

**BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION**

**IN THE MATTER OF THE APPLICATION )  
OF PUBLIC SERVICE COMPANY OF NEW )  
MEXICO FOR APPROVAL OF THE )  
ABANDONMENT OF THE FOUR CORNERS )  
POWER PLANT AND ISSUANCE OF A )  
SECURITIZED FINANCING ORDER )  
 )  
PUBLIC SERVICE COMPANY OF NEW )  
MEXICO, )  
 )  
Applicant )  
\_\_\_\_\_ )**

**Case No. 21-\_\_\_\_\_-UT**

**DIRECT TESTIMONY**

**OF**

**MARK FENTON**

**January 8, 2021**

**NMPRC CASE NO. 21-\_\_\_\_\_-UT  
INDEX TO THE DIRECT TESTIMONY OF  
MARK FENTON**

**WITNESS FOR  
PUBLIC SERVICE COMPANY OF NEW MEXICO**

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SELF-VERIFICATION

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**I. INTRODUCTION AND PURPOSE**

**Q. PLEASE STATE YOUR NAME, POSITION AND BUSINESS ADDRESS.**

**A.** My name is Mark Fenton. I am the Executive Director of Regulatory Policy and Case Management for Public Service Company of New Mexico (“PNM” or “Company”). In this role, one of my primary responsibilities is to direct PNM’s regulatory and case management department, which actively participates in all PNM regulatory proceedings before the New Mexico Public Regulation Commission (“NMPRC” or “Commission”) and the Federal Energy Regulatory Commission. My business address is Public Service Company of New Mexico, 414 Silver Avenue SW, Albuquerque, New Mexico 87102. For more about my qualifications, please see PNM Exhibit MF-1.

**Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

**A.** I describe the regulatory framework and legal standards that apply to PNM’s requests for approval to transfer and abandon the Four Corners Power Plant (“FCPP”), and issuance of a financing order pursuant to the Energy Transition Act, NMSA 1978, §§ 62-18-1 to -23. I also identify the other PNM witnesses that address the legal standards associated with plant abandonment in their direct testimonies.

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1    **Q.    WHAT IS THIS CASE ABOUT?**

2    **A.**    This case is about saving PNM customers money as part of PNM’s ongoing  
3            transition of its generation portfolio under the Energy Transition Act.  If the  
4            Consolidated Application is approved, it means PNM will exit from coal generation  
5            altogether by abandoning PNM’s ownership in FCPP at the end of 2024.  PNM  
6            witness Phillips currently estimates those savings to range from approximately  
7            \$300 million to \$30 million on a net present value basis, depending on the  
8            Commission’s selection of the ultimate replacement resources in a subsequent  
9            filing.  The abandonment of FCPP represents the second phase of PNM’s  
10           implementation of the Energy Transition Act and significantly advances the state’s  
11           energy transition policies.  This transformational law paved the way for New  
12           Mexico to responsibly transition out of coal generation that has traditionally been  
13           a significant source of electricity for utility customers.

14  
15           For PNM, the first phase of the implementation of the Energy Transition Act was  
16           approval of the retirement of the San Juan Generating Station (“SJGS”).  The  
17           Commission approved the abandonment of that coal plant, along with a financing  
18           order, on April 1, 2020, in Case No. 19-00018-UT.  PNM filed a consolidated  
19           application that included requests for approvals for abandonment of SJGS, a  
20           financing order to securitize the SJGS abandonment costs, and SJGS replacement  
21           resources.  The Commission bifurcated the consolidated application into two  
22           separate cases, addressing the SJGS abandonment and financing order under Case

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1 No. 19-00018-UT, and deferring consideration of the SJGS replacement resources  
2 for the second proceeding, Case No. 19-00195-UT, following the Commission's  
3 determination on abandonment.

4

5 **Q. IS PNM SEEKING APPROVAL OF ANY FCPP REPLACEMENT**  
6 **RESOURCES IN THIS CASE?**

7 **A.** No. Pursuant to a provision in the Energy Transition Act, PNM is deferring  
8 consideration of potential replacement resources to a later proceeding. PNM will  
9 file a second case in approximately the fourth quarter of 2021 for review and  
10 approval of FCPP replacement resources. PNM witness Phillips confirms in this  
11 application that there will be adequate and cost-effective replacement resources  
12 available when needed by the end of 2024.

