

**BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION**

**IN THE MATTER OF THE JOINT APPLICATION )  
OF AVANGRID, INC., AVANGRID NETWORKS, INC., )  
NM GREEN HOLDINGS, INC., )  
PUBLIC SERVICE COMPANY OF NEW MEXICO )  
AND PNM RESOURCES, INC. FOR APPROVAL OF )  
THE MERGER OF NM GREEN HOLDINGS, INC. )  
WITH PNM RESOURCES, INC.; APPROVAL OF A )  
GENERAL DIVERSIFICATION PLAN; AND ALL ) **Case No. 20-00222-UT**  
OTHER AUTHORIZATIONS AND APPROVALS )  
REQUIRED TO CONSUMMATE AND IMPLEMENT )  
THIS TRANSACTION )  
)  
)  
**AVANGRID, INC., AVANGRID NETWORKS, INC., )  
NM GREEN HOLDINGS, INC., PUBLIC SERVICE )  
COMPANY OF NEW MEXICO AND PNM )  
RESOURCES, INC., )  
)  
)  
**JOINT APPLICANTS. )**  
\_\_\_\_\_ )****

**PROCEDURAL ORDER**  
**FOR PROCEEDINGS ADDRESSING CONTESTED STIPULATION**

**THIS MATTER** comes before the Hearing Examiner upon the Notice of Filing Stipulation filed on May 7, 2021 by the Joint Applicants, the Hearing Examiner’s May 11, 2021 Order Regarding Avangrid Service Quality Issues and Management Audits and Suspension of the Filing Date for Statements in Opposition to the May 7, 2021 Stipulation (“May 11, 2021 Order”) and the various filings that have been made in response to the filed Stipulation and May 11, 2021 Order. Being fully informed, the Hearing Examiner **FINDS** and **CONCLUDES** as follows.

On December 18, 2020, the Hearing Examiner issued a Procedural Order that established a procedural schedule for the litigation of this matter.

On April 21, 2021, the Joint Applicants and several parties in the case, i.e., the Attorney General of the State of New Mexico, Western Resource Advocates, the International Brotherhood of Electrical Workers Local 611, Dine Citizens Against Ruining Our Environment, Nava Education Project, San Juan Citizens Alliance and To Nizhoni Ani, filed a Notice of Initial Stipulation. The Notice also stated that it is anticipated that further discussions with parties will provide an opportunity to add additional stipulated commitments for the Commission's consideration. On the same date, the Joint Applicants and the Attorney General of the State of New Mexico, Western Resource Advocates, and the International Brotherhood of Electrical Workers Local 611 filed an expedited motion to vacate the procedural schedule and hearings scheduled to start on May 3, 2021 and to schedule a status conference to discuss further procedural details to consider the stipulation.

On April 21, 2021, the Hearing Examiner issued an Order denying the expedited motion. The Hearing Examiner found that it was premature to grant the Joint Motion, given the significant opposition to the motion and the small number of signatories to the Initial Stipulation compared to the number of parties in the case. In addition, by separate order issued that day, the Hearing Examiner issued an order requiring the filing of statements by April 26, 2021 pursuant to subsections 1.2.2.20.B(1) and (2) regarding any opposition to the Initial Stipulation.

On April 23, 2021, the Joint Applicants filed a Notice of Amended Stipulation. The Amended Stipulation added the Coalition for Clean Affordable Energy ("CCAЕ") as a signatory and added further commitments on behalf of the Joint Applicants to resolve CCAЕ's interests. The Notice again stated that it is anticipated that further discussions with parties will provide an opportunity to add further stipulated commitments for the Commission's consideration.

On April 25, 2021, the Hearing Examiner issued an order vacating the prehearing conference scheduled for April 26, 2021 and the rest of the procedural schedule. The Hearing Examiner found that, in view of the Joint Applicants' last-minute and apparently ongoing attempts to negotiate a settlement of the issues in this proceeding and the continued filing of iterations of a settlement document, the time currently scheduled for a hearing on the Joint Applicants' Application would be better spent on good-faith negotiations with all parties intended to produce a final settlement document that could potentially be supported by all parties. The order established May 7, 2021 as the deadline for the conclusion of the negotiations, so that either a final stipulation (whether uncontested or contested) could be evaluated or the case could proceed to a hearing on the merits of the Application. The order further required the Joint Applicants and other parties to file by May 7, 2021 a proposed procedural schedule for the remainder of the proceeding, and it scheduled a status conference for May 11, 2021 to determine the schedule for further proceedings in this case.

