transaction is a private investment in public equity, typically involving a private placement of securities by an already-public company to selected accredited investors. Joint Applicants contend that Section 62-6-12(A)(3)(c) does not apply because the Financing Transaction did not transfer “control” of TXNM

¹ Joint Applicants Direct Testimony in Response to Show Cause Order and Exhibit of Joseph D. Tarry (“Tarry Dir.”) at 2-3.

or PNM and because the transaction was not undertaken “for the purposes of” the proposed acquisition presently before the Commission.²

(4) Having considered the testimony, briefing, exhibits, arguments of counsel, and applicable law, the Hearing Examiners conclude that Section 62-6-12(A)(3)(c) applies to the Financing Transaction. The Hearing Examiners further conclude that the Financing Transaction was undertaken “for the purposes of” the proposed acquisition of TXNM and therefore required prior Commission authorization before consummation. Because the transaction occurred without prior Commission authorization, the Hearing Examiners conclude that Joint Applicants violated Section 62-6-12(A)(3)(c).

(5) Accordingly, the Hearing Examiners recommend that the Commission require Joint Applicants to unwind or otherwise render ineffective the unlawful transaction. The Hearing Examiners also recommend that the Joint Applicants be required to submit a compliance filing with the Commission detailing the actions taken to unwind the transaction, the consequences of those actions, and the measures implemented to ensure that New Mexico ratepayers are held harmless from all resulting costs and impacts. The Hearing Examiners further recommend the imposition of statutory penalties against TXNM Energy, Inc., Troy TopCo LP, and Troy ParentCo LLC for their knowing participation in the unauthorized transaction. Finally, because the violation has materially altered the course of the acquisition proceeding, consumed substantial Commission and intervenor resources, and created significant uncertainty regarding the current posture of the proposed acquisition, the Hearing Examiners suggest that the Joint Applicants withdraw the

² See Joint Applicants’ Response to the Hearing Examiners’ Order Directing Joint Applicants to Show Cause and for Other Relief (“JA Response”) (April 6, 2026).

pending Application and, should they elect to proceed, submit a new application that fully accounts for the consequences of the unlawful transaction and any corrective actions undertaken.

II. BACKGROUND³

(6) On February 6, 2026, Prosperity Works filed a Motion and Brief for Order Directing Joint Applicants to Show Cause and For Other Relief. The motion requested that the Commission require PNM, TXNM Energy, Inc., and Troy ParentCo LLC to show cause why Troy TopCo LP's purchase of 8,000,000 shares of TXNM Energy, Inc. stock for \$400 million was not void and of no effect under NMSA 1978, Section 62-6-12, and to address the implications of that stock purchase on the pending acquisition application.

(7) On February 18, 2026, the Joint Applicants filed their response opposing Prosperity Works' motion. Joint Applicants argued that Section 62-6-12 did not apply to the challenged stock transaction because the transaction did not result in control of TXNM or PNM and was, in their view, a separate financing transaction rather than a transaction undertaken for the purposes of the acquisition.

(8) On February 19, 2026, the New Mexico Department of Justice ("NMDOJ") filed a Notice of Joinder and Brief Supporting Motion for Order to Show Cause Directed to Joint Applicants. NMDOJ joined Prosperity Works' motion and emphasized the Commission's public-interest oversight role and the need to protect ratepayers in connection with the proposed acquisition and related transactions.

(9) On February 19, 2026, New Energy Economy ("NEE") and the New Mexico Consumer Protection Alliance ("NMCPA") filed a Response in Support of Motion to Show Cause. They

³ This section summarizes relevant background. The full electronic record of this proceeding is available at <https://e360.prc.nm.gov/portal/public/>.

argued that the Commission should enforce Section 62-6-12 according to its terms, treat the statute's prior-authorization requirement as mandatory, and deny the merger if the statutory violation were confirmed.

(10) The Coalition for Clean Affordable Energy ("CCAЕ") also filed a response concurring with Prosperity Works' motion and supporting the requested relief. The provided copy of that filing does not display a signature date or certificate of service.

(11) On February 26, 2026, Commission Staff ("Staff") filed its Response to Motion for Show Cause Order. Staff stated that the plain meaning of Section 62-6-12 was clear and unambiguous and recommended that Joint Applicants be required to prove their unsupported contentions that the stock transaction was not for the purposes of the acquisition and did not result in control.

(12) On March 2, 2026, Joint Applicants and Prosperity Works filed an unopposed motion for leave to file replies. The Hearing Examiners granted the motion and set an expedited filing deadline for the authorized replies.

(13) On March 4, 2026, the Joint Applicants filed a reply to the responses filed by Staff, NMDOJ, NEE, and NMCPA. Joint Applicants again requested denial of the motion or, in the alternative, consideration of the financing transaction as part of the pending acquisition proceeding.

(14) On March 4, 2026, Prosperity Works filed its reply to the Joint Applicants' and Staff's responses. Prosperity Works maintained that Section 62-6-12 required prior express authorization for the stock purchase and requested that the Commission require Joint Applicants to show cause or, alternatively, declare the stock purchase void and of no effect.

(15) On March 4, 2026, NEE and NMCPA filed a reply in support of the motion to show cause. Their reply argued that the stock transaction had been fundamental to, and part of, the merger agreement.

(16) On March 4, 2026, NMDOJ filed its Reply in Support of Motion for Order to Show Cause Directed to Joint Applicants. NMDOJ argued that the term “stock” in Section 62-6-12 encompassed shares in any amount and that the challenged stock issuance required prior Commission approval.

(17) On March 5, 2026, Joint Applicants served a corrected version of their reply with a corrected document header. The corrected version was accompanied by the affirmations of Joseph D. Tarry and Sebastien Sherman, each submitted in support of Joint Applicants’ reply.

(18) On March 11, 2026, the Hearing Examiners issued an Order Granting Motion for Order Directing Joint Applicants to Show Cause. That order granted Prosperity Works’ motion and stated that a separate order directing Joint Applicants to show cause would issue pursuant to 1.2.2.22 NMAC.

(19) Also on March 11, 2026, the Hearing Examiners issued an Order Directing Joint Applicants to Show Cause. The order initiated an investigation, directed Joint Applicants to address whether Section 62-6-12 applied to the stock acquisition and required prior Commission authorization, set briefing deadlines, and stated that a public hearing would be held to receive evidence and hear argument as appropriate.

(20) On April 6, 2026, Joint Applicants filed their Response to the Hearing Examiners’ Order Directing Joint Applicants to Show Cause and For Other Relief. Joint Applicants renewed their position that the financing transaction was separate from the acquisition, did not transfer control, and did not require prior approval under Section 62-6-12.

(21) On April 20, 2026, the Center for Biological Diversity (“CBD”) and NEE filed their Response Brief to Joint Applicants’ Show Cause Response Filing and Testimonies. They urged the Commission to declare that Joint Applicants violated Section 62-6-12, to declare the stock sale transaction void and of no effect, to require ratepayer hold-harmless protections, and to impose other meaningful remedies, including dismissal of the acquisition application.

