

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

**IN THE MATTER OF PUBLIC SERVICE)
COMPANY OF NEW MEXICO’S)
APPLICATION FOR A CERTIFICATE OF)
PUBLIC CONVENIENCE AND NECESSITY)
TO PURCHASE, OWN, AND OPERATE)
TWELVE MEGAWATTS OF BATTERY)
STORAGE FACILITIES)
)
PUBLIC SERVICE COMPANY OF NEW)
MEXICO,)
)
Applicant)
_____)**

Case No. 23-_____ - UT

**DIRECT TESTIMONY
OF
MARK FENTON**

May 3, 2023

**NMPRC CASE NO. 23-_____ -UT
INDEX TO THE DIRECT TESTIMONY OF
MARK FENTON**

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

I. INTRODUCTION AND PURPOSE 1

II. PNM’S PROPOSED BESS PROJECT AND BACKGROUND 4

III. STANDARDS FOR CCN APPROVAL 13

IV. REGULATORY STAKEHOLDER OUTREACH PROCESS 19

V. CONCLUSION..... 21

PNM Exhibit MF-1 Statement of Qualifications

Self-Verification

**DIRECT TESTIMONY
OF MARK FENTON
NMPRC CASE NO. 23-_____-UT**

1

I. INTRODUCTION AND PURPOSE

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

4 **A.** My name is Mark Fenton. I am the Executive Director of Regulatory Policy and
5 Case Management for Public Service Company of New Mexico (“PNM” or
6 “Company”). In this role, one of my primary responsibilities is to direct PNM’s
7 Regulatory and Case Management Department, which actively participates in all
8 PNM regulatory proceedings before the New Mexico Public Regulation
9 Commission (“NMPRC” or “Commission”) and the Federal Energy Regulatory
10 Commission. My business address is Public Service Company of New Mexico,
11 414 Silver Avenue SW, Albuquerque, New Mexico 87102. For more about my
12 qualifications, please see my Statement of Qualifications attached as PNM Exhibit
13 MF-1.

14

15 **Q. HAVE YOU PREVIOUSLY PROVIDED TESTIMONY IN COMMISSION**
16 **PROCEEDINGS?**

17 **A.** Yes. A list of cases in which I have provided testimony before the NMPRC is
18 included in PNM Exhibit MF-1.

19

20 **Q. WHAT IS PNM REQUESTING IN THIS PROCEEDING?**

21 **A.** PNM is requesting a Certificate of Public Convenience and Necessity (“CCN”)
22 authorizing PNM to purchase, own, install and operate 12 MW of battery energy

**DIRECT TESTIMONY
OF MARK FENTON
NMPRC CASE NO. 23-_____-UT**

1 storage systems (“BESS”) at two existing PNM solar facilities. The two
2 installations of 6 MW each of battery storage equipment will be located on PNM’s
3 distribution system at the following PNM-owned sites: (1) the South Valley Solar
4 Site (South Coors 12 feeder) in Bernalillo County; and (2) the Rio Del Oro Solar
5 Site (Tome 12 feeder) in Valencia County.

6

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

8 **A.** My testimony demonstrates how PNM’s application for a CCN for the proposed 12
9 MW battery energy storage project (“BESS Project”) meets the regulatory
10 framework and applicable legal standards in NMSA 1978, Sections 62-9-1 and 62-
11 9-6. I also describe PNM’s outreach process with regulatory stakeholders that PNM
12 undertook in advance of filing this Application.

13

14 As an initial matter, I also identify the other PNM witnesses that support PNM’s
15 Application.

16

17 **Q. WHAT IS THE TIMEFRAME PNM IS REQUESTING FOR APPROVAL
18 OF THE APPLICATION?**

19 **A.** PNM requests approval of a CCN for the BESS Project no later than December 31,
20 2023. Although a CCN application has a nine-month approval deadline that is
21 subject to extension, PNM is requesting an earlier approval to place the BESS
22 Project in-service by June 2024. This will allow PNM to start addressing the

**DIRECT TESTIMONY
OF MARK FENTON
NMPRC CASE NO. 23-_____-UT**

1 volume of pending interconnection applications on these two distribution feeders,
2 as well as to provide the direct and indirect system benefits described in the
3 testimonies of the other PNM witnesses.

