

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

**IN THE MATTER OF THE PETITION OF)
PUBLIC SERVICE COMPANY OF NEW)
MEXICO, PURSUANT TO THE EFFICIENT)
USE OF ENERGY ACT AND THE PUBLIC)
UTILITY ACT, FOR APPROVAL OF A RATE)
ADJUSTMENT MECHANISM TO REMOVE)
REGULATORY DISINCENTIVES AND)
ORIGINAL RIDER NO. 52,)
)
PUBLIC SERVICE COMPANY OF NEW)
MEXICO,)
)
Applicant)
_____)**

CASE NO. 20-_____-UT

**DIRECT TESTIMONY
OF
MARK FENTON**

May 28, 2020

**NMPRC CASE NO. 20-_____-UT
INDEX TO THE DIRECT TESTIMONY OF
MARK FENTON**

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

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AFFIDAVIT

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1

I. INTRODUCTION AND PURPOSE

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

3 **A.** This testimony supports Public Service Company of New Mexico’s (“PNM” or
4 “Company”) Petition for full decoupling of its rates for the residential and small
5 power classes. This is important because:

- 6 • When properly designed, decoupling aligns the interests of customers and
7 shareholders by shoring up the ability to cover the fixed costs of the electric
8 network;
- 9 • The Efficient Use of Energy Act, NMSA 1978, §§ 62-17-1 *et seq.*, as amended
10 in 2019, requires decoupling to remove regulatory disincentives that discourage
11 conservation and energy efficiency;
- 12 • Because of the extraordinary public health and economic crisis caused by the
13 COVID-19 pandemic, decoupling represents a preferable path to securing some
14 financial stability in serving our customers compared to the general rate case
15 PNM had intended to file this spring; and
- 16 • Decoupling addresses the phenomenon of declining usage per customer, which
17 tends to drive recurrent general rate case filings when fixed cost recovery does
18 not match what was previously approved.

19

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1 **Q. WHAT IS DECOUPLING?**

2 **A.** Decoupling is a regulatory tool that attempts to break the traditional connection
3 where a utility’s revenues are dependent on the volume of electricity sold. In other
4 words, it “de-couples” recovery of revenue from volumetric sales.

5

6 **Q. HOW MANY STATES AND UTILITIES HAVE DECOUPLED THEIR
7 UTILITY RATES?**

8 **A.** PNM Witness Azar addresses this in her testimony, citing figures gathered by the
9 Natural Resources Defense Council. That research shows that 109 utilities and 33
10 states have adopted some form of decoupling for electric and gas utilities.

11

12 **Q. WHY HAS DECOUPLING BEEN ADOPTED BY SO MANY STATE
13 UTILITY REGULATORS?**

14 **A.** Decoupling is a rate design principle that fixed costs should be recovered by a fixed
15 rate. Nonetheless, for a variety of reasons, the fixed costs of the electric network
16 are traditionally recovered in large part through volumetric charges. This creates
17 divergent incentives between the utility and its customers. The utility wants and
18 needs to increase the amount of electricity sold because it increases revenue and
19 ensures the recovery of fixed costs; customers and policymakers, meanwhile, want
20 to encourage conservation and efficiency, which would lower the volume of electric
21 sales. The ultimate downside of decreasing sales volumes for rate classes where

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1 fixed costs are recovered volumetrically is that the fixed costs of the network are
2 not recovered, and service may degrade.

3

4 Decoupling balances the traditional regulatory practice of recovering fixed costs
5 through volumetric rates. It allows for the continuation of volumetric pricing while
6 eliminating the risk of recovering too much or too little for the fixed costs of the
7 electric network.

8

9 **Q. WHAT IS PNM’S DECOUPLING PROPOSAL?**

10 **A.** PNM proposes a Shared Cost of Service (“SCS”) rider as described by PNM
11 Witness Stella Chan. The decoupling mechanism proposed in the rider is based on
12 a revenue per customer amount authorized in a general rate case. It does not
13 increase or change PNM’s overall revenue requirement from the last litigated
14 general rate case filed in 2015. Rather, it changes the rate design in a fashion
15 consistent with the Efficient Use of Energy Act and Public Utility Act, NMSA
16 1978, §§ 62-1-1 to -6-28 and 62-8-1 to -13-16, and results in a just and reasonable
17 rate design.

