

decoupling mechanism in that it would entirely sever the link between customer usage and PNM's total revenues collected from the residential and small power rate classes and would not be limited to impacts solely due to energy efficiency.

4. On June 8, 2020, the Commission commenced Case No. 20-00121-UT pursuant to the Initial Order in the case and assigned Anthony Medeiros as Hearing Examiner. I was a witness in Case No. 20-00121-UT and filed direct and rebuttal testimony.

5. Several parties intervened, including: Albuquerque Bernalillo County Water Utility Authority ("ABCWUA"), the City of Albuquerque, the New Mexico Attorney General ("NM AG"), Bernalillo County, Coalition for Clean Affordable Energy ("CCAЕ"), Merrie Lee Soules, New Energy Economy ("NEE"), New Mexico Affordable Reliable Energy Alliance ("NM AREA"), the Renewable Energy Industries Association of New Mexico ("REIA"), and Western Resource Advocates ("WRA"). Staff of the Commission's Utility Division ("Staff") also participated.

6. Shortly after the case commenced, ABCWUA, Bernalillo County, and the City of Albuquerque ("Joint Movants") filed a Joint Motion to Dismiss Public Service Company of New Mexico's Petition for Approval of a Rate Adjustment Mechanism (Decoupling), or, Alternatively, Motion to Defer Approval of a Rate Adjustment Mechanism to PNM's Next Rate Case ("Joint Movants' Motion"). NEE also filed a Motion to Dismiss Petition and Supporting Brief ("NEE Motion") (collectively, the "Motions").

7. Both Motions asserted, among other things, that Section 62-17-5(F)(2) does not authorize the Commission to adopt a full revenue decoupling mechanism. According to the Motions, Section 62-17-5(F)(2) only authorizes the Commission to adopt a mechanism to remove

the disincentives directly (and only) relating to energy efficiency and load management programs. *See* Joint Movants’ Motion, at 2-11; NEE Motion, at ¶ 49.

8. PNM timely filed its Consolidated Response in Opposition to the Motions to Dismiss on August 7, 2020 (“Consolidated Response”). In the Consolidated Response, PNM argued that the Motions’ interpretation of the EUEA, and specifically Section 62-17-5(F)(1) and (F)(2), was inconsistent with the EUEA passed in 2019. *See* Consolidated Response, at 2-11. Hearing Examiner Medeiros did not rule on the Motions, and allowed the case to proceed.

9. In an effort to rebut the interpretations urged by NEE and the Joint Movants, PNM’s witnesses, devoted significant time to explaining why PNM’s proposed Shared Cost of Service Rider decoupling mechanism was consistent with Section 62-17-5(F)(2), and other parties also addressed these issues at length in testimony.

10. The controversy regarding the correct understanding and application of Section 62-17-5(F)(2) has not been resolved yet by the NMPRC. As explained in PNM’s Motion to Stay in Case No. 20-00121-UT, resolving this controversy will determine PNM’s next steps in whether and how to propose a decoupling mechanism under Section 62-17-5(F)(2) in its next rate case.

11. PNM has made five disincentive removal filings with the Commission over the last several years, but the issue of how to remove disincentives under the EUEA was not resolved in any of them. The filings were made in Case Nos. 06-00210-UT (for PNM’s gas utility), 10-00086-UT, 15-00261-UT, 16-00276-UT, and 18-00043-UT. In Case Nos. 06-00210-UT and 15-00261-UT, the NMPRC denied PNM’s requests. The requests in Case Nos. 10-00086-UT and 16-00276-UT were withdrawn pursuant to stipulations approved by the NMPRC, and in Case No. 18-00043-UT, the NMPRC approved a joint motion to dismiss the proceeding prior to the hearing.

12. I also note that through the course of Case No. 20-00121-UT, parties have raised or alluded to other issues related to the interpretation of Section 62-17-5(F)(2). For example, whether PNM's return on equity should be adjusted if the Commission were to approve a decoupling mechanism and whether a decoupling mechanism can apply to only a subset of the utility's customer classes.

Further Affiant Sayeth Naught.

Dated this 30th day of October 2020.

/s/Mark Fenton
MARK FENTON

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