(22) By April 20, 2026, responsive-briefing deadline, Prosperity Works submitted its Response to Joint Applicants’ Response to Show Cause Order. The response requested that the Commission determine the TopCo stock purchase to be void and of no effect, require Joint Applicants to identify actions to nullify the stock purchase, protect customers from related impacts, deny the merger application, and open an investigation into the Zimmer stock purchase.

(23) On April 20, 2026, Staff filed its Reply Brief to Joint Applicants’ Response Brief to the Commission’s Order to Show Cause. Staff urged the Commission to find that the PIPE transaction was undertaken for the purposes of the pending acquisition, required prior express authorization under Section 62-6-12(A)(3)(c), and was void and of no effect to the extent it contravened Section 62-6-12.

(24) A one-day public evidentiary Show Cause Hearing was held on April 30, 2026, addressing whether the stock transaction violated Section 62-6-12 and the consequences of any such violation. Participation in the hearing was limited to parties who had filed briefing or testimony on the Show Cause Order and included cross examination of witnesses and a brief oral argument.

III. DISCUSSION

(25) Under the Public Utility Act (“PUA”), NMSA 1978, Sections 62-1-1 through 62-6-27 and 62-8-1 through 62-13-16, the Commission has “general and exclusive power and jurisdiction to

regulate and supervise every public utility in respect to its rates and service regulation and in respect to its securities.”⁴

(26) Section 62-6-12(A)(3)(c) provides, in relevant part, that with the prior express authorization of the Commission, but not otherwise

the stock of a public utility or public utility holding company may be acquired by any person associated, affiliated, or acting in concert with any person subject to regulation or classified as a public utility or public utility holding company in any jurisdiction for the purposes of any acquisition subject to the provisions of this section.⁵

(27) The statute further provides that transactions undertaken in contravention of Section 62-6-12(A) are “void and of no effect.”⁶

(28) When interpreting statutes, hearing examiners must begin with the language chosen by the Legislature.⁷ When considering a question of statutory construction, the Legislature directs all interpretation questions to begin with the maxim, “[t]he text of a statute or rule is the primary, essential source of its meaning.”⁸ This is commonly known as “the plain meaning rule,” and under it a statute is “to be given effect as written without room for construction unless the language is doubtful, ambiguous, or an adherence to the literal use of the words would lead to injustice, absurdity or contradiction, in which case the statute is to be construed according to its obvious spirit or reason.”⁹

(29) When statutory language is clear and unambiguous, there is no need to resort to other

⁴ NMSA 1978, § 62-6-4(A) (1941).

⁵ NMSA 1978, § 62-6-12(A)(3)(c) (1941 as amended through 1989).

⁶ NMSA 1978, § 62-6-12(B) (1941).

⁷ *Coal. for Clean Affordable Energy v. New Mexico Pub. Regulation Comm’n*, 2024-NMSC-016, ¶ 24.

⁸ NMSA 1978 § 12-2A-19 (1997).

⁹ *CCA E*, 2024-NMSC-016 at ¶ 24.

indicia of legislative intent.¹⁰ Hearing examiners will not read language into a statute that the Legislature did not include, particularly where the statute is complete and makes sense as written.¹¹ Hearing examiners also generally presume that the Legislature chose its words deliberately and intended the meaning conveyed by the language it enacted. Accordingly, hearing examiners will not infer limitations or qualifications that the Legislature did not express, particularly where the Legislature knows how to impose such limitations when it intends to do so.¹²

(30) Resolution of this matter requires the Hearing Examiners to determine the meaning and scope of Section 62-6-12(A)(3)(c) and, applying that interpretation, to assess whether the Financing Transaction violated the statute. The Hearing Examiners note that parties provided extensive analysis of this and other issues through pleadings, testimony, and briefing. This Recommended Decision contains the Hearing Examiners' summary of these analyses, which in some cases were overlapping or duplicative. Every individual party who addressed these issues may not be credited herein, but their contribution can be found in the record. Additionally, there were several alternative analyses and opinions provided. The absence of any analysis or opinion does not indicate agreement or disagreement with those arguments. The Hearing Examiners appreciate all opinions and analyses that were provided, and each was subject to extensive consideration and discussion. However, this writing is limited to those that substantially informed the Hearing Examiners' recommendation. All other information can be found in the record.

¹⁰ *New Mexico Beverage Co. v. Blything*, 1985-NMSC-039, ¶ 3 (“If a statute is unambiguous, this Court will not engage in further interpretation.”).

¹¹ *State ex rel. Sandel v. New Mexico Pub. Util. Comm’n*, 1999-NMSC-019, ¶ 17.

¹² *Id.*

A. Interpretation of Section 62-6-12(A)(3)(c)

(31) Joint Applicants argued in pleadings, testimony, and at hearing that Section 62-6-12(A)(3)(c) applies only to stock transactions resulting in a transfer of operational control over a regulated utility.¹³ Joint Applicants further argue that the Commission should interpret Section 62-6-12(A)(3)(c) as applying only to acquisitions of a controlling interest in a public utility or public utility holding company and that the appropriate benchmark for control is ten percent ownership of voting securities.¹⁴

(32) Joint Applicants argue that interpreting Section 62-6-12(A)(3)(c) to require Commission approval for the acquisition of stock that does not result in a controlling interest would produce absurd results.¹⁵ They contend that foregoing their proposed interpretation would result in ambiguity between the acquisition of a single share from the acquisition of any other non-controlling amount of stock, thereby subjecting countless ordinary stock transactions to Commission review.¹⁶ They warn that such an interpretation would chill investment in New Mexico utilities, create uncertainty in capital markets, and imposing substantial regulatory and compliance costs on investors and the Commission.¹⁷

¹³ See, e.g., Joint Applicants' Response to Prosperity Works' Motion and Brief for Order Directing Joint Applicants to Show Cause and for Other Relief at 17-25.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.* at 14-15.

¹⁷ *Id.* at 14-15.

(33) Every party who provided analysis or argument on this point refuted Joint Applicants’ interpretation of Section 62-6-12(A)(3)(c).¹⁸ First, Opposing Parties argue that the statutory text is clear and unambiguous. Section 62-6-12(A)(3)(c) requires prior Commission approval whenever stock of a public utility or public utility holding company is acquired by a person “associated, affiliated or acting in concert with” a regulated utility or utility holding company “for the purposes of” an acquisition governed by the statute.¹⁹ The provision does not contain any reference to “control,” “change of control,” a percentage ownership threshold, or any minimum quantity of stock.²⁰ Rather, the Statute provides a threshold that is focused on “the nature of the buyer and seller, and their relationship to utilities and utility holding companies.”²¹

(34) Second, Opposing Parties point out that the Legislature knew how to create a control standard and chose not to do so. They contend that this is demonstrated through the fact that while this language is absent in Section 62-6-12(A)(3)(c), Section 62-6-12(B) expressly references transactions “resulting in control or exercise of control.” Because the Legislature included control language in subsection (B) but omitted it from subsection (A)(3)(c), Opposing Parties argue that the omission was intentional and must be given effect.²² Opposing Parties also point to alleged support in the legislative history of the statute, which they contend demonstrates the Legislature consciously rejected a control-based threshold for Commission review. The original version of SB

¹⁸ For ease of reference, Prosperity Works, New Mexico Department of Justice, Commission Staff, New Energy Economy/Center for Biological Diversity – the parties who provided testimony and briefing responsive to Joint Applicants’ – will be referred to as “Opposing Parties.”