4

5 **Q. WHO ARE THE OTHER PNM WITNESSES FILING TESTIMONY IN**
6 **SUPPORT OF PNM'S APPLICATION?**

7 **A.** There are three other witnesses testifying on behalf of PNM in this matter:

8

- 9 • Omni Warner, Director, Distribution Engineering for PNM. PNM witness
10 Warner describes PNM's distribution feeder system and the associated risks of
11 overcapacity on the feeders. He addresses the potential solutions to relieve
12 feeder overcapacity and explains why the BESS Project was selected as the
13 optimum solution for the two distribution feeders that will host the project. He
14 also discusses the significant direct and indirect benefits to PNM's overall
15 system and customers from the BESS Project. Mr. Warner discusses how the
16 opportunity that similar projects in the future can help to modernize PNM's
17 distribution system and enable more renewable integration. Mr. Warner
18 confirms how the BESS Project satisfies certain CCN criteria applicable to
19 energy storage projects. Mr. Warner also describes how PNM considered
20 environmental justice issues in this application.

21

**DIRECT TESTIMONY
OF MARK FENTON
NMPRC CASE NO. 23-_____-UT**

1 • Jason Jones, Director of Generation Engineering. PNM witness Jones discusses
2 the procurement process used for the BESS Project, including the bid and
3 selection of vendors for the project. Mr. Jones describes the terms of the
4 agreements for the purchase of the BESS Project equipment. He also details
5 the BESS Project costs and schedule. Mr. Jones also summarizes how the BESS
6 Project satisfies certain criteria for approval of the requested CCN.

7

8 • Lucas McIntosh, Managing Director of the Power Grid Advisory team at 1898
9 & Co., a division of Burns & McDonnell Engineering Co. (“Burns &
10 McDonnell”). Mr. McIntosh summarizes the work and analysis Burns &
11 McDonnell has provided to PNM, including a detailed study conducted in 2021,
12 to examine and quantify the potential benefits that BESS may offer to PNM
13 interconnections at various locations and operating under various assumed
14 conditions. He also sponsors the cost estimate prepared by Burns & McDonnell
15 in 2022 and relied on by PNM for the construction of the BESS Project.

16

17 **II. PNM’S PROPOSED BESS PROJECT AND BACKGROUND**

18

19 **Q. PLEASE DESCRIBE THE BESS PROJECT.**

20 **A.** PNM is seeking to add 12 MW of battery storage encompassed in the BESS Project
21 at two specific sites on the PNM distribution system. Installing BESS is an
22 important part of achieving PNM’s goal of a carbon-free system by 2040. BESS

**DIRECT TESTIMONY
OF MARK FENTON
NMPRC CASE NO. 23-_____-UT**

1 facilitates PNM’s shift away from fossil fuel resources and supports the system
2 integration of smaller, more distributed renewable resources. The proposed BESS
3 Project initiates what is expected to be a broader implementation of BESS on
4 PNM’s distribution system in the future.

5
6 This specific project will provide the first phase of a partial solution to two well-
7 known system needs. First, the BESS Project provides an economical “non-wires”
8 alternative to rapidly relieve two of PNM’s most overloaded distribution feeders
9 and will provide voltage control on these feeders. Second, the BESS Project
10 increases overall solar hosting capacity on PNM’s system as described by PNM
11 witness Warner. This will allow PNM to better manage the integration of
12 renewable energy located at the distribution level, expand the feeder capacity to
13 facilitate additional residential rooftop solar, and improve customer reliability. The
14 BESS Project also provides other system benefits, including utilizing the storage
15 capacity addition to PNM’s system to help manage overall loads and resources. A
16 summary of the system benefits is contained in PNM Table OW-1 of the testimony
17 of PNM witness Warner.