On May 7, 2021, Public Service Company of New Mexico ("PNM") filed a Stipulation that expanded upon the initial stipulation filed on April 21, 2021 and the Amended Stipulation filed on April 23, 2021. The May 7 Stipulation expanded the number of signatories and the number of terms on which the parties reached agreement.

As noted above, the May 11, 2021 status conference was originally set to discuss scheduling and other matters. But, in view of the discovery of approximately \$25 million in penalties and cost disallowances to Avangrid's electric utility subsidiaries over the past 16 months, the discussion at the conference focused on the penalties and disallowances and the next procedural steps to be taken to address them. Accordingly, immediately after the status conference, the Hearing Examiner issued the May 11, 2021 Order, which (1) required the Joint

Applicants to file a response by May 18, 2021 providing information regarding the regulatory commission decisions that imposed the penalties and proposing in the response a process to incorporate the results of the management audits ordered in Connecticut and Maine into the record of this proceeding and a proposed procedural schedule for the remainder of this case, (2) set a May 25, 2021 deadline for parties to file responses to the Joint Applicants' filing, and (3) set a further status conference for May 28, 2021.

The Joint Applicants thereafter filed their response on May 18, 2021. The following parties filed responses to the Joint Applicants' filing on May 25, 2021 -- Attorney General; Bernalillo County and Albuquerque Bernalillo County Water Utility Authority (jointly); CCAE, San Juan Citizens Alliance, Dine CARE, To Nizhoni Ani, Nava Education Project and Western Resource Advocates (jointly); IBEW Local 611; New Mexico Affordable Reliable Energy Alliance; New Energy Economy; and the Commission's Utility Division Staff.

Parties that have signed on to the Stipulation request that a hearing schedule be set to consider the Stipulation, and they propose June 21, 2021 as the start date for the hearings. The responses from the non-stipulating parties are mixed in their preference for addressing the original Application or the Stipulation. The latter parties state that June 21, 2021 is too soon for any hearing, given the quantity of documents recently filed by the Joint Applicants. They also note the almost back-to-back scheduling of hearings in other proceedings before the Commission in the next few months and question how soon a set of hearings of the necessary length can be scheduled.

In the interim, the County of Los Alamos and M-S-R Public Power Agency filed a Joint Motion for Joinder to Stipulation on May 20, 2021. While styled as an apparent request to add the County and M-S-R to the May 7 Stipulation, the Joint Motion also appears to be requesting

that the Stipulation be modified to include an additional provision to address the concerns of the County and M-S-R.

Bernalillo County and the Albuquerque Bernalillo County Water Utility Authority filed a Joint Motion for Joinder of Iberdrola, S.A. for Just Adjudication on May 23, 2021. This Joint Motion asks that Iberdrola, S.A. be included as a party in the proceeding pursuant to Rule 1-019 NMRA and the Commission's previous cases that recognize the Commission's authority to designate holding companies as subject to Commission jurisdiction.

The Joint Applicants filed their response on May 24, 2021 to the Bench Request of Commissioner Jefferson Byrd regarding customer complaints and customer satisfaction for Avangrid Networks' electric and gas utility subsidiaries.

At the May 28, 2021 status conference, the Hearing Examiner and parties discussed a further procedural schedule. The Hearing Examiner indicated that hearings would be scheduled to consider the most recent version of the Stipulation and that the Stipulation, as a contested stipulation would be considered pursuant to 1.2.2.20.B(3) NMAC. That rule states that the commission or presiding officer shall schedule a contested stipulation for public hearing and review unless it is determined that the nature and extent of the opposition is such that hearing the stipulation will not materially conserve commission, staff, and party resources.<sup>1</sup>

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<sup>1</sup> The rule provides as follows:

(3) The commission or presiding officer shall schedule the stipulation for public hearing and review unless it is determined that the nature and extent of the opposition is such that hearing the stipulation will not materially conserve commission, staff, and party resources. In the event this determination is made, the commission or presiding officer may refuse to entertain the stipulation. The commission or presiding officer also has the discretion to combine a public hearing on a contested stipulation with the public hearing on the merits of any substantive issues not addressed by the stipulation.