¹⁹ NMSA 1978, § 62-6-12(A)(3)(c).

²⁰ *See id.*

²¹ *See* Prosperity Works’ Response to Joint Applicants’ Response to Show Cause Order (“PW Response”) (April 20, 2026) at 14-15.

²² *See, e.g.*, PW Response at 14.

157 contained a requirement that prior approval be triggered by acquisition of ten percent of voting securities, but that language was subsequently removed through amendment and replaced with the current statutory language, which contains no ownership or control threshold.²³ Opposing Parties contend that this amendment history shows the Legislature affirmatively chose not to limit Section 62-6-12(A)(3)(c) to acquisitions resulting in control and that the Commission should not judicially insert a threshold the Legislature deliberately deleted.²⁴

(35) Joint Applicants, in their closing argument, conceded as much. There, a Hearing Examiner asked whether the statutory phrase “for the purpose of any acquisition” can apply in a scenario where the stock amount is not controlling, but the purchase is undertaken to facilitate an acquisition. Joint Applicants’ counsel, Ms. Anna Rotman, answered, “Yes,” and agreed she could “imagine” a scenario where the parties could exchange or purchase shares that might not result in control, but that it is part of a larger transaction to facilitate that acquisition.²⁵ In a related colloquy during their closing argument with a Hearing Examiner, Ms. Rotman offered an explicit example of how an acquisition could be “effectuated by multiple investors” purchasing “several small pieces” such that “none of them alone” has control, yet “an acquisition is actually occurring,” which she described as the kind of scenario where prior approval could be required “even if each one is only getting 5 percent.”²⁶

(36) The Hearing Examiners agree with the interpretation of Section 62-6-12(A)(3)(c) advanced by the Opposing Parties. The Legislature did not limit Section 62-6-12(A)(3)(c) to acquisitions

²³ *Id.* at 14-15.

²⁴ *Id.*

²⁵ Tr. at 279.

²⁶ Tr. at 275-276.

involving a controlling interest, majority ownership, or a change in control. Instead, it broadly referred to the acquisition of “stock” undertaken “for the purposes of” an acquisition, merger, or consolidation. The Legislature knows how to impose a control requirement when it intends to do so, yet Section 62-6-12(A)(3)(c) contains no such limitation. Had the Legislature intended to restrict the statute’s application to acquisitions of a controlling interest, it could have expressly provided as much. The Hearing Examiners therefore decline to read such a limitation into the statute.

(37) The Hearing Examiners further conclude that Joint Applicants’ proposed interpretation improperly isolates the term “stock” from the remainder of the statutory provision. Section 62-6-12(A)(3)(c) does not regulate all stock purchases generally. Rather, it regulates stock acquisitions undertaken “for the purposes of” a utility acquisition, merger, or consolidation. Thus, the statute itself contains an important limiting principle tied to the purpose and context of the transaction.

(38) The Hearing Examiners do not agree that this interpretation will produce the absurd results imagined by the Joint Applicants.²⁷ Section 62-6-12(A)(3)(c) does not apply to every acquisition of utility stock. Rather, it applies only to exchanges undertaken “for the purposes of” an acquisition, merger, or consolidation. This limiting language substantially narrows the scope of transactions subject to Commission review and avoids the expansive application suggested by the Joint Applicants.

(39) The Hearing Examiners further conclude that the Legislature’s use of the phrase “for the purposes of” reflects a broad, functional inquiry rather than a narrow formalistic inquiry. The statute directs the Commission to examine whether the stock acquisition was undertaken for the

²⁷ See JA Response at 14-15.

purposes of a larger acquisition transaction subject to Commission oversight.²⁸ The focus of the statute is therefore not limited solely to whether the challenged transaction independently transferred operational control; instead, the Commission must evaluate the role the transaction played within the broader acquisition structure.

(40) This interpretation is consistent with the purposes underlying the PUA and the Commission’s obligation to exercise oversight over transactions affecting regulated public utilities operating in New Mexico.²⁹

(41) Therefore, the Hearing Examiners conclude that based on the plain language of Section 62-6-12(A)(3)(c), prior Commission approval is required when:

- (1) stock of a public utility or public utility holding company is acquired;
- (2) the acquiring person is associated, affiliated, or acting in concert with a person that is subject to regulation or classified as a public utility or public utility holding company in any jurisdiction; and
- (3) the acquisition is undertaken for the purposes of an acquisition, merger, or consolidation subject to Section 62-6-12.

The statute imposes no additional requirement that the acquisition involve a controlling interest, majority ownership, or a change in control.

²⁸ Section 62-6-12(A)(3)(c).

²⁹ NMSA 1978, § 62-3-1(B) (“It is the declared policy of the state that the public interest, the interest of consumers and the interest of investors require the regulation and supervision of 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 for the construction, development and extension, without unnecessary duplication and economic waste, of proper plants and facilities and demand-side resources for the rendition of service to the general public and to industry”); NMSA 1978, § 62-6-4(A) (“The commission shall have general and exclusive power and jurisdiction to regulate and supervise every public utility in respect to its rates and service regulations and in respect to its securities, all in accordance with the provisions and subject to the reservations of the Public Utility Act, and to do all things necessary and convenient in the exercise of its power and jurisdiction.”)

(42) Accordingly, the Hearing Examiners will determine whether the Financing Transaction satisfies each of these statutory elements.

B. Application of Section 62-6-12(A)(3)(c) to the Financing Transaction

(43) The Hearing Examiners now turn to the question of whether the Financing Transaction was the type of transaction that required prior Commission authorization under the statutory interpretation set forth above. A financing transaction falls under this statute when (1) stock of a public utility or public utility holding company is acquired; (2) the acquiring person is associated, affiliated, or acting in concert with a person that is subject to regulation or classified as a public utility or public utility holding company in any jurisdiction; and (3) the acquisition is undertaken for the purposes of an acquisition, merger, or consolidation subject to Section 62-6-12.

(44) The Joint Applicants' position is that the stock purchase was not "for the purpose[]" of" the acquisition because the stock purchase and the merger were formally separate transactions.³⁰ They repeatedly emphasize that the stock purchase was non-controlling, did not confer control over the utility, and was not a necessary legal step to consummate the acquisition. Therefore, they contend, the relevant transaction requiring approval was the acquisition itself, not a separate and independently structured market purchase of stock.

(45) Opposing Parties' position is that the formal separation of the transactions is not dispositive. They argue that any stock purchase made "for the purpose[]" of" an acquisition occurs when it is undertaken in connection with, in anticipation of, or to advance that acquisition

³⁰ JA Response at 26.

process.³¹ Therefore, the timing, context, and transactional relationship between the stock purchase and the broader acquisition bear on whether the purchase falls within the statutory language.

