

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

**IN THE MATTER OF THE APPLICATION)
OF PUBLIC SERVICE COMPANY OF NEW)
MEXICO FOR APPROVAL TO ABANDON)
SAN JUAN GENERATING STATION UNITS)
2 AND 3, ISSUANCE OF CERTIFICATES)
OF PUBLIC CONVENIENCE AND)
NECESSITY FOR REPLACEMENT POWER)
RESOURCES, ISSUANCE OF ACCOUNTING)
ORDERS AND DETERMINATION OF)
RELATED RATEMAKING PRINCIPLES AND)
TREATMENT,)
)
PUBLIC SERVICE COMPANY OF NEW)
MEXICO,)
)
Applicant)
_____)**

Case No. 13-00390-UT

STIPULATION

Public Service Company of New Mexico (“PNM”), the Utility Division Staff (“Staff”) of the New Mexico Public Regulation Commission (“Commission”), the New Mexico Attorney General, the Renewable Energy Industries Association of New Mexico, New Mexico Independent Power Producers, and Western Resource Advocates (collectively “the Signatories”) through their authorized representatives, in consideration of the mutual promises, obligations and benefits contained herein, stipulate and agree as follows:

Background and Purpose

1. PNM is a vertically integrated public utility. Subject to the jurisdiction of the Commission, PNM generates and provides power supplies, transmission of power and distribution of power services to retail electric service customers in New Mexico.

2. One of PNM's coal facilities is the San Juan Generating Station ("SJGS" or "San Juan"). SJGS consists of four coal-fired units with 1,683 net megawatts ("MW") of electric generation capacity. The facility is located in Waterflow, New Mexico, an unincorporated community in San Juan County fifteen miles west of Farmington. The net generation capacity and in-service date for each of the four units at SJGS are:

- Unit 1: 340 MW, on line in 1976.
- Unit 2: 340 MW, on line in 1973.
- Unit 3: 496 MW, on line in 1979
- Unit 4: 507 MW, on line in 1982.

3. PNM currently owns 50% of Units 1, 2 and 3 and 38.5% of Unit 4, which is 46.3% of the plant's total capacity.

4. SJGS is subject to the federal Regional Haze Rule issued by the U. S. Environmental Protection Agency ("EPA") under the Clean Air Act ("CAA").

5. On September 5, 2013, the New Mexico Environmental Improvement Board, after a public hearing, unanimously approved a Revised State Implementation Plan ("Revised SIP") for SJGS compliance with the Regional Haze Rule and submitted it to EPA on October 7, 2013. The EPA determined that the Revised SIP was complete on December 17, 2013, and its proposed action to accept the Revised SIP was published in the Federal Register as a proposed rule on May 12, 2014. **79 Fed.Reg. 26909**. On September 26, 2014, the EPA announced that it was taking final action to approve the Revised SIP.

6. Even though the Revised SIP has been approved by state and federal environmental agencies, PNM requires Commission permission and approval to retire SJGS Units 2 and 3. **NMSA 1978, Section 62-9-5 (2005)**.

7. On December 20, 2013, as amended on July 15, 2014, PNM filed its Application in this matter to implement the Revised SIP and seeking Commission approval for:

(a) abandonment of San Juan Units 2 and 3 by December 31, 2017;

(b) issuance of a CCN to include PNM's 10.2% interest in Palo Verde Nuclear Generating Station ("PVNGS" or "Palo Verde") Unit 3, i.e., 134 MW, as a supply resource to serve New Mexico retail customers effective January 1, 2018; and

(c) issuance of a CCN to acquire an additional 132 MW in SJGS Unit 4 effective January 1, 2018.

8. The Application also requested Commission orders providing for inclusion in future rates of approximately \$205 million in undepreciated investment in SJGS Units 2 and 3; \$335 million for PVNGS Unit 3; \$90.6 million for selective non catalytic reduction ("SNCR") and balanced draft technologies ("SNCR Project") to be installed on SJGS Units 1 and 4; \$52.5 million for the additional 132 MW in SJGS Unit 4; and \$19.9 million in costs associated with restructuring the San Juan Project Participation Agreement ("SJPPA") and meeting the requirements of the Federal Implementation Plan ("FIP").

9. Staff and Intervenors have engaged in extensive discovery of PNM in this case. On August 29, 2014, Staff and Intervenors filed testimony of twenty-one witnesses. On September 10, 2014, two Intervenors filed supplemental testimony. The Signatories have had the benefit of consultation with numerous subject matter experts and experienced counsel with access to adequate information necessary to arrive at reasonable conclusions as to an overall disposition of the issues in this case which promotes the public interest.

