

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

**IN THE MATTER OF THE APPLICATION OF PUBLIC)
SERVICE COMPANY OF NEW MEXICO FOR)
REVISION OF ITS RETAIL ELECTRIC RATES) Docket No. 22-00270-UT
PURSUANT TO ADVICE NOTICE NO. 595)**

**ORDER GRANTING MOTION AND
SCHEDULING SECOND PUBLIC COMMENT HEARING**

THIS MATTER comes before the New Mexico Public Regulation Commission (“Commission” or “NMPRC”) upon the motion of the New Mexico Attorney General (“NMAG”) to schedule a second public comment hearing. Wherefore, being duly informed,

THE COMMISSION FINDS AND CONCLUDES:

1. On January 6, 2023, the Hearing Examiners issued the “Procedural Order” which required Public Service Company of New Mexico (“PNM”) to, by March 6th, publish notice of the procedural schedule in newspapers of general circulation, to mail bill stuffers to customers containing the procedural schedule, and to post the procedural schedule on its website.¹ The procedural schedule included a public comment hearing date of June 20, 2023.²

2. On April 7, 2023, the Hearing Examiners issued the “Second Procedural Order” which vacated the June 20th public comment hearing and stated, “Interested persons who are not affiliated with a party may make oral or written comment as allowed by Rule 1.2.2.23(F) NMAC. Oral comment shall be taken at a public comment hearing to be scheduled by the Commission on a date and time yet to be determined.”³ The Second Procedural Order did not require PNM to publish notice in newspapers, to provide bill stuffers, or to update its website upon the issuance of a subsequent order scheduling a public comment hearing.

¹ Procedural Order at 5.

² *Id.* at 9, 10.

³ Second Procedural Order at 9.

3. On July 27, 2023, by single signature order, the Commission issued the “Order Scheduling Public Comment Hearing” thereby scheduling a public comment hearing to be held on August 1, 2023, at the NM811 Call Before You Dig Building in Albuquerque, New Mexico. Additionally on July 27th, the Commission issued a press release to advise the press and public of the public comment hearing.⁴

4. On August 1, 2023, the Commission held the public comment hearing in-person and simultaneously hosted on Zoom and streamed on YouTube for four hours, during which time two public comments were heard.

5. On August 8, 2023, the NMAG filed the “Motion For Order Setting Additional Public Comment Hearing” (“Motion”). The Motion argues that the “public received limited notice of the time and place to make their opinions known to the Commission.”⁵ The Motion asks the Commission to schedule a public comment hearing as close to the start of the public hearing as possible, and to require PNM to send out notice to the customers via email. The parties who support the Motion are: Albuquerque Bernalillo County Water Utility Authority; Bernalillo County; City of Albuquerque; Coalition for Clean Affordable Energy; Sierra Club; New Energy Economy; and Walmart. Staff is not opposed to the Motion.

6. On August 9, 2023, PNM filed a notice of position with the Commission stating that it does not oppose the Motion.

7. No parties oppose the Motion.

8. The public’s right to provide oral comment at the public comment hearing of August 1, 2023 was not noticed in newspapers although the Commission’s press release was

⁴ https://www.nm-prc.org/wp-content/uploads/2023/07/Media-Advisory_NMPRC-to-hold-a-public-comment-hearing-regarding-PNMs-application-for-revision-of-rates-1-2.pdf.

⁵ Motion at 2.

provided to them. In addition, the public's right to provide oral comment was not provided to PNM's customers in bill stuffers nor emailed to PNM's customers. A review of the procedural schedule on PNM's website shows that there is not a public comment hearing date listed for August 1st under Docket No. 22-00270-UT.⁶ Although public notice was posted on the Commission's website and served upon the certificate of service, the public reach of the Commission's July 27th Order and Press Release may not have been sufficient to apprise the public of their right to provide public comment.

9. The public is entitled to make oral statements on the record. 1.2.2.23(F) NMAC; 1.2.2.32(A)(2) NMAC.

10. The Commission's Rules require that reasonable "notice shall be given to all parties of the time and place of every public hearing scheduled by the commission or presiding officer." 1.2.2.24(C) NMAC. And, the Commission's Rules require that,

The commission or presiding officer may require that public notice also be given. When public notice is required, it shall be published in a newspaper having general circulation in the area affected by the filed pleadings at least twenty (20) days prior to the date of the public hearing, unless otherwise provided by rule, or *if the commission or presiding officer finds that circumstances warrant shorter notice*. The party who is required to publish notice shall cause to be filed, on or before the date of public hearing, an affidavit of publication of a responsible officer of the newspaper making such publication. The party required by the commission or presiding officer to publish the notice shall bear the cost of such publication.

Id. (emphasis added).

11. The Commission finds that, given the timing of the NMAG's filing of the Motion, and the circumstances herein described, shorter than 20 days' notice is warranted for a public comment hearing to be scheduled prior to the start of the public hearing in this Matter set to begin

⁶ See <https://www.pnmresources.com/investors/rates-and-filings.aspx> (accessed Aug. 11, 2023).

on September 5, 2023. To allow for notice to be provided to the public, and to precede the public hearing, a public comment hearing should be scheduled for Thursday, August 31, 2023.

