

**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, ) DOCKET NO. 25-00055-UT  
OWN, AND OPERATE THIRTY MEGAWATTS OF )  
BATTERY ENERGY STORAGE FACILITIES )

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**FINAL ORDER**

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### **Table of Abbreviations**

ABCWUA	.....	Albuquerque Bernalillo County Water Utility Authority
AFUDC	.....	Allowance for Funds Used During Construction
ANSI	.....	American National Standards Institute
BCR	.....	Benefit to Cost Ratio
BESS	.....	Battery Energy Storage System
CBR	.....	Cost Benefit Analysis
CCN	.....	Certificate of Public Convenience and Necessity
DG	.....	Distributed Generation
EPC	.....	Engineering, Procurement, and Construction
ESA	.....	Energy Storage Agreements
IEEE	.....	Institute of Electrical and Electronic Engineers
IOU	.....	Investor-Owned Utilities
IRP	.....	Integrated Resource Plan
ITC	.....	Investment Tax Credit
kWh	.....	Kilowatt/Hour
LFP	.....	Lithium Iron Phosphate
MW	.....	Megawatt
NESC	.....	National Electrical Safety Code
NMAC	.....	New Mexico Administrative Code
NM AREA	.....	New Mexico Affordable Reliable Energy Alliance
NMSA	.....	New Mexico Statutes Annotated
PNM	.....	Public Service Company of New Mexico
PUA	.....	Public Utility Act
PV	.....	Photovoltaic
REIA-NM	.....	Renewable Energy Industries Association of New Mexico
RFP	.....	Request for Proposals
VER	.....	Variable Energy Resources
WRA	.....	Western Resource Advocates

## I. EXECUTIVE SUMMARY

(1) Public Service Company of New Mexico (“PNM”) requested authority to construct, own, and operate 30 megawatts (MW) of battery energy storage systems (“BESS”) consisting of five 6 MW, 4-hour Lithium Iron Phosphate (“LFP”) batteries on five PNM distribution feeders at five existing PNM-owned solar facility sites located in Otero County, San Miguel County, Luna County and two sites in Valencia County (the “BESS Project”). The BESS Project has an expected life span of 20 years.<sup>1</sup> PNM has chosen the Tesla Megapack as its battery system.

(2) PNM has an Engineering Procurement and Construction (“EPC”) contract with its prime contractor, Gridworks, for the BESS. Gridworks is a local Albuquerque company that has installed 3.7 GWh of BESS. Gridworks will fully design, engineer, and install Tesla’s domestic battery technology, and upon completion of construction and commissioning, will turn over the fully operational plant to PNM. PNM will then own and operate the plant.<sup>2</sup>

(3) PNM issued an RFP that resulted in three bidders.<sup>3</sup> Gridworks was chosen after a thorough evaluation process.<sup>4</sup> PNM has asserted that the site locations include feeders that are at or near hosting capacity limits and are most cost effective for a BESS. PNM intends for the BESS Project to be operational by mid-2027, in time for the 2027 summer peak season, assuming approval by the New Mexico Public Regulation Commission (“Commission” or “NMPRC”) no later than May 2026.

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<sup>1</sup> PNM Witness Gary B. Barnard Direct (“Barnard Direct”) at 2.

<sup>2</sup> *Id.*

<sup>3</sup> *Id.* at 4.

<sup>4</sup> *Id.* at 5.

(4) The estimated cost of the Project is \$78.7 million. PNM plans to recover the costs in a future rate case. PNM seeks authorization to recover the actual cost of the BESS Project including an allowance for funds used during construction (“AFUDC”), which it anticipates will be approximately \$2.9 million, with the reasonableness of the final actual costs subject to Commission review and determination in a future general rate case and subject to NMPRC Rule 17.3.580 NMAC, the “Cost Overrun Rule.”

(5) PNM claimed that the BESS Project will serve the public interest through reduced costs to customers by providing an alternative to new generation and deferring or avoiding otherwise needed upgrades to PNM’s current distribution system. By locating batteries on overloaded feeders with existing large solar installations, PNM can reduce the use of fossil fuels for meeting demand beginning in 2027. PNM also averred that the Project advances the public interest by enabling greater renewable integration at both the system and feeder level, supports grid reliability, and helps PNM achieve its long term decarbonization objectives while delivering service quality to customers.

(6) There were four intervenors, Albuquerque Bernalillo County Water Utility Authority (“ABCWUA”), New Mexico Affordable Reliable Energy Alliance (“NM AREA”), Renewable Energy Industries Association of New Mexico (“REIA-NM”), and Western Resource Advocates (“WRA”). The Intervenor did not file testimony. The Commission’s Utility Division Staff (“Staff”) filed testimony that supported the Application and suggested additional reporting requirements. PNM indicated that it was not opposed to Staff’s suggested reporting requirements.

(7) There is adequate legally sufficient uncontested evidence to support granting PNM’s Application.

## II. BACKGROUND<sup>5</sup>

(8) PNM filed its Application on August 6, 2025, pursuant to NMSA 1978, Section 62-9-1 and NMSA 1978, Section 62-9-6, to construct, own, and operate 30 megawatts (“MW”) of battery energy storage facilities at five existing PNM-owned solar facility sites (the “BESS Project”). PNM included the direct testimony and exhibits of the following witnesses: Kyle Sanders, Vice President of PNM Regulatory; Erfan Hakimian, Director of Transmission / Distribution Planning and Contracts; Nicholas Pollman, Manager of Control Systems, Utility Operations and Technology for PNMR Services Company; and Gary Barnard,<sup>6</sup> Executive Director, Renewable Generation and Contracts, for PNMR Services Company.

(9) Hearing Examiners Kreienkamp and Hurst were assigned to this case by the Commission in its Order issued August 13, 2025.

(10) On August 26, 2025, Hearing Examiner Kreienkamp convened a prehearing conference in this matter. Attending the prehearing conference were representatives of PNM, ABCWUA, NM AREA, REIA-NM, the Coalition for Clean Affordable Energy (“CCAЕ”), Prosperity Works, WRA, and Staff. Among other matters addressed during the prehearing conference, the Hearing Examiner established a procedural schedule for this proceeding.

(11) The Procedural Order was issued on August 26, 2025.<sup>7</sup>

(12) Motions to Intervene were filed by ABCWUA, NM AREA, WRA, and REIA-NM.

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<sup>5</sup> This section summarizes relevant background. The full electronic record of this proceeding is available at <https://e360.prc.nm.gov/portal/public/>.

<sup>6</sup> An Errata to Mr. Barnard’s testimony was filed on 11/6/25 that corrected his Exhibit GBB-3 by adding a zero to the contract price.

<sup>7</sup> An Errata to the Procedural Order was issued on Aug. 28, 2025, to correct the prehearing date.

(13) The required Notice was completed by newspaper publication, and website posting, as set forth in PNM's filing of Affirmation of Publication filed on September 12, 2025.

(14) On October 23, 2025, Hearing Examiner Kreienkamp issued a Notice of Departure withdrawing from this case.

(15) On November 7, 2025, NM AREA filed a Notice of Protest formally requesting a hearing in this case.

(16) On November 14, 2025, Staff filed the Prepared Direct Testimony of Elizabeth Acosta and the Direct Testimony of Orland Whitney, both of which recommended approval of PNM's Application.<sup>8</sup>

(17) On November 19, 2025, NM AREA filed a Notice of Protest Withdraw, stating it rescinded its protest to PNM's Application after having reviewed Staff's Direct Testimony.

Additionally, NM AREA requested to be excused from any hearing.<sup>9</sup>

(18) On November 24, 2025, PNM filed an Unopposed Motion to Vacate Hearing followed by an amended motion;<sup>10</sup> PNM requested the positions of the parties on its unopposed amended motion. PNM and Staff stipulated to the admission of their testimonies. PNM did not oppose the reporting conditions contained in Staff's testimony.<sup>11</sup>

(19) The Order Vacating Hearing and Admitting Evidence was issued on December 1, 2025, finding that it would be in the interest of conserving time and resources of the parties and the

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<sup>8</sup> Prepared Direct Testimony of Elizabeth Acosta ("Acosta Direct") at 15; Direct Testimony of Orland Whitney ("Whitney Direct") at 17-18.

<sup>9</sup> Notice of Protest Withdrawal at 1.

<sup>10</sup> The Motion to Vacate Hearing was subsequently amended (Nov. 25, 2025).

