

**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 NECUSSITY TO CONSTRUCT, ) CASE NO. 23-000162-UT  
OWN, AND OPERATE TWELVE MEGAWATTS OF )  
BATTERY STORAGE FACITLITIES )  
\_\_\_\_\_ )**

**ORDER DENYING MOTION TO VACATE HEARING**

**THIS MATTER** comes before the Hearing Examiner upon Public Service Company of New Mexico’s (“PNM’s”) Motion to Vacate Hearing filed on September 19, 2023, with the New Mexico Public Regulation Commission (NMPRC or Commission). The Hearing Examiner **FINDS AND CONCLUDES:**

1. PNM’s Motion to Vacate sets forth that the 60-day deadline for written protests has passed, and no persons have filed protests. Furthermore, no party filed testimony in opposition to PNM’s Application, and the deadline to intervene and file any such testimony has passed. PNM argues that its Application is unopposed and therefore good cause exists to vacate the public hearing. PNM averred that its Motion to Vacate Hearing was unopposed.

2. In the Second Procedural Order issued on September 22, 2023, the Motion to Vacate was taken under advisement. The Coalition for Clean Affordable Energy (“CCAЕ”) was required to file testimony or a verified affirmation as to PNM’s claims regarding CCAЕ’s acceptance of PNM’s solutions to CCAЕ’s recommendations, and to file a verified statement that indicates whether CCAЕ has any other outstanding issues or recommendations on this Application. Further, the Commission’s Utility Division Staff (“Staff”) was required to file a pleading that set forth whether there was notice for the Commission to make “ordinary course” determinations that would obviate the need for CCN determinations for subsequent similar projects. If not noticed, Staff was required to explain how the Commission would or could legally consider such an action in this case. Staff was also required to provide testimony and/or legal pleadings that included sufficient

factual and legal justifications for the Commission to make the requested “ordinary course determinations”. Finally, any pleadings in response to the required pleadings could be filed by noon on October 4, 2023.

3. On September 29, 2023, Staff filed Staff’s Response to Second Procedural Order.

4. On September 29, 2023, CCAE filed a Notice of Affirmation, and an Affirmation of Michael Kenney on behalf of CCAE.

Being advised in the premises, the Hearing Examiner FINDS AND CONCLUDES THAT: she has questions for some of the witnesses who filed testimony in this case, and the Commission may have questions concerning the issues in this case; therefore, the hearing will be held as scheduled.

The Hearing Examiner **ORDERS**:

The Motion to Vacate the Hearing is **DENIED**.

**ISSUED** under the Seal of the Commission at Santa Fe, New Mexico this 5<sup>th</sup> day of **October 2023**.

**NEW MEXICO PUBLIC REGULATION COMMISSION**



*Elizabeth C. Hurst*

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**Elizabeth C. Hurst**  
**Hearing Examiner**  
**elizabeth.hurst@prc.nm.gov**

**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 CONSTRUCT, OWN, AND )  
OPERATE TWELVE MEGAWATTS OF BATTERY ) **Case No. 23-00162-UT**  
STORAGE FACILITIES )  
)  
)  
**PUBLIC SERVICE COMPANY OF NEW MEXICO,** )  
**APPLICANT** )**

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**CERTIFICATE OF SERVICE**

I certify that on this date I served on the parties listed here, via email, a true and correct copy of the Order Denying Motion to Vacate Hearing.

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**DATED** this October 5, 2023

**New Mexico Public Regulation Commission**

*Ana C. Kippenbrock*

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