18

19 **Q. WHY DECOUPLE RATES?**

20 **A.** The purpose of decoupling is twofold:
21 1. to align the incentives between the utility and customer for conservation and
22 energy efficiency; and,

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1 2. to allow the recovery of the network’s fixed costs through a more stable fixed
2 charge.

3 Because of these complementary purposes, decoupling has been generally strongly
4 supported by the environmental stakeholder community, as well as by advocates
5 for a sound and economically efficient rate design where fixed costs are recovered
6 through more fixed, stable charges. Significantly, decoupling does not bring about
7 a rate increase. The revenue requirement used in this proposal remains the same
8 from the last fully litigated general rate case. Rather, this decoupling proposal
9 provides for a more stable recovery of fixed costs from the affected rate classes and
10 aligns energy efficiency and conservation incentives.

11

12 **Q. WHY IS DECOUPLING IMPORTANT TO PNM?**

13 **A.** Decoupling is important because it represents a means to adjust and account for the
14 declining use per customer as well as the tremendous shift in demand that the
15 COVID-19 pandemic has caused. Decoupling – while not changing the revenue
16 requirement of the Company – allows a clearer path to recovering and maintaining
17 investment in the fixed costs of the electric grid.

18

19 Furthermore, the Efficient Use of Energy Act, which was most recently amended
20 in 2019, establishes as state policy that utilities “include all cost-effective energy
21 efficiency and load management programs in their energy resource portfolios, that
22 regulatory disincentives to public utility development of cost-effective energy

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1 efficiency and load management be removed in a manner that balances public
2 interest, consumers' interest and investors' interests...." NMSA 1978, § 62-17-3.
3 It has been almost a year since that statutory amendment went into effect in June of
4 2019 and over a year since PNM withdrew its last stand-alone petition addressing
5 disincentive removal. This Petition seeks to meet the goals and terms of the
6 Efficient Use of Energy Act. This Petition also comes now as a standalone case
7 rather than embedded in a rate case that was planned for the second quarter of 2020.
8 Given the economic and public health uncertainty our customers are facing, this
9 Petition represents an attempt to recognize that uncertainty while providing some
10 stability in the recovery of the cost of providing electric service.

11
12 **Q. WHY ARE YOU FILING FOR DECOUPLING AGAIN IN A**
13 **STANDALONE DOCKET AND NOT AS PART OF A RATE CASE?**

14 **A.** First, this filing is a continuation of our stipulated agreement to file a standalone
15 decoupling petition after PNM's last rate case in Case No. 16-00276-UT concluded.
16 The agreement reflected in that stipulation was that decoupling could be better dealt
17 with in a standalone case, as opposed to being one of a multitude of issues in a rate
18 case. Second, this decoupling petition is being filed as a focused, standalone
19 proposal reflecting the extraordinary times we are in. PNM does not want to bring
20 a general rate case at this time but needs to take steps to assure relative stability in
21 its ability to invest in the grid.

22

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1 **Q. WHY IS DECOUPLING BENEFICIAL TO CUSTOMERS?**

2 **A.** Decoupling aligns the incentives of the Company and the customer for conservation
3 and energy efficiency, while ensuring that the electric grid's fixed costs are
4 recovered, and service remains reliable. Industry surveys consistently show that
5 customers' first satisfaction criterion is reliable service.

6

7 **Q. WHY IS DECOUPLING BENEFICIAL TO INVESTORS' INTERESTS?**

8 **A.** The Efficient Use of Energy Act, like much public utility law, recognizes a balance
9 between consumers and investors to arrive at the public interest. Particularly in
10 these times of the current pandemic, investors are looking for stability in utilities'
11 ability to recover their fixed costs. As noted by PNM Witness Azar, utilities with
12 decoupled rates are in greater favor with credit rating agencies right now than
13 utilities without decoupling. By granting this Petition, the Commission would
14 reassure investors that the costs of PNM's network can be recovered through a more
15 stable rate mechanism. This is particularly important in this uncertain time when
16 demand and usage between rate classes are shifting.