<sup>11</sup> See Whitney Direct at 18 for Staff's conditions; and PNM Amended Unopposed Motion to Vacate Hearing at item 9 for PNM's agreement with Staff's reporting conditions.

Commission to vacate the public hearing. The following testimony was stipulated into evidence pursuant to 1.2.2.35(A)(2) and 1.2.2.5(I)(1) NMAC: Prepared Direct Testimony of Orland Whitney, Prepared Direct Testimony of Elizabeth Acosta, Direct Testimony of Kyle Sanders, Direct Testimony of Erfan Hakimian, Direct Testimony of Nicholas Pollman, and Direct Testimony of Gary Barnard.

(20) The Hearing Examiner determined that the evidence presented in the testimony required no further analysis in post-hearing briefing.

(21) On March 10, 2026, the Hearing Examiner issued the Recommended Decision, recommending PNM's request for a CCN authorizing PNM to construct, operate, and own the BESS Project, and to accrue AFUDC, be approved.<sup>12</sup>

(22) Commission Rule 1.2.2.37(C)(1)(a) NMAC set the deadline for filing exceptions at thirteen days after the Recommended Decision was issued, which was March 23, 2026, and no exceptions were filed.

### **III. DISCUSSION**

#### **A. Legal Standards**

##### **i. New Mexico Public Utility Act**

(23) The applicable standards governing public utilities are set forth in the New Mexico Public Utility Act ("PUA" or "Act" NMSA 1978, Sections 62-1 through 62-6 and 62-8 through 62-13) and cases decided under that Act. Under the PUA, the Commission has "general and exclusive power and jurisdiction to regulate and supervise every public utility in respect to its rates and service regulation and in respect to its securities..." NMSA 1978, Section 62-6-4(A). The PUA

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<sup>12</sup> Recommended Decision (March 10, 2026) at 40.

requires public utilities to obtain a CCN before constructing or operating any new public utility plant or system.<sup>13</sup> In determining whether to issue a CCN, the Commission must consider whether the new public utility plant or system is consistent with the public convenience and necessity.<sup>14</sup> The PUA authorizes the Commission to issue a CCN as requested, to refuse to issue a CCN, or to issue it for the construction or operation of only a portion of the contemplated Project, and may attach to a CCN such terms and conditions consistent with the PUA that the Commission deems the public convenience and necessity require.<sup>15</sup> The “public convenience and necessity” standard implies a net public benefit.<sup>16</sup> In prior cases, the Commission has equated the “public convenience and necessity” with the public interest.<sup>17</sup>

(24) As amended in 2019,<sup>18</sup> Section 62-9-1(E) governs the CCN criteria to be met for an energy storage system, which is defined as “methods and technologies used to store electricity” and provides that the commission shall approve an application for a CCN for energy storage systems that:

(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;

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

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<sup>13</sup> NMSA 1978, Section 62-9-1(A).

<sup>14</sup> Section 62-9-1(A) and NMSA 1978, Section 62-9-6.

<sup>15</sup> *Id.*

<sup>16</sup> *Re Valle Vista Water Utility Co.*, 212 P.U.R.4th 305, 309 (2001).

<sup>17</sup> *Re Public Service Co.*, 119 P.U.R. 4th 48, 50 (1990); *aft’d, Public Serv. Co. of N.M. v. New Mexico Pub. Serv. Comm’n*, 112 N.M. 379, 815 P.2d 1169 (1991).

<sup>18</sup> Section 62-9-1 was amended in 2019 to provide guidelines for the Commission when reviewing an application for a CCN for an energy storage system, which were codified as Section 62-9-1(D). In 2025, subsection (D) was redesignated as subsection (E) to account for additional unrelated amendments.

- (3) assist with ensuring grid reliability, including transmission and distribution system stability, while integrating sources of renewable energy into the grid;
- (4) support diversification of energy resources and enhance grid security;
- (5) reduce greenhouse gases and other air pollutants resulting from power generation;
- (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; and,
- (7) are the most cost-effective among the feasible alternatives.

ii. Commission Cost Overrun Rule

- (25) The Commission's Cost Overrun Rule, 17.3.580.2 NMAC, sets forth:

B. NMPSC Rule 580 [17.3.580 NMAC] shall be applicable whenever a utility has obtained or acquires a certificate of public convenience and necessity ("CCN") from the Commission to construct or operate an electric generating plant and has sought, is seeking, or anticipates seeking at any time to include the costs of construction as defined in NMPSC Rule 580.5 [17.3.580.7 NMAC] in its New Mexico jurisdictional rates. NMPSC Rule 580 [17.3.580 NMAC] applies in those instances where:

(1) The construction costs had not been included in rates as of the date the Commission proposed General Order No. 49 (codified by this NMPSC Rule 580) [17.3.580 NMAC] and where the utility subsequently filed a rate application seeking to include these costs in rates and;

(2) The costs of construction had been included in rates as of the date General Order No. 49 was proposed but where the prudence of those costs had been explicitly identified as an unresolved issue in the order including those costs in rates or in any document, such as a stipulation or recommended decision, incorporated therein.

C. NMPSC Rule 580 [17.3.580 NMAC] applies whether the utility retains an ownership interest in the plant or has sold that interest and retained a leasehold interest in or is otherwise subject to the Commission's jurisdiction with respect to the management or operation of the plant or the power generated or made available thereby.

(26) In 17.3.580.7(A) NMAC the definition of “Certificated Cost Estimate” is the total cost of construction of electric generating plant for the utility, including AFUDC, as estimated by the utility at the time of issuance by the Commission of the CCN for the plant and reflected in the order issuing the CCN.

(27) 17.3.580.13 NMAC, sets forth that the Powers of the Commission are not limited:

Nothing contained herein shall be construed to limit the Commission in its powers, duties, or authority under the Public Utility Act other than requiring specific determinations regarding the prudence of cost overruns pursuant to NMPSC Rules 580.7 and 580.8 [17.3.580.11 and 12 NMAC] as a condition precedent to rate recovery of such cost overruns. In particular nothing contained herein shall be construed to bind the Commission to any particular ratemaking methodology or to diminish the Commission's authority to review the prudence of all costs incurred by a utility, including the certificated estimated cost of plant. All material provisions of the Public Utility Act shall apply to implementation of NMPSC Rule 580 (17.3.580).

iii. Evidentiary Standard

(28) In administrative proceedings, unless a statute provides otherwise, the proponent of an order or moving party has the burden of proof.<sup>19</sup> The burden of proof is two-pronged: it includes both the burden of adducing sufficient evidence to go forward with a claim and the burden of ultimate persuasion. The standard of proof in administrative adjudications is, unless expressly provided otherwise, a preponderance of the evidence.<sup>20</sup> It is evidence that, when weighed with that opposed to it, has more convincing force and superior evidentiary weight

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<sup>19</sup> Davis, Kenneth Culp, *Administrative Law Treatise* § 16.9 at 255-57 (2 ed. 1980). See *Int’l Minerals and Chemical Corp. v. New Mexico Pub. Serv. Comm’n*, 81 N.M. 280, 283, 466 P.2d 557 (1970) (“although the statute does not specifically place any burden of proof on (Complainant) International, the courts have uniformly imposed on administrative agencies the customary common-law rule that the moving party has the burden of proof”).

<sup>20</sup> See Davis, *supra*, § 16.9 at 256 (“One can never prove a fact by something less than a preponderance of the evidence”).

that, though not sufficient to free the mind wholly from all reasonable doubt, is still sufficient to incline a fair and impartial mind to one side of the issue rather than the other.<sup>21</sup>

## **B. Background**

(29) PNM requested authority to construct, own, and operate 30 MW of BESS consisting of five 6 MW, 4-hour LFP batteries on five PNM distribution feeders at five existing PNM-owned solar facility sites (the “BESS Project”). The BESS Project has an expected life span of 20 years.<sup>22</sup> PNM has chosen the Tesla Megapack as its battery system. PNM has an EPC contract with its prime contractor, Gridworks. Gridworks is a local Albuquerque company that has installed 3.7 GWh of BESS. Gridworks will fully design, engineer, and install Tesla’s domestic battery technology, and upon completion of construction and commissioning, will turn over the fully operational plant to PNM. PNM will then own and operate the plant.<sup>23</sup> PNM issued an RFP that resulted in three bidders.<sup>24</sup> Gridworks was chosen after a thorough evaluation process.<sup>25</sup> Mr. Barnard testified that Gridworks stood out due to the quality of the Tesla Battery Solution, their

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<sup>21</sup> *Black’s Law Dictionary* 547 (2nd pocket ed. 2001). See *Lujan v. Circle K. Corp.*, 1980-NMCA-107, ¶18, 94 N.M. 719 (the preponderance of evidence standard of proof essentially means “substantial support in the evidence for the findings.”...”That being true,..., the fact that there may have been contrary evidence which would have supported a different finding or conclusion does not permit this court, on appeal, to weigh the evidence, (citations omitted) or speculate as to what the trial court might have done.”) (*quoting Mascarenas v. J.L. Kennedy*, 74 N.M. 665,668-69, 397 P.2d 213).