12. Therefore, NMAG's Motion should be granted, and PNM should be required to provide public notice of the public comment hearing pursuant to Rule 1.2.2.24(C) NMAC.

IT IS THEREFORE ORDERED:

A. The NMAG's Motion is hereby granted.

B. A public comment hearing shall be held on August 31, 2023, from 4:00 P.M. to 5:30 P.M., which duration may be extended at the Commission's discretion, at NM811 – Call Before You Dig, located at 1021 Eubank Blvd. NE, Albuquerque, NM 87112. Public parking shall be available on the South-side of the building, which is only accessible from the facility's gates on Eubank Blvd. NE. The parking lot entrance on Walker Dr. NE does not allow access to the public meeting room and shall not be used. The public shall access the building at the South-side entrance.

C. PNM shall, by August 20, 2023, at its sole expense, cause notice of the August 31st public comment hearing to be published once in newspapers of general circulation sufficient for availability in every county where PNM provides service, to be emailed to PNM's customers, to be posted on PNM's social media accounts, and to be posted on PNM's website. Publication in newspapers of general circulation shall be no smaller than a one-half page advertisement space.

D. Any interested persons who are not affiliated with a party in this Docket may make oral comment in person, via the Zoom app, or by telephone. Persons making oral public comment in-person do not need to sign up in advance but do need to sign-in by hand on the sign-up sheet at the NM811 – Call Before You Dig.

E. To sign up for public comment via telephone and/or Zoom, and to receive the call-in number and/or Zoom invite, please contact Patrick Rodriguez via email at

public.comment@prc.nm.gov or by phone at (505) 490-7910. The Commission requests, but does not require, your registration the day before the public comment hearing. You will receive the call-in number and Zoom invitation to join the public-comment hearing by separate e-mail at some time before noon on August 31, 2023. Please let Mr. Rodriguez know if your Zoom username is different than the name you supply to register. If you do not know whether your Zoom username is different than your actual name, take steps now to figure this out before you contact Mr. Rodriguez. If you intend to appear at the public comment hearing by telephone, please provide Mr. Rodriguez with your telephone number so that he may correlate that number to your name. That e-mail will have the subject name “Docket No. 22-00270UT: PNM's Rate Case Application - Public Comment Hearing.” Mr. Rodriguez shall function as meeting host. If on the day of the hearing you have difficulties connecting with Zoom or have audio/video problems, you may participate by phone. You shall, however, contact Mr. Rodriguez that you will be participating by phone. The public comment hearing shall be transcribed for the record, and participants should make sure that their microphones function properly so that the court reporter can hear you. The public comment hearing shall commence with an introduction. After that, each commenter shall be called by name, in the order of registration. After that time, the commenter shall exit the Zoom meeting or the host shall remove you. These controls are imposed to ensure that the public comment hearing is conducted efficiently and to prevent purposefully disruptive activity. If you wish to view comments, you can view the public comment hearing on the Commission’s YouTube channel at <https://www.nm-prc.org/public-hearings/>. If you are new to the Zoom platform, you can view the basics of how to utilize the platform at <https://support.zoom.us/hc/en-us/p/zoom-meetings-guide>.

F. The public comment hearing shall be livestreamed on YouTube.

G. Oral comments shall be limited to 1.5 minutes but may be shortened or extended at the discretion of the Commission.

H. Interested persons, who are not affiliated with a party in this Docket may additionally file written comments as allowed by Rule 1.2.2.23(F) NMAC.

I. Any interested person may examine PNM's application and supporting documents and other documents filed in the public record of this Docket No. 22-00270-UT on the Commission's website, <https://edocket.nmprc.state.nm.us>, or at the offices of PNM at the following address:

Public Service Company of New Mexico
PNM Headquarters, Main Office
Albuquerque, New Mexico 87158
Telephone: (505) 241-2700

J. This Order is issued by a single Commissioner as authorized by and 1.2.2.30(B)(2) NMAC of the Commission's Rules on Procedure.

K. A copy of this Order shall be served upon all persons listed on the attached Certificate of Service by e-mail, if e-mail addresses are known, or by regular mail.

L. This Order is effective immediately.

PERSONS WITH DISABILITIES

ANY PERSON WITH A DISABILITY REQUIRING SPECIAL ASSISTANCE TO PARTICIPATE IN THIS PROCEEDING SHOULD CONTACT THE COMMISSION 505) 469-3537 TO REQUEST SUCH ASSISTANCE AS SOON AS POSSIBLE, PREFERABLY AS SOON AS THE PERSON RECEIVES NOTICE OF THIS PROCEEDING TO ALLOW CONSIDERATION OF THE REQUEST AND TO ARRANGE FOR A POTENTIAL REASONABLE ACCOMMODATION.

ISSUED under the Seal of the Commission at Santa Fe, New Mexico, this 15th day of August, 2023.

NEW MEXICO PUBLIC REGULATION COMMISSION

/s/ James F. Ellison, Jr., electronically approved
JAMES F. ELLISON, JR., COMMISSIONER



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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing *Order Granting Motion and Scheduling Second Public Comment Hearing* was emailed on this date to the parties listed below.

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DATED this 15th day of August, 2023.

NEW MEXICO PUBLIC REGULATION COMMISSION

/s/ LaurieAnn Santillanes, electronically signed
LaurieAnn Santillanes, Law Clerk