1,2,2,20.B(3) NMAC.

Parties arguing that the Stipulation should not be considered claim that the consideration of the Stipulation will **not** materially conserve commission, staff, and party resources. The Hearing Examiner is not prepared to make that finding. The Stipulation addresses a significant number of issues in the testimonies filed in regard to the Application. It addresses some of the issues to the satisfaction of some of the parties; so, it will conserve the resources of those parties. Thirteen of the 24 parties in the case (other than the Joint Applicants) have signed on to the Stipulation.

There is still active opposition by at least 6 parties. The Stipulation does not address the issues of these parties to their satisfaction. Some of these parties also claim that the Stipulation does not address all substantive issues raised by the original Application.

On balance, the Hearing Examiner finds that it is appropriate to set a hearing schedule to consider the Stipulation. In addition, Section 1.2.2.20.B(3) provides the Hearing Examiner with the discretion to combine a public hearing on a contested stipulation with the hearing on the merits of any substantive issues not addressed by the stipulation. The hearings will therefore also allow parties to address substantive issues they claim are not addressed by the Stipulation.

Further, the Hearing Examiner acknowledges the tight opportunities available on the Commission's calendar to schedule a lengthy hearing. But a sufficient number of consecutive hearing days are available in mid-August -- between the end of the Southwestern Public Service Company rate case at Case No. 20-00238-UT and the start of the PNM Four Corners abandonment case at Case No. 21-00017-UT. Those hearing dates will give the parties sufficient time to review the Joint Applicants' filings, to conduct discovery and prepare testimony.<sup>2</sup>

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<sup>2</sup> The hearing schedule ordered here is similar to the schedule adopted for the contested stipulation in PNM's last rate case at Case No. 16-00276-UT. *See*, Order Establishing Procedural Schedule for Hearing the Revised Stipulation and Shortening Time to Respond to Discovery, Case No. 16-00276-UT, June 1, 2017.

The reasons for the later schedule also include (1) the need for parties to thoroughly address the 28 pages of regulatory commitments in the most recent version of the Stipulation filed on May 7, 2021 (plus the likely amendment proposed by the County of Los Alamos and M-S-R Public Power Agency); (2) the need to address the Joint Applicants' May 18, 2021 2,600 page response to the May 11 Order (which response identified approximately \$60 million in penalties and cost disallowances for Avangrid Networks' electric and gas utility subsidiaries over the last five years); (3) the need to address the 7,000 pages in the Joint Applicants' May 24, 2021 response to Commissioner Byrd's bench request; and (4) the need to address the various motions that have been filed since May 11, 2021 which may have the potential to affect the nature of the testimony that will be filed in support of and in opposition to the May 7 Stipulation.<sup>3</sup>

The Hearing Examiner and the parties also discussed details regarding the evidence that would be offered at the hearing, which the Hearing Examiner finds should be adopted.

**IT IS THEREFORE ORDERED:**

1. The following schedule is adopted, pursuant to 1.2.2.20.B(3) NMAC:
  - a. Pursuant to 1.2.2.20.B(2) NMAC, statements of opposition to the May 7 Stipulation, as it may be amended pursuant to the May 20th Joint Motion for Joinder to Stipulation shall be filed within five days after the filing of an executed, amended stipulation that incorporates the additional provision proposed in the May 20th Joint Motion.
  - b. Responses to the prehearing motions filed on April 23, 2021 (i.e., NM AREA Motion in Limine, Joint Applicants' Motion to Strike Portions of Rebuttal

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<sup>3</sup> The June 21, 2021 start date for the hearings proposed by the Signatories also coincides with the disruption that will be associated with the scheduled move of the Commission's offices into another building.

