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BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE COMPANY OF NEW MEXICO FOR APPROVAL OF ITS 2027 ELECTRIC ENERGY EFFICIENCY PROGRAM PLAN, PROFIT INCENTIVE AND REVISED RIDER NO. 16 PURSUANT TO THE NEW MEXICO PUBLIC UTILITY ACT, EFFICIENT USE OF ENERGY ACT AND ENERGY EFFICIENCY RULE	)	**Docket No. 26-0000114**

ORDER PARTIALLY GRANTING JOINT MOTION TO AMEND PROCEDURAL SCHEDULE AND BIFURCATE PROCEEDING

THIS MATTER comes before the Hearing Examiner upon the Joint Motion to Amend the Procedural Schedule to Bifurcate the Contested, Non-Time-Sensitive Requests ("Joint Motion"), filed on July 31, 2026, by the Coalition for Clean Affordable Energy, Western Resource Advocates, New Energy Economy, Diné Citizens Against Ruining Our Environment, San Juan Citizens Alliance, Naeva, Tó Nizhóní Aní, and the New Mexico Affordable Reliable Energy Alliance ("Joint Movants"); the Hearing Examiner's Order Requiring Responses to the Joint Motion to Bifurcate, issued August 5, 2026 ("Order Requiring Responses"); and the responses subsequently filed by Public Service Company of New Mexico ("PNM"), Commission Utility Division Staff ("Staff"), and the Albuquerque Bernalillo County Water Utility Authority ("ABCWUA").

Having reviewed the Joint Motion, the responses, and the procedural record, the Hearing Examiner concludes that dividing this proceeding into two phases will permit the time-sensitive purchased power agreements ("PPAs") and energy storage agreements ("ESAs") to proceed under the existing procedural schedule while providing additional time for development of the record concerning the remaining requests in PNM's Application. Phase I shall include all PPAs and ESAs for which PNM seeks approval in this proceeding, together with the accounting-order relief associated with those resources and shall remain subject to the schedule established by the June

24, 2026 Procedural Order. Phase II shall include all remaining matters presented by PNM's Application.

For the reasons stated below, the Joint Motion shall therefore be granted in part. The existing procedural schedule shall remain in effect for Phase I, and a status conference shall be held on September 3, 2026, to discuss an appropriate procedural schedule for Phase II.

I. PROCEDURAL BACKGROUND

1. On May 29, 2026, PNM filed its Application for Approval of Purchased Power Agreements, Energy Storage Agreements, and Certificate of Public Convenience and Necessity for 2029-2032 System Resources and the Abandonment of the Four Corners Power Plant ("Application").

2. The Application seeks, among other relief, approval of long-term PPAs and ESAs; issuance of a certificate of public convenience and necessity ("CCN") for the approximately 40 MW La Luz II Project; approval of abandonment of PNM's generation interest in the Four Corners Power Plant ("Four Corners") upon expiration of the Coal Supply Agreement in 2031; accounting-order treatment pursuant to NMSA 1978, Section 62-6-26(E); and other approvals associated with PNM's proposed 2029-2032 resource portfolio.[1]

3. The Application also identifies PNM's continued operation of Reeves Generating Station through 2044 as an assumption underlying the proposed portfolio. PNM states that it is not presently requesting a new CCN for Reeves but requests Commission approval in this proceeding to the extent the Commission determines such approval is necessary.[2]

[1] Application at 2-3.

[2] *Id.* at 3.

4. On June 24, 2026, the Hearing Examiner issued a Procedural Order establishing, among other deadlines, August 31, 2026, as the deadline for Staff and intervenor direct testimony; September 10, 2026, as the deadline for rebuttal testimony; September 17, 2026, as the deadline for the parties to file a Joint Statement of Uncontested Issues; September 23 and September 30, 2026, as the deadlines for prehearing motions and responses, respectively; and October 7, 2026, as the commencement date for the evidentiary hearing.[3]

5. On July 31, 2026, the Joint Movants filed the Joint Motion requesting that the proceeding be divided into two phases with separate procedural schedules. The Joint Movants propose that the PPAs and ESAs proceed as Phase I under the existing schedule and that PNM's requests concerning the La Luz II CCN, Reeves Generating Station, Four Corners abandonment and related variance, and other matters proceed as Phase II under a separate schedule. Alternatively, the Joint Movants request that the matters proposed for Phase II be separated into another docket.[4]