13

14 Section 62-18-4(D) specifically authorizes a utility or the Commission to defer an  
15 application for approval of replacement resources to a later case provided that the  
16 abandonment and financing application identifies potential new resources sufficient  
17 to provide reasonable and proper service to customers.<sup>1</sup> This deferral is also  
18 consistent with the Commission's bifurcation of the SJGS dockets referenced  
19 above.

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<sup>1</sup> See also NMSA 1978, §62-18-3(A) (2019).

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1    **Q.    PLEASE OUTLINE THE APPROVALS PNM IS REQUESTING FROM**  
2           **THE COMMISSION IN THIS ABANDONMENT AND FINANCING**  
3           **ORDER APPLICATION?**

4    **A.**    PNM seeks approval of two basic requests: (1) abandonment of PNM’s ownership  
5           of its 200 MW interest in FCPP; and (2) approval of a related Financing Order  
6           pursuant to the Energy Transition Act. The requested approvals are as follows:

7

8           **1.       Abandonment of Four Corners Power Plant.**

9           PNM is asking the Commission for authorization and approval to take the necessary  
10          actions for the future abandonment of PNM’s interests in FCPP effective December  
11          31, 2024. This request includes the abandonment of PNM’s 200 MW ownership  
12          interest in FCPP, and the related transfer of these interests to the Navajo  
13          Transitional Energy Company (“NTEC”).

14

15          **2.       Approval of a Financing Order.**

16          PNM is also asking the Commission to approve a Financing Order authorizing  
17          PNM to issue energy transition bonds that are securitized by a non-bypassable  
18          charge to customers. PNM estimates that it will issue securitized bonds associated  
19          with this transaction in the amount of approximately \$300 million for recovery of  
20          allowable costs associated with the abandonment of FCPP. The Energy Transition  
21          Act allows utilities to issue these bonds to investors with prior approval of the  
22          Commission to facilitate the transition from coal-fired generating resources to

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1 lower carbon emitting resources. Securitization in this manner reduces the costs to  
2 customers resulting from a utility exiting coal generation by lowering the cost of  
3 capital as a result of the utility forgoing recovery of its full return on its investments.  
4 The Energy Transition Act's securitization provisions also provide funds for state-  
5 administered tribal and community programs to help the affected local  
6 communities. Additional details related to the request for approval of a Financing  
7 Order are included in the testimony of PNM witness Laura Sanchez.

8  
9 **Q. WHAT IS THE TIME FRAME PNM IS REQUESTING FOR APPROVAL**  
10 **OF THE PROPOSED APPLICATION?**

11 **A.** PNM requests that the Commission, pursuant to Section 62-18-5(A) of the Energy  
12 Transition Act, issue an order within six months of the date of the filing of PNM's  
13 Application in this proceeding.

14  
15 **Q. WHAT SUPPORTING INFORMATION WILL BE COVERED BY THE**  
16 **OTHER WITNESSES TESTIFYING ON BEHALF OF PNM?**

17 **A.** There are six additional witnesses testifying on behalf of PNM in this matter:

- 18 • Thomas G. Fallgren, Vice President, PNM Generation, provides background  
19 concerning the FCPP, and the material agreements relating to its ownership,  
20 governance and coal supply. He addresses the terms of the proposed transfer of  
21 FCPP to NTEC. Mr. Fallgren also supports the recovery of certain FCPP

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1           abandonment costs, including a portion of the estimated undepreciated capital  
2           investments and plant decommissioning expenses.

3           • Laura E. Sanchez, Chief Policy & Legal Advisor at PNM, provides testimony  
4           regarding the goals and objectives of the Energy Transition Act and explains and  
5           supports PNM’s Financing Order request. She explains the financial transactions  
6           for the securitized financing of abandonment costs and provides the necessary  
7           commitments by PNM with respect to the issuance of energy transition bonds.

8           • Charles N. Atkins, CEO of Atkins Capital Strategies, LLC, is the Company’s  
9           external financial expert, and testifies on securitization in the utility industry, the  
10          Securities Memorandum, attestations of the New Mexico Board of Finance and the  
11          anticipated bond issuance terms and process.

12          • Nicholas L. Phillips, Director, Integrated Resource Planning at PNM, testifies on  
13          PNM’s resource planning and modeling, including the benefits to customers from  
14          abandonment. He identifies potential resources that feasibly can replace FCPP and  
15          confirms that there will be sufficient replacement resources available to serve  
16          customers prior to the proposed abandonment of FCPP at the end of 2024.