- i. There is no dispute whether the stock of a public utility or public utility holding company was acquired in this Financing Transaction.

(46) The first element of Section 62-6-12(A)(3)(c) requires an acquisition of stock of a public utility or public utility holding company. The evidentiary record establishes in multiple instances, and no party disputes, that Troy TopCo invested approximately \$400 million in TXNM, itself a public utility holding company, through a PIPE transaction in exchange for acquiring eight million shares of TXNM common stock.³² Accordingly, the Hearing Examiners conclude that the first statutory element is satisfied.

- ii. The stock was acquired by a person associated, affiliated, or acting in concert with a person subject to regulation or classified as a public utility or public utility holding company.

(47) The second element requires that the stock be acquired by a person associated, affiliated, or acting in concert with a person subject to regulation or classified as a public utility or public utility holding company in any jurisdiction.

(48) The evidentiary record establishes and is undisputed that Troy TopCo, a Delaware limited partnership,³³ is a person according to the PUA. The definitions for that act state that “person” means an individual, firm, partnership, company ... corporation or lessee, trustee or receiver appointed by any court.³⁴ The record also demonstrates that TopCo acquired the TXNM shares as

³¹ See, e.g., PW Response at 19-21.

³² Tarry Dir. at 2-3.

³³ Prosperity Works Exhibit 1, Show Cause Testimony of Ronal J. Binz (“Binz Dir.”), Exhibit RJB-3 (Joint Application, Exhibit E (“The Merger Agreement”)) at A-1.

³⁴ NMSA 1978, § 62-3-3(E).

part of a coordinated acquisition effort involving TXNM, Troy ParentCo, and affiliated Blackstone Infrastructure entities.³⁵

(49) These entities engaged in lengthy, detailed, and resource-intensive negotiations and filing compliance to bring about the PIPE. The PIPE was the result of lengthy and careful negotiation, subject to the terms of an intricate agreement, namely, the Stock Purchase Agreement, required Securities and Exchange Commission (“SEC”) filings and related registration-rights provisions, and, as will be detailed further, was entirely coincident and related to a merger agreement involving both Troy TopCo and TXNM.³⁶ Accordingly, the Hearing Examiners conclude that the second statutory element is satisfied.

iii. The Financing Transaction was undertaken “for the purposes of” an acquisition, merger, or consolidation subject to the provisions of Section 62-6-12.

(50) The remaining question is whether the Financing Transaction was undertaken “for the purposes of” an acquisition, merger, or consolidation subject to Section 62-6-12.

(51) The Hearing Examiners conclude that it was. The evidentiary record demonstrates that the Financing Transaction did not arise from an ordinary market purchase of utility stock. Rather, it arose directly from the acquisition process, the structure and architecture of the proposed acquisition and post-acquisition entities, and the Merger Agreement’s stated dependence on the acquisition.

(52) Foundationally, TXNM made the stock purchase financing part of the bidder package. The Proxy Statement, filed by TXNM, and included as part of the Joint Applicants’ application, states that:

³⁵ Binz Dir., Exhibit RJB-3 (Joint Application, Exhibit D (“Proxy Statement”)) at 47.

³⁶ *Id.* at 44.

Following receipt of the initial bids, management and Wells Fargo continued to evaluate options for interim financing and narrowed the focus to propose interim financing through a block sale of \$400 million of common stock, or the PIPE. Each potential acquiror was informed that the merger and PIPE were to be consummated by the same potential acquiror and that both transactions were to be signed and announced simultaneously. Additionally, each potential acquiror was informed that the PIPE was expected to close soon after signing the merger agreement and that it would not be contingent on the closing of the merger.³⁷

Relatedly, the evidence that the stock purchase was designed to address risks created or intensified by the pending merger process (e.g., blackout periods and timing constraints) supports the finding that the stock purchase was undertaken to enable the merger to proceed on its intended timetable and terms. The Joint Applicants express this at the very beginning of their application. In stating that no incremental debt will be issued because of the merger, the application provides a footnote explaining that:

Separate and apart from the Acquisition, Blackstone Infrastructure has already invested \$400 million through the purchase of eight million (8,000,000) shares of common stock from TXNM on May 18, 2025, by way of a private placement agreement, to support the execution of TXNM's business plan during the interim period before the consummation of the Acquisition.³⁸

That is to say that, beyond the Merger Agreement itself, the stock transaction financing has the purpose of supporting TXNM's business operations in the interim, before the acquisition takes effect.

(53) Joint Applicant witness and TXNM CEO, Joseph Tarry, though, contends that the interim financing resulting from the stock acquisition was not for the merger, but rather allowed the company to acquire capital in advance of a merger announcement, after which point raising capital

³⁷ Proxy Statement at 44.

³⁸ *Id.*, Binz Dir., Exhibit RJB-3 (Joint Application ("Joint Application")) at 10, n. 2.

would become more complicated and difficult due to mandatory blackout periods.³⁹ Joint Applicant Witness and Senior Managing Director of Blackstone, Inc., Sebastien Sherman,⁴⁰ echoes this contention of separation, stating that while the stock acquisition and the merger were negotiated at the same time, “the PIPE would be funded almost immediately to assist TXNM in meeting its short-term capital needs.”⁴¹ But, the transaction’s interim financing created a direct and causal relationship to the post-merger closing. As the footnote cited above indicates, it was to be used “before the consummation of the Acquisition.”⁴²

(54) Moreover, Blackstone Inc. was working to raise additional capital for TXNM seemingly in anticipation of its acquisition of the company. The record indicates that Blackstone Infrastructure, Inc., in addition to the having fully funded a \$400 million equity issuance by TXNM, also “supported TXNM’s issuance of an additional \$200 million of common equity to investors unaffiliated with Blackstone Infrastructure on June 27, 2025, and has entered into agreements with TXNM that support TXNM’s issuance of an incremental \$325 million of common equity by December 31, 2026.”⁴³ In this regard, the record indicates that Blackstone is facilitating additional equity investment, a total here of \$925 million, from even more outside investors in the company as Troy Merger Sub seeks to merge with TXNM, with Troy TopCo as an upstream holding company.

³⁹ Tarry Dir. at 6.

⁴⁰ Mr. Sherman is also the Senior Managing Director of BIP Holdings Manager LLC and the CEO of Troy Merger Sub, Inc.

⁴¹ Joint Applicants’ Exhibit 2, Direct Testimony of Sebastien Sherman (“Sherman Dir.”), at 9.

⁴² Binz Dir., Joint Application, at 10, n. 2.

⁴³ Binz Dir., Joint Application, Direct Testimony and Exhibit of Heidi Boyd, at 5.