6. The Joint Movants identify the PPAs and ESAs as time-sensitive based upon the six-month review period under 17.9.551.10(B) NMAC and federal tax-credit considerations identified in PNM's testimony.[5] The Joint Movants contend that the remaining matters are more complex, require additional review, and are not subject to the same six-month PPA review period.[6]

7. On August 5, 2026, the Hearing Examiner issued the Order Requiring Responses. Among other matters, PNM and Staff were directed to address whether the proposed bifurcation

[3] Procedural Order (June 24, 2026) at 3-4.

[4] Joint Motion to Amend the Procedural Schedule to Bifurcate the Contested, Non-Time-Sensitive Requests (July 31, 2026) at 9-11.

[5] *Id.* at 2.

[6] *Id.*

was procedurally workable; whether factual, legal, operational, accounting, or other dependencies existed between the proposed phases; the present scope and status of PNM's requested accounting-order relief; and any conditions or alternative procedural structure that should apply if the Joint Motion were granted in whole or in part.[7]

8. On August 13, 2026, PNM filed its verified response opposing bifurcation. PNM asserts that the Application presents an integrated resource portfolio and that separating the PPAs and ESAs from the other proposed resources would fragment the evidentiary record, duplicate litigation, and create a risk of inconsistent findings concerning resource need, reliability, resource adequacy, cost impacts, abandonment, and accounting treatment.[8]

9. PNM further states that its requested accounting-order treatment under Section 62-6-26 presently concerns the Palomas Wind PPA, the Wildcat PPA, and the Wildcat ESA and is therefore associated with resources that would be addressed in Phase I.[9]

10. On August 13, 2026, Staff filed its response to the Joint Motion. Staff supports dividing the proceeding into phases and concludes that bifurcation is procedurally workable.[10] Staff recommends that the PPAs and ESAs, together with the related accounting-order issues, proceed under the existing procedural schedule and that the La Luz II CCN, Reeves Generating Station issues, Four Corners abandonment and related variance, and other matters not included in Phase I proceed under a separate Phase II schedule.[11]

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[7] Order Requiring Responses to the Joint Motion to Bifurcate (August 5, 2026) at 3-4.

[8] Public Service Company of New Mexico's Verified Response to The Joint Motion to Amend the Procedural Schedule to Bifurcate the Contested, Non-Time Sensitive Requests and Hearing Examiner's Order Requiring Response (August 13, 2026) at 2-3.

[9] *Id.* at 5.

[10] Staff's Response to Joint Motion to Amend the Procedural Schedule to Bifurcate the Contested, Non-Time Sensitive Requests (August 13, 2026) at 2.

[11] *Id.* at 13-14.

11. On August 13, 2026, ABCWUA also filed a response to the Joint Motion. ABCWUA generally supports separating the matters for procedural purposes but proposes that the proceeding instead be divided into three phases based upon the differing statutory review periods applicable to the requests contained in the Application.[12]

II. ANALYSIS

12. PNM's Application combines multiple categories of requested relief that are governed by different statutory and regulatory review periods and present materially different procedural considerations.

13. The PPAs and ESAs are subject to the six-month decision period established by 17.9.551.10(B) NMAC. The La Luz II CCN is subject to the longer review period established by NMSA 1978, Section 62-9-1(C). The Four Corners abandonment request and issues concerning the continued operation of Reeves Generating Station are not subject to any of decision periods applicable to PPAs, ESAs, or CCNs.

14. The Hearing Examiner wishes to respect the Joint Movants contention that the procedural schedule must permit sufficient development of the record concerning the more complex matters that are not governed by the six-month PPA review period without unnecessarily delaying consideration of the PPAs and ESAs.

15. The Hearing Examiner also recognizes PNM's position that the proposed resources were developed and modeled as an integrated portfolio and that evidence concerning resource need, reliability, resource adequacy, and other portfolio-level considerations may bear upon matters assigned to both phases. However, those relationships do not require every request

[12] Albuquerque Bernalillo County Water Utility Authority's Response to Joint Motion to Amend the Procedural Schedule (August 13, 2026) at 1-2.

contained in the Application to proceed under the same procedural schedule. Procedural bifurcation within the same docket does not require the Commission to disregard relevant portfolio-level evidence, nor does it prevent a party from presenting otherwise relevant evidence concerning the relationship between the Phase I resources and the broader portfolio to the extent that evidence bears upon an issue properly before the Commission in Phase I.