<sup>22</sup> Barnard Direct at 2.

<sup>23</sup> *Id.*

<sup>24</sup> *Id.* at 4.

<sup>25</sup> *Id.* at 5.

industry-leading reputation regarding battery fires, the extensive history of successful PNM projects, and the domestic nature of the manufacturing in the new world of volatile tariff risk.<sup>26</sup>

(30) According to the Application, the BESS Project will assist in providing improved voltage support and power quality on five overloaded feeders, increase those feeders' solar hosting capacity and assist in meeting load growth. The BESS Project will help reduce the costs of system upgrades needed to ensure PNM provides safe and reliable service for customers. The battery facilities are intended to be operational in mid-2027. PNM seeks approval of the CCN for the BESS Project no later than May 6, 2026.

(31) The BESS Project will be located at five existing PNM solar facility sites and will store a total of 30 MW of existing, co-located solar power. The sites are in Otero County, San Miguel County, Luna County and two in Valencia County. Four of the sites are located outside of existing municipal boundaries, and one of the two facilities in Valencia County (at the Jarales 12 feeder) is within the City of Rio Communities. If a CCN is granted, PNM or its contractor will obtain all necessary governmental permits and comply with all applicable zoning and building requirements with respect to the construction and operation of the BESS prior to commencing any construction.<sup>27</sup> The sites will be built and owned by PNM.

(32) PNM Witness Hakimian testified about the "Rule 568 Hosting Capacity Improvement Solutions" ("Rule 568 Study"), performed by 1898 & Co. and presented to the Commission by PNM in August 2024, which identified 18 distribution feeders as either having reached hosting capacity limits or nearing hosting capacity limits. The Rule 568 Study identified efficient ways to increase hosting capacity on constrained feeders to allow more interconnection of distributed

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<sup>26</sup> *Id.*

<sup>27</sup> Hakimian at 23.

generation (“DG”).<sup>28</sup> Mr. Hakimian testified that PNM analyzed the Rule 568 Study in selecting the five sites proposed in this Application but looked at an additional site in Alamogordo where the feeder is nearing hosting capacity limits and where there is an existing distributed sited DG system.<sup>29</sup> All five sites are within existing PNM solar generation facilities at the distribution level.

(33) There are benefits in choosing BESS as the preferred solution to relieve solar saturation and enable additional DG to interconnect to these feeders.<sup>30</sup> Per the Rule 568 Study, PNM and 1898 & Co. demonstrated that, in certain instances, the best solution of those considered to increase hosting capacity is the installation of BESS. The study includes a CBA (“Cost Benefit Analysis”) which compared traditional feeder upgrades, dedicated feeders, and BESS.<sup>31</sup> All five sites selected for this phase of BESS installation have the highest benefit-to-cost ratio (“BCR”) as compared with the other options.<sup>32</sup> The fifth site, in Alamogordo, was not part of the Rule 568 Study but was selected because this site is soon going to reach hosting capacity limits as well.<sup>33</sup> There is a PNM solar site the BESS can be installed adjacent to without needing to perform extensive line extensions and purchase new land.<sup>34</sup>

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<sup>28</sup> PNM Witness Direct Testimony of Erfan Hakimian (“Hakimian Direct”) at 2. According to Mr. Hakimian, Rule 568 establishes the criteria by which PNM evaluates each DG interconnection. PNM adheres to 17.9.568 NMAC to screen and safely interconnect DG that is less than 10 MW nameplate capacity to its distribution system. *Id.* at 11.

<sup>29</sup> *Id.* at 3.

<sup>30</sup> *Id.* at 17.

<sup>31</sup> *Id.*

<sup>32</sup> *Id.* at 17-18. Mr. Hakimian’s testimony also contained a discussion of solar saturation and potential solutions at 14-17.

<sup>33</sup> *Id.* at 18.

<sup>34</sup> *Id.*

(34) Once the BESS equipment is delivered it will be interconnected to PNM's system at the specified locations.<sup>35</sup> The output of the BESS will pass through the system inverters to convert the DC power to AC power. It will subsequently pass through medium-voltage transformers to step the output voltage up to 12.47 kV. At this voltage, the BESS will be tied into the existing solar generation pad-mounted switch, also at 12.47 kV, prior to the output being delivered to the existing solar site interconnection. As a result, there are no material changes to the physical infrastructure associated with the Project sites' interconnections with PNM's electrical grid except for additional protection equipment. A separate, bi-directional electrical meter will be provided to monitor and measure the output and charging energy associated with the BESS installation, and those costs are included in PNM's cost.<sup>36</sup>

(35) Mr. Hakimian also provided detailed technical testimony on distribution feeders and their operational and design standards as well as the amount of energy that can flow through the equipment within physical limitations. American National Standards Institute ("ANSI") standards, combined with the national electrical safety code ("NEC") and industry/equipment standards, provide physical limitations on the amount of energy the distribution feeders can carry, including "hosting capacity", and voltage limits.<sup>37</sup> Distribution standards to ensure safety and reliability are set by the ANSI.<sup>38</sup> Equipment manufacturers and equipment specifications, including those established by the Institute of Electrical and Electronics Engineers ("IEEE"), ensure the amount

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<sup>35</sup> Barnard Direct at 10.

<sup>36</sup> *Id.*

<sup>37</sup> Hakimian Direct at 4-7. As required by the Final Order issued December 21, 2023, in Docket No. 23-00162-UT at 4, PNM submitted PNM Exhibit EH-2, Appendix 7.0, and PNM Exhibit EH-3 which contain the voltage, current and power quality data for feeders that are at or near hosting capacity and could have power quality issues. The five feeders where PNM is proposing installing BESS on are included in those exhibits. Hakimian Direct at 9.

<sup>38</sup> Hakimian Direct at 6.

of energy that flows on a distribution facility and through the customer interconnection is operating within nationally recognized safety and reliability guidelines. These standards are necessary to ensure both the utility's and customer's equipment, and the public's safety, are protected.<sup>39</sup> Mr. Hakimian testified that BESS safely allows more interconnection of DG by allowing the excess power generated from DG to be absorbed onto the BESS.<sup>40</sup> The BESS Project will relieve feeder thermal and overvoltage issues by absorbing excess power generation on the feeder which decreases the amount of energy flowing on the feeder that can cause thermal and overvoltage issues.<sup>41</sup> The BESS will increase hosting capacity and enable DG interconnection applications currently on hold to interconnect.<sup>42</sup>

(36) PNM witness Sanders testified that the BESS Project provides the second phase of distribution-sited BESS, which will ensure the continued safe and reliable operation of PNM's distribution system. These systems will enable PNM to continue to accommodate additional customer-owned DG interconnection, as well as programs such as Community Solar.<sup>43</sup> The BESS Project also provides other system benefits including utilizing this additional storage capacity to PNM's system to help manage overall loads and resources.<sup>44</sup> BESS installations will help the system store peak renewable energy production while minimizing losses by being in close proximity to the sources of renewable energy and use that stored energy when needed to serve

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<sup>39</sup> *Id.*

<sup>40</sup> *Id.* at 19.

<sup>41</sup> *Id.* at 20.

<sup>42</sup> *Id.* at 21.

<sup>43</sup> PNM Witness Direct Testimony of Kyle T. Sanders ("Sanders Direct") at 4.

<sup>44</sup> *Id.* at 4-5.

customers while optimizing the use of carbon free resources.<sup>45</sup> The BESS Project will also potentially provide an added measure of resiliency to PNM’s overall system while providing improved reliability at a more localized level.<sup>46</sup>

### **C. CCN Requirements**

(37) Section 62-9-1 prescribes the general standard for issuance of CCNs and provides that “[n]o public utility shall begin the construction or operation of any public utility plant or system or of any extension of any plant or system without first obtaining from the commission a certificate that public convenience and necessity require or will require such construction or operation.”

