DOCKET NUMBER
25-00060-UT
FILED DATE & TIME
11/10/2026 04:48 PM MST
FILED WITH NMPRC

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")	)	**Case No. 25-00060-UT**

ORDER DENYING JOINT MOVANTS' EMERGENCY MOTION TO HOLD PROCEEDINGS IN ABEYANCE

THIS MATTER comes before the Hearing Examiners upon the November 4, 2026 Emergency Motion to Hold Proceedings in Abeyance Pending the New Mexico Supreme Court's Determination of the Governing Legal Standard for Utility Acquisitions ("Motion"), filed by New Energy Economy, Center for Biological Diversity, Coalition for Clean Affordable Energy, New Mexico Consumer Protection Alliance, and Prosperity Works (collectively, "Joint Movants"). Joint Movants request that the Hearing Examiners suspend the procedural schedule pending the Supreme Court's resolution of a threshold legal issue in *New Energy Economy, Inc. v. New Mexico Public Regulation Commission*, No. S-1-SC-41551. On November 9, 2026, Joint Applicants filed a Response opposing the requested relief. On November 10, 2026 Joint Movants filed a Motion for Leave to File Reply to Joint Applicants' Response in Opposition to Emergency Motion to Hold Proceedings in Abeyance, with the proposed Reply attached. Having reviewed the Motion, Response, Reply and other relevant pleadings, the Hearing Examiners **FIND** and **CONCLUDE** as follows:

1. In their Motion, Joint Movants principally contend that the Commission's request for expedited Supreme Court consideration of the existing legal framework governing utility

acquisitions indicates uncertainty regarding the legal standard applicable to this proceeding.[1] They further assert that requiring expert testimony prior to the Supreme Court resolving the matter before it would prejudice the parties and risk the development of an evidentiary record under an incorrect legal standard.[2] This argument does not fully account for the nature of the question presented to the Court, the purpose for which the question was advanced, or the relief requested by the Commission.

2. In its Motion to Advance a Threshold Issue for Briefing and Decision or, in the Alternative, for Expedited Briefing and Consideration of the Appeal ("Commission's Motion to Advance"), the Commission requested that the Court determine how NMSA 1978, Sections 62-6-12 (1989) and 62-6-13 (1941), Rule 17.6.450 NMAC, and the Commission's longstanding "Six-Factor Analysis" interact to govern utility-acquisition proceedings.[3] As the Commission subsequently clarified in its Reply in Support of Motion to Advance Threshold Issue for Briefing and Decision ("Commission's Reply"), its Motion to Advance did not seek authorization to depart from existing Commission precedent, the establishment of a new legal standard, or prospective legal instructions from the Court for any separate proceeding. Rather, it requested expedited appellate consideration of a legal question already presented by the pending appeal concerning the interpretation and application of the Commission's existing acquisition framework.[4]

[1] Joint Movants' Emergency Motion to Hold Proceedings in Abeyance Pending the New Mexico Supreme Court's Determination of the Governing Legal Standard for Utility Acquisitions (Nov. 4, 2026) ("Motion") at 6.

[2] *Id.*

[3] New Mexico Public Regulation Commission's Motion to Advance a Threshold Issue for Briefing and Decision or, in the Alternative, for Expedited Briefing and Consideration of the Appeal (Aug. 18, 2026) ("Commission's Motion to Advance") at 2.

[4] New Mexico Public Regulation Commission's Reply in Support of Motion to Advance Threshold Issue for Briefing and Decision (Sept. 4, 2026) ("Commission's Reply") at 1.

3. On November 3, 2026, the Supreme Court granted the Commission's Motion to Advance and established a consolidated briefing schedule limited to the identified threshold legal issue. The Court's Order did not resolve that issue or determine that the Commission's existing interpretation is incorrect.[5] It also did not direct the suspension of any pending Commission proceeding.

