



IN THE SUPREME COURT OF THE STATE OF NEW MEXICO

**PUBLIC SERVICE COMPANY OF NEW
MEXICO,**

Appellant,

v.

NO. S-1-SC-39138

NEW MEXICO PUBLIC REGULATION COMMISSION,

Appellee.

*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,
NMPRC Case No. 21-00017-UT*

STATEMENT OF ISSUES

Appellant, Public Service Company of New Mexico (“PNM” or the “Company”), submits its Statement of the Issues pursuant to Rule 12-208(A) and (E) NMRA, and Rule 12-601 NMRA.

A. Statement of the New Mexico Supreme Court’s Jurisdiction

This is a direct appeal by PNM of the *Order on Recommended Decision on Request for Approval of the Sale and Abandonment of PNM’s Interest in the Four Corners Power Plant and Issuance of a Securitized Financing Order* (“Order”)

issued by the New Mexico Public Regulation Commission (“NMPRC” or “Commission”) on December 15, 2021, in NMPRC Case No. 21-00017-UT.

PNM filed its Application in the proceeding below pursuant to the Energy Transition Act, NMSA 1978 Sections 62-18-1 to -23 (2019) (“ETA”) for approval of the abandonment and sale of PNM’s interest in the Four Corners Power Plant (“Four Corners”) and approval of a financing order to recover PNM’s associated plant abandonment costs. On November 12, 2021, the Hearing Examiner issued a Recommended Decision recommending that the Commission approve the abandonment and sale of PNM’s Four Corners interest (“Abandonment RD”). Contemporaneously with the Abandonment RD, the Hearing Examiner issued a separate Recommended Decision pursuant to the requirements of the ETA, recommending that the Commission grant PNM’s application for a financing order and for issuance of energy transition bonds to finance its requested costs of abandonment associated with Four Corners (“Financing RD”). Financing RD at 163-64, Ordering ¶¶ 2-3.

The Order rejected both recommended decisions of the Hearing Examiner and denied PNM’s requests for the abandonment and sale of Four Corners and for a financing order. Order at 12-13, Ordering ¶¶ A-D. By its terms, the Order’s “findings of facts and conclusions . . . are conclusive of PNM’s application.” *Id.* at 12, ¶ 44.

The New Mexico Supreme Court has jurisdiction over this appeal pursuant to Section 62-18-8(B) of the ETA, and NMSA 1978, Section 62-11-1 (1993), Rule 12-102(A)(2) NMRA and Rule 12-601 NMRA. Pursuant to Section 62-18-8(B), the Notice of Appeal was timely filed within ten (10) calendar days of the Order. Also pursuant to Section 62-18-8(B), the Supreme Court is respectfully requested to determine this appeal as expeditiously as practicable.

B. Background and Statement of the Case

PNM is a New Mexico public utility subject to the Commission's jurisdiction under the Public Utility Act, NMSA 1978, Sections 62-1-1 to 62-13-15 (1941 as amended through 2015) ("PUA"). The ETA also governs PNM's request as a qualifying utility to abandon and sell its interest in Four Corners.

1. Procedural History of Underlying Case.

On January 8, 2021, PNM filed its application ("Application") for approval to abandon its minority ownership share of 200 megawatts ("MW") of retail coal-fired generation resources at Four Corners, which would divest PNM from all coal generation as of 2025. The Application also sought approval to sell and transfer PNM's interest in Four Corners to the Navajo Transitional Energy Company, LLC ("NTEC"), a corporation owned and chartered by the Navajo Nation. PNM sought approval to securitize its authorized Four Corners abandonment costs and to recover those costs through the issuance of energy transition bonds pursuant to the ETA.

PNM amended its Application pursuant to the *Order on Sufficiency of PNM's Application and Scope of Issues in Proceeding* issued on February 26, 2021 (“February Order”). Over PNM’s objections that a prudence review in this case contravened the ETA, the February Order required PNM to address and confirm that its decision to continue participating in Four Corners beyond 2016 was prudent. The February Order incorporated the Commission’s earlier determination that prudence-related issues for Four Corners would be decided in PNM’s Four Corners abandonment proceeding. Case No. 16-00276-UT, *Order on Sierra Club’s Motion to Re-Open Docket to Implement the Revised Final Order*, ¶ 24 (Feb. 10, 2021).

In accordance with these determinations, PNM filed an amended application for abandonment and sale of its Four Corners interest and issuance of a financing order (“Amended Application”) on March 15, 2021. The Amended Application included supplemental testimonies that addressed the issues raised in the February Order, including the prudence of PNM’s decision in 2013 to maintain its ownership interest in Four Corners.

2. Background on Four Corners Plant.

Four Corners, located near Fruitland, New Mexico on the Navajo Nation, has served PNM customers since PNM acquired a 200 MW share in Units 4 and 5 in 1969 and 1970, respectively. PNM currently holds a 13% minority share of plant ownership. Four Corners obtains coal exclusively from the adjacent Navajo Mine

operated by NTEC. The remaining operating life of Four Corners is through 2031, concurrent with the expiration of the 2016 Coal Supply Agreement with NTEC.

Under the contractual arrangements among the owners of the plant, early closure of Four Corners prior to 2031 requires unanimous agreement of the owners, excluding NTEC. No other owner has stated it has plans to exit the plant prior to 2031. Arizona Public Service Company (“APS”) is the majority owner (63%) and operator of Four Corners. The three other owners are: the Salt River Project Agricultural Improvement and Power District (10%), Tucson Electric Power Company (7%), and NTEC (7%) which is the only owner with an interest in the coal mine.

3. Terms of the Proposed Abandonment and Sale of Four Corners.

The Commission’s consideration of a potential early exit from Four Corners was first raised during PNM’s 2016 rate case, NMPRC Case No. 16-00276-UT (“2016 Rate Case”). There, the Commission approved a stipulation that, among other things, required PNM to perform a cost-benefit analysis as part of its 2020 Integrated Resource Plan (“IRP”) on the impact of an early exit from Four Corners in 2024 and 2028. 2016 Rate Case, *Revised Order Partially Adopting Certification of Stipulation*, at 34, Ordering ¶ A (Jan. 10, 2018); Case No. 16-00276-UT, *Modified Revised Stipulation*, at 9, ¶ 10 (filed Jan. 23, 2018) (“Modified Revised Stipulation”).

