

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

**IN THE MATTER OF PUBLIC SERVICE COMPANY OF)
NEW MEXICO’S APPLICATION FOR APPROVAL OF)
TWO ECONOMIC DEVELOPMENT PROJECTS AND) Docket No. 25-00088-UT
ISSUANCE OF AN ACCOUNTING ORDER GOVERNING)
THE TREATMENT OF COSTS RELATED TO THOSE)
PROJECTS)**

ORDER APPROVING PNM’S APPLICATION

THIS MATTER comes before the New Mexico Public Regulation Commission (the “Commission”) upon the filing by Public Service Company of New Mexico (“PNM”) of its Application for Approval of Two Economic Development Projects and Issuance of an Accounting Order Governing the Treatment of Costs Related to those Projects (“Application”).

STATUTORY BACKGROUND

1. This case arises under the newly enacted statutory framework¹ set forth in Section 62-6-26 NMSA 1978, governing “economic development projects.” In the broadest terms, this framework allows the New Mexico Economic Development Department (“NMEDD”) to certify certain utility projects as economic development projects.² Projects certified as economic development projects are then subject to modified administrative review before the Commission.³ As this is the Commission’s first opportunity to consider projects under this new framework, we begin this order by addressing each component part.

2. Section 62-6-26 establishes criteria for economic development projects and certification by NMEDD. Section 62-6-26(G)(1) defines “economic development project[s]” as “the construction or modification of new or existing electric generation facilities, energy storage facilities, transmission and distribution facilities, zero-carbon resources, alternative fuel facilities,

¹ See S.B. 170, 57th Leg., 1st Sess. (N.M. 2025).

² NMSA 1978, § 62-6-26.

³ *Id.*

energy efficiency programs, renewable energy and fuel cell facilities, recycled energy or other technologies necessary to serve reasonably anticipated new load that have been certified by the economic development department”⁴ In order to certify a project, NMEDD must “us[e] industry standard guidelines for site selection, whether the economic development project will support reasonably anticipated economic development within the state.”⁵ Section 62-6-26(F) further requires NMEDD to provide an opportunity for public comment and to issue a certification letter within sixty days of a request.⁶ The certification letter must be included in the utility’s application filed with the Commission.⁷

3. Section 62-6-26(E) also establishes guidelines for economic development projects and utility applications for those projects. With respect to timing, the Section provides that “the Commission shall review a public utility’s application for an economic development project and issue a final order approving, modifying or denying the application within six months of the application filing date [unless extended] for an additional three additional months for good cause shown.”⁸

4. The statute’s guidance extends to cost recovery as well. Once an economic development project is certified by NMEDD and approved by the Commission, the statute provides that the Commission “shall allow public utilities to recover prudent and reasonable costs incurred by a public utility for the ongoing development, construction, or maintenance of resources for economic development projects that provide incremental capacity, or serve incremental load

⁴ NMSA 1978, § 62-6-26(G)(1).

⁵ NMSA 1978, § 62-6-26(F).

⁶ *Id.*

⁷ *Id.*

⁸ NMSA 1978, § 62-6-26(E).

growth, within the economic development project’s service area”⁹ through a rate recovery mechanism, including “a rate rider, base rates or a combination thereof,”¹⁰ subject to the conditions set forth in Section 62-6-26(E). Recovery is only permitted when the associated equipment and facilities serve the new load associated with the economic development project or the utility demonstrates that the project provides benefits to existing customers. The statute further provides that “[a] public utility shall be allowed to defer costs incurred for economic development projects that are not included in rates to a regulatory asset.”¹¹

5. With respect to approval, the statute references Commission approval of economic development projects,¹² but does not articulate a legal standard for the Commission to apply when considering these projects.¹³ Finally, the statute permits utilities to complete construction of approved projects.¹⁴

FACTUAL BACKGROUND

6. On December 29, 2025, PNM filed the Application requesting that the Commission grant approval for two economic development projects, pursuant to NMSA 1978, Section 62-6-26(E), the Westpointe 115kV Substation Project and the Mesa del Sol Project (the “Projects”), and issue an accounting order governing the Projects.¹⁵

7. PNM asserts that the Projects are objectively valuable assets to business-attraction

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² NMSA 1978, § 62-6-26(E) (noting that “the Commission shall review a public utility’s application for an economic development project and issue a final order *approving*, modifying or denying the application. . .” and “[a]ll certified and *approved* projects shall be allowed to complete construction.”).