Testimony of New Energy Economy Witness Christopher K. Sandberg) shall be filed by June 10, 2021.

c. Testimony in support of the Stipulation shall be filed by June 18, 2021.

Each of the Signatories shall file testimony from at least one witness in support of the Stipulation.

d. The testimony of the Joint Applicants shall include answers to the questions in Attachment No. 1 hereto.

e. Testimony by parties that neither support nor oppose the Stipulation shall also be filed by June 18, 2021.

f. Testimony in opposition to the Stipulation shall be filed by July 16, 2021.

g. Rebuttal testimony shall be filed by July 29, 2021.

h. A prehearing conference is tentatively scheduled for August 3, 2021 to begin at 9:00 a.m.

i. A public comment hearing shall be held beginning at 9:00 a.m. on August 9, 2021. Parties and their representatives are not required to participate in the public comment hearing.

j. A public hearing shall be held beginning at 9:00 a.m. on August 11, 2021 and continuing as necessary through August 20, 2021 to hear and receive evidence, arguments and any other appropriate matters relevant to the Commission's consideration of the Stipulation.

2. Pursuant to 1.2.2.35.K NMAC and subject to the Hearing Examiner's rulings on the outstanding motions filed on April 23, 2021, the following will be admitted into evidence at the hearing: (a) the Application and Stipulation (as amended); (b) the testimonies and exhibits of



the parties filed prior to May 3, 2021 addressing the Joint Applicants' Application; and (c) the testimonies and exhibits that the parties file in support of and in opposition to the Stipulation (and testimony otherwise addressing the Stipulation).

3. A party wishing to examine at the hearing any Signatory witness, who has filed prepared testimony prior to the Signatory's entry into the Stipulation but who has not filed testimony in support of the Stipulation, shall provide notice of the party's intent to examine the Signatory's witness by the applicable filing deadline for the party's testimony. The notice will be deemed sufficient to provide for the witness's attendance at the hearing.

4. The Joint Applicants shall file biweekly status reports starting on June 11, 2021 on the progress of the audits ordered by the Maine Public Utilities Commission in Docket No. 2018-00194 and the Connecticut Public Utilities Regulatory Authority in Docket No. 20-08-03:

5. The Joint Applicants shall file copies of the following when received by any Avangrid, Inc. affiliate regarding the audits ordered by the Maine Public Utilities Commission and the Connecticut Public Utilities Regulatory Authority noted above:

a. Contracts, including scopes of work and project schedules, between the auditors and the respective regulatory authorities.

b. Schedules for the performance and completion of the audits.

c. Interim and draft audit reports submitted for comment to an Avangrid, Inc. affiliate.

d. Final audit reports.

6. Interested persons who are not affiliated with a party in the case may make oral or written comment. Oral comments will be entertained only at the 9:00 a.m. start of the public comment hearing on August 9, 2021 and will be limited to three minutes per commenter.

Persons wishing to make an oral comment must register in advance but not later than 9:00 a.m. on August 9, 2021 with [Ana.Kippenbrock@state.nm.us](mailto:Ana.Kippenbrock@state.nm.us) . Written comments may be made prior to the Commission’s final action in the case by sending the comment electronically to [prc.records@state.nm.us](mailto:prc.records@state.nm.us) .

### **Zoom-specific hearing procedures**

7. In view of the Coronavirus pandemic, the hearings will be conducted with the Zoom videoconferencing platform.

8. To enable the parties, the court reporter and the Hearing Examiner to focus on the witnesses testifying, active participation in the Zoom videoconference will be limited to the particular witness testifying at any time, the parties’ attorneys, the court reporter and the Hearing Examiner. This is necessary given the reduced size of the images that appear on the Zoom videoconferencing screen as a larger number of users participate in the videoconference.

9. Each party shall ensure that its active participants in the hearing use the computer audio and video access features in Zoom to participate -- not Zoom’s telephone connections.

10. Witnesses who have completed their testimony, witnesses who have yet to testify and all other interested persons will be able to view the hearings through the live streaming application that will be made available on the Commission’s website -- [www.nmprc.state.nm.us](http://www.nmprc.state.nm.us) .