18
19 **Q. HOW DID PNM ARRIVE AT THE BESS PROJECT AS A NECESSARY**
20 **AND DESIRABLE COMPONENT OF PNM’S DISTRIBUTION SYSTEM?**

21 **A.** In 2019, PNM began to experience a rapid increase in interconnection requests for
22 distributed generation (“DG”) solar installations resulting in overcapacity on

**DIRECT TESTIMONY
OF MARK FENTON
NMPRC CASE NO. 23-_____-UT**

1 several PNM distribution feeders. In fact, Commission and customers concern over
2 PNM’s constrained feeder capacity has come up in at least three Commission
3 dockets, namely, Case Nos. 20-00171-UT, 21-00112-UT, and 21-00266-UT. The
4 issue was also discussed at the Commission’s Open Meeting on October 6, 2021,
5 where PNM noted it was working toward a potential solution to the feeder capacity
6 issue.¹ Overloaded capacity on PNM’s distribution feeders limits where and how
7 much additional DG can be deployed on the system. As discussed by PNM witness
8 Warner, feeder overcapacity caused by increasing amounts of DG can negatively
9 affect the quality of the power on the system and cause voltage fluctuations and
10 overloads that result in customer outages.

11
12 **Q. WHAT ACTION DID PNM TAKE TO ADDRESS THE DISTRIBUTION**
13 **SYSTEM OVERCAPACITY ISSUES?**

14 **A.** As discussed by PNM witnesses Warner and McIntosh, in 2021 PNM retained
15 Burns & McDonnell to provide technical assistance to evaluate the use of BESS on
16 PNM’s distribution system. Burns & McDonnell issued a report that confirmed
17 BESS as a viable solution to relieve distribution feeder overcapacity and provide
18 other system benefits.

19

¹ See NMPRC Weekly Open Meeting (10/6/2021) beginning at 1:15:20
https://www.youtube.com/watch?v=8ZfQu_RHF7c

**DIRECT TESTIMONY
OF MARK FENTON
NMPRC CASE NO. 23-_____-UT**

1 In addition, because of delays in the deployment of replacement resources for the
2 retirement of the San Juan Generating Station during this same timeframe, PNM
3 explored alternative incremental ways to meet customer load and confirmed that
4 scalable BESS could be an important element in providing needed capacity. The
5 BESS Project addresses these as well as other system needs discussed by Mr.
6 Warner.

7
8 **Q. DOES THE BESS PROJECT PROVIDE SYSTEM-WIDE BENEFITS TO**
9 **ALL PNM CUSTOMERS?**

10 **A.** Yes. Just like other approved energy storage additions on PNM's system, all
11 customers will benefit from the added capacity provided by the BESS Project.
12 PNM witness Warner describes the various benefits to the system as a whole and
13 confirms that the BESS Project provides overall benefits to all customers. He
14 explains that BESS installations will help the system store peak renewable energy
15 production while minimizing losses by being in close proximity to the sources of
16 renewable energy and use that stored energy when needed to serve all customers
17 while optimizing the use of carbon-free resources. Furthermore, as discussed by
18 PNM witnesses McIntosh and Jones, the BESS Project can be used to facilitate
19 energy arbitrage when energy is sold off-system to other users. The revenues from
20 such sales benefits all customers through PNM's fuel and purchased power
21 adjustment clause, resulting in customer savings by optimizing system operations.

**DIRECT TESTIMONY
OF MARK FENTON
NMPRC CASE NO. 23-_____-UT**

1 The BESS Project also will provide an added measure of resiliency to PNM's
2 overall system while providing improved reliability at a more localized level.

3

4 **Q. WHAT ARE PNM'S FUTURE PLANS WITH RESPECT TO THE**
5 **DEPLOYMENT OF BESS ON PNM'S DISTRIBUTION SYSTEM?**

6 **A.** PNM believes that BESS will be an important element in PNM's distribution
7 system in the future and anticipates installing additional BESS equipment and
8 facilities as needed at different locations throughout the system. As discussed by
9 PNM witnesses Warner and McIntosh, BESS can provide important system
10 benefits and help alleviate the overcapacity on PNM's distribution feeders. BESS
11 is scalable and can be deployed relatively quickly and with less disruption to
12 customers compared to other solutions, such as construction of additional
13 substations and lines. PNM views the two installations in this BESS Project as an
14 initial step in the greater use of BESS on PNM's distribution system. Because PNM
15 will own and operate the BESS Project, it can obtain experience and gather useful
16 data to be used in the deployment of future BESS on PNM's distribution system.