¹³ *Id.*

¹⁴ NMSA 1978, § 62-6-26(E).

¹⁵ Application at 1.

efforts of state, regional and local economic development stakeholders, such as the New Mexico Economic Development Department (“NMEDD”), Albuquerque Regional Economic Alliance, developers, landowners and real estate brokers.¹⁶ PNM states that the Projects have obtained site certification from NMEDD.¹⁷ PNM states that authorizing the creation of a regulatory asset provides PNM an opportunity to recover the reasonable costs of constructing the Projects, subject to Commission review of the regulatory asset in a future rate case.¹⁸ Concurrently with its Application, PNM filed Rule 440 filings for each project.¹⁹ PNM states the projects were filed pursuant to 17.5.440 NMAC, rather than under the Certificate of Public Convenience and Necessity (“CCN”) statute, NMSA 1978, Section 62-9-1, because the projects are being constructed within PNM’s existing service territory and would otherwise be completed in the ordinary course of business.²⁰ According to PNM, the Commission uses the Rule 440 filing process for informational purposes for projects that fall within the ordinary course of business. PNM chose this course because it accelerated the timing of the projects for economic development purposes. PNM intends to seek recovery of deferred costs in a future rate case.²¹

8. For these reasons, PNM asks the Commission to approve the economic development Projects and issue an accounting order no later than July 1, 2026.²²

9. Specifically, PNM’s Application requests the Commission:

a. find that PNM’s Application and supporting testimonies and exhibits comply

¹⁶ Application at 2.

¹⁷ Application at 2; *see* NMSA 1978, Section 62-6-26(E) (“All projects shall be certified by the [NMEDD] using industry standard guidelines for site selection and approved by the Commission.”).

¹⁸ Application at 2.

¹⁹ *See* Application, Exhibits AJA-2 and AJA-3 (Rule 440 Nos. 1328 and 1329).

²⁰ Application, Testimony of Adam Alvarez at 8.

²¹ *Id.*

²² Application at 2.

with any applicable filing requirements;

- b. approve the two projects as “economic development projects” pursuant to NMSA 1978, Section 62-6-26(E);
- c. authorize PNM to create a regulatory asset that allows PNM to seek recovery of the costs associated with the capital investments and operating and maintenance costs of constructing the Westpointe 115 kV Substation and Mesa del Sol economic development projects; and
- d. defer ratemaking treatment and cost recovery determinations to a future PNM general rate case.²³

10. On January 8, 2026, the Commission issued an Order which requested any interested parties to file a motion to intervene and response to the Application, including if a party protests the Application, no later than January 22, 2026.²⁴ The Order also required the Utility Division of the Commission (“Staff”) to respond to the Application, and allowed PNM to file replies to Staff’s and any other intervenors’ responses by January 29, 2026.²⁵

11. The Commission received timely motions to intervene²⁶ from the New Mexico Affordable Reliable Energy Alliance (“NM AREA”),²⁷ the Energy, Conservation and Management Division (“ECAM”) of the New Mexico Energy, Minerals and Natural Resources Department (“EMNRD”),²⁸ and the Albuquerque Bernalillo County Water Utility Authority (“ABCWUA”).²⁹

12. On January 22, 2026, Utility Division Staff filed its Response of Utility Division

²³ Application at 2-3.

²⁴ Order Setting Intervention and Response Deadlines (January 8, 2026) at 3.

²⁵ *Id.*

²⁶ With the exception of NM AREA, no intervenor filed any further documents into the record beyond the initial motion to intervene.