17          • Thomas S. Baker, Manager, Cost of Service, testifies on the revenue requirement  
18          and cost of service in this case associated with the proposed abandonment of FCPP,  
19          and explains how securitization lowers the costs to customers by lowering the cost  
20          of capital and by the Company forgoing returns on its investment to which it  
21          otherwise would have been entitled.



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- 1       • Michael J. Settlage, Pricing Principal at PNM, provides a presentation of the energy  
2 transition charges under the Energy Transition Act, as well as a calculation of the  
3 estimated range of bill impacts.

4  
5       **II. REGULATORY FRAMEWORK FOR THE ABANDONMENT OF FCPP**

6       **Q. WHAT IS THE REGULATORY FRAMEWORK APPLICABLE TO PNM’S**  
7       **REQUEST FOR APPROVAL TO ABANDON FCPP?**

8       **A.** PNM is a “qualifying utility” and FCPP is a “qualifying generating facility” under  
9 Section 62-18-2 of the Energy Transition Act. Therefore, the Energy Transition  
10 Act sets forth the process for abandoning FCPP and issuing a financing order to  
11 recover PNM’s energy transition costs. The Energy Transition Act, the Public  
12 Utility Act and the Commission’s rules and orders all inform this process, but it is  
13 the Energy Transition Act that establishes the comprehensive framework for  
14 PNM’s requested approvals in this case.

15  
16       **Q. DO PRIOR COMMISSION ORDERS RELATE TO THE ABANDONMENT**  
17       **OF FCPP?**

18       **A.** The Commission has not specifically addressed FCPP abandonment in prior orders.  
19 However, in Case No. 16-00276-UT, PNM’s most recent general rate case, the  
20 Commission approved a stipulation that required PNM to consider an early  
21 abandonment of FCPP in its 2020 Integrated Resource Plan (“IRP”). Specifically,  
22 the Commission’s orders required PNM to evaluate the potential early

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1 abandonment of FCPP in 2024 and 2028. PNM witness Phillips discusses PNM's  
2 IRP process in his direct testimony.

3  
4 **Q. IS THE 2016 RATE CASE THE BASIS FOR IDENTIFYING FCPP**  
5 **INVESTMENTS THAT HAVE BEEN INCLUDED IN RATES AS OF**  
6 **JANUARY 1, 2019, THAT ARE INCLUDED IN THE DEFINED**  
7 **ABANDONMENT COSTS UNDER THE ENERGY TRANSITION COST?**

8 **A.** Yes. The rates effective on February 1, 2018 include the allowable FCPP  
9 investments through the test period January-December 2018, based on the  
10 Commission's ratemaking determinations in the 2016 Rate Case. In defining the  
11 abandonment costs to be included in securitized financings, Section 62-18-2  
12 provides for the inclusion of the undepreciated amounts associated with plant  
13 investments included in rates as of January 1, 2019, and subsequent plant  
14 investments that are necessary to comply with laws and regulations, or for safety  
15 and reliability purposes. PNM's allowable Four Corners investments as of January  
16 1, 2019 are reflected in the compliance filing and compliance Advice Notice  
17 required by the Commission in the 2016 Rate Case. These rates are still in effect.  
18 With regard to FCPP investments currently included in rates, these include the  
19 investments allowed by the Commission in adopting the approved stipulation in  
20 that case, as further adjusted by the Commission based on a litigated challenge to  
21 certain stipulated agreements. The Commission reduced PNM's recovery of a  
22 return on certain undepreciated FCPP investments, which resulted in a write-down

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1 of the book value of FCPP and required PNM to further reduce its rates to offset  
2 any benefit PNM received from including the requested FCPP investments in rates  
3 at less than a full return on those investments. The Commission also required  
4 additional substantial reductions to the approved rates to reflect tax cuts that had  
5 been enacted after the proposed rates were litigated.