(55) Beyond the bidding stage and interim financing considerations, the record indicates that Troy TopCo has a dual role with respect to the stock acquisition and the upstream ownership of Troy ParentCo, and ultimately TXNM. According to the relevant Schedule 13D,⁴⁴ Troy TopCo will contribute the eight million in shares to Troy ParentCo.⁴⁵ So, while the principal business of Troy TopCo is stated to be “investing in the securities of the Issuer [i.e., TXNM],”⁴⁶ it also sits as an upstream owner in the post-acquisition holding-company chain.

(56) The Schedule 13D filing also describes certain terms and conditions of the Stock Purchase Agreement that impact Troy TopCo’s ownership of the TXNM shares acquired in the PIPE. Recalling the importance of the interim financing to the merger, described above, that filing details that the Stock Purchase Agreement requires a lock-up period, pursuant to which Troy TopCo “may not transfer the Shares prior to the earlier of (A) the consummation of the transactions contemplated by the Merger Agreement or (B) the termination of the Merger Agreement.”⁴⁷ The Stock Purchase Agreement imposes additional restrictions on the shares. It states that:

Troy TopCo also agreed to vote all Shares owned by it in favor of the Merger and for all other matters, (A) as recommended by the board of directors of the [sic.] TXNM if the board of directors has made a recommendation, so long as the Shares may be lawfully voted as so provided and (B) pro rata in proportion to the votes cast by the holders of Common Stock other than the Shares if the board of directors has not made a recommendation or if the Shares may not be lawfully voted as provided in clause (A).⁴⁸

⁴⁴ Schedule 13D is a required SEC filing when an investor acquires beneficial ownership of more than five percent of a public company’s voting stock.

⁴⁵ Binz Dir., Exhibit RJB-4, Schedule 13D (“Schedule 13D”), Item 4, at 18.

⁴⁶ Proxy Statement at 43; Schedule 13D, Item 2(c), at 17.

⁴⁷ Schedule 13D, Item 4, at 19.

⁴⁸ *Id.*

The record here demonstrates the critical importance of the shares acquired by Troy TopCo to the merger. Troy TopCo may not transfer any shares until after the merger or after the merger terminates, and that it will vote all of its shares in favor of the merger.

(57) Finally, the record demonstrates an explicit relationship between the merger agreement and the stock purchase agreement. Even where the Joint Applicants describe the transactions as “separate,” a contractual right to terminate the merger if the stock purchase agreement is terminated (and associated termination-fee consequences) is direct evidence that the merger’s enforceability and remedies depended—at least in defined circumstances—on the stock transaction closing as expected. These relationships appear in the language of the Merger Agreement and the Proxy Statement. The Merger Agreement provides that “this Agreement may be terminated ... by the Company [TXNM] if the Stock Purchase Agreement is terminated by the Company pursuant to Article IX of the Stock Purchase Agreement.”⁴⁹ The Merger Agreement also states that “[i]f this Agreement is terminated ... by the Company pursuant to ... Section 8.1(g) (Stock Purchase Agreement Termination), then Parent shall pay to the Company \$350,000,000 (the “Parent Termination Fee”).”⁵⁰

(58) Taken together, the bidding process, interim-financing purposes, share-transfer restrictions, voting obligations, required contribution of shares to ParentCo, and merger-agreement termination rights demonstrate that the Financing Transaction was undertaken for the purposes of the proposed acquisition of TXNM and, indirectly, PNM. When viewing the terms and conditions of the bidding process, the need for the capital acquired to cover an interim period (until closing),

⁴⁹ Proxy Statement at 66-67.

⁵⁰ *Id.* at 68.

the efforts that Blackstone affiliates engaged in to increase equity investment in TXNM while anticipating a merger, the manner and constraints by which Troy TopCo must contribute and manage its shares, and the causal relationship between the consummation of the Stock Purchase Agreement and the Merger Agreement, it is manifestly clear that the stock acquisition financing was effected in order to acquire TXNM.

(59) The Hearing Examiners therefore find that the Financing Transaction was not merely temporally adjacent to the proposed acquisition, but that it was inextricably linked. The Joint Applicants argue that the Stock Purchase Agreement, and the Financing Transaction, are separate and distinct from the merger and related agreement. From a merely formal and reductive position, that is correct. But just because two transactions are separate in nature does not mean that they do not share a common purpose, or more precisely, that one is not for the purpose of the other. One distinct action can be for the purpose of another. Separateness is not dispositive here. Rather, the Financing Transaction arose directly from and was structured in conjunction with the acquisition process itself. The Financing Transaction was therefore undertaken “for the purposes of” the proposed acquisition within the meaning of Section 62-6-12(A)(3)(c).

iv. Joint Applicants failed to obtain prior Commission authorization for the Financing Transaction.

(60) It is undisputed that the Joint Applicants did not seek to obtain prior authorization from the Commission with respect to the Financing Transaction. In fact, Joint Applicant witnesses Tarry and Sherman, in retrospect, acknowledged that seeking prior Commission authorization for the PIPE transaction would have been preferable. Mr. Tarry testified that “looking at it today, it would

have been beneficial,”⁵¹ while Mr. Sherman testified that seeking prior approval “would have been a better course of action.”⁵²

(61) The Hearing Examiners do not construe Mr. Tarry’s and Mr. Sherman’s statements as admissions of liability. The statements nevertheless do demonstrate that sophisticated regulated entities, while recognizing that the stock acquisition implicated legitimate questions concerning Commission approval authority under Section 62-6-12, nevertheless failed to pursue the matter further.

(62) Because the Financing Transaction satisfies each element of Section 62-6-12(A)(3)(c) and was consummated without prior Commission authorization, the Hearing Examiners conclude that Joint Applicants’ failure to seek prior Commission authorization for the Financing Transaction violated Section 62-6-12.

C. Remedies

(63) The parties proposed several potential remedies should the Commission conclude that the Financing Transaction violated Section 62-6-12(A)(3)(c). Broadly speaking, those proposals fall into four categories.

(64) First, Joint Applicants propose that the Commission either approve the Financing Transaction after the fact or approve a substitute transaction, namely an option agreement, intended to replicate the economic effect of the Financing Transaction.⁵³ The Hearing Examiners decline to adopt either of these proposed remedies. After-the-fact approval (or “nunc pro tunc” relief) is not an appropriate remedy because it would effectively read the statute’s requirement of “prior”

⁵¹ Tr. at 75.

⁵² *Id.* at 121.

⁵³ Joint Applicants’ Post-Hearing Brief in Show Cause Proceedings (May 20, 2026) at 4-8.

Commission authorization out of existence. Nunc pro tunc relief is intended to correct clerical or procedural errors, not to retroactively validate a transaction that was knowingly completed without the approval required by statute. Similarly, replacing the stock purchase agreement with an option agreement serves as nothing more than a “workaround” and ignores that statute’s requirement the Financing Transaction be rendered “void and of no effect” as a matter of law.⁵⁴

(65) Second, several parties argue that the Commission should apply the statutory consequence set forth in Section 62-6-12(B), find the Financing Transaction void and of no effect, and require the parties to unwind or otherwise reverse the transaction.⁵⁵ The Hearing Examiners agree that this is both the appropriate remedy and arguably the only remedy that adheres to the requirements of the statute.