17

18 **Q. DO YOU HAVE ANY OBSERVATIONS ABOUT HOW FUTURE**
19 **APPLICATIONS FOR BESS ON PNM'S DISTRIBUTION SYSTEM**
20 **MIGHT BE HANDLED?**

21 **A.** As explained by PNM witness Jones, the BESS equipment market is not conducive
22 to a lengthy regulatory approval process. PNM acknowledges that Section 62-9-

**DIRECT TESTIMONY
OF MARK FENTON
NMPRC CASE NO. 23-_____-UT**

1 1(D) requires that a utility obtain a CCN for a battery storage system. However,
2 PNM hopes that this case can serve as a template for prompt regulatory approval of
3 future distribution system BESS CCNs. PNM requests that the Commission
4 consider potential ways to streamline the regulatory process and identify any further
5 information that would allow for a CCN approval for BESS project applications in
6 a period of six months or less.

7

8 **Q WHAT IS THE CURRENT STATUS OF THE BESS PROJECT?**

9 **A.** As discussed by PNM witness Jones, PNM is using an Engineering, Procurement
10 and Construction Management approach for the procurement of the BESS Project.
11 PNM conducted a request for proposals (“RFP”) for the BESS equipment and
12 selected Powin, LLC (“Powin”) as the successful bidder. PNM has entered into
13 contracts with Powin for the purchase of the BESS equipment. The next phase of
14 the BESS Project is the construction of the infrastructure to house and interconnect
15 the BESS equipment. PNM will issue an RFP and use a qualified contractor
16 selected through a competitive process for the construction phase of the BESS
17 Project with a commercial operation date before the summer peak in 2024.

18

19

20

21

**DIRECT TESTIMONY
OF MARK FENTON
NMPRC CASE NO. 23-_____-UT**

1 **Q. WHAT IS THE PROJECTED OVERALL CAPITAL COST OF THE BESS**
2 **PROJECT?**

3 **A.** PNM currently estimates the overall capital costs of the BESS Project to be
4 \$25,844,130. PNM witness Jones provides the details of what comprises this total
5 cost.

6
7 **Q. HOW DOES THE TOTAL BESS PROJECT COST ESTIMATE COMPARE**
8 **TO THE ESTIMATE FOR THE PROJECT PRESENTED IN CASE NO. 22-**
9 **00270-UT, PNM'S PENDING RATE CASE?**

10 **A.** In Case No. 22-00270-UT, PNM provided a total estimate for the BESS Project of
11 \$22,274,720. The difference in the two totals is more fully explained by PNM
12 witness Jones, but the primary difference is because of price increases that have
13 occurred since 2022 due to market conditions. Although the amount of the BESS
14 Project is now estimated at more than is included in the pending rate change
15 application in Case No. 22-00270-UT, it is expected that the overall capital
16 expenditures in the rate will be within the total amount reflected in the future test
17 period.

18
19
20

**DIRECT TESTIMONY
OF MARK FENTON
NMPRC CASE NO. 23-_____-UT**

1 **Q HOW DOES PNM PLAN TO ACCOUNT FOR ANY DIFFERENCE IN THE**
2 **COST OF THE BESS PROJECT FROM WHAT IS ESTIMATED IN THIS**
3 **CASE?**

4 **A.** To the extent the actual costs of the project are different from the estimated cost of
5 \$25,884,130, PNM would provide the information required by the Cost Overrun
6 Rule (17.3.580 NMAC) to request recovery of these costs in its next rate case.

7
8 **Q.** **IS APPLICATION OF THE COMMISSION’S COST OVERRUN RULE IN**
9 **17.3.580 NMAC TO THE ESTIMATED COST OF THE BESS PROJECT**
10 **REASONABLE?**

11 **A.** Yes, I believe so. Although the cost overrun rule applies to an “electric generating
12 plant” as defined in 17.3.580.7(E) NMAC, the BESS Project will provide system
13 capacity, as do generation plant additions. Therefore, PNM believes that
14 application of Rule 17.3.580 NMAC to the BESS Project is consistent with the
15 objectives of the rule. The estimated capital cost of the BESS Project does not
16 include any amount for contingencies.