6

7 **Q. WHAT STANDARDS UNDER THE ENERGY TRANSITION ACT AND**  
8 **PUBLIC UTILITY ACT APPLY TO THE PROPOSED ABANDONMENT**  
9 **OF A GENERATING RESOURCE?**

10 **A.** As I mentioned above, the Energy Transition Act provides a path for qualifying  
11 generating facilities to be abandoned and replaced, on timetables set forth in the  
12 Act. Section 62-18-2 defines the costs and other amounts of community funding  
13 that can be included in a securitized financing. Section 62-18-4(A) provides that  
14 to obtain a financing order, the utility must obtain abandonment approval, and that  
15 the financing order may be filed as part of that application.

16

17 Correspondingly, the Public Utility Act includes a specific statutory provision,  
18 Section 62-9-5, relating to plant abandonment outside the ordinary course of  
19 business which provides that: “The commission shall grant such permission and  
20 approval, after notice and hearing, upon finding that the continuation of service is  
21 unwarranted or that the present and future public convenience and necessity do not  
22 otherwise require the continuation of the service or use of the facility[.]” In

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1            addition, in “considering the present and future public convenience and necessity,  
2            the commission shall specifically consider the impact of the proposed abandonment  
3            of service on all consumers served in this state, directly or indirectly, by the  
4            facilities sought to be abandoned.” Section 62-8-2 of the Public Utility Act requires  
5            every public utility to furnish “adequate, efficient and reasonable service.”  
6

7            **Q.    WHAT FACTORS HAS THE COMMISSION USED TO DETERMINE IF**  
8            **ABANDONMENT SHOULD BE AUTHORIZED?**

9            **A.**    The Commission requires a factual showing that abandonment will result in a “net  
10           benefit to the public.”<sup>2</sup> In considering requests for abandonment, the Commission  
11           has also applied the four factors used in *Commuters' Committee v. Pennsylvania*  
12           *Pub. Util. Comm'n*,<sup>3</sup> which is specifically related to the discontinuance of rail  
13           service by a railway carrier, in determining whether the proposed abandonment is  
14           consistent with the public convenience and necessity. These factors are: (1) the  
15           extent of the carrier's loss on the particular branch or portion of the service, and the  
16           relation of that loss to the carrier's operation as a whole; (2) the use of the service  
17           by the public and prospects for future use; (3) a balancing of the carrier's loss with  
18           the inconvenience and hardship to the public upon discontinuance of service; and  
19           (4) the availability and adequacy of substitute service. The Commission's test is a

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<sup>2</sup> Case No. 19-00018-UT *Recommended Decision* at 26 (February 21, 2020) (internal citation omitted).

<sup>3</sup> 88 A.2d 420, 424 (Pa. Super. Ct. 1952).

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1 flexible one that can and should be adapted to meet the specific facts and  
2 circumstances being evaluated.

3

4 In Case No. 19-00018-UT, the Commission approved the abandonment of SJGS  
5 upon a finding that it would result in a net public benefit and that the *Commuters’*  
6 *Committee* factors had been satisfied.<sup>4</sup>

7

8 **Q. ARE ANY OTHER LEGAL STANDARDS APPLICABLE TO PNM’S**  
9 **REQUESTED APPROVALS?**

10 **A.** Yes. As PNM witness Fallgren explains, PNM is proposing to transfer its  
11 abandoned interest in FCPP to NTEC. PNM seeks Commission approval for the  
12 sale of PNM’s ownership interest and related fuel supply obligations for FCPP  
13 under Section 62-6-12(A)(4) of the Public Utility Act. That statute provides: “With  
14 the prior express authorization of the commission, but not otherwise... any public  
15 utility may sell, lease, rent, purchase or acquire any public utility plant or property  
16 constituting an operating unit or system or any substantial part thereof[.]” Under  
17 Section 62-6-13, the Commission is to approve such a sale unless the transaction is  
18 unlawful or is inconsistent with the public interest. In applications for combined  
19 approvals for transfer and abandonment under Sections 62-6-12 and 62-9-5, the  
20 Commission applies the same standard applicable to abandonment: “If the applicant

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<sup>4</sup> *Recommended Decision on Abandonment and Non-Securitized Costs* at 26, 34, adopted by *Final Order on Request of PNM for Authority to Abandon its Interests in San Juan Generating Station Units 1 and 4 and Recover Non-Securitized Costs* (April 1, 2020).