10. No party to this case has taken a position that SJGS Units 2 and 3 should not be abandoned. Thus, the major issues of contention involve the CCNs requested by PNM and the

associated ratemaking principles, i.e., the valuation for ratemaking purposes to be assigned to those resources, if they are determined to be necessary to meet the present or future public convenience and necessity.

11. The Signatories believe that the Stipulation resolves the issues in this case in a manner preferable to continued litigation on the merits of PNM's Application, and provides substantial benefits to both PNM and New Mexico ratepayers, including: (a) timely resolution of the relief requested in the Application; (b) substantial reduction in the costs which might otherwise have been recovered from New Mexico ratepayers requested in the Application; (c) certification of adequate generation for the continued provision of safe and reliable service; (d) compliance with the requirements of the CAA with significant environmental benefits; (e) and customer protection mechanisms.

12. This Stipulation resolves all issues in this docket except as described in paragraph 15 herein.

Abandonment and CCNs

13. PNM shall be authorized to abandon SJGS Units 2 and 3 effective December 31, 2017, and shall permanently retire them from providing service.

14. Subject to the resolution of those issues described in paragraph 15 of this Stipulation, PNM shall be granted a CCN for an additional 132 MW of capacity in SJGS Unit 4, effective January 1, 2018. PNM shall place the additional capacity on its books at an initial value for ratemaking purposes of \$26 million, i.e., approximately \$197 per kW, and shall reduce the value of SJGS Unit 3 by \$26 million. PNM shall be authorized to add to that initial value the cost of reasonable and prudent investments it makes in SJGS

Unit 4, including SNCR Project costs to the extent those costs are reasonable and prudent.

15. The Signatories have not reached agreement in this Stipulation on the issues raised by the pre-filed direct and supplemental testimony of WRA witness Michael Dirmeier that the granting of a CCN for 132 MW of SJGS Unit 4 should include conditions related to a future coal supply agreement or arrangement for SJGS Units 1 and 4. The Signatories agree that testimony on such conditions may be submitted and considered by the Commission to the same extent that it would have been considered in the absence of the Stipulation, with all Signatories preserving all of the legal and evidentiary rights, remedies and opportunities they had prior to the Stipulation to object to, rebut, modify or support this testimony.

16. The Signatories agree that the Commission, in a future rate case or other proceeding, may consider whether it is in the public interest for the then current net book value (\$26 million plus prudent and reasonable SNCR Project costs as depreciated or otherwise adjusted) of the 132 MWs of SJGS Unit 4 that the Company seeks a CCN for in this proceeding to be transferred to Unit 1, with a corresponding 132 MWs of the current plant value in Unit 1 transferred to Unit 4, and may issue a corresponding order effective after January 1, 2018. The Signatories, however, preserve their right to take whatever position they believe to be appropriate if and when the Commission considers the merits of such a transfer and to appeal any adverse order. The Signatories agree that the recoverability of costs from customers is not impacted by the transfer. If a transfer does occur, PNM's agreement to not seek recovery of certain costs as described in

paragraph 19 of the Stipulation will continue to apply to Unit 4 if it is retired early, in the amount of the value transferred to SJGS Unit 1.

17. PNM shall be granted a CCN to include its 10.2% ownership share of Palo Verde Unit 3, with a capacity of 134 MW, in rate base to serve New Mexico retail customers, effective January 1, 2018. Palo Verde Unit 3 shall be included in rate base at an initial value of \$221,100,000, i.e., \$1,650 per kW. In addition, the net book value of transmission assets associated with Palo Verde Unit 3 shall be included in rate base, currently estimated to be \$2,976,377 at December 31, 2017.

Undepreciated Investment in Retired Plant

18. PNM shall be allowed to recover 50% of its undepreciated investment in SJGS Units 2 and 3 as shown on its books as of December 31, 2017, after reducing the net book value of SJGS Unit 3 by \$26 million to reflect the value placed on the additional SJGS Unit 4 capacity. Until that time, PNM shall continue to depreciate SJGS Units 2 and 3 according to its approved depreciation schedules. Based on current projections, PNM estimates its undepreciated investment in SJGS Units 2 and 3 will be approximately \$257.0 million at December 31, 2017. Based on this estimate, PNM will be allowed to recover 50% of the undepreciated investment estimated at \$115.5 million, which is \$257.0 million less \$26.0 million transferred to Unit 4, i.e., \$231.0 million, multiplied by 50% as the percentage of recovery agreed to in this Stipulation. PNM shall place the amount of undepreciated investment allowed to be recovered in a regulatory asset which shall be amortized over a twenty year period with a carrying charge equal to PNM's pre-tax weighted average cost of capital ("WACC") (as it may be modified from time to time by Commission orders in rate cases) on the unamortized amount.