17
18 **Q.** **IS PNM SEEKING ANY SPECIFIC RATEMAKING TREATMENT IN**
19 **THIS CASE FOR THE BESS PROJECT PURSUANT TO SECTION 62-9-**
20 **1(B) OF THE PUBLIC UTILITY ACT?**

21 **A.** No, PNM is not seeking specific ratemaking treatment for the BESS Project in this
22 case. As part of PNM’s pending rate case to implement new rates in 2024, PNM

**DIRECT TESTIMONY
OF MARK FENTON
NMPRC CASE NO. 23-_____-UT**

1 has included an estimated cost of the BESS Project as part of its cost of service in
2 pending Case No. 22-00270-UT. The BESS Project is one of the Reliability
3 Enhancement Projects discussed on pages 31 through 34 of the Direct Testimony
4 of R. Brent Heffington filed in the rate case. If approved, the BESS Project will
5 come online and begin serving customers in 2024, which is within the future test
6 period of calendar year 2024 utilized in Case No. 22-00270-UT. The actual costs
7 of the BESS Project that exceed those included in Case No. 22-00270-UT would
8 be addressed in a subsequent general rate case.

9
10 **Q. DOES THE BESS PROJECT QUALIFY FOR ANY FEDERAL TAX**
11 **CREDITS?**

12 **A.** As discussed by PNM witness Jones, PNM is structuring the BESS Project with the
13 intention that it could potentially qualify for up to a 30% investment tax credit
14 (“ITC”) under the Inflation Reduction Act (“IRA”). The IRA also provides that
15 PNM may be able to elect to amortize any ITC it receives over a shorter period of
16 time compared to normalizing the credit over the life of the asset, unless precluded
17 by the Commission from doing so. This would allow PNM to potentially accelerate
18 the benefit of the ITC to customers. Any benefit associated with the ITC will be
19 passed on to customers as a reduction to federal income tax expense in a future rate
20 case.

**DIRECT TESTIMONY
OF MARK FENTON
NMPRC CASE NO. 23-_____-UT**

1

III. STANDARDS FOR CCN APPROVAL

2 **Q. WHAT GENERAL STANDARDS APPLY FOR GRANTING A CCN IN**
3 **NEW MEXICO?**

4 **A.** Section 62-9-1 of the Public Utility Act (“PUA”) provides the general standard for
5 issuance of CCNs and provides that “[n]o public utility shall begin the construction
6 or operation of any public utility plant or system or of any extension of any plant
7 or system without first obtaining from the commission a certificate that public
8 convenience and necessity require or will require such construction or operation.”

9 I note that Section 62-9-1(A) provides that a CCN is not required for the extension
10 of any plant or system within areas it serves that are necessary in the ordinary course
11 of its business. Because this is the first BESS equipment to be installed on PNM’s
12 system at the distribution level, PNM has interpreted the exemption to not apply
13 without further guidance from the Commission on whether energy storage
14 equipment and facilities can be considered as necessary in the ordinary course of
15 business.

16

17 **Q. ARE THERE SPECIFIC CRITERIA APPLICABLE TO CCN**
18 **APPLICATIONS FOR ENERGY STORAGE FACILITIES?**

19 **A.** Yes. As amended by Senate Bill 489 (2019), Section 62-9-1(D) of the PUA
20 specifically governs the CCN criteria to be met for an energy storage system, which
21 is defined as “methods and technologies used to store electricity.” The BESS
22 Project is a battery energy storage system used to store electricity. Moreover,

**DIRECT TESTIMONY
OF MARK FENTON
NMPRC CASE NO. 23-_____-UT**

1 energy storage on distribution level systems has not been determined to be in the
2 ordinary course of business to date. Therefore, this Application is governed by
3 Section 62-9-1(D).

4
5 **Q. WHAT ARE THE SPECIFIC REQUIREMENTS UNDER SECTION 62-9-**
6 **1(D) FOR APPROVAL OF AN ENERGY STORAGE SYSTEM SUCH AS**
7 **THE BESS PROJECT?**

8 **A.** Section 62-9-1(D) provides that the Commission shall approve an application for a
9 CCN for energy storage systems that meets the following criteria:

10 (1) reduce costs to ratepayers by avoiding or deferring the need for
11 investment in new generation and for upgrades to systems for the
12 transmission and distribution of energy;

13 (2) reduce the use of fossil fuels for meeting demand during peak load
14 periods and for providing ancillary services;

15 (3) assist with ensuring grid reliability, including transmission and
16 distribution system stability, while integrating sources of renewable
17 energy into the grid;

18 (4) support diversification of energy resources and enhance grid
19 security;

20 (5) reduce greenhouse gases and other air pollutants resulting from
21 power generation;

22 (6) provide the public utility with the discretion, subject to applicable
23 laws and rules, to operate, maintain and control energy storage systems
24 so as to ensure reliable and efficient service to customers; and

25 (7) are the most cost effective among feasible alternatives.