11. Each party shall be responsible to have its participants view, prior to the hearing, the following Zoom training video through the following link of a recorded 30 minute “Getting Started With Zoom Meetings” training for the basics of how to participate:

[https://livetraining.zoom.us/rec/share/xON\\_Ne3uyDtOU43O7kz5Y-](https://livetraining.zoom.us/rec/share/xON_Ne3uyDtOU43O7kz5Y-0TWYLqX6a81iIWrfnRzNu9ITgCiEHmqQZRtypzIR)

[0TWYLqX6a81iIWrfnRzNu9ITgCiEHmqQZRtypzIR](https://livetraining.zoom.us/rec/share/xON_Ne3uyDtOU43O7kz5Y-0TWYLqX6a81iIWrfnRzNu9ITgCiEHmqQZRtypzIR) or through the live training offered at

<https://support.zoom.us/hc/en-us/articles/360029527911-Live-Training-Webinars>

12. The attorneys for each party shall be responsible for ensuring prior to the hearing that each party's witnesses have sufficient internet access, microphones, speakers, and familiarity with the Zoom videoconferencing platform for the witness to effectively testify at the hearing.

13. The oral testimony elicited by the party presenting the witness shall (except for redirect examination) consist of the authentication and verification of each pre-filed document. Unless otherwise ordered by the Hearing Examiner, the party shall not elicit oral summaries of pre-filed testimony or other oral direct testimony.

14. Except as expressly provided herein, all findings, conclusions, and ordering clauses contained in the December 18, 2020 Procedural Order and other orders of the Hearing Examiner and Commission that have not been amended or otherwise superseded remain in full force and effect.

**ISSUED at Santa Fe, New Mexico, this May 28, 2021.**

**NEW MEXICO PUBLIC REGULATION COMMISSION**

*/s/ Ashley C. Schannauer*

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**Ashley C. Schannauer**  
**Hearing Examiner**

**BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION**

**IN THE MATTER OF THE JOINT APPLICATION OF )  
 AVANGRID, INC., AVANGRID NETWORKS, INC., NM )  
 GREEN HOLDINGS, INC., PUBLIC SERVICE COMPANY )  
 OF NEW MEXICO AND PNM RESOURCES, INC. FOR )  
 APPROVAL OF THE MERGER OF NM GREEN )  
 HOLDINGS, INC. WITH PNM RESOURCES, INC.; )  
 APPROVAL OF A GENERAL DIVERSIFICATION PLAN; )  
 AND ALL OTHER AUTHORIZATIONS AND APPROVALS )  
 REQUIRED TO CONSUMMATE AND IMPLEMENT THIS )  
 TRANSACTION )**

**Case No. 20-00222-UT**

**CERTIFICATE OF SERVICE**

**I CERTIFY** that on this date I sent via email to the parties listed below a true and correct copy of the Procedural Order for Proceedings Addressing Contested Stipulation.

