



IN THE SUPREME COURT OF THE STATE OF NEW MEXICO

**AVANGRID, INC., AVANGRID NETWORKS, INC.,
NM GREEN HOLDINGS, INC., IBERDROLA, S.A.,
PUBLIC SERVICE COMPANY OF NEW MEXICO, and
PNM RESOURCES, INC.,**

Appellants,

v.

S-1-SC-39152

**NEW MEXICO PUBLIC REGULATION
COMMISSION,**

Appellee,

and

**NEW ENERGY ECONOMY,
WESTERN RESOURCE ADVOCATES,
INTERNATIONAL BROTHERHOOD
OF ELECTRICAL WORKERS LOCAL 611,
THE OFFICE OF THE NEW MEXICO
ATTORNEY GENERAL, COALITION FOR
CLEAN AFFORDABLE ENERGY, DINE CITIZENS
AGAINST RUINING THE ENVIRONMENT, SAN
JUAN CITIZENS ALLIANCE, TO NIZHONI ANI,
NAVA EDUCATION PROJECT,**

Intervenor-Appellees.

**In The Matter of The Joint Application of
Iberdrola, S.A., 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,
NMPRC Case No. 20-00222-UT**

**JOINT MOTION FOR STIPULATED DISMISSAL OF APPEAL AND
REMAND FOR REHEARING AND RECONSIDERATION;
REQUEST FOR EXPEDITED RULING AND
SHORTENED RESPONSE AND MANDATE PERIODS**

Pursuant to Rule 12-401(B)(2) NMRA, Avangrid, Inc., Avangrid Networks, Inc., NM Green Holdings, Inc., Iberdrola, S.A., Public Service Company of New Mexico, and PNM Resources, Inc. (collectively, “Appellants”), jointly with the New Mexico Public Regulation Commission (the “Commission” or “Appellee”) hereby move for dismissal of this appeal. Appellants and Appellee seek dismissal and remand of this case for purposes of effectuating their agreement to resolve this appeal by submitting the matter to the Commission for rehearing and reconsideration, as more fully described in this Joint Motion. As grounds for their Joint Motion, Appellants and Appellee state:

1. In this appeal, Appellants seek annulment of an order of the Commission denying approval of a merger and acquisition involving a public utility operating in New Mexico. Appellants also challenge a discovery sanction.

2. Following protracted litigation and negotiations, several of the parties to the proceedings below entered into a stipulated settlement in favor of the proposed merger. The Commission’s Hearing Examiner (the “HE”) recommended that the

Commission reject the settlement stipulation because he concluded the risk of a deterioration in the quality of utility service outweighed the benefits of the transaction. The HE, however, alternatively proposed modifications to the stipulation to further reduce the transaction risks, should the Commission conclude that the stipulation should be approved. Ultimately, all but one of the parties either supported or did not oppose approval of the proposed merger transaction with the HE's proposed modifications to the settlement stipulation, which the signatories ratified in their exceptions to the Certification of Stipulation. The Commission issued an Order on Certification of Stipulation on December 8, 2021 ("Commission Order") that rejected the transaction.

3. It serves the public interest and conserves the resources of the Court if this appeal is dismissed and the matter is remanded to the Commission to allow the Commission to promptly rehear and reconsider the Commission Order on remand. Appellants and the Commission therefore stipulate to dismissal of this appeal upon the terms and conditions recited in this Joint Motion. The Commission has not agreed to, nor made any determinations, with regard to any specific outcome or decision that may result upon the Court's dismissal and remand to the Commission for rehearing and reconsideration of the Commission Order. The terms and conditions recited in this Joint Motion comprise the entirety of the agreement between Appellants and Appellee.

4. On January 27, 2023, one of the three Commissioners voluntarily recused himself from the proceeding below. The two remaining Commissioners will decide the rehearing and reconsideration.

5. The Commission shall conduct the rehearing and reconsideration under Rule 1.2.2.37(F) NMAC.

6. The Commission will endeavor to reach a decision and issue its final order on rehearing and reconsideration in a timely manner. The Commission acknowledges that Appellants request that the Commission issue its final order no later than April 12, 2023.

7. To assist in the prompt reconsideration and resolution of the proceeding below, Appellants and the Commission respectfully request expeditious consideration of this Motion, and a shortened response period applicable to motions for dismissal, set forth in Rule 12-309 NMRA, from fifteen (15) days to five (5) days, without three (3) days for mailing. Appellants and the Commission further request a shortened period for issuance of mandate, as set forth in Rule 12-402, from fifteen (15) days to five (5) days.

8. Appellants and the Commission have requested the positions of the other parties in this matter, and their positions are as follows:

- International Brotherhood of Electrical Workers Local 611 supports the motion.

- Coalition for Clean Affordable Energy and Western Resource Advocates support the motion with the understanding that, upon remand, they will be pursuing an opportunity to update the record.
- Dine Citizens Against Ruining the Environment, San Juan Citizens Alliance, NAVA Education Project, and To Nizhoni Ani support the motion with the understanding that, upon remand, they will be pursuing an opportunity to update the record.
- The Attorney General's Office does not oppose the motion, provided that the procedure on remand establishes adequate guarantees of due process for all parties, including notice, an opportunity to be heard, an opportunity to request the introduction of additional evidence under the affidavit procedure outlined in NMCA 1.2.2.37(F)(3), and a public hearing.
- New Energy Economy opposes the Joint Motion including its request for expedited treatment.

WHEREFORE Appellants and Appellee respectfully request that the Court dismiss this appeal and remand this matter for rehearing and reconsideration, as stipulated in this Joint Motion.

Respectfully submitted this 8th day of March, 2023

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 8th day of March, 2023, I caused the foregoing to be submitted to Odyssey File & Serve, which in turn caused all counsel to be served by email.

/s/ Thomas C. Bird
Thomas C. Bird