26

**DIRECT TESTIMONY
OF MARK FENTON
NMPRC CASE NO. 23-_____-UT**

1 **Q. DO YOU VIEW SECTION 62-9-1(D) AS MODIFYING THE GENERAL**
2 **REQUIREMENTS FOR ISSUANCE OF A CCN FOR AN ENERGY**
3 **STORAGE SYSTEM SUCH AS THE BESS PROJECT?**

4 **A.** I do. Section 62-9-1(D) provides that the Commission “shall approve an
5 application for a CCN” for an energy storage system if the project satisfies the
6 seven criteria that are listed. The use of the word “shall” indicates to me that
7 approval of an energy storage project is mandatory under those circumstances.
8 However, as I address below, the BESS Project also satisfies the more general
9 requirements for a CCN.

10

11 **Q. HAS PNM PROVIDED EVIDENCE THAT THE BESS PROJECT MEETS**
12 **ALL SEVEN OF THE CRITERIA FOR APPROVAL UNDER SECTION 62-**
13 **9-1(D).**

14 **A.** Yes, PNM has met the statutory criteria for approval of the BESS Project. In their
15 direct testimonies, PNM witnesses Warner and Jones confirm that the seven criteria
16 under Section 62-9-1(D) have been fully satisfied. PNM Table MF-1 provides the
17 locations in the Direct Testimonies of PNM witnesses Warner and Jones where the
18 seven statutory criteria are addressed.

19

20

21

22

**DIRECT TESTIMONY
OF MARK FENTON
NMPRC CASE NO. 23-_____-UT**

1
2

PNM Table MF-1

Section	Criteria	PNM Witness	Location
62-9-1(D)(1)	Reduce costs to ratepayers by avoiding or deferring the need for investment in new generation and for upgrades to systems for the transmission and distribution of energy	Warner	Page 35
62-9-1(D)(2)	Reduce the use of fossil fuels for meeting demand during peak load periods and for providing ancillary services	Jones	Page 22
62-9-1(D)(3)	Assist with ensuring grid reliability, including transmission and distribution system stability, while integrating sources of renewable energy into the grid	Warner	Pages 35-36
62-9-1(D)(4)	Support diversification of energy resources and enhance grid security	Warner	Pages 36-37
62-9-1(D)(5)	Reduce greenhouse gases and other air pollutants resulting from power generation	Jones	Pages 22-23
62-9-1(D)(6)	Provide the public utility with the discretion, subject to applicable laws and rules, to operate, maintain and control energy storage systems so as to ensure reliable and efficient service to customers	Warner	Pages 24-25, 37
		Jones	Pages 20-21
62-9-1(D)(7)	Are the most cost effective among feasible alternatives	Warner	Pages 37-38

3

4 **Q. DOES THE BESS PROJECT ALSO MEET THE MORE GENERAL CCN**
5 **STANDARDS UNDER SECTION 62-9-1?**

6 **A.** Yes. The Commission has equated “public convenience and necessity” with the
7 public interest and found that the CCN statute implies there must be a net public
8 benefit in order to grant a CCN.² The utility has the burden of showing that the
9 resource it proposes is the most effective resource among feasible alternatives.³

² See, e.g., Case No. 19-00349-UT, Recommended Decision at 16 (Nov. 16, 2020).

³ *Id.* at 16-17 (citing Case No. 15-00261-UT, Corrected Recommended Decision (Aug. 15, 2016), Case No. 13-00390-UT, Final Order (Dec. 16, 2015), Case No. 15-00205-UT, Order Partially Granting PNM Motion

**DIRECT TESTIMONY
OF MARK FENTON
NMPRC CASE NO. 23-_____-UT**

1 The BESS Project will assist in meeting customer needs and forecasted load
2 growth, allow for an increase in solar hosting capacity, reduce costs to customers
3 and help ensure that PNM can provide safe and reliable service for its customers.
4 The BESS Project will begin to address the issue of overcapacity on distribution
5 feeders which has been the subject of customer and Commission concerns. The
6 BESS Project will aid in alleviating the capacity-constrained distribution feeders
7 and will facilitate the use of DG energy to serve all customers. These benefits all
8 serve PNM customers as well as the public interest.