19. In the event that San Juan Unit 4 must be abandoned with undepreciated investment remaining on PNM's books, PNM shall not be allowed to recover any undepreciated investment associated with the transfer value of the 132 MW of additional capacity nor any undepreciated additional investment related to the 132 MW of additional capacity, including investment related to the SNCR Project.

Palo Verde Performance Standards; Sharing of Costs Related to Palo Verde Unit 3

20. Palo Verde Units 1, 2 and 3 shall be subject to a 75% capacity factor performance benchmark. The capacity factor shall be measured on a plant-wide basis, and shall be adjusted each year to reflect elimination of the actual duration of planned outages from the calculation of the capacity factor for the year. The capacity factor shall be measured on a calendar year basis.

21. The capacity factor performance benchmark shall apply for a seven-year period from January 1, 2018, through December 31, 2024.

22. In any year in which the capacity factor as calculated above is below 75%, PNM shall bear the incremental cost of the amount of replacement power necessary to bring the performance up to the 75% benchmark as described below. At the end of each calendar year, if the minimum capacity factor target at Palo Verde on a plant-wide basis is not achieved, an annual replacement power cost will be calculated based on the megawatt hours ("MWh") below the target multiplied by the average cost of short-term replacement power for the year. The impact of the replacement power credit will be credited to customers in the next quarterly fuel and purchased power cost adjustment clause ("FPPCAC") reset filing, or otherwise credited in rates if a FPPCAC is not in effect.

23. The capacity factor benchmark shall not apply in any year in which:

- a.** any unit has an unplanned outage longer than nine months; or
- b.** any combination of unplanned outages across all three units exceeds nine months in total, provided that at least one of the outages exceeds three months in duration.

24. If the capacity factor benchmark does not apply pursuant to paragraph 23, above, PNM and the other Signatories will confer to negotiate an equitable resolution of the cost impact, which will be submitted to the Commission for approval. If they are unable to reach agreement, PNM will ask the Commission to resolve the issue by declaratory order.

25. PNM shall contribute \$11 million to the Palo Verde Unit 3 nuclear decommissioning trust. PNM shall be authorized to include in rates additional decommissioning funding amounts for Palo Verde Unit 3 in the amount of \$1.3 million annually. If annual decommissioning funding increases above \$1.3 million, PNM shall be allowed to recover in rates 50% of the additional annual amount above \$1.3 million.

26. Shareholder and customer contributions to decommissioning of Palo Verde Unit 3 shall be placed in separate trusts that shall be managed jointly. Decommissioning costs shall be paid out of the two trusts based upon pro-rata usage over the duration of time that Palo Verde Unit 3 was an excluded resource and was an included resource. The time period established for usage as an included resource shall be January 1, 2018, through the last date of commercial operation of Palo Verde Unit 3. Any funds remaining in the customer trust after payment of all decommissioning costs shall be returned to customers in the manner provided by Commission order at the time the

determination has been made that excess funds remain in the customer trust. Funds remaining in the shareholder trust shall not be credited to customers.

27. PNM shall not be allowed to recover in rates costs associated with the storage and disposal of spent fuel from the operation prior to January 1, 2018, of Palo Verde Unit 3.

Miscellaneous Issues

28. PNM's reasonable and prudent share of the costs of the SNCR Project at SJGS Units 1 and 4 shall be included in rate base. To the extent that the PNM share of the costs associated with the SNCR Project exceeds \$90.6 million, PNM shall be required to make an affirmative demonstration that incurrence of the cost overruns was prudent and reasonable.

29. PNM's requests for accounting orders to allow future recovery of regulatory assets associated with \$13.6 million in additional San Juan common O&M costs, \$5.3 million of costs associated with compliance with the FIP and expenses incurred related to Regional Haze Rule compliance filings and restructuring the SJPPA should be denied, and PNM shall not request recovery of these amounts in any future case. PNM shall not be allowed to recover \$1.0 million of incremental fuel handling expenses incurred in 2015 resulting from the San Juan restructured ownership agreement.

30. PNM shall include as a reduction in its FPPCAC (or otherwise as a credit in rates if a FPPCAC is not in effect) the amount of \$3.0 million in payments received from the Department of Energy ("DOE") related to storage of spent fuel for PVNGS Unit 3. The \$3.0 million in payments shall be credited over a two-year period beginning January 1, 2018.