Pursuant to the ETA and consistent with the Modified Revised Stipulation, PNM proposed in the case below an early exit from Four Corners at the end of 2024 through the sale of its 13% interest to NTEC. Under the terms of the Purchase and Sale Agreement (“PSA”) between PNM and NTEC, PNM will sell its interest in Four Corners to NTEC for \$1, and NTEC will assume all of PNM’s operating and capital ownership interests and obligations in Four Corners effective January 1, 2025, as well as PNM’s obligations under the 2016 Coal Supply Agreement. PNM shareholders have agreed to pay NTEC \$75 million to assume PNM’s obligations for the remaining term of the 2016 Coal Supply Agreement through 2031. PNM will, however, retain its current plant decommissioning and coal mine reclamation obligations.

The PSA provided a unique opportunity for the co-owners of Four Corners to separately negotiate a seasonal operations agreement to be effective in the autumn of 2023. While this agreement did not require Commission approval, it is relevant to considering the potential benefits of abandoning PNM’s interest because approval of the PSA between PNM and NTEC is necessary to proceed with seasonal operations as agreed to by the Four Corners co-owners.

Under seasonal operations, only a single Four Corners unit will operate on a year-round basis while both of the coal plant’s units will operate during the summer peak season. As a direct result of the seasonal operations agreements, the Four

Corners owners estimate that carbon emissions from Four Corners will be reduced by 20-25% starting in 2023 (while PNM is still an owner).

4. *Hearing Examiner's Recommended Decision on Abandonment and Sale and Securitized Financing Pursuant to the ETA.*

To obtain a financing order that authorizes the issuance of energy transition bonds and other actions, the ETA requires that a qualifying utility obtain approval to abandon a qualifying generating facility pursuant to NMSA 1978, Section 62-9-5 (2005) and permits the application for abandonment and securitized financing to be filed in a single case. NMSA 1978, Section 62-18-4(A) (2019). The standards for abandonment pursuant to Section 62-9-5 mandate that the Commission grant permission for abandonment of a plant upon a finding that continuation of service is unwarranted or that the present and future public convenience and necessity do not require the continuation of service. Thus, the Commission must conclude that the continued use of the facility to serve customers is warranted or required in order to deny a proposed abandonment. Under Commission standards, applicants for abandonment are required to demonstrate a net public benefit where quantifiable and unquantifiable benefits outweigh the costs of the action. *See Pub. Serv. Co. of N.M. v. N.M. Pub. Serv. Comm'n*, 1991-NMSC-083, ¶¶ 10-12, 112 N.M. 379 (affirming Commission denial of abandonment of excess capacity in San Juan Generating Station Unit 4 after considering public benefit of the asset and because public

convenience and necessity required continued regulation under *Commuters' Committee* standards). The Commission applies the *Commuters' Committee* standards as criteria for consideration in abandonment proceedings, to the extent applicable. *Commuters' Comm. v. Pa. Pub. Util. Comm'n*, 88 A.2d 420, 424 (Pa. Superior Ct. 1952).

The Hearing Examiner recommended approval of PNM's request to abandon and sell its Four Corners interest to NTEC and also recommended approval of the requested securitized financing. Abandonment RD at 110-14; Financing RD at 163-64, Order ¶ 2. The Hearing Examiner found that PNM established by a preponderance of the evidence that the proposed abandonment satisfied the net public benefit test and *Commuters' Committee* standards. Abandonment RD at 110. The Hearing Examiner found that the record demonstrates that the quantifiable and non-quantifiable benefits substantially outweigh the costs associated with the proposal. To determine the quantifiable and non-quantifiable benefits of the abandonment and sale of Four Corners, the Abandonment RD examined several concrete benefits to PNM customers and, where applicable, to the public at large. *Id.* at 35.

The Hearing Examiner determined that PNM's credible modeling of potential replacement resources demonstrated that the abandonment will cost ratepayers significantly less over the next 20 years than continuing in Four Corners until 2031,

with the median of cost savings for customers around \$143.7 million. *Id.* at 48-49, 110-11. The Hearing Examiner indicated that these economic benefits may be “dispositive” and then addressed “additional significant benefits of the proposed abandonment.” *Id.* at 111. The Hearing Examiner analyzed the following additional benefits/factors: (1) increased generation flexibility and reduced emissions (*id.* at 49-50, 52-53, 111); (2) a “just transition” away from fossil fuels for impacted communities of the Navajo Nation (*id.* at 111-12); (3) the speculative nature of the assumptions by certain intervenors that Four Corners could close before 2031 if PNM’s sale to NTEC was denied (*id.* at 112); (4) satisfaction of the *Commuters’ Committee* factors, which included rejection of Staff and intervenor arguments that PNM was required to include a request for replacement resources in its Application (*id.* at 71-74); (5) PNM’s demonstration that replacement resources could be approved in a subsequent case and deployed to replace Four Corners when needed in 2025 upon PNM’s exit (*id.* at 74-76); and (6) the determination that analyzing alternative exit scenarios 2024 or 2028 based on a breach of PNM’s contractual commitments to exit Four Corners by paying default payments and penalties, “would not be a worthwhile or sensible exercise” (*id.* at 67).

5. *Commission Order on Abandonment.*

The Commission issued its Order rejecting the proposed conclusions in the Abandonment RD, and denying PNM’s requests for abandonment as well as for

securitized financing. Order at 12-13, Ordering ¶¶ B-D. The Commission’s refusal to adopt the Abandonment RD and Financing RD and denial of PNM’s Application is based on two primary findings.

First, the Commission found that abandonment should be denied based on what the Commission determined to be PNM’s “failure to identify adequate potential new resources sufficient to provide reasonable and proper service to retail customers” as well as the effect of that purported failure on the Commission’s ability to analyze the *Commuters’ Committee* factors. *Id.* at 9, ¶ 32. In rejecting the Hearing Examiner’s proposed findings that the record reasonably demonstrated that replacement resources can be deployed prior to the abandonment of Four Corners and that the ETA’s standard for deferral of a replacement resource proceeding was met, the Commission acknowledged that “actual replacement resources are already under review by PNM as part of its ongoing RFP process.” *Id.* at 6-7, ¶¶ 21, 24. Pursuant to Section 62-18-4(D) of the ETA, PNM’s Amended Application identified proxy portfolios that could replace Four Corners, and the uncontested record shows that PNM received a robust response to the RFP issued for replacement resources needed in 2025 and was evaluating those resources in order to seek Commission approval of specific replacement resources in a subsequent case. The Commission acknowledged PNM’s “ongoing RFP process” but found that “proxy modeling alone” is not sufficient to meet the standard in the ETA for identification of

“adequate *potential* new resources.” *Id.* at 6-7, ¶¶ 21, 24 (quoting §62-18-4(D) (emphasis added)). The Commission thus determined that the “actual resources under consideration” by PNM are not “adequate potential new resources.” *Id.* at 6, ¶ 21. The Commission also concluded that information on actual replacement resources is needed “to analyze the application for abandonment under the [Commuters’ Committee] Factors.” *Id.* at 9, 12-13, ¶ 32 and Ordering ¶ B.