16. Dividing this proceeding into two phases appropriately accommodates all of these considerations. Phase I will permit the PPAs and ESAs to remain on the existing procedural schedule that allows for the benefits of the tax credits emphasized both by PNM and Joint Movants. Phase II will permit additional time for the parties to investigate and present evidence concerning the remaining matters in the Application, which Joint Movants have respectfully indicated present more complexity and may require more vigorous investigation and litigation.

17. PNM has clarified that its requested accounting-order treatment under Section 62-6-26 presently concerns the Palomas Wind PPA, Wildcat PPA, and Wildcat ESA. Because those resources will be considered in Phase I, the associated accounting-order request should be considered with those resources rather than separated solely for procedural purposes.

18. The Hearing Examiner also finds that the Joint Statement of Uncontested Issues required by the June 24, 2026 Procedural Order requires clarification following the division of this proceeding. The purpose of that filing will now be to specifically identify the Phase I matters that require adjudication to permit the Phase I evidentiary hearing to be structured accordingly. The Phase II procedural schedule will establish a future date for a Phase II Statement of Uncontested Issues.

19. A generalized reservation of positions or statement that issues remain contested will not provide the information necessary to efficiently conduct the Phase I hearing. The parties must

confer in good faith and identify the remaining disputes with sufficient specificity to permit the Hearing Examiner to determine the required scope of the Phase I hearing, eliminate unnecessary testimony and cross-examination, and allocate hearing time efficiently.

20. The division established by this Order is procedural only. Nothing in this Order determines whether any requested resource, CCN, abandonment, variance, accounting treatment, or other relief should ultimately be approved, denied, or modified, or whether Commission approval concerning the continued operation of Reeves Generating Station is required.

IT IS THEREFORE ORDERED:

A. The Joint Motion to Amend the Procedural Schedule to Bifurcate the Contested, Non-Time-Sensitive Requests is **GRANTED IN PART** as provided herein.

B. This proceeding shall be divided into two procedural phases.

C. Phase I shall include all PPAs and ESAs for which PNM seeks approval in this Application, including:

1. the PPAs comprising the approximately 800 MW Palomas wind project;
2. the 150 MW Cat Hills solar PPA;
3. the 150 MW Cat Hills four-hour battery ESA;
4. the 90 MW Wildcat solar PPA;
5. the 50 MW Wildcat four-hour battery ESA;
6. the 150 MW Gila Monster four-hour battery ESA;
7. the 90 MW TAG II eight-hour battery ESA;
8. the 60 MW Britton eight-hour battery ESA; and
9. the 110 MW Encino eight-hour battery ESA.

D. Phase I shall also include PNM's requested accounting-order relief under NMSA 1978, Section 62-6-26(E), to the extent that such relief concerns a PPA or ESA included in Phase I, including the accounting treatment requested for the Palomas Wind PPA, Wildcat PPA, and Wildcat ESA.

E. The procedural schedule established by the June 24, 2026 Procedural Order shall remain in effect for Phase I. For clarity, the upcoming Phase I deadlines are:

1. August 31, 2026: Staff shall, and intervenors may, file direct testimony;
2. September 10, 2026: rebuttal testimony shall be filed;
3. September 17, 2026: the parties shall file the Joint Statement of Uncontested Issues;
4. September 23, 2026: motions in limine, motions to strike, and other prehearing motions shall be filed;
5. September 30, 2026: responses to prehearing motions shall be filed; and
6. October 7 through October 9, 2026: the Phase I evidentiary hearing shall be held beginning at 9:00 a.m. Mountain Time each day and shall continue as necessary through October 9, 2026.

F. In preparing the Phase I Joint Statement of Uncontested Issues due September 17, 2026, PNM, Staff, and the intervenors shall confer in good faith sufficiently in advance of the filing deadline to meaningfully narrow the matters requiring adjudication in Phase I.