9
10 **Q. DOES THE PUA HAVE OTHER GENERAL REQUIREMENTS FOR**
11 **ISSUANCE OF A CCN?**

12 **A.** Yes. Section 62-9-6 requires that a corporation applying for a CCN have its articles
13 of incorporation on file with the Commission. PNM’s current articles of
14 incorporation have been filed with the Commission, and can be found in the record
15 of Case No. 13-00390-UT, in PNM Exhibit GTO-2 to the December 20, 2013
16 Direct Testimony of Gerard T. Ortiz. PNM requests that the Commission take
17 administrative notice of this exhibit in the Commission’s records.

18
19 Section 62-9-6 also requires evidence, as the Commission may require,
20 demonstrating the consent and franchise of the municipality where construction and

to Vacate and Addressing Joint Motion to Dismiss (Dec. 22, 2015), and Case No. 2382, Final Order Approving Recommended Decision (Nov. 20, 1995)).

**DIRECT TESTIMONY
OF MARK FENTON
NMPRC CASE NO. 23-_____-UT**

1 operation of a new facility will occur. PNM witness Warner confirms that both sites
2 for the BESS Project are outside of any municipal boundary so this requirement of
3 Section 62-9-6 is inapplicable. However, in satisfaction of this requirement were
4 such a showing necessary and as confirmed by PNM witness Warner, PNM will
5 obtain all necessary governmental permits and comply with all applicable zoning
6 and building requirements with respect to the construction and operation of the
7 BESS Project.

8

9 **Q. IS LOCATION APPROVAL FOR THE BESS PROJECT REQUIRED**
10 **FROM THE COMMISSION?**

11 **A.** No. Location approval is not required under Section 62-9-3 of the PUA. The BESS
12 Project is not a plant designed for or capable of operation at a capacity of three
13 hundred thousand kilowatts or more, nor is it a transmission line project that falls
14 within the location statute.

15

16 **Q. IS THE BESS PROJECT CONSISTENT WITH PNM'S MOST RECENT**
17 **INTEGRATED RESOURCE PLAN ("IRP")?**

18 **A.** Yes. PNM's most recent IRP was filed in 2021 and accepted by the Commission
19 in Case No. 21-00033-UT in 2022. At page 116 of PNM's filed 2021 IRP, it is
20 noted that "[o]ur analysis considers four-hour lithium-ion batteries as options to
21 meet future capacity and flexibility needs in our portfolio, both as standalone
22 projects and paired with solar PV as hybrid projects." On page 178 of PNM's 2021

**DIRECT TESTIMONY
OF MARK FENTON
NMPRC CASE NO. 23-_____-UT**

1 IRP, as part of its Four-Year Action Plan, PNM stated that it would “[d]evelop
2 energy storage as a capacity resource and monitor its real-world performance in a
3 resource adequacy context to better understand risks.”
4

5 **IV. REGULATORY STAKEHOLDER OUTREACH PROCESS**

6
7 **Q. PLEASE DESCRIBE THE OUTREACH PROCESS AROUND THE BESS**
8 **PROJECT PNM ENGAGED IN WITH ITS REGULATORY**
9 **STAKEHOLDERS.**

10 **A.** PNM Table MF-2 below shows the dates of the stakeholder outreach meetings and
11 audiences for the various meetings regarding the BESS Project.

12 **PNM Table MF-2 – Stakeholder Meetings**

Meeting Date	Stakeholder Invitees/Participants
March 31, 2023	PNM, New Mexico Attorney General’s Office, City of Albuquerque, New Mexico Public Regulation Commission Staff, New Mexico Affordable Reliable Energy Alliance, and Albuquerque Bernalillo County Water Authority
April 4, 2023	PNM, Southwest Energy Efficiency Project, Interwest Energy Alliance, Soltage, Western Resource Advocates, and Exponential Engineering
April 6, 2023	PNM, Renewable Energy Industries Association, Positive Energy, Osceola Energy, and Affordable Solar