Second, the Commission rejected the Abandonment RD and denied PNM’s Amended Application because, according to the Commission, PNM did not comply with the Modified Revised Stipulation in the 2016 Rate Case which required PNM to perform a cost-benefit analysis of exiting Four Corners in 2024 and 2028 as part of its 2020 IRP. The Commission concluded that a breach of an obligation in the Modified Revised Stipulation that required PNM to conduct that analysis in PNM’s 2020 IRP (docketed as a rule compliance proceeding in Case No. 21-00033) denied the Commission and the parties modeling information to review and analyze PNM’s proxy resource modeling in the case below. *Id.* at 10-11, ¶ 37. Despite the Abandonment RD’s conclusion that such modeling would be meaningless in this case, the Commission determined that this breach of an obligation – meant to be satisfied in PNM’s 2020 IRP – constituted a “separate basis on which to deny PNM’s current application for abandonment and require compliance by PNM in any resubmission of its application.” *Id.* at 11, ¶ 38.

6. *The Prudence of PNM's Ongoing Interest in Four Corners.*

The issue of PNM's prudence as to its ownership interest in Four Corners has been litigated in a number of cases before the underlying case, as detailed in the Financing RD. The issue was first raised in PNM's 2015 rate case, Case No. 15-00261-UT, where New Energy Economy ("NEE") and the Coalition for Clean Affordable Energy raised various arguments as to whether it was prudent for PNM to extend its interest in Four Corners as an ongoing resource on its system. *See* Case No. 15-00261-UT, *Corrected Recommended Decision*, at 174. The Commission rejected the prudence arguments based on a lack of sufficient evidence as to the potential imprudence of PNM's continued participation in Four Corners. Case No. 15-00261-UT, *Final Order Partially Adopting Corrected Recommended Decision*, at 71, ¶ 202 (Sept. 28, 2016). This Court upheld the Commission's decision in that 2015 rate case, noting the lack of evidence relating to alleged imprudence. *Pub. Serv. Co. of N.M. v. N.M. Pub. Regulation Comm'n*, 2019-NMSC-012, ¶ 90-95, 444 P.3d 460.

Prudence issues regarding Four Corners were next litigated in PNM's 2016 Rate Case, where NEE again challenged PNM's ongoing participation in Four Corners and the prudence of capital costs PNM incurred to comply with environmental requirement and to extend the life of Four Corners. Financing RD at 63. PNM entered into a Stipulation with the majority of the parties in that case

wherein PNM agreed to a debt-only return on certain of its Four Corners investments. The Commission issued a Revised Final Order that approved the Modified Revised Stipulation; deferred prudence-related issues on PNM's 2013 decision to remain in Four Corners to PNM's next rate case; and determined that the challenged Four Corners capital investments would be included in PNM's base rates while limiting the return on certain investments to PNM's embedded cost of debt. *Id.* at 63-65 (citations omitted). The Commission stated that deferring a prudence finding for the period the approved rates would be in effect would permit signatories to the Modified Revised Stipulation to participate in a prudence review without constraint and permit a "more full opportunity to consider the necessity and scope of any remedy in light of PNM's alleged imprudence." *Id.* at 64-65 (citing Case No. 16-00276-UT, *Revised Final Order*, at 23, ¶ 66).

Over PNM's objections that the ETA barred the Commission from conducting a prudence review regarding the Four Corners ETA-defined abandonment costs that were the subject of the 2016 Rate Case (Financing RD at 30), the Hearing Examiner and the Commission determined that the issue of Four Corners prudence would be litigated and determined in the proceeding below. *See* February Order at Ordering ¶ C; Case No. 16-00276-UT, *Order on Sierra Club's Motion to Re-Open Docket to Implement the Revised Final Order*, ¶ 24 (Feb. 10, 2021). While PNM amended its application in this case and filed testimony to support the reasonableness and

prudence of PNM's actions and investments relating to Four Corners, after a hearing on the merits was held, the Financing RD declined to address the prudence issues on the basis that the record the opposing parties developed on imprudence was inadequate. Financing RD at 85-86.

The Hearing Examiner cited a number of examples as to the inadequacy of the record below, all attributable to the intervenors. First, the Hearing Examiner noted the difficulties with NEE's largely unsuccessful efforts to establish a foundation for administrative notice of the evidence on the issue of Four Corners prudence from the 2016 Rate Case. *Id.* Second, the Hearing Examiner discussed the parties' almost exclusive reliance on citations to hearing examiner conclusions in the 2016 Rate Case Certification of Stipulation as a substitute for factual evidence of imprudence, which were not adopted by the Commission, which posed significant due process concerns. *Id.* Finally, the Hearing Examiner also found that the limited additional evidence adduced through a Sierra Club witness was an insufficient basis to recommend a finding that PNM acted imprudently and questioned whether such a finding could "withstand appellate review." *Id.* at 86, n.246. The Financing RD recommended that the prudence review of the contested Four Corners capital additions and the appropriate remedies to be applied should again be deferred and conducted in PNM's next general rate case where a full record could be made. *Id.* at 85.

The Commission’s Order modified the Financing RD in terms of deferring the prudence issue. Rather than deferring PNM’s prudence as it pertains to Four Corners investments to PNM’s next rate case as recommended by the Hearing Examiner, the Commission found that prudence should be re-litigated once again in either a re-filed Four Corners abandonment case or “in a separate proceeding.” Order at 12, ¶ 43, and 13, Ordering ¶¶ C-E, G.

C. Statement of the Issues to be Raised on Appeal and How They Were Preserved

In this section, PNM details the issues it raises on appeal and how these issues were preserved. In general, the issues were preserved by PNM’s filing of the following pleadings: *Public Service Company of New Mexico’s Post-Hearing Brief* filed October 1, 2021 (*Post-Hearing Brief*); *Public Service Company of New Mexico’s Post-Hearing Response Brief* filed Oct. 13, 2021 (*Response Brief*); *Public Service Company of New Mexico’s Response to Exceptions* filed November 30, 2021 (*Response to Exceptions*).