(66) Third, some parties argued that because the Financing Transaction was closely connected to the proposed acquisition, a finding that the Financing Transaction is void requires the denial or dismissal of the pending merger application.⁵⁶ After careful consideration, the Hearing Examiners have determined that this is not an appropriate or allowable remedy, for reasons explained in more detail below.

(67) Fourth, Commission Staff proposed that the Commission not only apply the statutory consequence prescribed by Section 62-6-12(B), but require Joint Applicants to demonstrate how they have effectuated that consequence, ensure that customers are held harmless from all resulting

⁵⁴ See Section 62-6-12(B).

⁵⁵ See, e.g., Utility Division Staff’s Post Hearing Brief for the Show Cause Proceeding pg. 15; New Energy Economy and NM Consumer Protection Alliance’s Post Hearing Brief in Chief at 25; Center for Biological Diversity Post Hearing Brief in Show Cause Hearing at 16; Coalition for Clean Affordable Energy’s Post-Hearing Brief in Show Cause Proceeding at 8; Prosperity Works’ Post-Hearing Brief at 32.

⁵⁶ NEE and NM Consumer Protection Alliance’s Post Hearing Brief in Chief pg. 25; Prosperity Works’ Post-Hearing Brief at 32.

costs, and consider the violation as part of the Commission’s review of the proposed acquisition.⁵⁷

The Hearing Examiners conclude that Staff’s proposed approach most faithfully implements the statutory directive while preserving the Commission’s ability to perform its separate statutory obligation to evaluate the proposed acquisition.

i. Recommended Remedy

(68) Section 62-6-12(B) prescribes the consequence for a transaction undertaken without the required prior Commission authorization: the transaction is “void and of no effect.” The Commission is not free to disregard that consequence or substitute a different remedy.

(69) At the same time, the Commission’s review of the proposed acquisition is governed by a separate statutory framework that requires the Commission to determine whether the proposed acquisition is lawful and consistent with the public interest.⁵⁸ Consistent with longstanding Commission precedent, that determination requires consideration of the six factors applicable to utility acquisitions, including customer benefits, preservation of Commission jurisdiction, service quality, protection against improper subsidization, the qualifications and financial health of the proposed owners, and protections against harm to customers.⁵⁹

(70) A violation of Section 62-6-12 implicates the very statutory framework governing utility acquisitions and may weigh strongly against a finding that the proposed acquisition is lawful or consistent with the public interest. However, the Commission cannot meaningfully apply the six-factor test until the acquisition record is fully developed and the parties have had an opportunity to address the effect of the violation within that broader public-interest framework. Accordingly,

⁵⁷ Staff’s Post-Hearing Brief at 15.

⁵⁸ See NMSA 1978, § 62-6-13 (1941 as amended through 1953).

⁵⁹ See Case No. 24-00266-UT, Recommended Decision at ¶¶ 14-21.

it would be premature to deny the acquisition application solely on the basis of the determination made in this Show Cause Proceeding.

(71) Notwithstanding the above, Joint Applicants' violation of Section 62-6-12 is a significant consideration in the Commission's evaluation of the proposed acquisition under the six-factor public-interest analysis. Accordingly, the violation may be weighed alongside all other relevant evidence in determining whether the proposed acquisition is lawful, consistent with the public interest, and deserving of Commission approval.

(72) Having determined that the Financing Transaction contravened Section 62-6-12(A)(3)(c), the Hearing Examiners recommend that the Commission require Joint Applicants to file, within forty-five (45) days of the Final Order, a compliance filing in this docket demonstrating how they have effectuated the statutory consequence prescribed by Section 62-6-12(B). The compliance filing should identify all actions taken to unwind, reverse, replace, terminate, or otherwise render ineffective the Financing Transaction and should include sufficient supporting documentation to permit Commission review.

(73) The compliance filing should further identify any costs, expenses, liabilities, accounting impacts, financing impacts, tax consequences, dividend effects, transaction costs, or other consequences resulting from the Joint Applicants' violation of Section 62-6-12(A)(3)(c) and, crucially, should demonstrate how New Mexico ratepayers will be held harmless from all such consequences.

(74) Commission Staff and other parties should have the opportunity to review the compliance filing and may respond within 30 days of its filing as to whether it sufficiently protects ratepayers from any harm caused by unwinding the Financing Transaction.

ii. Penalties

(75) The PUA, specifically, NMSA 1978, Section 62-12-4, authorizes the Commission to impose penalties for violations of that act.⁶⁰ The Hearing Examiners considered whether to impose penalties and, if so, in what amount. Due to the deliberate disregard of the Commission's authority over approval of the Financing Transaction, the Hearing Examiners determine that maximum penalties are appropriate.

(76) The evidentiary record establishes that TXNM knowingly entered into and consummated the Financing Transaction without first obtaining the prior express authorization of the Commission required by Section 62-6-12(A)(3)(c). TXNM negotiated and executed the Stock Purchase Agreement pursuant to which Troy TopCo acquired eight million shares of TXNM common stock for approximately \$400 million.⁶¹ TXNM's Board of Directors specifically determined that merger bidders would be required to participate in a financing arrangement designed to address financing risks associated with the proposed acquisition, and TXNM implemented that requirement through the Financing Transaction.⁶²

(77) The record further establishes that Troy TopCo knowingly acquired eight million shares of TXNM common stock through the Financing Transaction without first obtaining the prior express authorization of the Commission.⁶³ Troy TopCo was created as part of the acquisition structure,

⁶⁰ NMSA 1978, § 62-12-4 (1942 as amended through 1993).

⁶¹ Joint Application at A-1; Tarry Dir. at 5.

⁶² Tarry Dir. at 7.

⁶³ Sherman Dir. at 22; Tarry Dir. at 14-19.

participated in negotiations regarding both the proposed acquisition and the Financing Transaction, and ultimately acquired the TXNM shares pursuant to the Stock Purchase Agreement.⁶⁴

(78) The Hearing Examiners conclude that Troy ParentCo was not a passive beneficiary of the Financing Transaction. Rather, the evidentiary record demonstrates that the Financing Transaction and the proposed acquisition were negotiated as components of a unified transaction structure designed to facilitate Troy ParentCo's acquisition of TXNM. The Proxy Statement reflects that merger terms and PIPE terms were negotiated contemporaneously, that the Financing Transaction was a prerequisite to the acquisition process, and that both transactions were intended to be executed and announced simultaneously.⁶⁵

(79) The record further demonstrates that Troy ParentCo, Troy TopCo, Blackstone Infrastructure, and their affiliated entities acted in concert in pursuing the acquisition and related financing arrangements.⁶⁶ The Financing Transaction was not an isolated investment decision. Rather, it was structured, negotiated, and consummated as part of the broader acquisition strategy through which Troy ParentCo sought to acquire TXNM.⁶⁷

(80) The Hearing Examiners further conclude that the violation was not the result of inadvertence, mistake, or an inability to seek Commission guidance. The record demonstrates that the Joint Applicants consciously determined that prior authorization was not required and proceeded with the Financing Transaction on that basis.⁶⁸ During the Show Cause Hearing,

⁶⁴ Tr. at 124.