17

18 **Q. WHY IS DECOUPLING IN THE PUBLIC INTEREST?**

19 **A.** Decoupling is in the public interest for the reasons I just described relating to
20 customer and investor interests. It is further in the public interest because this
21 proposal is being brought forward without a general rate case being filed
22 concurrently. PNM had planned on bringing a rate case this spring but has

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1 postponed that considering the COVID-19 pandemic and in deference to the strain
2 it is putting on our customers, the state and the nation. At the same time, PNM
3 needs to take steps to reassure investors and the public of the stability of its service,
4 and that its incentives align with the state’s policy goals of encouraging
5 conservation and energy efficiency. Finally, this focused petition on just
6 decoupling reduces the regulatory burden on customers, stakeholders, the
7 commission and the Company. A rate case involves many more issues, witnesses
8 and expenses than this stand-alone decoupling filing. Considering this decoupling
9 petition rather than a general rate case filing reduces the regulatory burden on the
10 Commission not only this year, but into the future as well because approving
11 decoupling will reduce the need to file rate cases to recover revenues lost due to
12 declining usage per customer. This is not to say that rate cases will be eliminated.
13 The changing resource mix and customer needs dictate that rate cases happen.
14 Nonetheless, decoupling does mitigate one of the drivers of recurrent rate cases.

15

16 **Q. WHAT ARE YOUR QUALIFICATIONS TO SUPPORT THIS**
17 **TESTIMONY?**

18 **A.** I am the Executive Director of Regulatory Policy and Case Management for PNM.
19 In this role, one of my primary responsibilities is to direct PNM’s regulatory and
20 case management department, which actively participates in all PNM regulatory
21 proceedings before the New Mexico Public Regulation Commission and the
22 Federal Energy Regulatory Commission. I also supervise PNM’s energy efficiency

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1 team that designs PNM’s programs and takes the lead in the related regulatory
2 filings. For more about my qualifications, please see PNM Exhibit MAF-1.

3

4 **Q. WHO ELSE IS TESTIFYING IN SUPPORT OF THIS DECOUPLING**
5 **PROPOSAL?**

6 **A.** PNM offers two witnesses in addition to me:

7 1. Former Wisconsin Public Service Commissioner and former Senior Advisor to
8 the U.S. Secretary of Energy Lauren Azar. PNM Witness Azar addresses the
9 policy and legal rationale for the decoupling proposal, how it results in just and
10 reasonable rates under New Mexico law, and how the proposal does not run
11 afoul of piecemeal ratemaking principles.

12 2. Stella Chan, PNM’s Director of Pricing. PNM Witness Chan describes the
13 details of our decoupling proposal, the mechanics of the Shared Cost of Service
14 Deferral accounts for the two rate classes and sponsors Original Rider No. 52
15 that would be implemented to enact this proposal.

16

17 **II. APPLICATION OF THE EFFICIENT USE OF ENERGY ACT AND NEW**
18 **MEXICO PUBLIC UTILITY LAW**

19 **Q. WHAT IS THE LEGAL BASIS FOR THIS FILING?**

20 **A.** PNM anchors this filing in two provisions in New Mexico law. First, this Petition
21 relies on the Efficient Use of Energy Act, NMSA 1978, § 62-17-5(F)(2). Second,
22 PNM premises this Petition on NMSA 1978, § 62-8-1, which requires that utility

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1 rates be “just and reasonable.” PNM has designed the decoupling proposal to fall
2 under the requirements of the Efficient Use of Energy Act, but also believes the
3 broader “just and reasonable” rate standard supports decoupling, particularly under
4 the current circumstances.

5

6 **Q. PLEASE EXPLAIN HOW THIS PETITION FITS UNDER THE**
7 **EFFICIENT USE OF ENERGY ACT.**

8 **A.** Paragraph (F)(2) of the Efficient Use of Energy Act says the Commission shall:

9 [R]emove regulatory disincentives through the adoption of a rate
10 adjustment mechanism that ensures the revenue per customer approved by
11 the commission in a general rate case proceeding is recovered by the public
12 utility without regard to the quantity of electricity actually sold by the public
13 utility subsequent to the date the rate took effect.

14 Here, PNM is proposing to use the revenue per customer approved in the last fully
15 litigated general rate case from 2015, Case No. 15-00261-UT. This is the last
16 general rate case from which a revenue per customer approved by the commission
17 can be derived consistent with a litigated cost of service. That authorized revenue
18 per customer amount, which is described in PNM Witness Chan’s testimony, is
19 compared with the actual revenue per customer collected by the Company and the
20 difference is recorded in Shared Cost of Service Deferral accounts. At the end of
21 each year, the balances in the Shared Costs of Service Deferral accounts will either
22 be collected from (if the balance is negative) or returned to (if the balance is
23 positive) customers through a Shared Cost of Service Charge, thereby ensuring that
24 the utility is indifferent to the amount of electricity sold, which is the purpose of

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1 Paragraph (F)(2) and the Efficient Use of Energy Act overall. PNM Witness Chan
2 describes the mechanics of how this mechanism will work and how it will achieve
3 the ends of the Efficient Use of Energy Act.