(38) Section 62-9-1(E) specifically governs the CCN criteria to be met for an energy storage system, which is defined as “methods and technologies used to store electricity.” The BESS Project is a battery energy storage system used to store electricity. PNM has met the statutory criteria for approval of the BESS Project.<sup>47</sup> Through their direct testimonies, PNM witnesses Hakimian, Pollman, and Barnard all demonstrate full satisfaction of the seven criteria under Section 62-9-1(E). PNM Table KTS-1 provides a cross reference of the locations in the Direct Testimonies of PNM witnesses where the seven statutory criteria are addressed.<sup>48</sup>

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<sup>45</sup> PNM Witness Direct Testimony of Nicholas Pollman (“Pollman Direct”) at 3.

<sup>46</sup> Hakimian Direct at 24.

<sup>47</sup> Sanders Direct at 9.

<sup>48</sup> *Id.*

**PNM Table KTS-1<sup>49</sup>**

<b>PUA Section</b>	<b>Criteria</b>	<b>PNM Witness</b>	<b>Location</b>
62-9-1(E)(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	Hakimian	Section V: Public Interest
62-9-1(E)(2)	Reduce the use of fossil fuels for meeting demand during peak load periods and for providing ancillary services	Pollman	Section IV: Public Interest
62-9-1(E)(3)	Assist with ensuring grid reliability, including transmission and distribution system stability, while integrating sources of renewable energy into the grid	Hakimian	Section V: Public Interest
		Pollman	Section IV: Public Interest
62-9-1(E)(4)	Support diversification of energy resources and enhance grid security	Hakimian	Section V: Public Interest
		Pollman	Section IV: Public Interest
		Barnard	Section IV: Project Implementation and CCN Criteria
62-9-1(E)(5)	Reduce greenhouse gases and other air pollutants resulting from power generation	Pollman	Section IV: Public Interest
62-9-1(E)(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	Pollman	Section III: Utility Owned Proposed BESS Project and Section IV: Public Interest
62-9-1(E)(7)	Are the most cost effective among feasible alternatives	Hakimian	Section V: Public Interest

(39) Mr. Hakimian testified that as required under Section 62-2 9-1(E)(1) of the PUA, the installation of BESS will remove the need to install additional substation and distribution facilities that cost more, take longer to implement, and which often require additional land acquisition, easements, and rights of way.<sup>50</sup> It will assist in utilizing energy from DG that otherwise would have to be possibly curtailed and allow for the release of that energy during hours where energy is more valuable. It will allow for assisting in meeting demand and load by discharging the energy at opportune times.<sup>51</sup>

(40) Mr. Pollman testified that as required under Section 62-2 9-1(E)(2) of the PUA, the BESS Project will reduce the use of fossil fuels for meeting peak loads.<sup>52</sup> Energy stored in the BESS from co-located solar resources is discharged after solar production declines, which typically aligns with the onset of peak load periods that remain elevated for several hours. By storing excess solar energy for use during peak demand, the BESS reduces curtailment of renewable generation and offsets the historical reliance on fossil-fueled resources during high-demand periods, supporting a cleaner and more efficient energy mix. The four-hour duration of these storage systems is particularly well suited for this application.<sup>53</sup>

(41) Mr. Hakimian testified that under Section 62-2 9-1(E)(3) of the PUA, the energy storage system should assist in ensuring grid reliability, including transmission and distribution system stability, while integrating sources of renewable energy into the grid. Distribution-sited BESS can

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<sup>49</sup> *Id.* at 9-10.

<sup>50</sup> Hakimian Direct at 24.

<sup>51</sup> *Id.*

<sup>52</sup> Pollman Direct at 12.

<sup>53</sup> Pollman Direct at 12.

assist in system resiliency by acting as a backup generation source for short periods of time when there are outages on the system.<sup>54</sup> It can feed a portion of the system depending on the circuit configuration until the system event and outage has been mitigated. It can assist in generator outages by providing ancillary services such as spinning reserves, frequency deviation and voltage support. The ability to discharge and charge rapidly makes BESS ideal to assist in system resiliency.<sup>55</sup> It will allow the distribution feeder to stay within national and equipment specification standards. BESS will ensure feeders stay within voltage and thermal limits.<sup>56</sup> Mr. Pollman testified that this enables reliable integration of additional distributed resources, including Community Solar, ensuring safe and efficient service is consistent with Section 62-9-1(E)(3).<sup>57</sup>

(42) Mr. Barnard testified that the BESS Project will support diversification of energy resources and enhance grid security as required under Section 62-9-1(E)(4).<sup>58</sup> These distribution-sited BESS (including the first two deployed last year pursuant to Docket No. 23-00162-UT) would be the first energy storage systems on PNM's distribution grid to utilize LFP technology, thereby diversifying assets on the distribution system. According to Mr. Barnard, the BESS Project also enhances grid security by improving response time well beyond what gas peaker plants are capable of.<sup>59</sup> Mr. Hakimian testified that with BESS storage of energy from DG, thus allowing more DG, the need for other types of generation interconnected to the transmission system can potentially

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<sup>54</sup> Hakimian Direct at 24.

<sup>55</sup> *Id.*

<sup>56</sup> *Id.* at 24-25.

<sup>57</sup> Pollman Direct at 13.

<sup>58</sup> Barnard Direct at 13.

<sup>59</sup> *Id.*

decrease.<sup>60</sup> Mr. Pollman testified that BESS provide operational flexibility by storing excess renewable energy for use during periods of high demand or low generation, helping to balance supply and demand in real time.<sup>61</sup> This capability strengthens grid security by ensuring reliable service during system disturbances and reducing vulnerability to outages or fluctuations in renewable output.<sup>62</sup> By localizing storage at the distribution level, the BESS Project also helps manage local contingencies and reduces stress on the broader transmission network, further supporting a robust and secure electric system.<sup>63</sup>

(43) Mr. Pollman testified that the reduction of greenhouse gases and other air pollutants during power generation as required by Section 62-9-1(E)(5) would also be accomplished by the proposed 30 MW of distribution-sited BESS that is designed to store up to 120 MWh of energy generated from co-located solar resources each day.<sup>64</sup> By capturing excess solar generation that would otherwise be curtailed, the BESS enables more renewable energy to be utilized on the system. When this stored energy is discharged during periods of lower solar output, it can help offset the need for fossil-fueled generation, which results in more efficient use of carbon-free resources and contributes to the reduction of greenhouse gas emissions and other air pollutants associated with conventional power generation. This 120 MWh of distribution-sited BESS has the potential to eliminate more than 18,000 tons of CO<sub>2</sub> emissions per year, however with the current control

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<sup>60</sup> Hakimian Direct at 25.

<sup>61</sup> Pollman Direct at 13.

<sup>62</sup> *Id.*

<sup>63</sup> *Id.* at 13-14.

<sup>64</sup> *Id.* at 14.

mode focused around creating headroom on the feeder, the reduction is expected to be around 9,000 tons of CO<sub>2</sub> emissions per year.<sup>65</sup>

(44) Mr. Pollman testified that utility ownership of these BESS Projects is consistent with the CCN standards under Section 62-9-1(E)(6) requiring that the energy storage system provide the utility with the opportunity to operate, maintain, and control energy storage systems so as to ensure reliable and efficient service to customers.<sup>66</sup> Utility ownership enables PNM to directly manage the BESS, allowing for real-time operational decisions, integration with existing assets, and the flexibility to adapt to evolving grid needs. This direct control supports system reliability, safety, and efficiency, fully aligning with the intent and requirements of Section 62-9-1(E)(6).<sup>67</sup>

(45) Mr. Hakimian testified that the BESS Project is the most cost effective among feasible alternatives as required under Section 62-9-1(E)(7).<sup>68</sup> The five sites selected in this phase of BESS installation all show that installation of BESS provides the highest BCR when compared to other feasible alternatives.<sup>69</sup>

(46) Mr. Sanders further testified that the Commission has equated “public convenience and necessity” with the public interest and found that the CCN statute implies there must be a net public benefit in order to grant a CCN.<sup>70</sup> The utility has the burden of showing that the resource it proposes is the most effective resource among feasible alternatives.<sup>71</sup> The BESS Project will assist

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<sup>65</sup> *Id.*

<sup>66</sup> *Id.* at 6 and 15.