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1 demonstrates that there is a net public benefit, the Commission should approve the  
2 proposed sale and abandonment of public utility property.”<sup>5</sup>

3

4 **Q. WHAT PNM WITNESSES SUPPORT THE NET PUBLIC BENEFIT OF**  
5 **ABANDONING FCPP IN THEIR DIRECT TESTIMONIES?**

6 **A.** PNM witnesses Phillips, Baker, and Fallgren, as well as PNM witness Michael  
7 Settlege, demonstrate the net benefit to customers of abandoning FCPP, meaning  
8 that following the path presented in the Application as opposed to going with the  
9 status quo will result in a lower carbon emitting generation portfolio and a lower  
10 cost of service with a corresponding beneficial bill impact to customers. Additional  
11 public benefits from the abandonment of FCPP pursuant to the Energy Transition  
12 Act are addressed by PNM witness Laura Sanchez.

13

14 **Q. ARE THE *COMMUTERS’ COMMITTEE* FACTORS FOR**  
15 **ABANDONMENT MET IN THIS CASE?**

16 **A.** Yes. Although not all the factors are directly applicable to PNM’s Application, as  
17 a whole, the factors weigh substantially in favor of approving abandonment of the  
18 FCPP.

19

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<sup>5</sup> Case No. 18-00251-UT *Recommended Decision* at 3, adopted by *Final Order Adopting Hearing Examiner’s Recommended Decision* (January 23, 2019).

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1 **Q. PLEASE ADDRESS THE FIRST *COMMUTERS' COMMITTEE* FACTOR**  
2 **IN THE CONTEXT OF PNM'S APPLICATION TO ABANDON FCPP.**

3 **A.** This factor is not directly applicable to the abandonment of FCPP. The plant is  
4 currently being used to serve customers and has been in rate base for more than  
5 fifty years. PNM's current rates provide for cost recovery of a representative  
6 amount of PNM's annual revenue requirement associated with the reasonable  
7 investments and operating and maintenance expenses associated with FCPP, in  
8 accordance with the Commission's ratemaking determinations.

9  
10 **Q. IS THE SECOND *COMMUTERS' COMMITTEE* FACTOR APPLICABLE?**

11 **A.** Yes. The second factor concerns the use of the service by the public and the  
12 prospects for future use. FCPP is certificated utility plant and is currently used and  
13 needed to serve PNM's customers. As Mr. Fallgren explains, PNM expects FCPP  
14 will continue operating and providing power to electric utility customers other than  
15 PNM's beyond PNM's proposed abandonment of its interests and exit date of  
16 December 31, 2024. However, PNM's analyses, which utilize reasonable future  
17 operating and capital replacement resource assumptions, show that it will be  
18 beneficial to PNM's customers if FCPP is abandoned through an early exit in 2024,  
19 and replaced with other resources. Mr. Phillips discusses these analyses in more  
20 detail in his direct testimony.

21

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1 **Q. PLEASE ADDRESS THE THIRD AND FOURTH *COMMUTERS'***  
2 ***COMMITTEE* FACTORS WITH RESPECT TO FCPP.**

3 **A.** The third factor requires a balancing of the carrier's loss with the inconvenience  
4 and hardship to the public upon discontinuance of service. This factor is directly  
5 related to the fourth *Commuters' Committee* factor, which is the availability of  
6 substitute service. As described in the testimonies of witnesses Phillips, Baker, and  
7 Fallgren, PNM has determined that it is economically beneficial for customers if  
8 FCPP is abandoned in 2024 and replaced with more flexible and lower carbon  
9 emitting replacement resources. Analyses performed by PNM witness Phillips  
10 clearly illustrate a savings and net benefit for PNM's customers. The Energy  
11 Transition Act and the amendments to the Renewable Energy Act are also relevant  
12 to this analysis because abandonment of FCPP will eliminate PNM's reliance on  
13 coal generation and facilitate PNM's deployment of lower carbon emitting  
14 resources.

15  
16 **Q. ARE THE COST SAVINGS TO CUSTOMERS OF ABANDONING FCPP**  
17 **RELEVANT TO THE *COMMUTERS' COMMITTEE* FACTORS?**

18 **A.** Yes. The net public benefit of abandoning FCPP in the form of cost savings for  
19 customers is inherently considered in the last three *Commuters' Committee* factors  
20 when those factors are properly analyzed. PNM's analyses show that the  
21 abandonment of FCPP by the end of 2024 and its replacement with more flexible  
22 and lower carbon emitting replacement resources, will save customers money over



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1 the long-term. Additionally, as described by PNM witness Fallgren, PNM's  
2 shareholders, and not its customers, are paying NTEC \$75 million to relieve PNM  
3 of its ongoing obligations under the Coal Supply Agreement.