²⁷ Motion for Leave to Intervene and Request Discovery (January 20, 2026).

²⁸ EMNRD’s Motion for Leave to Intervene and to Amend Service List (January 22, 2026).

²⁹ Motion for Leave to Intervene, Request for Discovery and Expansion of Service List (January 22, 2026).

Staff Pursuant to the Commission’s Order of January 8, 2026 (“Staff’s Response”), in which Staff ultimately concluded that PNM’s Application complies with the requirements of Section 62-6-26.³⁰ Staff’s investigation involved a review of filings, statutory compliance verification, public comment verification, economic development analysis, and accounting order evaluation.³¹

13. Staff asserts that the Application meets the definition of “economic development projects” under Section 62-6-26(G)(1).³² Staff verified that NMEDD certifications were issued under Section 62-6-26(F) after a review of advantages and disadvantages, concluding that the sites are marketable and present meaningful economic opportunity.³³

14. Staff states that PNM’s request for an accounting order complies with the specific statutory authority granted by NMSA 1978, Section 62-6-26(E).³⁴ Staff contends that although Commission precedent often utilizes discretionary criteria for accounting orders, such as whether an event was unplanned or beyond management control, Section 62-6-26(E) supersedes that traditional criteria by mandating that a “public utility shall be allowed to defer costs incurred for economic development projects that are not included in rates to a regulatory asset.”³⁵

15. Staff asserts the Application adheres to the statutory framework regarding customer protection as PNM is not requesting immediate ratemaking treatment.³⁶ By deferring prudence, reasonableness, and recovery determination to a future general rate case, Staff argues the

³⁰ Staff’s Response at 4.

³¹ Staff’s Response at 3.

³² Staff’s Response at 4.

³³ *Id.*

³⁴ Staff’s Response at 4-5.

³⁵ *Id.* (citing NMSA 1978, § 62-6-26(E)).

³⁶ Staff’s Response at 4; Application, Testimony of Adam Alvarez at 9-10.

Application satisfies the statutory requirements for the creation of the regulatory asset.³⁷

16. On January 23, 2026, NM AREA filed its Protest and Motion to Dismiss.³⁸ NM AREA argues that a CCN is required,³⁹ that PNM has not provided substantial evidence to demonstrate that the projects qualify as economic development projects,⁴⁰ and asserts that no applications under the new economic development statute can proceed until the Commission and NMEDD engage in a joint rulemaking to establish the evidence that each agency needs to satisfy the requirements of the economic development statute.⁴¹

17. NM AREA states that “the Legislature clearly intended Section 62-6-26(E) to be a limited exception to the requirements of Section 62-9-1,” the CCN Statute.⁴² NM AREA further states that “if the Commission does not enforce this statute [Section 62-6-26(E)] in the limited way the Legislature intended, utilities will use Section 62-6-26(E) as a way to avoid the necessary process of obtaining a CCN.”⁴³ NM AREA states that “without the protection afforded by the CCN statute, PNM’s rates are certain to spiral out of control.”⁴⁴

18. NM AREA argues that PNM failed to meet its burden of providing substantial evidence on the record to support its contention that the Projects meet the statutory definition of economic development projects. NM AREA further argues that NMEDD certification letters are insufficient to meet PNM’s substantial evidence burden because the certification letters do not

³⁷ Staff’s Response at 5.

³⁸ New Mexico Affordable Reliable Energy Alliance’s Protest and Motion to Dismiss (January 23, 2026).

³⁹ Protest and Motion to Dismiss at 2-5.

⁴⁰ Protest and Motion to Dismiss at 4-5.

⁴¹ Protest and Motion to Dismiss at 6.

⁴² Protest and Motion to Dismiss at 3.