1. The Joint Statement shall identify each Phase I approval, factual issue, legal issue, or other matter that no party contests.
2. The Joint Statement shall identify each Phase I matter that remains contested, the party or parties contesting that matter, and the nature of the remaining dispute with

sufficient specificity to permit the Hearing Examiner to determine the issue requiring adjudication.

3. The parties shall identify any Phase I issue raised in filed testimony that a party no longer intends to pursue at hearing.
4. The parties shall identify any witness whose testimony is no longer contested or for whom no party requests cross-examination for the Phase I hearing.
5. The parties shall identify any stipulation, agreement, or other narrowing of the Phase I issues that will reduce unnecessary presentation of evidence, cross-examination, or hearing time.
6. A generalized statement that Phase I matters remain contested, or a general reservation of positions contained in testimony or other filings, will not satisfy this requirement.

G. Phase II shall include all matters presented by PNM's Application that are not expressly included in Phase I, including:

1. PNM's request for a CCN for the La Luz II Project;
2. all issues concerning the continued operation or proposed life extension of Reeves Generating Station through 2044, including whether Commission approval concerning Reeves is required in this proceeding;
3. PNM's request for approval of abandonment of its generation interest in the Four Corners Power Plant upon expiration of the Coal Supply Agreement in 2031;
4. PNM's requested variance from or other relief relating to Case No. 21-00017-UT in connection with the proposed Four Corners abandonment;

5. any requested accounting-order relief under NMSA 1978, Section 62-6-26 that is not associated with a PPA or ESA included in Phase 1; and
6. any other approval, authorization, issue, or requested relief contained in the Application that is not expressly included in Phase I by this Order.

H. A status conference concerning the Phase II procedural schedule shall be held on September 3, 2026, at 10:00 a.m. Mountain Time via Zoom. A Zoom invitation shall be provided to the parties on the service list before the status conference.

1. The parties shall NOT confer and agree upon a proposed Phase II schedule but shall be prepared to address the appropriate deadlines for Phase II testimony, discovery, prehearing filings, and hearing at the status conference.
2. The parties shall also be prepared to identify any additional procedural measures necessary to permit efficient development and adjudication of the Phase II record.

I. To the extent the Joint Motion requests that the matters assigned to Phase II be placed in a separate docket, that request is **DENIED**.

J. ABCWUA's request that this proceeding be divided into three procedural phases at this time is **DENIED**.

K. Except as expressly modified by this Order, all provisions and requirements established by the June 24, 2026 Procedural Order remain in effect as applicable to Phase I.

L. Nothing in this Order precludes a party from presenting otherwise relevant evidence in Phase I solely because that evidence also concerns or relates to a matter reserved for Phase II. Any such evidence remains subject to the ordinary requirements of relevance, admissibility, and the scope of the Phase I issues.

M. Nothing in this Order constitutes a finding concerning the substantive correctness, reasonableness, lawfulness, or ultimate disposition of any PPA, ESA, CCN, abandonment, variance, accounting treatment, resource proposal, or any other relief requested by PNM in this Docket.

N. This Order is effective immediately.

ISSUED under the Seal of the Commission at Santa Fe, New Mexico on August 19, 2026.

NEW MEXICO PUBLIC REGULATION COMMISSION



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

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

IN THE MATTER OF PUBLIC SERVICE COMPANY OF NEW MEXICO'S APPLICATION FOR APPROVAL OF PURCHASED POWER AGREEMENTS, ENERGY STORAGE AGREEMENTS, AND CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR 2029-2032 SYSTEM RESOURCES AND THE ABANDONMENT OF THE FOUR CORNERS POWER PLANT	)	**Docket 26-0000114**

CERTIFICATE OF SERVICE

I CERTIFY that on this date, I sent via email to the parties listed here a courtesy copy of the Order Partially Granting Motion to Amend Procedural Schedule and Bifurcate Proceeding, filed on this date on PRCe360.