<sup>67</sup> *Id.* at 6.

<sup>68</sup> Hakimian Direct at 25.

<sup>69</sup> *Id.* at 25.

<sup>70</sup> *See, e.g.*, Docket No. 19-00349-UT, Recommended Decision at 16 (Nov. 16, 2020).

<sup>71</sup> *Id.* at 16-17 (citing Docket No. 15-00261-UT, Corrected Recommended Decision (Aug. 15, 2016), Docket No. 13-00390-UT, Final Order (Dec. 16, 2015), Docket No. 15-00205-UT, Order Partially Granting PNM Motion to Vacate

in meeting customer needs and forecasted load growth, allow for an increase in solar hosting capacity, reduce costs to customers, and help ensure that PNM can provide safe and reliable service for its customers.<sup>72</sup> The BESS Project will continue to address the issue of overcapacity on distribution feeders which has been the subject of customer and Commission concerns.<sup>73</sup> The BESS Project will aid in alleviating the capacity-constrained distribution feeders and will facilitate the use of DG energy to serve customers.<sup>74</sup> Mr. Sanders concludes that these benefits all serve PNM customers as well as the public interest.<sup>75</sup>

(47) Mr. Hakimian testified regarding the public interest requirement: the BESS Project will assist in ensuring that the five feeders selected can continue to operate reliably and safely and stay within national standards and equipment specification standards.<sup>76</sup> It will allow the interconnection of more DG to those feeders. Based on the CBA that was performed, it offers the highest BCR compared to the other solutions, and it can be constructed faster than the other options. Since it is the most cost-effective and fastest solution to implement, BESS enables faster DG interconnection at the lowest cost as compared to other feasible solutions. With BESS enabling more and faster interconnection of DG, it speeds the transition to a carbon-free grid.<sup>77</sup>

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

<sup>72</sup> Sanders Direct at 10.

<sup>73</sup> *Id.* at 10-11.

<sup>74</sup> *Id.* at 11.

<sup>75</sup> *Id.*

<sup>76</sup> Hakimian Direct at 23.

<sup>77</sup> Hakimian Direct at 23.

(48) Mr. Pollman testified that the proposed BESS Project serves the public interest by providing immediate and tangible benefits to both the system and PNM’s customers.<sup>78</sup> By addressing solar saturation on these distribution feeders, the BESS enables additional rooftop and distributed Photovoltaic (“PV”) systems to interconnect, supporting customer choice and accelerating the adoption of renewable energy. Distribution-sited BESS also serves to reduce renewable curtailment at a system level, maximizing the utilization of existing carbon-free resources. These benefits ensure that the BESS Project advances the public interest by enabling greater renewable integration at both the system and feeder level, supporting grid reliability, and helping PNM achieve its long-term decarbonization objectives while delivering enhanced service quality to customers.<sup>79</sup>

(49) Mr. Pollman further testified that the BESS Project delivers substantial net public benefits by enabling the deferral of distribution infrastructure upgrades, while at the same time providing much needed energy storage capacity at the system level.<sup>80</sup> By absorbing excess renewable generation and shifting energy to periods of higher demand, the BESS reduces curtailment of renewable Variable Energy Resources (“VERs”), thereby maximizing the use of carbon-free energy. At the feeder level, the BESS supports peak shaving and energy shifting, improves voltage stability, and enhances overall power quality for customers.<sup>81</sup> These capabilities help PNM accommodate additional distributed generation, increase hosting capacity, and deliver more

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<sup>78</sup> Pollman Direct at 11.

<sup>79</sup> *Id.*

<sup>80</sup> *Id.*

<sup>81</sup> *Id.*

reliable and efficient service, all while advancing the transition to a resilient, modern, and decarbonized grid.<sup>82</sup>

(50) In regard to the other general requirements for issuance of a CCN, Mr. Sanders testified that Section 62-9-6 requires that a corporation applying for a CCN have its articles of incorporation on file with the Commission; PNM's current articles of incorporation were filed with the Commission and can be found in the record of Docket No. 13-00390-UT in PNM Exhibit GTO-2 to the December 20, 2013 Direct Testimony of Gerard T. Ortiz.<sup>83</sup>

(51) Further, Section 62-9-6 also requires evidence, as the Commission may require, demonstrating the consent and franchise of the municipality where construction and operation of a new facility will occur. PNM witness Hakimian confirmed that four of the five BESS Project sites are outside of any municipal boundary, so this requirement of Section 62-9-6 is not applicable to those four. The fifth site is located within the City of Rio Communities.<sup>84</sup> However, if satisfaction of this requirement is necessary, and as confirmed by PNM witness Hakimian, PNM will obtain all necessary governmental permits and comply with all applicable zoning and building requirements with respect to the construction and operation of the BESS Project site within the City of Rio Communities.<sup>85</sup>

(52) Mr. Sanders also testified that no location approval is required under Section 62-9-3 of the PUA because the BESS Project is not a plant designed for or capable of operation at a capacity of

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<sup>82</sup> Pollman Direct at 11-12.

<sup>83</sup> Sanders Direct at 11.

<sup>84</sup> Hakimian Direct at 23.

<sup>85</sup> Sanders Direct at 3-4.

three hundred thousand kilowatts or more, nor is it a transmission line project that falls within the location statute.<sup>86</sup>

(53) Mr. Sanders also testified that the BESS Project was consistent with PNM's most recent Integrated Resource Plan ("IRP") filed in Docket No. 23-00409-UT, including a revised Statement of Need identifying that 1100 MW to 1700 MW of dynamic balancing resources should be added through 2032 because the BESS Project adds dynamic balancing resources that are consistent with that need.<sup>87</sup>

(54) Mr. Barnard testified that PNM will mitigate the impacts of the BESS Project to the surrounding communities.<sup>88</sup> By nature of PNM's plan to install the battery systems on the existing PV sites, the impact to the surrounding communities is minimal. These sites are rural, and the BESS equipment is of a similar nature to the PV equipment that is already there. The new equipment will be consolidated and confined to less than one acre on existing 70–100-acre PV sites. PNM will mitigate fire risks through newer LFP battery technology and by utilizing a product which has an industry-leading reputation for fire protection and thermal runaway mitigation.<sup>89</sup>

#### **D. Cost Recovery**

(55) PNM is not seeking determination on the ratemaking treatment of the BESS Project, estimated capital costs of \$78.7 million, and a total estimated first-year revenue requirement of \$3.3 million. The \$78.7 million capital includes approximately \$850 thousand in distribution capital needed to interconnect the batteries to the distribution system. The proposed ratemaking

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<sup>86</sup> Sanders Direct at 12.

<sup>87</sup> *Id.*

<sup>88</sup> Barnard Direct at 12.

<sup>89</sup> *Id.*

treatment for the BESS Project will be included in PNM’s next general rate case. PNM seeks authorization to recover the actual cost of the BESS Project, including AFUDC, which it anticipates will be approximately \$2.9 million, with the reasonableness of the final actual costs subject to Commission review and determination in a future general rate case and subject to Rule 17.3.580 NMAC. PNM witness Barnard provides the details of the battery storage capital costs.<sup>90</sup>

**PNM Table GBB-1 – BESS Project Costs**

BESS EPC	\$ 71,500,000
Owners Cost (Permitting, Engineering, Metering)	\$ 2,050,000
Interconnection	\$ 850,000
Loads & AFUDC	\$ 4,290,000
Total Estimated Cost	\$ 78,690,000

New Mexico Gross Receipts Tax was part of the bid. AFUDC was estimated based upon a 6% interest rate as applied to the Gridworks agreement’s cash flow. Administrative and general loads applied to this Project are consistent with PNM’s current forecasts for administrative expenses.<sup>91</sup>

(56) The BESS Project is a PNM-owned project with a defined payment and construction schedule.<sup>92</sup> This contract with Gridworks is a turnkey EPC agreement. PNM is requesting the Commission approve the estimated Project cost that is not subject to adjustment for component pricing. Based on this arrangement, the cost risk to PNM customers is limited because the CCN will be subject to the Cost Overrun Rule for any increase in costs.<sup>93</sup>

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<sup>90</sup> Barnard Direct at 5-6.