⁴³ *Id.*

⁴⁴ *Id.*

include any references to sworn witness testimony, do not include any documentation, and do not mention any evidentiary process at all.⁴⁵ NM AREA states NMEDD’s certification letters do not mention any of the industry standard guidelines it used when it certified the Projects.⁴⁶

19. NM AREA states that “the Commission and NMEDD should conduct a joint rulemaking to specifically set forth the evidence that each agency needs to satisfy the requirements of the economic development statute” and that “until such a rulemaking is complete, the Commission should not consider granting economic development status” to the Projects or to any other projects filed under Section 62-6-26(E).⁴⁷

20. For these reasons, NM AREA requests the Commission dismiss PNM’s Application.

21. On January 29, 2026, PNM filed its Response to NM AREA’s Motion to Dismiss.⁴⁸ PNM maintains that the projects do not require a CCN because both projects would ultimately be constructed in the ordinary course of business absent acceleration for economic development purposes.⁴⁹ PNM maintains that the application seeks pre-construction approval and to defer costs as a regulatory asset for possible future review in a rate case, without any presumption of prudence or cost recovery.

DISCUSSION

22. Approval of PNM’s Application, and the resolution of NM AREA’s Protest and

⁴⁵ Protest and Motion to Dismiss at 4.

⁴⁶ Protest and Motion to Dismiss at 5.

⁴⁷ Protest and Motion to Dismiss at 6.

⁴⁸ Public Service Company of New Mexico’s Response to New Mexico Affordable Reliable Energy Alliance’s Protest and Motion to Dismiss (January 29, 2026).

⁴⁹ PNM’s Response to NM AREA’s Protest and Motion to Dismiss at 4.

Motion to Dismiss, turn on several novel questions. As a threshold matter, the Commission must determine whether the projects at issue in the Application are “economic development projects.” It must then decide whether approval of the projects is warranted. Finally, the Commission must determine whether to issue a regulatory asset.

23. As discussed below, the Commission determines that the Projects qualify as economic development projects, the Projects warrant approval, and an accounting order should be granted.

I. The Projects qualify as economic development projects.

24. Section 62-6-26(G)(1) defines an “economic development project” as “the construction or modification of new or existing electric generation facilities, energy storage facilities, transmission and distribution facilities, zero-carbon resources as defined in NMSA 1978, Section 62-16-3(K), alternative fuel facilities, energy efficiency programs, renewable energy and fuel cell facilities, recycled energy, or other technologies necessary to serve reasonably anticipated new load, provided that the project has been certified by the economic development department pursuant to Subsection F of the statute.”⁵⁰ This language defines the type of facilities that could qualify as economic development projects and requires the project to be certified by NMEDD.⁵¹ Thus, to qualify as an economic development project, a project must meet certain technical criteria related to infrastructure type, be necessary as determined by the Commission, *and* be certified by NMEDD.⁵²

25. The evidence in the record supports a finding that the Projects meet the statutory

⁵⁰ NMSA 1978, § 62-6-26(G)(1).

⁵¹ NMSA 1978, § 62-6-26(F).

⁵² NMSA 1978, § 62-6-26.

criteria as set out as follows.

26. First, the Projects involve the construction of a new substation, upgrades to an existing substation, and the construction of ancillary transmission lines.⁵³ Thus, the Projects meet that portion of the definition concerning an “economic development project” that concerns project type.

27. Given that the Application is the first case brought under the newly enacted economic development project framework set forth in Section 62-6-26, the Commission clarifies that, in this Application and in future applications under Section 62-6-26, the Commission will evaluate projects through the corresponding statutory and regulatory standards applicable to the underlying approval sought. For example, a project requiring a CCN will be evaluated under the CCN statute and established Commission standards, subject to the statutory deadlines set forth in Section 62-6-26. Likewise, as in this case, projects submitted under Rule 440 will be evaluated under Rule 440 and are also subject to Section 62-6-26 deadlines. A determination that a project qualifies as an “economic development project” does not ensure Commission approval, guarantee cost recovery, or alter any other statutory assessments required by law; for example, an applicant in a CCN-related economic development proceeding must still meet the Commission’s CCN standards.