**DIRECT TESTIMONY
OF MARK FENTON
NMPRC CASE NO. 23-_____-UT**

1 **Q. WHAT WERE THE PURPOSE AND FORMAT OF THE STAKEHOLDER**
2 **MEETINGS?**

3 **A.** The purpose of the stakeholder meetings was to solicit input from stakeholders
4 expected to have an interest in this proceeding so that their concerns could be
5 considered prior to filing the application for the BESS Project. It is PNM's view
6 that the general response to the BESS Project was positive. The stakeholder
7 meetings were primarily conducted by video conference, although in-person
8 attendance was also an option. The meetings were informal with an initial briefing
9 on the BESS Project by PNM subject matter experts, including PNM witnesses
10 Warner and Jones. The meetings were then opened for questions by the
11 participating stakeholders.

12

13 **Q. WHAT WERE SOME OF THE QUESTIONS RECEIVED FROM**
14 **STAKEHOLDERS DURING THE PUBLIC OUTREACH MEETINGS?**

15 **A.** PNM addressed questions concerning the cost of the BESS Project and its proposed
16 inclusion in PNM's pending rate case as well as the potential availability of tax
17 credits. PNM explained why the two locations were selected for deployment of the
18 BESS Project. PNM also confirmed that the benefits of the BESS Project are not
19 limited to just customers on the two distribution feeders but provide system-wide
20 benefits to all customers. PNM has attempted to incorporate the information

**DIRECT TESTIMONY
OF MARK FENTON
NMPRC CASE NO. 23-_____-UT**

1 covered in the stakeholder discussions into the testimonies of the PNM witnesses
2 in this case.

3

4 **Q. HAS PNM CONSIDERED ANY ENVIROMENTAL JUSTICE**
5 **IMPLICATIONS OF THE BESS PROJECT?**

6 **A.** Yes. As described more thoroughly by Mr. Warner, PNM performed an initial
7 Environmental Justice (“EJ”) screen using an EPA-derived EJ process review of
8 both sites planned for the BESS Project and there were no EJ findings that would
9 trigger any significant mitigation recommendations. One reason there were no
10 significant recommendations as a result from the EJ screening process is because
11 these BESS Projects are co-located on existing 10 MW solar generation sites with
12 grid interconnection facilities and no general expansion of the site is required.

13

14

V. CONCLUSION

15

16 **Q. DO YOU HAVE ANY CONCLUDING REMARKS?**

17 **A.** Yes. The BESS Project represents a new application of BESS technology on
18 PNM’s distribution system and will provide myriad system benefits and relieve
19 constraints on PNM distribution feeders. As a utility-owned resource, the BESS
20 Project will provide PNM the ability to fully explore the potential of this
21 technology. The lessons learned will inform the future deployment of BESS on

**DIRECT TESTIMONY
OF MARK FENTON
NMPRC CASE NO. 23-_____-UT**

1 PNM's distribution system. The BESS Project satisfies all seven of the criteria
2 under Section 62-9-1(D) and should therefore be approved.

3

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

5 **A.** Yes.

6

GCG#530821

PNM Exhibit MF-1

Is contained in the following 1 page.

MARK A. FENTON

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

EDUCATION

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

PROFESSIONAL EXPERIENCE

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

In my current position, I oversee and manage:

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

I have prior experience with regulatory matters including PNM's recent abandonment, financing and replacement resource application regarding San Juan Generating Station ("SJGS"). Additionally, in 2013, and throughout the case, I provided oversight for PNM's case management of NMPRC Case No. 13-00390-UT which was an application of PNM for approval to abandon San Juan Generating Station Units 2 and 3, issuances of Certificates of Public Convenience and Necessity for replacement power resources, issuance of accounting orders and determination of related Ratemaking Principles and Treatment. I testified in front of the Commission in Case No. 19-00195-UT and 19-00018-UT related to the retirement of and replacement resources at SJGS for Units 1 and 4. I also have experience through my position as Executive Director of Regulatory Policy and Case Management and previously as a case manager on several PNM rate case applications and related filings since 2007. I have provided testimony in NMPRC Case Nos. 15-00134-UT, 18-00243-UT, 19-00018-UT, 20-00182-UT, 20-00121-UT, 20-00218-UT, 21-00017-UT, and 21-00083-UT.