4  
5 **Q. IF THE COMMISSION APPROVES FCPP ABANDONMENT IN THIS**  
6 **CASE, PRIOR TO APPROVAL OF THE REPLACEMENT RESOURCES,**  
7 **WHAT ASSURANCE WILL THE COMMISSION HAVE THAT PNM**  
8 **WILL CONTINUE TO BE ABLE TO PROVIDE ITS CUSTOMERS WITH**  
9 **ADEQUATE, EFFICIENT AND REASONABLE SERVICE?**

10 **A.** As detailed by PNM witnesses Fallgren and Phillips, PNM will be pursuing a  
11 Request for Proposals likely in the first quarter of 2021 for suitable replacement  
12 resources and anticipates filing an application for approval of these resources by  
13 the end of this year. This timeframe will help assure that the Commission and  
14 interested parties will have adequate time to review the proposed replacement  
15 resources, for the Commission's approval of replacement resources, and for the  
16 deployment of the selected replacement resources by the time PNM abandons its  
17 interests in FCPP at the end of 2024. PNM witness Phillips confirms that, based  
18 on recent RFPs and known market conditions, there will be adequate resources to  
19 reasonably and properly serve PNM's customers at the end of 2024 if FCPP is  
20 abandoned.

21

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1 **Q. ARE ENVIRONMENTAL CONSIDERATIONS RELEVANT TO**  
2 **DETERMINING WHETHER THERE IS A NET PUBLIC BENEFIT FROM**  
3 **THE RETIREMENT OF FCPP?**

4 **A.** Yes. As discussed by PNM witness Phillips, the retirement of FCPP will reduce  
5 PNM’s carbon footprint.

6

7 **Q. WILL PNM’S ABANDONMENT OF FCPP FURTHER THE PUBLIC**  
8 **INTEREST AND THE PUBLIC POLICY UNDER THE ENERGY**  
9 **TRANSITION ACT?**

10 **A.** Yes. The Energy Transition Act makes clear that public benefits arise from  
11 abandonment of coal-fired generation using securitization and establishes  
12 limitations on PNM’s generation portfolio emissions in Section 62-18-10-(D) that  
13 make abandonment of FCPP consistent with the State of New Mexico’s energy  
14 policy. The Energy Transition Act provides directives for assistance to impacted  
15 communities for the Commission to consider when applying the terms of the Public  
16 Utility Act’s abandonment statute, which states that the Commission “shall  
17 specifically consider the impact of the proposed abandonment of service on all  
18 consumers served in this state, directly or indirectly, by the facilities sought to be  
19 abandoned.”<sup>6</sup>

20

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<sup>6</sup> § 62-9-5.

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1 **Q. WHAT IS THE PUBLIC INTEREST FRAMEWORK FOR SECURITIZED**  
2 **ABANDONMENT OF QUALIFYING COAL PLANTS?**

3 **A.** The Energy Transition Act specifically focuses on the economic impacts of  
4 abandoning a qualifying facility. Because PNM is proposing to transfer its interest  
5 in FCPP to NTEC, an enterprise corporation of the Navajo Nation and based in the  
6 Four Corners region, approving PNM's proposed abandonment of FCPP will result  
7 in the Four Corners region having more control over the region's energy transition.  
8 In addition, the Energy Transition Act provides for the creation and funding for  
9 economic development assistance funds for the affected region of approximately  
10 \$16.5 million. PNM witness Sanchez discusses this economic development  
11 assistance in more detail in her testimony. From a consumer perspective, the Act  
12 ensures that the financing of the abandonment and other related costs can be  
13 accomplished at favorable rates that would otherwise not be available to PNM,  
14 which brings additional savings to customers.

15  
16 **Q. WHAT STANDARDS APPLY TO PNM'S REQUEST FOR ISSUANCE OF**  
17 **A FINANCING ORDER?**

18 **A.** The Energy Transition Act provides that the Commission shall approve a financing  
19 order that complies with the requirements of Section 4 of the Energy Transition  
20 Act. Section 62-18-4 enumerates the evidence and showings that a utility must  
21 provide, with the findings to be made by the Commission set forth in Section 62-  
22 18-5. The Commission has issued a financing order under the Energy Transition

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1 Act in one prior case, Case No. 19-00018-UT. In their direct testimonies, PNM  
2 Witnesses Sanchez and Atkins explain PNM's request for a financing order and  
3 address PNM's compliance with Section 4, as well as how PNM has conformed  
4 this Consolidated Application to the financing determinations included in the  
5 Commission's financing order in Case No. 19-00018-UT.