28. Second, NMEDD issued certification letters finding the projects satisfy the requirements of Section 62-6-26 and support reasonably anticipated economic development within the state.⁵⁴ The certification letters were filed with the Commission as part of the Application, as

⁵³ Application, Direct Testimony of Grant Taylor at 3.

⁵⁴ See Application, Exhibits GAT-4 and GAT-5.

required by Subsection F.⁵⁵

29. In short, the technical elements of these Projects and the NMEDD certification letters are sufficient to establish these Projects as economic development projects.

30. NM AREA argues that the Commission should revisit NMEDD's certifications, contending that "PNM's Application is not supported by substantial evidence"⁵⁶ because "PNM relies entirely on NMEDD's certification [letters] that the two projects in its Application meet the statutory definition of economic development projects."⁵⁷ The Commission disagrees. Instead, the statute assigns the evaluation function to NMEDD⁵⁸ and assigns to the Commission authority related to project approval, expense tracking, and cost recovery.⁵⁹ The Commission performed those statutory functions delegated to it to assess whether a purported economic development project meets the statutory criteria and is the appropriate project type.⁶⁰

31. NM AREA asserts that a joint rulemaking was required prior to approval.⁶¹ Section 62-6-26 does not direct either NMEDD or the Commission to engage in joint rulemaking, nor does it condition project approval on the completion of a joint rulemaking. The statute is clear; it is not ambiguous.

⁵⁵ *Id.*; NMSA 1978, § 62-6-26(F).

⁵⁶ Protest and Motion to Dismiss at 1.

⁵⁷ Protest and Motion to Dismiss at 4.

⁵⁸ NMSA 1978, § 62-6-26(F).

⁵⁹ NMSA 1978, § 62-6-26(E).

⁶⁰ NMSA 1978, § 62-6-26(G)(1) (defining qualifying project types as "the construction or modification of new or existing electric generation facilities, energy storage facilities, transmission and distribution facilities, zero-carbon resources as defined in NMSA 1978, Section 62-16-3(K), alternative fuel facilities, energy efficiency programs, renewable energy and fuel cell facilities, recycled energy, or other technologies necessary to serve reasonably anticipated new load . . .").

⁶¹ Protest and Motion to Dismiss at 6.

II. The Projects warrant approval.

32. The economic development statute requires Commission approval of certified projects, but does not prescribe a legal standard for the Commission to use. In the absence of a statutory legal approval standard in Section 62-6-26(E), the Commission determines that the Projects at issue should be reviewed consistent with existing Commission Rule 440.⁶²

A. The Projects do not require CCN approval and instead should be assessed as Rule 440 projects.

33. The Public Utility Act provides that “no public utility shall begin the construction or operation of any public utility plant or system, or any extension thereof, without first obtaining from the Commission a certificate that public convenience and necessity require or will require such construction or operation.”⁶³

34. The Act expressly recognizes several exceptions to the CCN requirement. Specifically, the Act provides that a public utility is not required to secure a CCN “for an extension within or to territory already served by it, necessary in the ordinary course of its business”⁶⁴ Projects falling within this exception do not require a CCN.⁶⁵

35. Commission practice confirms that substation projects have historically been reviewed and approved under Rule 440 rather than through CCN proceedings. For example, in early 2024, the Commission allowed construction of the Hidden Mountain Substation Project, with an estimated cost of approximately \$105 million, pursuant to Rule 440.⁶⁶ Other substations of

⁶² See Commission Rule 17.5.440 NMAC.

⁶³ NMSA 1978, § 62-9-1(A).