4. Joint Movants rely upon particular statements from the Commission's Motion to Advance citing the potential benefits of obtaining greater certainty before this proceeding, Docket 25-00060-UT, substantially progresses.[6] However, those statements should be considered in the context of the question presented and the relief that was requested. The Commission expressly recognized that it has relied upon its interpretation of the existing legal framework and that the pending acquisition in this matter must be independently adjudicated on its own application and evidentiary record.[7]

5. The Hearing Examiners likewise are not persuaded that the pending appellate determination prevents the parties from preparing meaningful expert testimony. Although the governing legal framework informs the issues addressed through testimony and discovery, its interpretation is a question of law and not a determination made by expert witnesses. Expert testimony serves to develop the factual and technical record necessary to evaluate the proposed transaction. The scope of this proceeding and the issues relevant to the proposed acquisition were identified through the application and subsequent procedural orders, including the January 15,

[5] *New Energy Economy, Inc. v. New Mexico Public Regulation Commission,* No. S-1-SC-41551, Order (Nov. 3, 2026) at 2-3.

[6] Motion at 2.

[7] Commission's Motion to Advance at 2.

2026 Procedural Order Establishing Affirmatively Relevant Topics, which identifies the governing legal authorities and specifically directs the parties to develop evidence addressing the relevant issues and subject areas.[8] The Commission's request for appellate review does not itself modify those directives or demonstrate that the parties are presently unable to develop a meaningful evidentiary record under the existing framework.

6. Finally, Joint Movants rely upon earlier procedural stays in this proceeding. Those actions, however, concerned specific matters that could materially affect the structure, financing, and factual circumstances of the proposed transaction in this proceeding.[9] The present Motion concerns appellate review of the legal framework applicable to utility acquisitions generally, rather than an unresolved, directly relevant factual or transactional development. Although the Supreme Court's eventual decision may provide additional guidance concerning that framework, the possibility of such guidance does not, without more, establish sufficient grounds to suspend this proceeding.

7. The Hearing Examiners recognize the importance of the legal issue pending before the Supreme Court and the parties' legitimate interest in avoiding unnecessary expense or duplicative proceedings. However, Joint Movants have not demonstrated that the possibility of a different appellate interpretation presently prevents meaningful participation or creates a sufficiently concrete risk of unnecessary expense, duplicative testimony, or prejudice to warrant suspension of the existing procedural schedule. The Hearing Examiners must also consider the Commission's statutory obligation to promptly review acquisition applications under NMSA

[8] *See* Procedural Order Establishing Affirmatively Relevant Topics (Jan. 15, 2026) ¶¶ 4-9, Ordering ¶ A.

[9] Motion at 6-7 (describing the March 17, 2026 stay and July 2, 2026 procedural schedule modification in this Proceeding).

1978, Section 62-6-13, and the substantial time this proceeding has already been pending.[10] Under these circumstances, an open-ended stay pending the Supreme Court's determination is not warranted. The Hearing Examiners will consider any subsequent developments that materially affect this proceeding and may make appropriate procedural adjustments by further order.

IT IS THEREFORE ORDERED:

A. Joint Movants' November 4, 2026 Emergency Motion to Hold Proceedings in Abeyance Pending the New Mexico Supreme Court's Determination of the Governing Legal Standard for Utility Acquisitions is **DENIED**.

B. Joint Movants' Motion to File Reply is **GRANTED** and the proposed Reply attached thereto is accepted for filing.

C. The procedural deadlines established in the Second Revised Procedural Order remain in effect unless otherwise modified by further order of the Hearing Examiners.

ISSUED under the Seal of the Commission at Santa Fe, New Mexico, November 10, 2026.

NEW MEXICO PUBLIC REGULATION COMMISSION

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[10] NMSA 1978, § 62-6-13 (1941).

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CERTIFICATE OF SERVICE

I CERTIFY that on this date I caused the service of the Order Denying Motion to Hold Proceedings in Abeyance to be completed through the PRCe360 upon the list of registered parties therein. Courtesy copies were sent separately to the parties in the Official Service List below.

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DATED this November 10, 2026

NEW MEXICO PUBLIC REGULATION COMMISSION

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