<sup>91</sup> *Id.* at 6.

<sup>92</sup> *Id.* at 8.

<sup>93</sup> *Id.*

**PNM Table KTS-2 First Year Revenue Requirement by Facility<sup>94</sup>**

<b>Facility</b>	<b>Capacity (MW)</b>	<b>Capital Investment</b>	<b>ITC *</b>	<b>Revenue Requirement</b>
Alamogordo Otero	6	\$ 15,738,000	40%	\$ 486,015
Deming	6	15,738,000	40%	486,015
Meadow Lake	6	15,738,000	30%	923,361
Rio Communities	6	15,738,000	30%	923,361
San Miguel	6	15,738,000	40%	486,015
<b>Total</b>	<b>30</b>	<b>\$ 78,690,000</b>		<b>\$ 3,304,765</b>

\* Please see PNM Table KTS-3 for ITC calculation

(57) In its modeling, PNM assumed between 30% and 40% Investment Tax Credits (“ITC”) related to the various locations of the BESS Project. According to Mr. Sanders, this translates to \$28.0 million of ITC benefit that will be returned to customers when (if) PNM begins to utilize ITC to offset tax liability.<sup>95</sup> At the time of filing, PNM did not anticipate changes to the ITC provisions on battery storage projects, and the projects still qualified.<sup>96</sup>

**KTS-3 ITC Calculation**

<b>Facility</b>	<b>Base Credit</b>	<b>Prevailing Wages &amp; Apprenticeship</b>	<b>Low-income Communities</b>	<b>Energy Communities</b>	<b>Domestic Content *</b>	<b>Total ITC</b>
Alamogordo Otero	6%	24%	0%	10%	0%	40%
Deming	6%	24%	0%	10%	0%	40%
Meadow Lake	6%	24%	0%	0%	0%	30%
Rio Communities	6%	24%	0%	0%	0%	30%
San Miguel	6%	24%	0%	10%	0%	40%

\* Qualification for the Inflation Reduction Act Domestic Content bonus ITC will be known at the time the batteries and equipment are ordered for the BESS Project.

(58) Mr. Sanders also testified that to the extent the actual costs of the Project are different from the estimated capital cost of \$78.7 million, PNM would provide the information required by the

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<sup>94</sup> Sanders Direct at 13.

<sup>95</sup> *Id.* at 14.

<sup>96</sup> *Id.* at 15.

Cost Overrun Rule (17.3.580 NMAC) to request recovery of these costs in its next general rate review application.<sup>97</sup> The Cost Overrun Rule applies to an “electric generating plant” as defined in 17.3.580.7(E) NMAC, and the storage component of the Project will provide system capacity similar to a generation plant. Therefore, PNM believes that extending the application of 17.3.580 NMAC to the BESS Project is consistent with the objectives of the rule as well as recent treatment of similar projects. The estimated capital cost of the BESS Project does not include any amount for contingencies.<sup>98</sup>

#### **E. Other Regulatory Considerations**

(59) Prior to filing its Application, PNM met with five different stakeholders: NM AREA, NMDOJ, Staff, REIA-NM, and WRA, to provide an overview of the BESS Project filing and to answer questions concerning the BESS Project.<sup>99</sup>

(60) PNM further provided testimony that one of the main reasons for siting the new battery installations on existing sites is due to environmental justice concerns.<sup>100</sup> The batteries will be placed on existing PNM solar generation sites, within the existing footprint and fence lines of these sites. The batteries and inverters organically fold into the pre-existing PV inverters and equipment. Mr. Sanders testified that PNM is attempting to minimize impacts to low-income populations and underserved areas by not acquiring or otherwise developing any additional land that could potentially impact such populations or areas.<sup>101</sup>

(61) As the Project will be constructed on PNM-owned or controlled property within the

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<sup>97</sup> *Id.* at 15.

<sup>98</sup> *Id.* at 16.

<sup>99</sup> *Id.* at 16-17.

<sup>100</sup> *Id.* at 18.

<sup>101</sup> *Id.*

existing fence line, PNM will file for a modification to the existing site use permits that allow for the addition of the battery equipment. This significantly streamlines the permitting process.<sup>102</sup>

PNM will meet with the local fire marshals to discuss and establish required safety protocols and procedures associated with potential emergency conditions.<sup>103</sup>

(62) Mr. Pollman also provided testimony regarding the safety of the BESS. PNM is deploying its BESS in alignment with the most current industry standards and best practices, including the requirement for UL 9540A testing, which demonstrates the ability of the BESS design to prevent fire propagation in the event of ignition.<sup>104</sup> These standards and best practices, combined with ongoing advancements in BESS design, operational protocols, and manufacturing quality, have led to substantial improvements in overall system safety.<sup>105</sup> According to analysis by EPRI in 2024, the global grid scale BESS failure rate dropped by 97% between 2018 and 2023, reflecting the effectiveness of these measures.<sup>106</sup> PNM has selected the Tesla Megapack BESS solution, which meets or exceeds all the installation level codes and standards, such as the IFC and NFPA 855, required for outdoor, ground mounted BESS installations.<sup>107</sup> This product utilizes cells with LFP battery chemistry, which is widely recognized as the safest option for utility scale storage due to its minimal risk of thermal runaway compared to chemistries such as nickel manganese cobalt.<sup>108</sup> The Megapack design has undergone UL 9540A testing, confirming its resistance to fire

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<sup>102</sup> Barnard Direct at 10-11.

<sup>103</sup> *Id.* at 11.

<sup>104</sup> Pollman Direct at 4.

<sup>105</sup> *Id.*

<sup>106</sup> *Id.*

<sup>107</sup> *Id.*

<sup>108</sup> *Id.* at 4-5.

propagation, and includes an integrated explosion control system featuring deflagration vents to further reduce risk.<sup>109</sup> By combining industry leading standards and Tesla’s proven engineering safeguards, PNM is confident this BESS deployment will be both safe and reliable.<sup>110</sup>

#### **F. Staff Review and Testimony**

(63) Staff Witness Acosta, an Economist with the Commission’s Utility Division, provided a review of how the BESS Project will reduce costs to ratepayers by avoiding or deferring the need for investment in new generation and for upgrades to systems for the transmission of and distribution of energy, pursuant to Section 62-9-1(E)(1).<sup>111</sup> After comparing costs of recent BESS projects brought before the Commission with the current Project,<sup>112</sup> Ms. Acosta testified that the estimated costs for the proposed 30 MW BESS Project in this case are significantly impacted by recent tariffs and higher, but remain relatively in line with similar projects approved by the Commission for PNM and other IOUs.<sup>113</sup> Ms. Acosta concluded that it was Staff’s belief that the BESS Project will help reduce costs for ratepayers in several ways.<sup>114</sup> The BESS Project will allow PNM to avoid the need to install new additional substation and distribution facilities and instead benefit from the existing interconnection contracts and distribution infrastructure, which is faster and cheaper to increase hosting capacity, defer transmission or distribution investments, and increase reliability and resiliency for customers. Since the Project will be co-located with existing

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<sup>109</sup> *Id.* at 5.

<sup>110</sup> *Id.*

<sup>111</sup> Acosta Direct at 3-8.

<sup>112</sup> *Id.* at 6 where Ms. Acosta compares costs of Docket No. 23-00162-UT (PNM BESS) estimated \$25.8 million for a 12 MW BESS Project (\$2.15 million per MW), and in Docket No. 23-00252-UT (SPS BESS), the cost was \$66.1 million for a 36 MW BESS Project (1.8 million per MW). In this case (2.6 million per MW) or a 23.8% increase as compared to 2023 case, which Staff claims can be attributed to increased costs due to federal tariffs.

<sup>113</sup> *Id.* at 5.