1. Appellate Issues Related to Denial of Abandonment of Four Corners and Issuance of Financing Order

PNM may raise the following issues on appeal, which relate to the lawfulness of the Commission’s denial of approval for PNM to abandon Four Corners:

- a) Did the Commission misinterpret and misapply the ETA, NMSA 1978, Section 62-18-4(D) (2019), in concluding that the Company needed to

provide evidence for the Commission to conduct a “review of the actual replacement resource portfolio” when Section 62-18-4(D) only requires an applicant to identify “adequate potential new resources sufficient to provide reasonable and proper service to retail customers” and allows the utility to defer its application for new resources to a subsequent case? Issue preserved in *Post-Hearing Brief* at 32-37; *Response Brief* at 54-57; and *Response to Exceptions* at 9-11.

- b) Did the Commission misinterpret and misapply the ETA, NMSA 1978, Section 62-18-5 (2019), by failing to issue a financing order where the elements for approval were met and where the only identified ground for denial of PNM’s application for a financing order was based on the Commission’s misinterpretation and misapplication of Section 62-18-4(D)? Issue preserved in *Post-Hearing Brief* at 39-51, 76-82, and *Response Brief* at 61-76.
- c) Did the Commission misapply NMSA 1978, Section 62-9-5 (2005), in denying PNM’s application to abandon Four Corners pursuant to the ETA where the Commission did not determine that the present and future public convenience and necessity require the continuation of Four Corners based on the facts presented? Issue preserved in *Post-Hearing Brief* at 30-40; *Response Brief* at 45-57; and *Response to Exceptions* at ii-iii, 9-11.

- d) Did the Commission act arbitrarily, capriciously and contrary to law in denying PNM's application for abandonment and sale of Four Corners pursuant to the ETA by failing to apply the statutory standards under NMSA 1978, Sections 62-6-12 (1989), 62-6-13 (1953), and 62-9-5, as well as the applicable *Commuters' Committee* factors, net public benefit test, and no net detriment test? Issue preserved in *Post-Hearing Brief* at 30-40; *Response Brief* at 45-57; and *Response to Exceptions* at ii-iii, 9-11.
- e) Did the Commission act arbitrarily, capriciously and contrary to law in denying PNM's application for abandonment under the ETA based on a failure to identify adequate potential new resources where the record contained uncontested substantial evidence on adequate potential new resources, and where the Commission acknowledged that actual replacement resources for Four Corners were under review by PNM through a competitive bid evaluation process conducted by PNM? Issue preserved in *Post-Hearing Brief* at 32-37; *Response Brief* at 54-57; and *Response to Exceptions* at 9-11.
- f) Did the Commission act arbitrarily, capriciously and contrary to law in determining that PNM's alleged failure to conduct agreed-upon modeling scenarios for hypothetical early Four Corners exits in its 2020 IRP constitutes a legal basis on which to deny PNM's application to abandon

- Four Corners through a sale to NTEC in 2024? Issue preserved in *Post-Hearing Brief* at 4-5; *Response Brief* at 12-15; and *Response to Exceptions* at 3.
- g) Is the Commission's denial of approval to abandon Four Corners, based on PNM's alleged failure to conduct agreed-upon modeling scenarios for early Four Corners exits in 2024 and 2028 in its 2020 IRP, which is pending separate review, supported by substantial evidence in the record? Issue preserved in *Post-Hearing Brief* at 4-5; *Response Brief* at 12-15; and *Response to Exceptions* at 3.
- h) Did the Commission deny PNM its due process rights by not affording PNM an opportunity at hearing in, or in post-hearing briefing or response to exceptions, to address the Commission's conclusion that the lack of a modeling exit scenario from Four Corners in 2024 and 2028 in the Company's 2020 IRP constituted a sufficient and independent legal basis to deny abandonment under Section 62-9-5, precedential standards, or its IRP Rule, 17.7.3.12 NMAC? The Commission reached this conclusion in its Order despite no party arguing for such an outcome.

2. *Appellate Issues Related to the Commission's Decision to Review the Prudence of PNM's Investment in Life-Extension Projects at Four Corners in a Subsequent Proceeding*

PNM may raise the following issues on appeal, which relate to the lawfulness of the Commission's conclusion that the prudence of PNM's life-extending investments at Four Corners should be addressed in any subsequent proceeding on an application by PNM for abandonment of Four Corners and securitized financing under the ETA or in a separate proceeding:

- a) Did the Commission misinterpret the ETA, NMSA 1978, Sections 62-18-2(H), 62-18-4 and 62-18-5, which authorize recovery through securitized financing of defined undepreciated investments (including those being recovered in rates as of January 1, 2019 and subsequent reasonably incurred costs), by failing to approve the proposed energy transition costs and in further concluding that the prudence of those Four Corners investments can be reviewed in a subsequent abandonment filing pursuant to the ETA or other proceeding? Issue preserved in *Post-Hearing Brief* at 39-51, 76-82, 107-11; *Response Brief* at 61-76; and *Response to Exceptions* at 15.
- b) Did the Commission act arbitrarily, capriciously and contrary to law in failing to consider PNM's arguments that the doctrines of claim preclusion, issue preclusion, *res judicata*, or any related doctrine barred a prudence

- evaluation of investments in Four Corners that have already been included in rates and that any further attempts to litigate the prudence of such investments in a subsequent proceeding would also be barred by such doctrines? Issue preserved in *Post-Hearing Brief* at 58-62 and *Response Brief* at 76.
- c) Did the Commission act arbitrarily, capriciously and contrary to law because it did not follow its own February Order that the Four Corners prudence issues would be decided in the underlying case where this issue was actually litigated, the Hearing Examiner explained that opposing intervenors failed to present substantial evidence of imprudence, and the Commission then decided to defer this issue once again to a future case? Issue preserved in *Post-Hearing Brief* at 62-76; *Response Brief* at 77-85; *Response to Exceptions* at 15-18.
- d) Is the Commission's determination that the record below was insufficient to determine the prudence of PNM's investments in Four Corners supported by substantial evidence where all parties were given the opportunity to present evidence on this issue and both PNM and Sierra Club put forward evidence and expert testimony on the prudence of PNM's investments in Four Corners? Issue preserved in *Post-Hearing Brief* at 62-76; *Response Brief* at 77-85; and *Response to Exceptions* at 15-18.