31. In 2015 PNM shall issue an RFP for up to 50 MW of additional renewable energy resources. PNM shall apply to the Commission for approval to acquire any such resources identified through the RFP that are cost-effective as system resources. If PNM determines that no additional renewable energy resources are cost-effective for inclusion as system additions by 2017, it shall file a report with the Commission supporting its conclusion. Signatories may take such positions regarding the application or report as they deem appropriate.

32. In 2018 PNM shall issue an all-resource RFP, i.e., it shall seek bids for conventional supply resources and renewable energy resources, for additional resources consistent with the resources determined to be necessary in the 2020-2022 timeframe as identified in the four year action plan in PNM's 2017 IRP.

33. The Signatories do not believe that a CCN or any other approval is required for the acquisition by PNM of the ownership interests in SJGS Unit 3 that it does not currently own, immediately prior to retirement of SJGS Unit 3, as the additional amount acquired by PNM will not be placed in service. However, to the extent that the Commission determines that any approval or authorization for the acquisition is required, such approval and authorization should be granted. PNM shall not charge customers for any incremental costs arising from the acquisition of additional ownership interest in SJGS Unit 3.

34. The Signatories agree to support PNM's procurement of RECs from up to 3MW (AC) per year of new customer-owned solar distributed generation, up to 100kW (AC) in size per system during 2017, 2018 and 2019. The incremental 3MW/year of distributed generation will be over and above the 3% DG requirement in PNM's RPS in

those years. PNM agrees to propose an extension of its current solar DG REC procurement program to implement this agreement that is consistent with PNM's renewable portfolio standard, resource diversity requirements and reasonable cost threshold. Notwithstanding the foregoing, any Signatory is free to take any position it feels is appropriate with regard to the terms of interconnection for these resources, the contract term and the amount of solar REC payments, if any, after the current program expires at the end of 2016.

35. Approval by the Commission of the treatment of the undepreciated investment in SJGS Units 2 and 3 as provided in this Stipulation may impose, under generally accepted accounting principles ("GAAP"), immediate accounting requirements affecting the valuation of these assets on PNM's financial statements and require the creation of regulatory assets and/or liabilities. These GAAP accounting entries shall not affect the rate base value of Units 2 and 3 for the purpose of setting retail service rates prior to the retirement of these units in 2018.

36. Except as specifically stated in the language of this Stipulation, the provisions of this Stipulation have no precedential effect and the Signatories do not waive rights they may have in any other pending or future proceeding and will not be deemed to have approved, accepted, agreed to or consented to the application of any concept, principle, theory or method in any future proceeding. In accordance with 1.2.2.20(D) NMAC, by approving this Stipulation, the Commission is neither granting any approval nor creating any precedent regarding any principle or issue in this or any other proceeding, except as specifically provided in the Final Order.

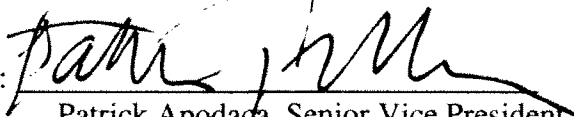
37. This Stipulation reflects a negotiated settlement. The Signatories agree that they will use their best efforts to obtain expeditious approval of this Stipulation by appropriate final order of the Commission in this proceeding. If the Stipulation is not adopted in its entirety by the Commission, without modification, the Stipulation will be voidable and may be voided at the election of any Signatory. The Signatories shall not seek the admission before any regulatory agency or court of any statement made or position taken by any of the Signatories during the course of negotiations regarding this Stipulation. The Stipulation contains the full intent, understanding and the entire agreement of the Signatories and no implication should be drawn on any matter not addressed in the Stipulation. There are not and have not been any representations, warranties or agreements other than those specifically set in this Stipulation.

38. This Stipulation may be executed in a number of counterparts including electronically or by telefax, each of which will be deemed to be an original and all of which will constitute one of the same agreement.

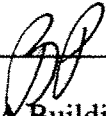
39. Additional parties may be added as Signatories by executing a separate signature page and filing notice with the Commission that they are joining in the Stipulation.

Respectfully submitted this 1st day of October, 2014,

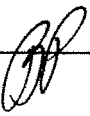
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Case No. 13-00390-UT

CERTIFICATE OF SERVICE

I hereby certify that the **STIPULATION** was mailed first-class, postage-paid, or hand-delivered on October 1, 2014 to the following persons whose mailing addresses are listed below and emailed to those persons at the email addresses shown below:

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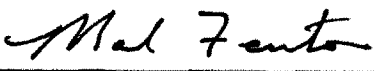
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