<sup>114</sup> *Id.* at 8.

and well-established solar facilities, its installation is expected to be faster and easier as it does not require the same geographical needs and planning associated with the construction of new feeders and substations.<sup>115</sup>

(64) Staff Witness Whitney, a Staff Engineer, testified that his testimony addressed Section 62-9-1(E) subsections 2, 3, 4, and 5.<sup>116</sup> Section 62-9-1(E) subsection 2 requires that energy storage systems reduce the use of fossil fuels for meeting demand during peak load periods and for providing ancillary services. Mr. Whitney testified that the BESS Project is designed to store excess solar energy generated during the day and discharge it during peak load periods, particularly after solar production declines.<sup>117</sup> This offsets the historical reliance on fossil-fueled resources during high demand times, contributing to a cleaner and more efficient energy mix. Additionally, the BESS installations can assist in providing ancillary services, such as spinning reserves, frequency deviation, and voltage support, which are crucial for grid reliability and can help manage generator outages.<sup>118</sup> Mr. Whitney also concluded that by enabling the integration of additional distributed and renewable energy resources, the BESS Project also reduces the need for other types of generation, including fossil fuels, to be interconnected to the transmission system.<sup>119</sup>

(65) Section 62-9-1(E)(3) requires the energy storage system to assist with ensuring grid reliability, including transmission and distribution system stability, while integrating sources of renewable energy into the grid. Mr. Whitney testified that the BESS systems provide responsive, flexible capacity to PNM's distribution systems to which they are attached which may potentially

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<sup>115</sup> *Id.*

<sup>116</sup> Whitney Direct at 6.

<sup>117</sup> *Id.* at 9.

<sup>118</sup> *Id.*

<sup>119</sup> *Id.* at 9-10.

feed back into the transmission system.<sup>120</sup> They can quickly discharge or charge as the need may be which provides ancillary service capabilities thus facilitating grid reliability and stability.

(66) Section 62-9-1(E)(4) requires the energy storage system to support diversification of energy resources and enhance grid security. Mr. Whitney testified that these systems would allow PNM to host more residential solar DG on the feeders which is a diversification of their energy resources.<sup>121</sup>

(67) Section 62-9-1(E)(5) requires the energy storage system to reduce greenhouse gases and other air pollutants resulting from power generation. Mr. Whitney testified that the energy produced by these additional DG resources coupled with the BESS systems will enable the reduction in use of fossil fuel systems to provide energy, reducing the pollutants created by these fossil fuel systems.<sup>122</sup>

(68) Ms. Acosta testified that the BESS Project will provide PNM with the discretion, subject to applicable law and rules, to operate, maintain and control energy storage systems so as to ensure reliable and efficient services to customers as required by Paragraph (E)(6) of Section 62-9-1 of the PUA.<sup>123</sup> Staff believes that PNM's ownership of the Project will give PNM full control over operation and maintenance activities, allowing for real-time and flexible operational decisions.<sup>124</sup>

(69) Ms. Acosta testified that pursuant to NMSA 1978, Section 62-9-1(E)(7), it was her belief that the proposed BESS Project is the most cost-effective among feasible alternatives for the following reasons:

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<sup>120</sup> Whitney Direct at 10.

<sup>121</sup> *Id.*

<sup>122</sup> *Id.*

<sup>123</sup> Acosta Direct at 12.

<sup>124</sup> *Id.*

- The project has the shortest implementation timeline, from inception to energization.
- The project has low construction and operational risks.
- This option better utilizes available system renewable energy by storing energy when needed and releasing it when needed.
- The project is the best option among feasible alternatives with the ability to add resource capacity, thus meeting generation requirements at peak customer load hours across system.
- This option helps mitigate feeder thermal and overvoltage issues.
- This option enables more and faster interconnection of DG, speeding the transition to a carbon-free grid.<sup>125</sup>

(70) Ms. Acosta concluded that Staff believed PNM met the requirements of NMSA 1978, Section 62-9-1 and Section 62-9-6 and recommended that PNM's Application for a Certificate of Public Convenience and Necessity to purchase, own, and operate 30 MW of battery storage facilities be approved, subject to any additional conditions the Commission deems necessary, as approval is in the public interest.<sup>126</sup>

(71) Mr. Whitney also provided testimony regarding whether PNM had complied with the Certificated Cost Estimate Rule 17.3.580 NMAC requirements.<sup>127</sup> Rule 580.7(A) NMAC defines "Certificated Estimated Cost" as the total cost of construction as estimated by the utility at the time of issuance by the Commission of the CCN for the plant and reflected in the order issuing the CCN. According to Mr. Whitney, PNM's estimated capital cost for the BESS Project is \$78.7 million, and PNM is requesting that the Commission approve this certificated estimated cost and confirm that it will be subject to the Commission's Cost Overrun Rule at 17.3.580 NMAC. Mr. Whitney testified that upon the Commission's approval and issuance of the CCN reflecting this estimate, it would then become the "Certificated Estimated Cost" for the Project under the rule.

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<sup>125</sup> *Id.* at 9. Additionally at pages 12-14, although PNM is not asking for rate treatment in this case, Ms. Acosta provides residential and small commercial rate comparisons of potential BESS rate impacts.

<sup>126</sup> *Id.* at 15.

<sup>127</sup> Whitney Direct at 11.

Further, Mr. Whitney testified that PNM Witness Barnard confirmed that if actual costs exceed the \$78.7 million estimate, PNM would follow the Cost Overrun Rule, which Staff interprets as establishing that any cost overruns beyond the approved estimate are subject to Commission review and are not included in rates unless prudently incurred and necessitating provision of detailed information by PNM and scrutiny by the Commission and Staff to perform a prudence review of any cost overruns.<sup>128</sup>

(72) Mr. Whitney also testified regarding PNM's request to accrue AFUDC at a rate of 6% applied to the costs in this case. Staff concluded that this request is in line with the Commission's last BESS case, Docket No. 23-00162-UT. Staff proposed treating the AFUDC for this 30 MW BESS Project in the same way to allow PNM to accrue AFUDC at 6% now, with full review of the resulting AFUDC amounts and capitalization rates in the next rate case.<sup>129</sup> As a basis for this conclusion, Mr. Whitney reviewed published AFUDC rates for other investor-owned utilities that apply the FERC and Rural Utilities Service Uniform Systems of Accounts, which showed AFUDC rates between roughly 5% and 6.2% for electric utility plant.<sup>130</sup> In addition to this information, Mr. Whitney considered the Commission's Final Order in the prior PNM Docket No. 23-00162-UT, and determined that these materials indicate that a 6% AFUDC rate for PNM's 30 megawatt BESS Project falls within the normal range for AFUDC rates derived from investor-owned utilities' cost of capital and is reasonable, subject to subsequent review of the actual AFUDC amounts and capitalization rates in PNM's next general rate case.<sup>131</sup> Mr. Whitney specified that since the actual

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<sup>128</sup> Whitney Direct at 12.

<sup>129</sup> *Id.* at 15.

<sup>130</sup> *Id.* at 16.

<sup>131</sup> *Id.* at 16-17.

amount will be determined in a future rate case, Staff supports PNM's request for AFUDC.<sup>132</sup> At that time, the specific amounts of funds, capitalization rates, methods, procedures, and calculations used in computing the AFUDC amount will be subject to full review and examination. Mr. Whitney testified that Staff reserves the right to argue for the correct AFUDC amount because Staff believes AFUDC amount is calculated using the FERC formula.<sup>133</sup>

(73) Mr. Whitney testified that Staff further recommends the following conditions and future information filings be required of PNM, and they be filed within this docket:<sup>134</sup>

- PNM must file all construction permits within two weeks of receipt.
- As soon as practicable after project completion, PNM shall file actual installed costs by site and in aggregate, actual AFUDC amounts with detailed calculations, using the FERC formula, and a variance comparison to estimates.
- PNM shall file notices of commercial operation dates (COD) for each site and a final notice when all sites are operational.
- PNM shall file a notice identifying the first billing month when fuel or purchased-power impacts from BESS appear in the Fuel and Purchased Power Cost Adjustment Clause (FPPCAC), with a brief explanation.
- Beginning 90 days after the first COD and quarterly thereafter until one year after the final COD, PNM shall file operational reports by site.<sup>135 136</sup>

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<sup>132</sup> *Id.* at 17. According to Staff, "in order for PNM to earn a return a specific AFUDC amount associated with these BESS Projects, PNM will need to file the Schedule B-5 information in the rate case containing the AFUDC requested amount".

<sup>133</sup> *Id.*

<sup>134</sup> Whitney Direct at 18.

<sup>135</sup> *Id.*

<sup>136</sup> As set forth in PNM's Amended Unopposed Motion to Vacate Hearing, at item 9, PNM does not oppose the reporting conditions contained in the testimony filed by Staff that cites to Mr. Whitney's recommended reporting requirements at page 18 of his testimony.