⁶⁵ Joint Application at 78.

⁶⁶ Sherman Dir. at 6-7; Prosperity Works Motion for Order to Show Cause (February 6, 2026) at 5-6.

⁶⁷ Tarry Dir. at 7-8; Sherman Dir. at 5.

⁶⁸ Sherman Dir. at 113.

witnesses for the Joint Applicants acknowledged that seeking Commission approval would have been the better course of action.⁶⁹

(81) The Hearing Examiners recognize that the Financing Transaction was publicly disclosed and that the parties did not attempt to conceal the transaction from regulators or the public.⁷⁰ Nevertheless, the prior authorization requirement exists to ensure that the Commission, not regulated entities or acquisition participants, determines in the first instance whether a proposed transaction falls within the scope of Section 62-6-12. The Commission cannot permit regulated entities to substitute their own legal conclusions for the Commission's statutory authority.⁷¹

(82) The Hearing Examiners therefore conclude that TXNM Energy, Inc., Troy TopCo LP, and Troy ParentCo LLC each participated in and were principal actors in the consummation of the Financing Transaction without first obtaining Commission authorization. Each entity is a separate "person" within the meaning of the Public Utility Act and each bears independent responsibility for its participation in the unauthorized transaction.⁷²

(83) Pursuant to NMSA 1978, Section 62-12-4, the Hearing Examiners recommend a penalty of One Hundred Thousand Dollars (\$100,000) upon TXNM Energy, Inc. for entering into and consummating the Financing Transaction without prior express authorization of the Commission.

(84) Pursuant to Section 62-12-4, the Hearing Examiners recommend a penalty of One Hundred Thousand Dollars (\$100,000) upon Troy TopCo LP for acquiring TXNM stock through the Financing Transaction without prior express authorization of the Commission.

⁶⁹ Tr. at 77.

⁷⁰ Tarry Dir. at 7-8.

⁷¹ See Joint Applicants Exhibit 3, Testimony and Exhibits of Sudeen Kelly at 14.

⁷² See NMSA 1978, § 62-3-3(E); see Paragraph 54, *supra*.

(85) Pursuant to Section 62-12-4, the Hearing Examiners recommend a penalty of One Hundred Thousand Dollars (\$100,000) upon Troy ParentCo LLC for authorizing, directing, and participating in the consummation of the Financing Transaction without prior express authorization of the Commission.

iii. Effect on Acquisition Proceedings

(86) The Hearing Examiners are unpersuaded by Joint Applicants' contention that unwinding the Stock Purchase Agreement would have little or no effect on the proposed acquisition. While the precise consequences of unwinding the transaction may not yet be fully known, and many of the resulting commercial, financing, governance, and transactional implications are matters uniquely within the knowledge of Joint Applicants and their affiliates, the Hearing Examiners believe that those consequences are likely significant to the overall application.

(87) The Hearing Examiners recognize that the transaction at issue has created legal and procedural questions that may materially affect the pending application, and conclude that the interests of administrative efficiency, procedural integrity, and fundamental fairness may require withdrawal of the present application and the filing of a new application that accurately reflects the current posture of the transaction and any steps taken to address the unauthorized stock acquisition.

(88) Accordingly, the Hearing Examiners suggest that Joint Applicants strongly consider withdrawing the present Application and submitting a revised application that fully addresses the consequences of the transaction, incorporates any corrective actions undertaken, and provides a complete and accurate record for the Commission's consideration.

IV. RECOMMENDED FINDINGS OF FACT AND CONCLUSIONS OF LAW

(89) The Commission finds and concludes:

(90) TXNM's Board of Directors began discussing the need for interim financing in connection with a potential sale transaction as early as December 2024. The Board considered both potential acquirors and financing arrangements necessary to support TXNM during the pendency of a merger transaction.

(91) On January 6, 2025, TXNM's Board discussed a potential transaction structure that included interim financing from a prospective purchaser in order to alleviate TXNM's need to obtain financing while a merger remained pending.

(92) TXNM and its financial advisor, Wells Fargo, considered the ability of prospective acquirors to provide interim financing as part of the evaluation of competing acquisition proposals.

(93) Following receipt of initial bids, TXNM and Wells Fargo narrowed the interim financing structure to a proposed \$400 million PIPE transaction.

(94) Prospective acquirors were informed that the merger transaction and PIPE transaction would be consummated by the same acquiror and would be signed and announced simultaneously.

(95) On February 24, 2025, TXNM's Board discussed the importance of interim financing through a PIPE transaction to the overall transaction and elected to continue negotiations with Blackstone Infrastructure.

(96) Blackstone's subsequent bids included both merger consideration and PIPE consideration, and the PIPE transaction was negotiated contemporaneously with the merger transaction.

(97) On April 16, 2025, TXNM directed Wells Fargo to seek increases in both the merger price and PIPE purchase price from Blackstone Infrastructure.

(98) Negotiations between TXNM and Blackstone Infrastructure continued through April 2025 regarding both the merger agreement and financing provisions associated with the PIPE transaction.

(99) The Proxy Statement provided to shareholders states that the PIPE transaction was intended to provide financing necessary to support TXNM's business plan, operations, and growth during the interim period before consummation of the merger.

(100) Troy TopCo ultimately acquired approximately eight million shares of TXNM common stock through the PIPE transaction in exchange for approximately \$400 million.

(101) The PIPE transaction closed prior to Commission approval of the acquisition application pending in this docket.

(102) TXNM Energy knowingly entered into and consummated the Financing Transaction without obtaining prior Commission authorization under Section 62-6-12(A)(3)(c).

(103) Troy TopCo acquired approximately eight million shares of TXNM common stock through the Financing Transaction without prior Commission authorization.

(104) Troy ParentCo participated in, directed, authorized, and benefited from the Financing Transaction undertaken in connection with the proposed acquisition of TXNM.

(105) Joint Applicants elected not to seek Commission authorization prior to consummating the Financing Transaction despite the availability of Commission procedures for obtaining clarification regarding approval requirements.

(106) The Commission concludes:

(107) The Commission has jurisdiction over the parties and subject matter of this proceeding pursuant to the Public Utility Act.

(108) Section 62-6-12(A)(3)(c) requires prior Commission authorization before stock of a public utility or public utility holding company may be acquired by a person associated, affiliated, or acting in concert with a public utility or public utility holding company when the acquisition is undertaken for the purposes of an acquisition subject to Section 62-6-12.

(109) Section 62-6-12(A)(3)(c) does not require a showing that the stock acquisition independently transfers operational control of the utility.

(110) The PIPE transaction constituted an acquisition of stock of a public utility holding company within the meaning of Section 62-6-12(A)(3)(c).

(111) Troy TopCo LP and its affiliated entities were acting in concert with the entities pursuing the proposed acquisition of TXNM.

(112) The PIPE transaction was undertaken for the purposes of the proposed acquisition of TXNM.