⁶⁴ *Id.*

⁶⁵ *Id.*

⁶⁶ PNM’s Rule 17.5.440 NMAC Form Filing No. 1295 (Hidden Mountain Substation Project).

similar cost and complexity have followed the same regulatory process under Rule 440:

- PNM No. 1262 – Prosperity Substation (\$39,877,577; filed Apr. 26, 2022);
- PNM No. 1258 – Rattlesnake 115 kV Substation (\$29,192,599; filed Oct. 1, 2021)
- PNM No. 1255 – Sagebrush Substation (\$32,877,097; filed Aug. 26, 2021);

36. This practice reflects the Commission’s treatment of substation projects as ordinary course of business investments.

37. Like the projects previously assessed under Rule 440, the Mesa del Sol and Westpointe projects involve the construction of substations and associated transmission and distribution facilities necessary to serve anticipated load. The Projects’ estimated costs, approximately \$120.2 million for Mesa del Sol⁶⁷ and \$44.9 million for Westpointe⁶⁸, are comparable to prior Rule 440 projects, including Hidden Mountain. Although the Projects have been accelerated by PNM for economic development purposes, the facilities are routine system improvements undertaken to serve anticipated load growth.⁶⁹

38. Although infrastructure costs have increased in recent years, the record demonstrates that the Projects do not differ materially in scope or complexity from previously considered Rule 440 substation and transmission investments.

39. In sum, the record supports a finding that the Mesa del Sol and Westpointe projects fall within the ordinary course of business exception to the CCN requirement. Assessment under Rule 440 is appropriate. Therefore, a CCN is not required.

⁶⁷ Application, PNM Exhibit AJA-3 at 5.

⁶⁸ Application, PNM Exhibit AJA-2 at 3.

⁶⁹ *Id.*; Application, PNM Exhibit AJA-3 at 4-5.

B. The Projects are assessed under Rule 440.

40. Rule 440 establishes a preconstruction notice mechanism for utilities seeking to make certain extensions, system improvements, repairs, replacements, or additions to their systems.⁷⁰ Utilities must file an “informational report”⁷¹ no later than 30 days before beginning construction of an eligible project.⁷² Staff then reviews the reports and notifies the utility, the Commission’s Office of General Counsel, and Commissioners of any issues prior to construction.⁷³

41. These utility reports do not constitute applications for the projects.⁷⁴ Projects that satisfy the notice provisions of Rule 440 may commence construction following a minimum of 30 days. A Commission decision to intervene (or not) following the reports’ filing carries no affirmative consequences for prudence or cost recovery.⁷⁵

42. As the Projects at issue demonstrate, “economic development projects” under Section 62-6-26(G)(1) include projects that do not require preapproval under existing Commission authority. Thus, the Commission must determine how to “approve” a project under Section 62-6-26(E) that would not otherwise require formal preconstruction approval.⁷⁶

43. For economic development projects that are also extensions necessary in the ordinary course of business under Section 62-9-1(A), the Commission resolves this tension as

⁷⁰ Rule 17.5.440.8 NMAC.

⁷¹ Rule 17.5.440.8(A)(2) NMAC.

⁷² Rule 17.5.440.8(C)(1) NMAC.

⁷³ Rule 17.5.440.8(C)(2) NMAC.

⁷⁴ Rule 17.5.440.8(A)(2) NMAC.

⁷⁵ See *id.*; Rule 17.5.440.8(D)(1) NMAC (discussing procedures for subsequent request for rate recovery).

⁷⁶ This will not be required for every application under Section 62-6-26(E). Were a utility to request approval of a project that traditionally required a CCN, the Commission would apply its historic CCN standard under the accelerated timelines provided by the statute Section 62-6-26(E).

follows: approval is appropriate when (1) the utility has complied with the notice provisions of Rule 440⁷⁷ and (2) Staff has not identified “any statutory, regulatory, or feasibility issues . . . within a reasonable period of time”⁷⁸ Projects approved under this mechanism “shall be allowed to complete construction,”⁷⁹ but this approval carries no consequences for matters related to prudence, reasonableness, and cost recovery. This approach avoids interpreting Section 62-6-26(E) to impose additional regulatory burdens while ensuring that cost-recovery determinations receive appropriate scrutiny.

44. PNM filed Rule 440 Reports for the Projects.⁸⁰ In Staff’s Response, Staff⁸¹ provided sufficient analysis of PNM’s Application and associated Rule 440 filings to show that the Projects should be evaluated under the Rule 440 standard of review.

