

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

**IN THE MATTER OF THE APPLICATION)
OF PUBLIC SERVICE COMPANY OF NEW)
MEXICO FOR REVISION OF ITS RETAIL)
ELECTRIC RATES PURSUANT TO ADVICE)
NOTICE NO. 533)**

Case No. 16-00276-UT

**PUBLIC SERVICE COMPANY OF NEW)
MEXICO,)**

Applicant.)

#AV 15717 PWS106

**JOINT MOTION TO VACATE DEADLINE
FOR STAFF AND INTERVENOR TESTIMONY AND REQUESTING HEARING
EXAMINERS TO SET STATUS CONFERENCE ON FURTHER PROCEDURAL
DATES**

Albuquerque Bernalillo County Water Authority, Bernalillo County, City of Albuquerque, Coalition for Clean and Affordable Energy, Kroger Company, New Mexico Attorney General, New Mexico Industrial Energy Consumers, Public Service Company of New Mexico (“PNM”), Renewable Energy Industries Association, Sierra Club, the Utility Division Staff (“Staff”) of the New Mexico Public Regulation Commission, Walmart Stores East, LP and Sam’s East and Western Resource Advocates (collectively “Movants”) respectfully request that the Hearing Examiners issue an order vacating the May 17, 2017, deadline for Staff and Intervenor testimony and 2) schedule a status conference. As grounds, the Movants state:

1. On May 5, 2017, the Movants filed their Comprehensive Settlement Stipulation (“Stipulation”). The Stipulation was filed in accordance with the Scheduling Order. The Movants are comprised of a broad coalition of stakeholders that include local governments consisting of New Mexico’s largest city and largest county, New Mexico’s largest municipal water utility and representatives of residential customers, large industrial customers, environmental organizations and the renewable energy industry. The Movants were scheduled to

file their respective testimonies in support of the Stipulation in accordance with the Scheduling Order on May 17, 2015.

2. On May 12, 2017, the Hearing Examiners issued their *Order Rejecting Stipulation in Current Form* (“Stipulation Order”). In that *Stipulation Order*, the Hearing Examiners rejected the Stipulation in its current form, and provided that “the parties have the opportunity to revise the stipulation to eliminate the problems cited in this Order.” *Stipulation Order* at 10. The Hearing Examiners also ordered that, if not revised, the case proceed on PNM’s initial Application pursuant to the deadlines in the Scheduling Order, which require Staff and Intervenors to file their testimonies on May 17, 2017. The Hearing Examiners further stated that any requests to extend the procedural schedule should be directed to the Commission for its approval of an extension to the suspension period.

3. The Movants have worked for the past nine weeks to reach a detailed settlement as presented in the Stipulation, and to prepare supporting testimony, which was due May 17, 2017. The rejection of the Stipulation late on May 12, and the follow-on requirement that Staff and Intervenors instead file testimony on PNM’s original Application by May 17, creates a compliance requirement that most of the stipulating parties cannot meet. Unless changed, the schedule would also preclude an opportunity for the Signatories to revise the Stipulation.

4. The Movants have conferred and desire an opportunity to revise the Stipulation to address the issues raised in the Stipulation Order. Public policy in New Mexico favors the settlement of disputes. *Quintana v. Motel 6, Inc.*, 1984-NMSC-134, ¶ 11, 102 N.M. 229 (historical and current public policy of this state is to favor the settlement of disputed claims); *see also Attorney General v. New Mexico Pub. Serv. Comm’n*, 1991-NMSC-028, ¶ 13, 111 N.M. 636. The Commission’s authority to consider and approve contested stipulations is incorporated into the Commission’s rules pertaining to formal stipulations. 1.2.2.20(B) NMAC.

5. The Hearing Examiners found that the deadlines in the Scheduling Order were the final extension that would allow this matter to be heard within the existing suspension period and that any further requests for extension must be made to the Commission. Scheduling Order ¶ 5. The Movants agree that good cause exists for a one-month extension of the suspension period in this case. The Movants therefore respectfully request the Hearing Examiners issue an order vacating the current date for filing of Staff and Intervenor testimony of Wednesday, May 17. PNM will be filing a pleading with the Commission requesting to extend the suspension period by one month from November 6, 2017, until December 6, 2017.

6. The Movants also request that the Hearing Examiners conduct a status conference to discuss adjustments to the procedural schedule for the Movants to file an Amended Stipulation with contemporaneous supporting testimony, such that this case can be resolved within the proposed suspension period and to discuss issues related to the Hearing Examiners Order Rejecting Stipulation in Current Form. The Movants request that the status conference not be scheduled before Friday, May 19, due to the unavailability of some parties before that date.

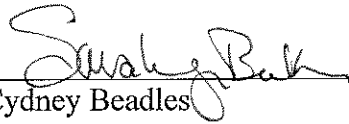
7. The Movants have authorized the undersigned Staff Counsel to file this Motion on their joint behalf.

8. The Movants have conferred with the other parties concerning this Motion and have been advised of the positions of the following parties as follows: New Energy Economy was contacted but did not respond in time for their position to be included in this filing.

For the reasons set forth above, the Movants respectfully request that the Hearing Examiners vacate the May 17, 2017 date in this proceeding for the filing of Staff and Intervenor testimony, pending Commission action on a PNM request to extend the suspension period in this until December 6, 2017.

Respectfully submitted on behalf of the Movants this 15th day of May, 2017, by

NEW MEXICO PUBLIC REGULATION COMMISSION
UTILITY DIVISION STAFF

A handwritten signature in cursive script, appearing to read "Sarah Becker", is written over a horizontal line.

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OFFICIAL CERTIFICATE OF SERVICE

I CERTIFY that on this day I sent to the parties listed below, via email only, a true and correct copy of the **Joint Motion to Vacate Deadline for Staff and Intervenor Testimony and Requesting Hearing Examiners to Set Status Conference on Further Procedural Dates.**

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DATED this 15th day of May 2017.

NEW MEXICO PUBLIC REGULATION COMMISSION



Elizabeth Ramirez, Paralegal

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