4

5 **Q. WHY USE CUSTOMER NUMBERS FROM THE 2015 RATE CASE, AS**
6 **OPPOSED TO MORE RECENT NUMBERS?**

7 **A.** PNM uses numbers from the 2015 rate case, rather than more recent numbers, to
8 meet the mandate of the Efficient Use of Energy Act that PNM use “the revenue
9 per customer approved by the commission in a general rate case” to accomplish full
10 decoupling.

11

12 **Q. WHY NOT WAIT TO PROPOSE THIS DECOUPLING IN THE NEXT**
13 **GENERAL RATE CASE AS OPPOSED TO NOW?**

14 **A.** For two reasons. First, the Efficient Use of Energy Act has been on the books since
15 2005 and was amended in 2019. During this time, PNM has never had an approved
16 rate mechanism to remove the disincentives for energy efficiency and conservation.
17 It seems appropriate that PNM would be authorized to have a disincentive
18 mechanism as contemplated by law. The Case No. 16-00276-UT stipulation
19 contemplated that a standalone filing like this one would be used to develop a
20 disincentive mechanism for PNM. The amendments to the Efficient Use of Energy
21 Act in 2019 prescribed decoupling as the methodology.

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1 Second, investors anticipated PNM would be filing a rate case that, if approved by
2 the commission, would result in a higher revenue requirement and thus more of an
3 opportunity to invest and earn its authorized return. PNM has forgone that for good
4 and humane reasons. Nonetheless, it is still beneficial to investors for the Company
5 to take steps to ensure revenue stability, especially the ability to recover fixed costs.
6 In that balance, a full decoupling proposal such as is proposed here results in just
7 and reasonable rates and meets the goals of the Efficient Use of Energy Act.

8 Of course, this decoupling mechanism will be ripe for consideration in PNM's next
9 general rate case, just as all rate design issues are examined. The Commission can
10 revisit the design of this program in that case and PNM remains open to beneficial
11 changes.

12
13 **Q. WHY IS PNM ASKING FOR A JANUARY 1, 2021 EFFECTIVE DATE FOR**
14 **THIS PROGRAM?**

15 **A.** PNM is asking for approval of its decoupling proposal by no later than December
16 2020 with a January 1, 2021 effective date, because we believe that our decoupling
17 proposal represents the best compromise we can offer to meet the balance required
18 by public utility law between customers and investors. PNM must continue to make
19 fixed investments in its electric network. Consequently, the rate case that PNM is
20 forgoing would have requested a revenue increase larger than the revenue shortfall
21 that PNM is estimating would be recovered through this decoupling mechanism in
22 2021. This shortfall results from the systematic under-recovery of fixed cost

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1 investments resulting in no small measure from the residential and small
2 commercial rate design.

3
4 PNM plans to file a rate case in mid-2021, with new rates to be effective in July
5 2022, to account for, among other things, the retirement of the San Juan Generating
6 Station and its replacement resources. The eighteen months between January 1,
7 2021 and July 1, 2022 are fraught with uncertainty due to the hardship caused by
8 the COVID-19 pandemic. Implementing decoupling on January 1, 2021 provides
9 assurance that at least the 2015 investment levels authorized for residential and
10 small commercial cost of service will be realized, thereby signaling that even in
11 these challenging times, the needs of the utility and investors are being addressed
12 at least to some extent. On the other hand, decoupling offers customers the
13 guarantee that in aggregate no more than the Commission approved revenue per
14 customer will be collected and if more revenue is realized because of increased
15 usage, that excess will be returned.

16
17 During the course of my career, I have often heard repeated that electric utility rate
18 setting is more art than science. This decoupling solution, in my opinion, fairly
19 balances the interests of customers and investors during this unprecedented period
20 of time. Time is of the essence to institute decoupling to address the goals of
21 removing disincentives and addressing lost fixed cost revenue contributions from
22 declining volumes while essentially allowing one rate case to be eliminated. The

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1 decoupling solution will remove barriers to maximize the implementation of energy
2 efficiency programs.