(113) Prior Commission authorization was required before consummation of the PIPE transaction.

(114) TXNM Energy, Inc. is a public utility holding company subject to the Commission's jurisdiction under the Public Utility Act.

(115) Troy TopCo LP and Troy ParentCo LLC are persons subject to the requirements of Section 62-6-12(A)(3)(c) with respect to the Financing Transaction.

(116) By consummating the Financing Transaction without obtaining prior Commission authorization, TXNM Energy violated Section 62-6-12(A)(3)(c).

(117) By acquiring TXNM stock through the Financing Transaction without obtaining prior Commission authorization, Troy TopCo LP violated Section 62-6-12(A)(3)(c).

(118) By authorizing, directing, and participating in the Financing Transaction without obtaining prior Commission authorization, Troy ParentCo LLC violated Section 62-6-12(A)(3)(c).

(119) Pursuant to Section 62-12-4, the Commission may assess penalties for violations of the Public Utility Act.

(120) Considering the nature of the violation, the importance of preserving the Commission's prior-approval authority, the sophistication of the entities involved, and the need to promote future compliance with the Public Utility Act, assessment of penalties is reasonable and appropriate.

V. RECOMMENDED ORDERING PARAGRAPHS

(A) Pursuant to NMSA 1978, Section 62-6-12(B), the Financing Transaction is void and of no effect.

(B) Within forty-five (45) days of the effective date of this Final Order, Joint Applicants shall file a compliance report demonstrating how they have effectuated the statutory consequence prescribed by Section 62-6-12(B).

(C) The compliance report shall include, *at a minimum*:

a. A narrative description of all actions taken to unwind, rescind, replace, terminate, reverse, or otherwise effectuate the void status of the Financing Transaction;

b. Copies of all material transaction documents, board resolutions, notices, amendments, rescission documents, exchange documents, repayment instruments, financing documents, and other implementing instruments relevant to effectuating the statutory consequence;

c. An accounting of all dividends, carrying costs, financing costs, fees, tax consequences, transaction costs, accounting impacts, and other financial consequences associated with the Financing Transaction and any actions taken in response to this Order;

d. Identification of the entity responsible for bearing each category of cost or liability;

e. A certification that no costs arising from the Financing Transaction, this proceeding, any unwinding or restructuring efforts, or any replacement financing will be charged to New Mexico ratepayers absent express Commission authorization in a future proceeding; and

f. Identification of any regulatory liability, accounting treatment, or other mechanism necessary to ensure that New Mexico ratepayers are held harmless from all costs and consequences associated with the Financing Transaction and any actions taken to effectuate this Order.

(D) Joint Applicants shall not recover from ratepayers any costs, expenses, penalties, restructuring costs, financing costs, tax impacts, accounting impacts, transaction costs, or other adverse financial consequences arising from the Financing Transaction or from actions taken to effectuate this Order unless expressly authorized by the Commission in a future proceeding.

(E) Commission Utility Staff and all parties may review the compliance filing and may respond as to whether the compliance filing adequately protects ratepayers from the consequences of unwinding the Financing Transaction within thirty (30) days of its filing. Additionally, Staff and parties may conduct, or oversee the conduct of, such audit, investigation, or verification as necessary to evaluate compliance with this Order. Parties choosing to conduct or oversee the conduct of an audit shall coordinate so as to minimize the number of independent audits and any and all such audits or reviews shall be performed at shareholder expense.

(F) Pursuant to NMSA 1978, Section 62-12-4, TXNM Energy, Inc. shall pay a penalty of One Hundred Thousand Dollars (\$100,000) within thirty (30) days of the Final Order for entering into and consummating the Financing Transaction without prior express authorization of the Commission.

(G) Pursuant to NMSA 1978, Section 62-12-4, Troy TopCo LP shall pay a penalty of One Hundred Thousand Dollars (\$100,000) within thirty (30) days of the Final Order for acquiring TXNM stock through the Financing Transaction without prior express authorization of the Commission.

(H) Pursuant to NMSA 1978, Section 62-12-4, Troy ParentCo LLC shall pay a penalty of One Hundred Thousand Dollars (\$100,000) within thirty (30) days of the Final Order for authorizing, directing, and participating in the consummation of the Financing Transaction without prior express authorization of the Commission.

(I) The Commission finds that Joint Applicants' violation of NMSA 1978, Section 62-6-12(A)(3)(c) is affirmatively relevant to the Commission's consideration of the application and may be considered, together with all other relevant evidence, in determining whether the proposed acquisition is lawful and consistent with the public interest.

(J) Nothing in this Order shall be construed as approval, ratification, or validation of the PIPE transaction.

(K) Any matter not specifically ruled on in this case or in this Order is disposed of consistent with this Order and Commission rules.

(L) Any finding or conclusion not specifically stated here but that is necessary to make this writing coherent and complete is adopted by the Commission as if it were stated.

(M) The Commission has taken administrative notice of all Commission orders, rules, and decisions in all Commission proceedings cited in this final order.

(N) Any matter not specifically ruled on during the hearing or in this writing is resolved consistent with this Final Order.

(O) This Order is effective when signed.

(P) In computing time in accordance with statute, regulation, or Commission order, the computation shall begin on the date that this Order is filed.

ISSUED under the Seal of the Commission at Santa Fe, New Mexico on June 8, 2026.



NEW MEXICO PUBLIC REGULATION COMMISSION

A handwritten signature in black ink, appearing to be 'J Barrett', written over a horizontal line.

Jocelyn Barrett
Chief Hearing Examiner
Jocelyn.Barrett@prc.nm.gov

A handwritten signature in black ink, appearing to be 'P Schaefer', written over a horizontal line.

Patrick Schaefer
Hearing Examiner

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

**IN THE MATTER OF THE JOINT APPLICATION OF)
 PUBLIC SERVICE COMPANY OF NEW MEXICO,)
 TXNM ENERGY, INC.AND TROY PARENTCO LLC)
 FOR APPROVAL OF AN ACQUISITION AND MERGER)
 OF TROY MERGER SUB INC. WITH TXNM ENERGY,) **Case No. 25-00060-UT**
 INC.; APPROVAL OF A GENERAL DIVERSIFICATION)
 PLAN; AND ALL OTHER AUTHORIZATIONS AND)
 APPROVALS REQUIRED TO CONSUMMATE AND)
 IMPLEMENT THIS TRANSACTION (“JOINT)
 APPLICATION”))**

CERTIFICATE OF SERVICE

This Certifies that on this date I sent a courtesy copy of the Recommended Decision on OTSC filed in PRCe360 on the same date, to the parties listed here.

| | |
|-----------------------------------|--|
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BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

First Amended Official Service List –(updated 4/30/26)

Case No. 25-00060-UT

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BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

First Amended Official Service List –(updated 4/30/26)

Case No. 25-00060-UT

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BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

First Amended Official Service List –(updated 4/30/26)

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DATED this June 8, 2026

NEW MEXICO PUBLIC REGULATION COMMISSION

/s/ Ana Kippenbrock, electronically signed
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