D. Summary of Relevant Law on Appeal.

1. General Law Relating to Appeals from Commission Orders

Under NMSA 1978, Section 62-11-4 (1965), PNM bears the burden of showing that the Final Order is unreasonable or unlawful. The party challenging the Commission's decision bears the burden of demonstrating that the decision is arbitrary and capricious, not supported by substantial evidence, outside the scope of the agency's authority or otherwise inconsistent with law. *N.M. Indus. Energy Consumers v. N.M. Pub. Regulation Comm'n*, 2007-NMSC-053 ¶ 13, 142 N.M. 533. In reviewing a Commission decision, the Court looks at whether the decision presents a question of law, a question of fact, or some combination of the two, and whether the matter is within the agency's specialized field of expertise. *Id.* The Court must vacate an order that it finds to be unreasonable or unlawful, but the Court does not have the authority to modify the Final Order. NMSA 1978, § 62-11-5 (1982); *Hobbs Gas Co. v. N.M. Pub. Serv. Comm'n*, 1993-NMSC-032, ¶ 6, 115 N.M. 678.

The Supreme Court reviews questions of law and issues of statutory construction *de novo*. *Moongate Water Co. v. City of Las Cruces*, 2013-NMSC-018, ¶ 6, 302 P.3d 405. Because statutory interpretation is not a matter within the Commission's expertise, the Court gives little or no deference to the Commission's interpretation. *Pub. Serv. Co. of N.M. v. N.M. Pub. Util. Comm'n*, 1999-NMSC-

040, ¶ 14, 128 N.M. 309, *see also Albuquerque Cab Co. v. N.M. Pub. Regulation Comm'n*, 2014-NMSC-004, ¶ 10, 317 P.3d 837 (“We review de novo an administrative agency’s statutory construction and determination of legislative intent.”).

The Supreme Court reviews claims that the Commission’s decision was arbitrary and capricious by evaluating whether the decision was “unreasonable or without a rational basis, when viewed in the light of the whole record.” *Pub. Serv. Co. of N.M. v. N.M. Pub. Regulation Comm’n*, 2019-NMSC-012, ¶ 16, 444 P.3d 460 (2019) (quoting *Rio Grande Chapter of Sierra Club v. N.M. Mining Comm’n*, 2003-NMSC-005, ¶ 17, 133 N.M. 97). The Supreme Court has also stated that “an agency’s action is arbitrary and capricious if it provides no rational connection between the facts found and the choices made, or entirely omits consideration of relevant factors or important aspects of the problem at hand.” *N.M. Indus. Energy Consumers v. N.M. Pub. Reg Comm’n*, 2019 NMSC-015, ¶ 8, 450 P.3d 393 (quoting *Albuquerque Cab Co. v. N.M. Pub. Regulation Comm’n*, 2017-NMSC-028, ¶ 8, 404 P.3d 1) (alteration omitted).

2. Summary of Relevant Law on Abandonment of Four Corners Appellate Issues

Relevant authorities applicable to the review of the denial of PNM’s application to abandon Four Corners include:

- a) NMSA 1978, Section 62-18-4(D) (“The qualifying utility or the commission may defer applications for needed approvals for new resources to a separate proceeding; provided that the application identifies adequate potential new resources sufficient to provide reasonable and proper service to retail customers.”). The Commission misapplied and misinterpreted this provision. Applicable to Statement of Issues (“SOI”) C.1(a), (b) and (e).
- b) *Citizens for Fair Rates and the Env’t v. N.M. Pub. Regulation Comm’n*, NMSC Case No. S-1-SC-38247, ¶ 45 (slip op. Jan. 10, 2022) (“Thus, while the New Mexico Constitution delegates to the Commission the exclusive responsibility for carrying out public utility regulatory policy, the parameters of that policy are, in the first instance, for the Legislature to decide.”). The Commission, in failing to properly interpret and apply the ETA, Sections 62-18-2, 62-18-4, and 62-18-5, failed to adhere to this principle. Applicable to SOI C.1(a) and (b).
- c) NMSA 1978, Section 62-9-5 provides that the Commission shall grant permission to abandon a facility “upon finding that the continuation of service is unwarranted or that the present and future public convenience and necessity do not otherwise require the continuation of the service or use of the facility.” Additionally, “[i]n considering the present and future

public convenience and necessity, the commission shall specifically consider the impact of the proposed abandonment of service on all consumers served in this state, directly or indirectly, by the facilities sought to be abandoned.” *Id.* Applicable to SOI C.1(c), (d), and (h).

d) *In re PNM Gas Servs.*, 2000-NMSC-012, ¶ 9, 129 N.M. 1 (“[T]he Commission is not free to disregard its own rules and prior ratemaking decisions or ‘to change its position without good cause and prior notice to the affected parties.’” (quoting *Hobbs Gas Co. v. N.M. Pub. Serv. Comm’n*, 115 N.M. 678, 681, 858 P.2d 54, 57 (1993))). The Commission has in the past applied the *Commuters’ Committee* factors, net public benefit test, and no net detriment test to abandonments and sales of utility facilities. The Commission’s failure to analyze and apply these tests here without good cause and notice was arbitrary and capricious. Applicable to SOI C.1(c), (d), and (h).

e) *Pub. Serv. Co. of N.M. v. N.M. Pub. Serv. Comm’n*, 1991-NMSC-083, ¶ 12, 112 N.M. 379 (stating that under Section 62-9-5, the Commission may apply the factors from *Commuters’ Committee v. Pennsylvania Public Utility Commission*, 170 Pa. Super. 596, 88 A.2d 420 (1952), in considering whether the present and future public convenience and necessity do not require continuation of the facility). The *Commuters’*

Committee factors consider: (1) The extent of the carrier’s loss on the particular branch or portion of the service, and the relation of that loss to the carrier’s operation as a whole; (2) the use of the service by the public and the prospects as to future use; (3) a balancing of the carrier’s loss with the inconvenience and hardship to the public upon discontinuance of such service; and (4) the availability and the adequacy of service to be substituted. *Id.* ¶ 10. The Commission did not analyze all these factors or explain why they were not satisfied or alternatively failed to apply them correctly given the showing of available replacement resources. Applicable to SOI C.1(c) and (d).

f) *Application of Northern Rio Arriba Electric Cooperative, Inc. (“NORA”) for Approval of the Sale of Certain Assets to Jicarilla Apache National and for NORA’s Abandonment of Such Assets and Service Therefrom upon Sale*, NMPRC Case No. 13-00395-UT, *Final Order*, at ¶ 21 (Feb. 26, 2014) (citing Case No. 13-00285-UT, *Application of Thunder Mountain Water Company and EPCOR Water New Mexico Inc. for Abandonment of CCN, Issuance of CCN, and Approval of EPCOR to Charge Existing Thunder Mountain Rates* (Nov. 20, 2013)) (“The Commission has consistently applied Section 62-9-5 in cases involving the sale of utility assets to another entity, including instances where the purchasing entity