3

4 **Q. THIS FILING DIFFERS FROM PREVIOUS ATTEMPTS BY PNM TO**
5 **INSTITUTE A LOST CONTRIBUTION TO FIXED COST (LCFC) OR A**
6 **LOST REVENUE ADJUSTMENT MECHANISM (LRAM). WHY IS PNM**
7 **PROPOSING A DIFFERENT MECHANISM?**

8 **A.** The full decoupling proposed here is a more thorough effort to align the incentives
9 of customers and PNM with regard to energy efficiency and conservation. Those
10 previous attempts to institute the more modest LCFC or LRAM mechanisms came
11 before the New Mexico legislature in 2019 amended the Efficient Use of Energy
12 Act to add Paragraph (F)(2) relied upon here. Now, given changes to the Efficient
13 Use of Energy Act and the general principles of just and reasonable rate design, this
14 broader decoupling proposal uses a revenue per customer number approved in a
15 general rate case and more fully meets the methodology described in the Act.

16

17 **Q. HAS THE COMMISSION CONSIDERED A UTILITY PROPOSAL TO**
18 **REMOVE DISINCENTIVES UNDER PARAGRAPH (F)(2)?**

19 **A.** No, this is the first disincentive removal case that I am aware of that the
20 Commission has considered since the 2019 amendments to the Efficient Use of
21 Energy Act took effect. PNM's most recent petition for approval to implement a
22 rate adjustment mechanism to remove disincentives was filed in Case No. 18-

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1 00043-UT, prior to the effective date of the amendments. That proposal was a
2 LCFC mechanism, which was limited to recovery of fixed costs lost due to the
3 implementation of Commission-approved energy efficiency and load management
4 programs. After the Governor signed the 2019 amendments into law, the
5 Commission granted a joint motion filed by the Coalition for Clean Affordable
6 Energy, Western Resource Advocates, and PNM to withdraw that petition because
7 the 2019 amendments to the Efficient Use of Energy Act superseded the LCFC
8 mechanism and rendered it obsolete.

9
10 **Q. WHEN DID THE COMMISSION LAST CONSIDER THE MERITS OF A**
11 **PROPOSED PNM DISINCENTIVE REMOVAL MECHANISM?**

12 **A.** In Case No. 15-00261-UT, PNM’s most recent fully litigated general rate case,
13 PNM proposed a full decoupling mechanism similar to the mechanism the
14 Company is proposing here. The Commission rejected the proposed mechanism
15 on several grounds, including that the proposal was not narrowly tailored to recover
16 revenue losses due to energy efficiency and load management programs, did not
17 address the potential for over-earning, did not adjust for the number of customers,
18 and did not address the impact on PNM’s return on equity as a result of reduced
19 risk to shareholders. The Commission also found that the mechanism was not
20 supported by evidence that PNM would be unable to recover its fixed costs absent
21 the proposal, did not address whether customers with distributed generation
22 contribute to PNM’s lost revenues, and was not supported by evidence that

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1 disincentives to energy efficiency and load management are impacted by PNM's
2 ability to increase its sales (the throughput incentive).

3
4 **Q. ARE THE COMMISSION DIRECTIVES FROM CASE NO. 15-00261-UT**
5 **APPLICABLE HERE?**

6 **A.** No. As I've already mentioned, the Efficient Use of Energy Act was amended in
7 2019 to provide for decoupling based on revenue per customer. Section 62-17-
8 5(F)(4) provides that the Commission may not adjust a utility's return on equity
9 based on approval of a disincentive removal mechanism.

10
11 The Commission's final order in Case No. 15-00261-UT was issued in September
12 2016. As discussed by PNM Witness Chan, before and after this order was issued,
13 the usage per customer on PNM's system has declined due to energy efficiency and
14 load management as well as the increased penetration of distributed generation.
15 This has diminished PNM's ability to recover its approved revenues. In addition,
16 the State has adopted a more aggressive energy efficiency policy. The 2019
17 amendments to the Efficient Use of Energy Act establish an increased savings goal
18 by 2025 and authorize the Commission to adopt additional savings goals from 2026
19 to 2030. The 2019 amendments also increased utility funding for energy efficiency
20 and load management programs from three percent of customer bills to up to five
21 percent of customer bills.

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1 In light of these changes, the Commission’s directives from Case No. 15-00261-
2 UT are no longer consistent with the purposes of the Efficient Use of Energy Act
3 and the general principle of just and reasonable rate design.

4

5 **Q. WHY IS THIS NOT SINGLE-ISSUE OR PIECEMEAL RATEMAKING?**

6 **A.** This is not single-issue or piecemeal ratemaking for multiple reasons. First, the
7 Efficient Use of Energy Act explicitly requires the commission to approve a
8 revenue per customer adjustment mechanism upon Petition by a public utility. This
9 is such a petition.