Stacey Goodwin Ryan Jerman Richard Alvidrez Mark Fenton Carey Salaz Steven Schwebke Patrick V. Apodaca Mariel Nanasi Christopher Sandberg Joan Drake Haley B. Adams Lisa Tormoen Hickey Nann M. Winter Keith Herrmann Dahl Harris Peter Auh Andrew Harriger Jody Garcia Steven S. Michel April Elliott Cydney Beadles Pat O'Connell Douglas J. Howe Cholla Khoury Gideon Elliot Jennifer Van Wiel Andrea Crane Doug Gegax Joseph Yar Jeffrey Spurgeon Bruce C. Throne Rob Witwer Jeffrey Albright Michael I. Garcia Amanda Edwards Matt Dunne Maureen Reno	<a href="mailto:Stacey.Goodwin@pnmresources.com">Stacey.Goodwin@pnmresources.com</a> ; <a href="mailto:Ryan.Jerman@pnmresources.com">Ryan.Jerman@pnmresources.com</a> ; <a href="mailto:Ralvidrez@mstlaw.com">Ralvidrez@mstlaw.com</a> ; <a href="mailto:Mark.Fenton@pnm.com">Mark.Fenton@pnm.com</a> ; <a href="mailto:Carey.salaz@pnm.com">Carey.salaz@pnm.com</a> ; <a href="mailto:Steven.Schwebke@pnm.com">Steven.Schwebke@pnm.com</a> ; <a href="mailto:Patrick.Apodaca@pnmresources.com">Patrick.Apodaca@pnmresources.com</a> ; <a href="mailto:Mariel@seedsbeneaththesnow.com">Mariel@seedsbeneaththesnow.com</a> ; <a href="mailto:cksandberg@me.com">cksandberg@me.com</a> ; <a href="mailto:jdrake@modrall.com">jdrake@modrall.com</a> ; <a href="mailto:hadams@modrall.com">hadams@modrall.com</a> ; <a href="mailto:lisahickey@newlawgroup.com">lisahickey@newLawgroup.com</a> ; <a href="mailto:nwinter@stelznerlaw.com">nwinter@stelznerlaw.com</a> ; <a href="mailto:kherrmann@stelznerlaw.com">kherrmann@stelznerlaw.com</a> ; <a href="mailto:dahlharris@hotmail.com">dahlharris@hotmail.com</a> ; <a href="mailto:pauh@abcwua.org">pauh@abcwua.org</a> ; <a href="mailto:akharriger@sawvel.com">akharriger@sawvel.com</a> ; <a href="mailto:JGarcia@stelznerlaw.com">JGarcia@stelznerlaw.com</a> ; <a href="mailto:smichel@westernresources.org">smichel@westernresources.org</a> ; <a href="mailto:April.elliott@westernresources.org">April.elliott@westernresources.org</a> ; <a href="mailto:Cydney.Beadles@westernresources.org">Cydney.Beadles@westernresources.org</a> ; <a href="mailto:pat.oconnell@westernresources.org">pat.oconnell@westernresources.org</a> ; <a href="mailto:dhowe@highrocknm.com">dhowe@highrocknm.com</a> ; <a href="mailto:ckhoury@nmag.gov">ckhoury@nmag.gov</a> ; <a href="mailto:gelliot@nmag.gov">gelliot@nmag.gov</a> ; <a href="mailto:jvanwiel@nmag.gov">jvanwiel@nmag.gov</a> ; <a href="mailto:ctcolumbia@aol.com">ctcolumbia@aol.com</a> ; <a href="mailto:dgegax@nmsu.edu">dgegax@nmsu.edu</a> ; <a href="mailto:joseph@yarlawoffice.com">joseph@yarlawoffice.com</a> ; <a href="mailto:spurgeonj@southwestgen.com">spurgeonj@southwestgen.com</a> ; <a href="mailto:bthroneatty@newmexico.com">bthroneatty@newmexico.com</a> ; <a href="mailto:witwerr@southwestgen.com">witwerr@southwestgen.com</a> ; <a href="mailto:JA@Jalblaw.com">JA@Jalblaw.com</a> ; <a href="mailto:mikgarcia@berncogov.gov">mikgarcia@berncogov.gov</a> ; <a href="mailto:AE@Jalblaw.com">AE@Jalblaw.com</a> ; <a href="mailto:dunneconsultingllc@gmail.com">dunneconsultingllc@gmail.com</a> ; <a href="mailto:mreno@reno-energy.com">mreno@reno-energy.com</a> ;	Kyle J. Tisdell Ally Beasley Ahtza Dawn Chavez Joseph Hernandez Nicole Horseherder Jessica Keetso Thomas Singer Mike Eisenfeld Robyn Jackson Jane L. Yee Larry Blank, Ph.D. Saif Ismail Peter J. Gould Kelly Gould Jim Dauphinais Michael Gorman Justin Lesky Stephanie Dzur Ramona Blaber Don Hancock April Elliott Noah Long Brian J. Haverly Jason Marks Matthew Gerhart R. Scott Mahoney David L. Schwartz Katherine Coleman Thompson & Knight Randy S. Bartell Sharon T. Shaheen Jennifer Breakell Hank Adair Cindy A. Crane Peter Mandelstam Steve W. 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**DATED** this May 28, 2021.

**NEW MEXICO PUBLIC REGULATION COMMISSION**

*Ana C. Kippenbrock*

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**Ana C. Kippenbrock, Law Clerk**