## **G. Summary**

(74) PNM has provided sufficient uncontroverted credible evidence that meets the statutory criteria for approval of the BESS Project as highlighted in Table KTS-1 that links the seven criteria under NMSA 1978, Section 62-9-1(E) with the direct testimonies of PNM witnesses Barnard, Hakimian, Pollman, and Sanders, as well as the specifically referenced witness testimony above. The Project will reduce costs to ratepayers by providing an alternative to new generation and deferring or avoiding otherwise needed upgrades to PNM's current distribution system. By locating batteries on overloaded feeders with existing large solar installations, PNM can reduce the use of fossil fuels for meeting demand beginning in 2027. The BESS Project will also aid in ensuring grid reliability, support increased diversification of energy resources, contribute to the reduction of air pollutants resulting from power generation, and ensure efficient service to PNM's customers. The BESS Project is also the most cost-effective among feasible alternatives.

(75) Further, PNM has provided credible uncontroverted evidence in the record sufficient to determine that the BESS Project would be in the public interest and would result in a net public benefit. PNM provided credible evidence that the BESS Project would benefit the public interest by (1) accommodating additional solar generation, including distributed generation; (2) improving voltage and stability and enhancing overall power quality; (3) providing for arbitrage pricing opportunities; (4) lowering system wide emissions; and (5) acting as a dispatch resource, which would provide operational flexibility and mitigate local feeder issues.

(76) Staff has reviewed PNM's evidence and has presented testimony finding PNM has provided sufficient evidence for Staff to support PNM's BESS CCN requests. Further, Staff testified that PNM provided sufficient evidence to meet the public interest requirements in the PUA. Staff requested that the AFUDC and Certificated Cost Certificate determinations be made

consistent with Commission rules, and consistent with the Commission's treatment of the issues in PNM's last BESS Docket No. 23-00162-UT. Staff also presented additional conditions and future information filing recommendations that were agreed to by PNM.

(77) For these reasons, the Commission finds that the credible uncontroverted evidence in the record supports a determination that PNM has met the standards for issuance of a CCN and that a net public benefit will result from allowing PNM to construct, own and operate the BESS Project; that the estimated costs of the BESS Project as presented in the Certificated Estimated Costs are reasonable; and that the proposed recovery of the final actual costs in PNM's rates should be subject to review by the Commission through a general ratemaking proceeding. Additionally, Staff's recommendations, as agreed to by PNM, regarding conditions and future information reporting are reasonable, could provide potentially helpful information, and therefore should be adopted by the Commission.

(78) Additionally, as required in the Final Order in Docket No. 23-00162-UT, issued on December 21, 2023, at 4, future BESS CCN filings should be required to include the following information for any feeders included in the filing: the voltage, current, and power quality data for feeders that are at or near hosting capacity and could have power quality issues.

#### **IV. EXCEPTIONS**

(79) No party filed exceptions to the Recommended Decision.

#### **IV. FINDINGS OF FACT AND CONCLUSIONS OF LAW**

(80) PNM is certified and authorized to conduct the business of providing public utility service within the State of New Mexico, provides electric utility services within the State of New Mexico, and as such, is a public utility subject to the jurisdiction of the Commission under the PUA. As a

public utility, PNM is required to furnish adequate, efficient, and reasonable service at just and reasonable rates in conformity with Sections 62-8-1 and 62-8-2 of the PUA.

(81) The Commission has jurisdiction over the subject matter of this case.

(82) Due and proper notice of this case and its subject matter was given in accordance with the PUA and Commission rules.

(83) A preponderance of evidence in the record presented in this case supports a finding that it is in the public interest for the Commission to issue a CCN authorizing PNM to construct, operate, and own the BESS Project, and to accrue AFUDC.

(84) PNM's Certificated Estimate of Cost of Construction for the BESS installation is authorized subject to all applicable Commission Rules, and any and all ratemaking aspects of the BESS Project, including AFUDC, are reserved for future Commission ratemaking proceedings.

(85) The following recommendations regarding conditions and future PNM information filings to be made in this docket, as agreed by PNM, are reasonable and helpful, and are therefore approved:

- PNM must file all construction permits within two weeks of receipt.
- As soon as practicable after Project completion, PNM shall file actual installed costs by site and in aggregate, actual AFUDC amounts with detailed calculations, using the FERC formula, and a variance comparison to estimates.
- PNM shall file notices of commercial operation dates for each site and a final notice when all sites are operational.
- PNM shall file a notice identifying the first billing month when fuel or purchased-power impacts from BESS appear in the Fuel and Purchased Power Cost Adjustment Clause, with a brief explanation.
- Beginning 90 days after the first commercial operation date and quarterly thereafter until one year after the final commercial operation date, PNM shall file operational reports by site.

(86) As required in the Final Order in Docket No. 23-00162-UT, issued on December 21, 2023, at 4, future BESS CCN filings are required to include the following information for any feeders

included in the filing: the voltage, current, and power quality data for feeders that are at or near hosting capacity and could have power quality issues.

(87) Any compliance or other required filing should be made in this case and served upon all parties of record.

**V. ORDER: The Commission Orders as follows:**

(A) The Executive Summary, Procedural History, Discussion, decisions, rulings, and all findings and conclusions contained therein, whether separately stated, numbered, or designated as findings, conclusions, and analyses, are incorporated herein as findings, conclusions, rulings, and determinations of the Commission.

(B) The Commission issues a CCN authorizing PNM to construct, operate, and own the BESS Project, and to accrue AFUDC.<sup>137</sup>

(C) PNM's Certificated Estimate of Cost of Construction for the BESS installation is authorized subject to all applicable Commission Rules, and any and all ratemaking aspects of the

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<sup>137</sup> This case came before the Commission as an application for a CCN. However, the PUA recognizes several exceptions to the CCN requirement. Specifically, the Act provides that a public utility is not required to secure a CCN "for an extension within or to territory already served by it, necessary in the ordinary course of its business . . . ." NMSA 1978, § 62-9-1(A). Projects falling within this exception do not require a CCN. *Id.*

The Commission recently ordered Public Service Company of New Mexico, Southwestern Public Service Company, and El Paso Electric Company to file distribution system plans. See Docket No. 22-00089-UT, Order Terminating Rulemaking and Requiring Distribution System Plans (January 29, 2026) at 6-7. In that docket, the Commission gave said utilities the option of either "filing a distribution system plan that is solely an informational filing, for acceptance by the Commission, or filing a distribution system plan that requests Commission approval." See Docket No. 22-00089-UT, Order Partially Granting Request for Clarification at 6. If a utility opts to seek Commission approval of its distribution plan as contemplated in Docket 22-00089-UT and the Commission approves the distribution system plan, the Commission will deem any battery storage projects included in an approved distribution system plan as an extension necessary in the ordinary course of business under the CCN statute. The utility may therefore pursue such battery storage projects as Rule 440 filings rather than seeking secondary approvals under the CCN statute, while still retaining the option to pursue a CCN should it deem that process preferable.

BESS Project, including AFUDC, are reserved for current and future Commission ratemaking proceedings.

(D) In addition to all required and agreed upon future informational filings as set forth in paragraphs 85 and 86, PNM shall make compliance filings in this docket of any future amendments, revisions or other material changes to the Agreements filed in this proceeding by PNM. Such compliance filings shall be made within ten (10) days of executing the agreement and served upon parties in this case.

(E) Any finding or conclusion not specifically stated here but that is necessary to make this writing coherent and complete is adopted by the Commission as if it were stated.

(F) The Commission has taken administrative notice of all Commission orders, rules, and decisions in all Commission proceedings cited in this final order.

(G) Any matter not specifically ruled on during the hearing or in this writing is resolved consistent with this Final Order.

(H) If no motions for rehearing are filed, or if all motions for rehearing are denied by operation of law, this Docket shall close.

(I) This Order is effective when signed.

(J) In computing time in accordance with statute, regulation, or Commission order, the computation shall begin on the date that this Order is filed.

**SIGNED under the Seal of the Commission at Santa Fe, New Mexico, this 9<sup>th</sup> day of  
April, 2026.**

**NEW MEXICO PUBLIC REGULATION COMMISSION**

**/s/ Gabriel Aguilera, electronically signed**  
**GABRIEL AGUILERA, COMMISSIONER**

**/s/ Greg Nibert, electronically signed**  
**GREG NIBERT, COMMISSIONER**

**/s/ Patrick J. O'Connell, electronically signed**  
**PATRICK J. O'CONNELL, COMMISSIONER**