III. An accounting order is appropriate.

45. Section 62-6-26(E) provides that “[a] public utility shall be allowed to defer costs incurred for economic development projects that are not included in rates to a regulatory asset.” Thus, when a project meets the technical criteria to qualify as an economic development project, is certified as an economic development project, has been approved by the Commission, and has imposed prudent and reasonable costs that are not yet included in rates, the utility is entitled to defer those costs to a regulatory asset.

46. These criteria have been met. The Commission determines below that the Mesa del

⁷⁷ Rule 17.5.440.8(C) NMAC

⁷⁸ Rule 17.5.440.8(C)(2) NMAC.

⁷⁹ NMSA 1978, § 62-6-26(E).

⁸⁰ PNM’s Rule 17.5.440 NMAC Form Filing No. 1328 (Westpointe 115 kV Substation); PNM’s Rule 17.5.440 NMAC Form Filing No.1329 (Mesa del Sol).

⁸¹ Staff’s Response at 3-5.

Sol and Westpointe Projects qualify as, and have been certified to be, economic development projects. The Projects should be deemed approved, and an accounting order is warranted to allow PNM the opportunity to seek recovery of the costs incurred for these Projects that are not yet included in rates.

47. The issuance of this accounting order permits cost deferral only. The Commission agrees that PNM's Application adheres to the statutory framework regarding rate payer protection because PNM is not requesting immediate ratemaking treatment. All determinations regarding prudence, reasonableness, and cost recovery are expressly reserved for a future rate proceeding. As PNM acknowledges in its Response, "No presumption of prudence is conferred for the purposes of recovery simply by authorizing a regulatory asset."⁸² In addition to these considerations, PNM must establish the Projects "provide incremental capacity, or service incremental load growth, within the economic development project's service area."⁸³ Finally, cost recovery is only permissible for projects "when the associated equipment and facilities begin serving the new load associated with the economic development project or the utility demonstrates that the economic development project provides benefits to existing customers."⁸⁴ Consistent with that understanding, this Order does not predetermine prudence and reasonableness, nor does it guarantee recovery of any amount. It similarly does not determine whether the Projects provide incremental capacity or serve incremental load growth within the economic development project's service area. For these reasons, PNM's request for an accounting order should be granted.

⁸² PNM's Response to NM AREA's Protest and Motion to Dismiss at 4.

⁸³ NMSA 1978, § 62-6-26(E).

⁸⁴ *Id.*

FINDINGS AND CONCLUSIONS

48. The Projects are “economic development projects” pursuant to Section 62-6-26(E).

49. The Projects do not require CCNs and the Application has been evaluated consistent with Rule 440.

50. PNM should be authorized to create an accounting order allowing PNM the opportunity to recover, in a future rate case, prudent and reasonable expenditures for these two Projects through a regulatory asset.

IT IS THEREFORE ORDERED:

A. The Projects are **APPROVED** as “economic development projects” pursuant to Section 62-6-26(E).

B. PNM is **AUTHORIZED** to create an accounting order that allows PNM the opportunity to seek recovery of the costs associated with the capital investments and operating and maintenance costs of constructing the Westpointe 115 kV Substation and Mesa del Sol economic development projects.

C. All ratemaking treatment and cost recovery determinations are **DEFERRED** to a future PNM general rate case.

D. This Order is effective when signed.

E. In computing time in accordance with Statute, Regulation, or Commission Order, the computation shall begin on the date that the Order is filed with the Chief Clerk of the Commission’s Records Management Bureau or the Chief Clerk’s designee.

**SIGNED under the Seal of the Commission at Santa Fe, New Mexico, this 12th day of
March, 2026.**

NEW MEXICO PUBLIC REGULATION COMMISSION

/s/ Gabriel Aguilera, electronically signed
GABRIEL AGUILERA, COMMISSIONER

/s/ Greg Nibert, electronically signed
GREG NIBERT, COMMISSIONER

/s/ Patrick J. O'Connell, electronically signed
PATRICK J. O'CONNELL, COMMISSIONER