- intends to take over provision of utility services. In cases involving both the abandonment of utility assets and service and the sale or transfer of utility assets to another entity, the Commission first considers whether the transactions are in the public interest. The standard to be applied in considering abandonment is one of ‘net benefit’ to the public interest, where quantifiable and unquantifiable benefits must outweigh the costs of the action.” (citations omitted)). The Commission did not apply the “net benefit” test and therefore did not act consistent with its own standards without offering an explanation why. Applicable to SOI C.1(c) and (d).
- g) NMSA 1978, Sections 62-6-12 (1989) and 62-6-13 (1953) (statutory sections governing the sale or divestiture of utility assets, requiring the Commission to approve the transfer of utility plant or property unless the proposed transaction is unlawful or found to be inconsistent with the public interest). The Commission did not evaluate the sale to NTEC under these standards. Applicable to SOI C.1(d).
- h) *Application of Picacho Hills Utility Company to Abandon All Regulated Utility Service and to Transfer Assets and Operation to Doña Ana Mutual Domestic Water Consumers Association*, NMPRC Case No. 13-00191-UT, *Final Order*, at 24 (Nov. 6, 2013) (“The ‘not inconsistent with the public interest’ standard . . . requires that we find that there is likely to be

a net detriment to the public interest before we may withhold our approval of proposed transfers of utility property . . . If the sale of assets . . . is merely neutral, or equally balanced as to benefit and detriment to the public interest, we are compelled to approve such requests.” (quoting *Re Southern Union Co.*, Case Nos. 1891 & 1892, *Final Order* (Dec. 12, 1984), 64 P.U.R. 4th 17, 24)). The Commission did not apply this standard in evaluating PNM’s proposed sale to NTEC. Applicable to SOI C.1(c) and (d).

- i) *In re Public Service Company of New Mexico’s Abandonment of San Juan Generating Station Units 1 and 4*, NMPRC Case No. 19-00018-UT, *Recommended Decision* at 17-28 (Feb. 21, 2020), approved by *Final Order on Request for Issuance of a Financing Order* (Apr. 1, 2020) (Commission approved PNM’s abandonment of San Juan Units 1 and 4, relying on PNM’s modeling of savings to ratepayers, without evaluating in detail the Company’s preferred portfolio of replacement resources, and also applying the *Commuters’ Committee* and net public benefit tests). Although the Commission faulted PNM for not presenting “actual” replacement resources in the decision below, the Commission did not analyze the replacement resources when it applied the net public benefit

- test and *Commuters' Committee* factors in Case No. 19-00018-UT to approve abandonment under the ETA. Applicable SOI C.1(a) to (e).
- j) *In the Matter of Public Service Company of New Mexico's Consolidated Application for Approvals for the Abandonment, Financing, and Resource Replacement for San Juan Generating Station*, NMPRC Case No. 19-00195-UT, *Recommended Decision on Replacement Resources, Part II*, at 2, 19-172 (June 24, 2020) (evaluating PNM's replacement resources for San Juan in a separate proceeding and approving abandonment in Case No. 19-00018-UT subject to the Commission's approval of sufficient replacement resources in this separate proceeding). Although the Commission faulted PNM for not presenting "actual" replacement resources in the decision below, the Commission has granted abandonment where replacement resources were considered in in a separate proceeding from the case in which abandonment was approved. Applicable SOI C.1(a) to (e).
- k) *Pub. Serv. Co. of N.M. v. N.M. Pub. Regulation Comm'n*, 2019-NMSC-012, ¶¶ 63-65, 444 P.3d 460 (2019) (holding that the Commission violated PNM's due process rights where the Commission first raised an issue in its final order). The Commission denied PNM's Amended Application, finding that "PNM's breach [of agreement to conduct modeling of 2024

and 2028 Four Corners exit scenarios] is a separate basis on which to deny PNM's current application for abandonment and require compliance by PNM in any resubmission of its application," but the only argument addressed in post-hearing briefing was whether the lack of this modeling provided an appropriate baseline against which to measure benefits of Four Corners abandonment. Applicable to SOI C.1(h).

l) 17.7.3.12 NMAC (If an IRP is deficient, the Commission is required to "identify the deficiencies and return it to the utility with instructions for re-filing."). The Commission denied PNM's application to abandon Four Corners based on the rationale that PNM should have conducted modeling in its 2020 IRP for a 2024 and 2028 exit from Four Corners. The remedy for a deficient IRP, under the Commission's rules, is to require the utility to revise and refile the IRP and does not include rejecting an abandonment application. Applicable to SOI C.1(f) to (h).

m) NMSA 1978, Section, 62-12-1 (1953) provides for Commission recourse in the event a utility fails to abide with a Commission order. The NMPRC did not avail itself on any remedy under this section for the claimed failure of PNM to conduct modeling in its 2020 IRP for a 2024 and 2028 exit from Four Corners; rather, the NMPRC denied PNM's request to abandon its interests in Four Corners. Applicable to SOI C.1(f) to (h).

- n) *State ex rel. Egolf v. N.M. Pub. Regulation Comm'n*, 2020-NMSC-018, ¶ 29, 476 P.3d 896 (If the Commission believes a utility is violating a Commission directive in an approved stipulation, the appropriate procedure is to pursue relief pursuant to Section 62-12-1). The Commission may not use approval or disapproval of abandonment of utility assets as a remedy for a perceived violation of a stipulation or an alleged noncompliant IRP. Applicable to SOI C.1(f) to (h).
- o) *Oil Transp. Co. v. N.M. State Corp. Comm'n*, 1990-NMSC-072, ¶¶ 10, 12, 110 N.M. 568 (Commission decisions must be based on substantial evidence in the record. Substantial evidence supporting administrative agency action is relevant evidence that a reasonable mind might accept as adequate to support a conclusion.). There is no substantial evidence to support: (1) the Commission's denial of approval to abandon Four Corners based on the finding that PNM failed to identify adequate potential replacement resources; and (2) the Commission's denial of approval to abandon Four Corners based on PNM not modeling 2024 and 2028 contractual breach scenarios in its 2020 IRP. Applicable to SOI C.1(e) and (g).
- p) *El Paso Elec. Co. v. N.M. Pub. Regulation Comm'n*, 2010-NMSC-048, ¶ 7, 149 N.M. 174 ("When construing statutes, our guiding principle is to

determine and give effect to legislative intent.”); *Baker v. Headstrom*, 2013-NMSC-043, ¶ 11, 309 P.3d 1047 (We “us[e] the plain language of the statute as the primary indicator of legislative intent[.]” (citation omitted)); *Quynh Truong v. Allstate Ins. Co.*, 2010-NMSC-009, ¶ 37, 147 N.M. 583 (noting that New Mexico courts have long honored statutory command through application of the plain meaning rule, recognizing that when a statute contains language which is clear and unambiguous, courts must give effect to that language and refrain from further statutory interpretation); *State v. Maestas*, 2007-NMSC-001, ¶ 15, 140 N.M. 836 (“We may only add words to a statute where it is necessary to make the statute conform to the [L]egislature’s clear intent, or to prevent the statute from being absurd.”). The Commission interpreted Section 62-18-4(D) to require that a utility must provide evidence of and information on “actual” replacement resources in order to abandon a qualifying facility under the ETA, despite the plain meaning that only “adequate potential new resources sufficient to provide reasonable and proper service to retail customers” need be identified. Applicable to SOI C.1(a) to (e).

