

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

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

Case No. 23-00162-UT

**PUBLIC SERVICE COMPANY OF NEW MEXICO’S
MOTION TO VACATE HEARING**

Public Service Company of New Mexico (“PNM”), pursuant to 1.2.2.12 NMAC, hereby moves the Hearing Examiner to issue an order vacating the public hearing in this matter currently scheduled for October 12-13, 2023. As grounds for this Motion, PNM states:

1. On May 3, 2023, PNM filed its Application for a Certificate of Convenience and Necessity (“Application”) to construct, own, and operate twelve megawatts of battery storage facilities.
2. On May 30, 2023, the Hearing Examiner issued a procedural order that, among other things, scheduled a public hearing via the Zoom videoconferencing platform to commence on October 12, 2023, at 9:00 a.m. and to continue through October 13, 2023, if necessary. The procedural order noted that “[i]f no written Protests are timely filed, the Commission may vacate and waive a formal hearing on this matter.”
3. The Public Utility Act provides, with respect to applications for certificates such as these, that “[t]he commission may approve the application for the certificate without a formal

hearing if no protest is filed within sixty days of the date that notice is given, pursuant to commission order, that the application has been filed.” NMSA 1978, § 62-9-1(C).

4. 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. Accordingly, PNM’s Application is unopposed and good cause exists to vacate the public hearing.

5. On August 18, 2023, CCAE filed the Direct Testimony of Michael Kenney in this proceeding. Mr. Kenney stated that CCAE generally supports Commission approval of the application. However, Mr. Kenney recommended that PNM expand its analysis and use of “non-wires alternatives” beyond PNM-owned batteries to include other resources such as energy efficiency and demand response. Mr. Kenney also recommended that the Commission require PNM to prepare an update to the energy arbitrage component of the cost-benefit analysis to ensure that the costs and benefits of this project are fully accounted for and considered. And Mr. Kenney recommended that the Commission require PNM to create a robust stakeholder process to present opportunities for “non-wires alternatives” on the distribution system to maximize customer and societal benefits.

6. On September 7, 2023, PNM filed the rebuttal testimony of Lucas McIntosh. Mr. McIntosh explained that updating the energy arbitrage analysis would not produce markedly different results. CCAE accepts Mr. Lucas’ conclusions. Also on September 7, 2023, PNM filed the rebuttal testimony of Mark Fenton. Mr. Fenton stated that “PNM will commit to continuing stakeholder outreach similar to what was done in this project development prior to the filing of future similar BESS [battery energy storage system] projects.” CCAE accepts Mr. Fenton’s commitment on behalf of PNM.

7. PNM does not object to Staff's recommendations as contained in the direct testimony of Jack D. Sidler, filed August 18, 2023. PNM also notes that Staff, in Mr. Sidler's direct testimony, complied with the directive in ordering paragraph F of the procedural order, which provided that "testimony shall include Staff's opinion and proposed determination on every PNM request."

8. Prior to filing this Motion, PNM requested positions on this Motion via email from Staff and the parties to the case. Their positions are as follows: Commission Utility Division Staff and Coalition for Clean Affordable Energy do not oppose. Albuquerque Bernalillo County Water Utility Authority and Onward Energy Holdings, LLC take no position. No other party provided a position.

WHEREFORE, PNM respectfully requests that the Hearing Examiner issue an order vacating the public hearing in this matter.

Respectfully submitted this 19th day of September, 2023.

PUBLIC SERVICE COMPANY OF NEW MEXICO

/s/ Stacey Goodwin

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the **Public Service Company of New Mexico’s Motion to Vacate Hearing** was emailed to parties listed below on September 19, 2023.

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Dated this 19th day of September, 2023.

By: /s/ Phillip Metzger
Phillip Metzger, Senior Project Manager
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Public Service Company of New Mexico