10

11 Second, the policy against piecemeal ratemaking is designed to protect ratepayers
12 from an increase in one cost of service component, which might be offset by a
13 reduction in another cost of service component. Here, the revenue requirement and
14 allocations of fixed cost to the rate classes have been fully adjudicated and approved
15 by the commission. The mechanism here is symmetrical, and the revenue
16 requirement does not change. The decoupled classes can either get a (capped)
17 increase or a refund, depending on what the *actual* revenue per customer amounts
18 are.

19

20 PNM Witness Azar, a former Commissioner, also offers an opinion on this issue.

21

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1 **Q. HOW DOES THIS DECOUPLING FILING RELATE TO THE JOINT**
2 **PETITION OF THE UTILITIES RELATING TO COVID-19-RELATED**
3 **EXPENSES IN CASE NO. 20-00069-UT?**

4 **A.** This decoupling filing and the joint petition by utilities related to COVID-19 are
5 entirely different things for different purposes. That joint petition of utilities is to
6 track and eventually deal with bad debt from the disconnection policy change,
7 among other potential costs. As proposed, the utilities' joint petition is directed at
8 costs for the period March 11, 2020 through December 31, 2020 unless an extension
9 is requested. This decoupling filing addresses directly the Efficient Use of Energy
10 Act provisions and changes the rate design principles to better recover the fixed
11 costs of the residential and small commercial rate classes. In other words, this
12 decoupling proposal addresses the overarching energy policy goals of the state for
13 aligning utility and customer interests as to conservation and efficiency, while
14 helping mitigate some fixed cost recovery issues made plain by the COVID-19
15 crisis.

16

17 **Q. IS PNM PROPOSING TO CREATE A REGULATORY ASSET FOR**
18 **EXPENSES ASSOCIATED WITH ITS DECOUPLING PETITION?**

19 **A.** Yes. PNM requests specific authorization by the Commission to create a regulatory
20 asset in order to recover the customer notices, regulatory, legal, consulting and
21 related expenses associated with PNM's decoupling petition. PNM proposes to
22 collect these one-time expenses through Original Rider No. 52, the Shared Cost of

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1 Service rider. These costs would have been part of the rate case expenses if PNM
2 would have filed the decoupling proposal in the planned second quarter rate case.
3 PNM estimates approximately \$350,000 of expenses related to customer notices,
4 regulatory, legal, consulting and related expenses for which PNM is seeking
5 Commission authority to establish a regulatory asset.

6

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

8 **A. Yes, it does.**

GCG#526891

Resume

PNM Exhibit MAF-1

Is contained in the following 1 page.

MARK A. FENTON

I am an 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 regarding the Efficient Use of Energy Act. In 2008 through 2010, I served as PNM’s regulatory case manager for NMPRC Case No. 08-00024-UT Mitigation of Regulatory Disincentives to Utility Energy Efficiency Programs Under the Efficient Use of Energy Act, NMAC 1978 62-1-1 (2006) et seq. which included participating in a number of workshops that were held by the Commission to develop revisions to 17.7.2 NMAC in order to implement certain provisions of the Efficient Use of Energy Act related to the mitigation of regulatory disincentives. 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 energy efficiency applications for program plan approval and related filings since 2008. Additionally, I testified in front of the Commission in NMPRC Case No. 15-00134-UT, 19-00018-UT and 19-00195-UT and filed direct testimony in NMPRC Case No. 18-00243-UT.

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**PUBLIC SERVICE COMPANY OF NEW)
MEXICO,)**

Applicant.

AFFIDAVIT

STATE OF NEW MEXICO)
) ss
COUNTY OF BERNALILLO)

MARK A. FENTON, Executive Director, Regulatory Policy and Case Management, Public Service Company of New Mexico, upon being duly sworn according to law, under oath, deposes and states: I have read the foregoing **Direct Testimony of Mark A. Fenton and it is true and correct based on my personal knowledge and belief.**

SIGNED this 26th day of May, 2020.

Mark A. Fenton

MARK A. FENTON

SUBSCRIBED AND SWORN to before me this 26th day of May, 2020.



Donna S. Fleckley
NOTARY PUBLIC IN AND FOR
THE STATE OF NEW MEXICO

My Commission Expires:

1.21.2024