- q) *State ex rel. Egolf v. N.M. Pub. Regulation Comm’n*, 2020-NMSC-018, ¶ 33, 476 P.3d 896 (The Commission has a constitutional duty to regulate public utilities “in such manner as the legislature shall provide” and has “a

nondiscretionary obligation to apply the ETA.”). Applicable to SOI C.1(a), (b), and (e).

3. *Summary of Relevant Law on the Commission’s Decision to Review the Prudence of PNM’s Investments at Four Corners in a Subsequent Proceeding*

Relevant authorities applicable to the review of the Commission’s decision to require a prudence review of PNM’s investment in life-extension projects at Four Corners in a subsequent proceeding include:

- a) NMSA 1978, Section 62-18-2(H) (defines energy transition costs that are recoverable through a financing order, including undepreciated investments as of the date of abandonment that were either being recovered in rates as of January 1, 2019 or are otherwise found to be recoverable through a court decision or were required for safe and reliable plant operations, and that other relevant costs are “energy transition costs.”) Additionally, Section 62-18-4(A) provides for recovery of energy transition costs. The Commission’s conclusion that a prudence evaluation of Four Corners investments already in rates before January 1, 2019 could proceed is directly contrary to Sections 62-18-2(H) and 62-18-4. Applicable to SOI C.2(a).
- b) *Citizens for Fair Rates and the Env’t v. N.M. Pub. Regulation Comm’n*, NMSC Case No. S-1-SC-38247, ¶ 45 (slip op. Jan. 10, 2022) (“Thus, while

the New Mexico Constitution delegates to the Commission the exclusive responsibility for carrying out public utility regulatory policy, the parameters of that policy are, in the first instance, for the Legislature to decide.”). The Commission, in failing to properly interpret Sections 62-18-2(H) and 62-18-4(A), failed to adhere to this principle. Applicable to SOI C.2(a).

- c) *Chaara v. Lander*, 2002-NMCA-053, ¶ 20, 132 N.M. 175 (The doctrine of *res judicata* bars “all claims arising out of the same transaction, regardless of whether they were raised at the earlier opportunity, as long as they could have been raised.”). The issue of the prudence of continuing to participate in Four Corners was raised initially in PNM’s 2015 rate case, Case No. 15-00261-UT, and the findings that allegations of imprudence were issues that could have been addressed in a prior resource case and were not supported by evidence at the rate hearing, were upheld on appeal. The issue of the prudence of PNM’s investment in life-extending projects at Four Corners was litigated by at least one party in Case No. 16-00276-UT, regardless of other parties choosing to settle the issue in that case. That decision was not appealed and a subsequent complaint in Case No. 20-00210-UT on the inclusion of those investments in rates was rejected when the Commission confirmed the rates were just and reasonable. Accordingly, the prudence

- of the life-extending investments at Four Corners should not (and cannot) be relitigated in this case or a future case. Applicable to SOI C.2(b).
- d) *In re PNM Gas Servs.*, 2000-NMSC-012, ¶ 9, 129 N.M. 1 (“[T]he Commission is not free to disregard its own rules and prior ratemaking decisions or ‘to change its position without good cause and prior notice to the affected parties.’” (quoting *Hobbs Gas Co. v. N.M. Pub. Serv. Comm’n*, 115 N.M. 678, 681, 858 P.2d 54, 57 (1993))). The Commission disregarded its standards for abandonment under Section 62-9-5, its standard for approval of an abandonment and financing order under the ETA, and also ordered that prudence issues should be determined in this case and then changed course without good cause. Applicable to SOI C.2(c).
- e) *In re the Application of Public Service Company of New Mexico for Revisions of its Retail Electric Rates Pursuant to Advice Notice No. 533*, NMPRC Case No. 16-000276-UT, *Order on Sierra Club’s Motion to Re-Open Docket to Implement the Revised Final Order*, at 7, ¶ 24 (Feb. 10, 2021) (concluding that “issues related to PNM’s abandonment application and request for a financing order should be litigated in Case 21-00017-UT” and denying request to reopen the case to evaluate prudence of life-extending investments in Four Corners). Applicable to SOI C.2(c).

f) *Oil Transp. Co. v. N.M. State Corp. Comm'n*, 1990-NMSC-072, ¶¶ 10, 12, 110 N.M. 568 (Commission decisions must be based on substantial evidence in the record. Substantial evidence supporting administrative agency action is relevant evidence that a reasonable mind might accept as adequate to support a conclusion.). No substantial evidence supported denial of abandonment and a financing order under the ETA, and PNM proved its case by a preponderance of the evidence. Further, there is no substantial evidence to support the Commission's deferral of the fully litigated issue of prudence in order to provide unsuccessful parties seeking disallowances an opportunity to re-litigate the issue. A review of the record in the case reveals that the Commission's decision to defer—for yet another time—a prudence evaluation of the life-extending investments in Four Corners on the basis of a supposed lack of evidence is not supported by substantial evidence. PNM introduced expert testimony on this issue and also designated specific portions of the evidentiary record from Case No. 16-00276-UT. Applicable to SOI C.2(d).

E. How the Issues Arose

PNM submitted several sets of pre-filed testimony in this proceeding from numerous witnesses addressing its request to abandon Four Corners. The Hearing Examiner also conducted a public hearing from August 30, 2021, to September 9,

2021, at which oral testimony and exhibits concerning these issues were admitted into evidence. Following the hearing, parties filed post-hearing briefs and post-hearing response briefs. After the Hearing Examiner issued the Recommended Decisions, parties then filed exceptions and responses to exceptions.