Public Service Company of New Mexico (PNM)	
Stacey J. Goodwin	Stacey.Goodwin@pnmresources.com;
Christopher Atencio	Christopher.Atencio@pnmresources.com;
Richard L. Alvidrez	RAlvidrez@mstlaw.com;
Eric S. Petrozino	epetrozino@wbklaw.com;
Kyle Sanders	Kyle.Sanders@txnmenergy.com;
Adam Alvarez	adam.alvarez@pnm.com;
Lisa Contreras	Lisa.Contreras@pnm.com;
PNM Regulatory	pnmregulatory@pnm.com;
NMPRC advocacy staff (Staff)	
Judith Amer	Judith.Amer@prc.nm.gov;
Matthew Friedrichs	Matthew.Friedrichs@prc.nm.gov;
Daren Zigich	Daren.Zigich@prc.nm.gov;
Elisha Leyba-Tercero	Elisha.Leyba-Tercero@prc.nm.gov;
Gabriella Dasheno	Gabriella.Dasheno@prc.nm.gov;
Albuquerque Bernalillo County Water Utility Authority (ABCWUA)	
Nann M. Winter	NWinter@stelznerlaw.com;
Keith W. Herrmann	KHerrmann@stelznerlaw.com;
L. Erica Flores	EFlores@stelznerlaw.com;
Christopher P. Melendrez	CMelendrez@abcwua.org;

Alex Cannady	ACannady@stelznerlaw.com;
Coalition for Clean Affordable Energy (CCAE)	
Cara R. Lynch	Lynch.Cara.NM@gmail.com;
Stephanie Dzur	Stephanie@Dzur-Law.com;
Don Hancock	Sricdon@earthlink.net;
City of Albuquerque (City)	
Bryan Rowland	browland@cabq.gov;
Charles Davis	cdavis@cabq.gov;
Leigh Anne Lloveras	LLloveras@cabq.gov;
Larry Blank	lb@tahoeconomics.com;
Jennifer Lucero	jenniferlucero@cabq.gov;
Diné Citizens, San Juan Citizens Alliance, Naeva, and Tó Nizhóní Aní (Diné)	
Rose Rushing	rushing@westernlaw.org;
Kyle Sisdel	tisdel@westernlaw.org;
Mike Eisenfeld	mike@sanjuancitizens.org;
Robyn Jackson	robyn.jackson@dine-care.org;
Nicole Horseherder	nicole@tonizhoniani.org;
Adrian Herder	adrian@tonizhoniani.org;
Rhoda Adeky	rhoda@naeva.org;
Rochelle Chanez	rochelle@naeva.org;
Ahtza Chavez	ahtza@naeva.org;
New Energy Economy (NEE)	
Mariel Nanasi	mnanasi@newenergyeconomy.org;
Christopher Sandberg	cksandberg@me.com;
New Mexico Affordable Reliable Energy Alliance (NMAREA)	
Kelly Gould	Kelly@thegouldlawfirm.com;
Peter J. Gould	Peter@thegouldlawfirm.com;
Minard	Minard@thegouldlawfirm.com;
Leticia	Leticia@thegouldlawfirm.com;
Office	Office@thegouldlawfirm.com;
Brian Andrews	BAndrews@consultbai.com;
James R. Dauphinais	JDauphinais@consultbai.com;
New Mexico Department of Justice (NMDOJ)	
Mark R. Hayden	Mhayden@nmdoj.gov;
Billy Jimenez	Bjimenez@nmdoj.gov;
Lawrence Marcus	LMarcus@nmdoj.gov;
Maria Oropeza	MOropeza@nmdoj.gov;
Nicole Teupell	NTeupell@nmdoj.gov;

Kenzie Lee	Klee@nmdoj.gov;
Western Resource Advocates (WRA)	
Cydney Beadles	Cydney.Beadles@westernresources.org;
Caitlin Evans	Caitlin.Evans@westernresources.org;
PRC ADVISORY PRC STAFF	
Erin Lecocq	Erin.Lecocq@prc.nm.gov;
Alyssa Herrera-Waldroup	Alyssa.herrera-waldroup@prc.nm.gov;
HEARING EXAMINERS DIVISION	
Jocelyn Barrett, Hearing Examiner	Jocelyn.Barrett@prc.nm.gov;
Ana Kippenbrock, Paralegal	Ana.Kippenbrock@prc.nm.gov;

DATED: August 19, 2026

NEW MEXICO PUBLIC REGULATION COMMISSION

Ana Kippenbrock

Paralegal