6

7 **Q. WILL PNM TIMELY MAKE ALL REQUIRED COMPLIANCE FILINGS?**

8 **A.** Yes. PNM will timely make all compliance filings ordered by the Commission as  
9 may be required by the Public Utility Act, the Energy Transition Act, and the  
10 Commission's rules and orders.

11

12 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

13 **A.** Yes.

14

GCG#527508

**MARK A. FENTON**

I am the Executive Director, Regulatory Policy and Case Management, for Public Service Company of New Mexico ("PNM" or the "Company"). My business address is 414 Silver Avenue, SW, MS-1105, Albuquerque, New Mexico 87102.

**EDUCATION**

I graduated from the University of New Mexico in May 1986 with a Bachelor of Science Degree in Chemical Engineering. I obtained an Executive Master of Business Administration Degree from the Robert O. Anderson School of Management at the University of New Mexico in December 1993. I am a Registered Professional Engineer in the State of New Mexico (Registration No. 11396).

**PROFESSIONAL EXPERIENCE**

I have been employed at PNM since May 1985 with the exception of the period from 1993 to 1997, when I was a Vice President at Southwest Water Consultants, Inc. During my employment at PNM, I have held a variety of engineering, supply planning, management and regulatory positions at PNM and its former unincorporated divisions, Sangre De Cristo Water Company in Santa Fe and PNM Gas Services. I was promoted to my current position of Executive Director in February 2019.

In my current position, I oversee and manage:

- The development of regulatory policies and strategies, preparation of PNM's applications and testimony for regulatory approval, and other case-related filings at the New Mexico Public Regulation Commission ("NMPRC" or "Commission") and the Federal Energy Regulatory Commission ("FERC");
- Regulatory compliance with the rules and regulations of the NMPRC and FERC;
- PNM's participation in rulemakings, investigations and other regulatory proceedings at the NMPRC and FERC; and
- Communications by PNM with external parties on regulatory case matters.

I have prior experience with regulatory matters including PNM's recent abandonment, financing and replacement resource application regarding San Juan Generating Station ("SJGS"). Additionally, in 2013, and throughout the case, I provided oversight for PNM's case management of NMPRC Case No. 13-00390-UT which was an application of PNM for approval to abandon San Juan Generating Station Units 2 and 3, issuances of Certificates of Public Convenience and Necessity for replacement power resources, issuance of accounting orders and determination of related Ratemaking Principles and Treatment. I testified in front of the Commission in Case No. 19-00195-UT and 19-00018-UT related to the retirement of and replacement resources at SJGS for Units 1 and 4. I also have experience through my position as Executive Director of Regulatory Policy and Case Management and previously as a case manager on several PNM rate case applications and related filings since 2007. I testified in front of the Commission in NMPRC Case No. 15-00134-UT and filed direct testimony in NMPRC Case Nos. 18-00243-UT, 20-00182-UT, and 20-00218-UT.

**BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION**

**IN THE MATTER OF THE APPLICATION )  
OF PUBLIC SERVICE COMPANY OF NEW )  
MEXICO FOR APPROVAL OF THE )  
ABANDONMENT OF THE FOUR CORNERS )  
POWER PLANT AND ISSUANCE OF A )  
SECURITIZED FINANCING ORDER )  
 )  
PUBLIC SERVICE COMPANY OF NEW )  
MEXICO, )  
 )  
Applicant )  
\_\_\_\_\_ )**

Case No. 21-\_\_\_\_\_-UT

**SELF AFFIRMATION**

**MARK FENTON, Executive Director, Regulatory Policy and Case Management, Public Service Company of New Mexico** upon penalty of perjury under the laws of the State of New Mexico, affirm and state: I have read the foregoing **Direct Testimony of Mark Fenton** and it is true and correct based on my personal knowledge and belief.

DATED this 8th day of January, 2021.

/s/ Mark Fenton  
**MARK FENTON**