F. Related Appeals

To the best of PNM's knowledge, there are no related appeals pending in a separate docket. However, in *State ex rel. Egolf v. New Mexico Public Regulation Commission*, 2020-NMSC-018, 476 P.3d 896, the Court held that the Commission has an obligation to apply the ETA. In addition, the Court recently affirmed the Commission's order granting the Company a financing order in connection with the Company's abandonment of San Juan Units 1 and 4. See *Citizens for Fair Rates and the Env't. v. N.M. Pub. Regulation Comm'n*, 2022-NMSC-___, ___ P.3d ___. These cases interpreted ETA provisions that are relevant to this case

Respectfully submitted this 21st day of January 2022.

PUBLIC SERVICE COMPANY OF NEW MEXICO

/s/ Stacey J. Goodwin

Stacey J. Goodwin, Associate General Counsel
PNMR Services Company
Corporate Headquarters – Legal Department
Albuquerque, NM 87158-0805
(505) 241-4927
(505) 241-4836
Stacey.Goodwin@pnmresources.com
Ryan.Jerman@pnmresources.com

Richard L. Alvidrez
Miller Stratvert P.A.
500 Marquette NW, Suite 1100
P.O. Box 25687
Albuquerque, New Mexico 87125
(505) 842-1950
RAlvidrez@mstlaw.com

Raymond L. Gifford
Debrea M. Terwilliger
Wilkinson Barker Knauer LLP
2138 West 32nd Ave., Suite 300
Denver, CO 80211
(303) 626-2350
(303) 626-2329
RGifford@wbklaw.com
DTerwilliger@wbklaw.com

Attorneys for Public Service Company of New Mexico

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of Public Service Company of New Mexico's Statement of Issues was served in accordance with Rules 12-202(F) and 12-208(C) NMRA by email to the parties listed below on January 21, 2022:

PRC Records Management	prc.records@state.nm.us ;
Commissioner Cynthia Hall	Cynthia.hall@state.nm.us ;
Commissioner Jefferson Byrd	Jeff.byrd@state.nm.us ;
Commissioner Joseph Maestas	Joseph.maestas@state.nm.us ;
Commissioner Theresa Becenti-Aguilar	t.becenti@state.nm.us ;
Commissioner Stephen Fischmann	Stephen.fischmann@state.nm.us ;
Anthony Medeiros	anthony.medeiros@state.nm.us ;
Michael C. Smith	Michaelc.smith@state.nm.us ;
Judith Amer	Judith.amer@state.nm.us ;
Ana C. Kippenbrock	Ana.Kippenbrock@state.nm.us ;
Ahtza Dawn Chavez	ahtza@navaeducationproject.org ;
Ally Beasley	beasley@westernlaw.org ;
Amanda Edwards-Adrian	AE@Jalblaw.com ;
Andrea Crane	ctcolumbia@aol.com ;
Bradford Borman	Bradford.Borman@state.nm.us ;
Brendon Baatz	brendon@gabelassociates.com ;
Brian Buffington	Brian.buffington@pnm.com ;
Bruce C. Throne	bthroneatty@newmexico.com ;
Cara Lynch	lynch.cara.nm@gmail.com ;
Carey Salaz	Carey.Salaz@pnm.com ;
Charles W. Kolberg	ckolberg@abcwua.org ;
Christopher Sandberg	cksandberg@me.com ;
Cydney Beadles	cydney.beadles@westernresources.org ;
Dahl Harris	dahlharris@hotmail.com ;
Debrea Terwilliger	DTerwilliger@wbklaw.com ;
Don Hancock	sricdon@earthlink.net ;
Douglas Gegax	dgegax@nmsu.edu ;
Eli LaSalle	Eli.LaSalle@state.nm.us ;
Elizabeth Ramirez	Elizabeth.Ramirez@state.nm.us ;
Gabriella Dasheno	Gabriella.Dasheno@state.nm.us ;
Gideon Elliot	gelliott@nmag.gov ;
Gilbert Fuentes	GilbertT.Fuentes@state.nm.us ;
Heather Allen	Heather.Allen@pnmresources.com ;

Jack Sidler	Jack.Sidler@state.nm.us ;
Jane L. Yee	jyee@cabq.gov ;
Jason Marks	lawoffice@jasonmarks.com ;
Jeffrey Albright	JA@Jalblaw.com ;
Jeffrey Spurgeon	jeffrey.spurgeon@onwardenergy.com ;
Jennifer Van Wiel	jvanwiel@nmag.gov ;
Jim Dauphinais	jdauphinais@consultbai.com ;
John Bogatko	John.Bogatko@state.nm.us ;
John Reynolds	John.Reynolds@state.nm.us ;
Joseph Hernandez	joseph@navaeducationproject.org ;
Joseph Yar	joseph@yarlawoffice.com ;
Kaleb W. Brooks	kwbrooks@montand.com ;
Keith Herrmann	kherrmann@stelznerlaw.com ;
Kelly Gould	kelly@thegouldlawfirm.com ;
Keven Gedko	kgedko@nmag.gov ;
Kyle J. Tisdell	tisdell@westernlaw.org ;
Lorraine Talley	ltalley@montand.com ;
Marc Tupler	Marc.Tupler@state.nm.us ;
Mariel Nanasi	Mariel@seedsbeneaththesnow.com ;
Mark Fenton	Mark.Fenton@pnm.com ;
Matthew Gerhart	matt.gerhart@sierraclub.org ;
Michael I. Garcia	mikgarcia@bernco.gov ;
Mike Eisenfeld	mike@sanjuancitizens.org ;
Milo Chavez	Milo.Chavez@state.nm.us ;
Nann M. Winter	nwinter@stelznerlaw.com ;
Nicole Horseherder	nhorseherder@gmail.com
Pat O'Connell	pat.oconnell@westernresources.org ;
Peggy Martinez-Rael	Peggy.Martinez-Rael@state.nm.us ;
Peter J. Gould	peter@thegouldlawfirm.com ;
Randy S. Bartell	rbartell@montand.com ;
Raymond Gifford	RGifford@wbklaw.com ;
Richard Alvidrez	RALvidrez@mstlaw.com ;
Robyn Jackson	Robyn.jackson@dine-care.org ;
Ryan Jerman	Ryan.Jerman@pnmresources.com ;
Sharon Shaheen	sshaheen@montand.com ;
Stacey Goodwin	Stacey.Goodwin@pnmresources.com ;
Stephanie Dzur	Stephanie@Dzur-law.com ;
Steven S. Michel	smichel@westernresources.org ;
Steven Schwebke	Steven.Schwebke@pnm.com ;

