

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

IN THE MATTER OF THE APPLICATION OF )  
PUBLIC SERVICE COMPANY OF NEW MEXICO )  
FOR REVISION OF ITS RETAIL ELECTRIC RATES )  
PURSUANT TO ADVICE NOTICE NO. 513 ) Case No. 15-00261-UT  
)  
PUBLIC SERVICE COMPANY OF NEW MEXICO, )  
Applicant )

ORDER ON MOTIONS CONCERNING  
AUGUST 12, 2016 BENCH REQUEST  
AND  
EXTENDING SUSPENSION PERIOD

THIS MATTER having come before the New Mexico Public Regulation Commission (“NMPRC” or “Commission”) on the *Objection to August 12, 2016 Bench Request, Request That Commission Withdraw Bench Request and Motion to Strike* filed by New Energy Economy (“NEE”) and the *Joint Motion to Reopen and Response to Bench Request* filed by the Albuquerque Bernalillo County Water Utility Authority (“ABCWUA”), the City of Albuquerque, the Office of the Attorney General (“Attorney General”), Bernalillo County (“County”), and New Mexico Industrial Energy Consumers (“NMIEC”)(collectively, “Joint Movants”), and being duly informed,

**THE COMMISSION FINDS AND CONCLUDES:**

- 1) The evidentiary record on this matter closed initially on April 29, 2016. Subsequently, the Commission initiated a supplementary evidentiary proceeding which closed June 29, 2016.
- 2) The hearing examiner issued a Recommended Decision (“RD”) on August 4, 2016 (as corrected August 15, 2016).

- 3) On August 12, 2016, Commissioner Patrick Lyons issued a single signature Bench Request to PNM in accordance with Rule 1.2.2.30(B) NMAC.
- 4) The August 12, 2016 Bench Request sought information concerning details of financial harm PNM might suffer in the event the Palo Verde lease renewal and acquisition disallowances recommended in Section XV of the RD were adopted by the Commission.
- 5) On August 15, 2016, NEE's filed its Objection to the August 12, 2016 Bench Request, seeking an expedited ruling on NEE's requested relief that the Commission withdraw its bench request or alternately, strike PNM's anticipated responsive filing as "cumulative, inadmissible, incompetent, self-serving and irrelevant." NEE specifically notes that Commission consideration of such evidence would be prejudicial and violative of due process rights unless the other parties were provided an opportunity to cross-examine PNM and offer their own testimony in opposition.
- 6) PNM's Response to the August 12, 2016 Bench Request was filed on August 16, 2016.
- 7) Also on August 16, 2016, the Joint Movants filed their Joint Motion to Reopen and Response to Bench Request echoing NEE's arguments concerning denial of due process in the event the Commission were to consider the PNM's response without affording an opportunity for cross-examination and rebuttal.
- 8) On August 23, 2016, PNM filed a separate Consolidated Response to the motions filed by NEE and the Joint Movants providing citations to the evidentiary record for certain information provided by PNM in its Bench Request response and asserting that because substantially all of the information was in the record, there were no grounds to reopen the proceedings or strike the bench request response.

9) Notwithstanding PNM's provision of citations to the record in its Consolidated Response, PNM still acknowledges that the information in its response only "*largely* reiterates evidence that is already in the record." Indeed, PNM's response to Request No 3 concerning mitigation of financial impacts and job force reduction still lacks any citation to the record. PNM acknowledges that its response includes additional information that has not previously been admitted into evidence.

10) As noted in the Commission's May 18, 2016 *Order Reopening Proceeding*, the Commission utilizes bench requests in order to investigate issues preliminary to determining whether to request the inclusion of such information in the evidentiary portion of the proceeding. Its mere request for information does not indicate that the Commission is considering such information as substantive evidence or constitute admission of such information into the record. Indeed, the Commission often excludes such information by proceeding without seeking to introduce such information in the record.

11) Accordingly, at this juncture of the proceedings and in light of the information that PNM's Consolidated Response identifies as already being in the evidentiary record, it is unnecessary to reopen the proceedings and to require the parties to expend further resources for the purpose of conducting an evidentiary proceeding on the subject matter of PNM's response to the August 12, 2016 Bench Request.

12) However, due to the public import of this case and the concerns that have been raised, the Commission issues this order to affirm that by not reopening the proceeding on the matters in PNM's response, it is affirmatively excluding that information contained in PNM's response to the August 12, 2016 Bench Request that is not already part of the record.

13) Finally, although the Commission is not re-opening the proceeding to address the August 12 2016 Bench Request, due to the need to conduct the supplementary hearing which concluded June 29, 2016 and resulted in the issuance of the RD on August 4, 2016, the filing of exceptions to the RD were due on August 17, 2016 and responses to exceptions are due on August 25, 2016. Accordingly, additional time is needed to review these pleadings and render a decision in this matter and the suspension period for this case should be extended through September 30, 2016.

**IT IS THEREFORE ORDERED:**

A. The Commission affirms that to the extent information in PNM's Response to the August 12, 2016 Bench Request does not already appear in the evidentiary record in this matter, such evidence is excluded from consideration in this matter.

B. This order disposes of all issues raised in the motions filed by NEE and the Joint Movants.

C. The suspension period for this case is extended through September 30, 2016.

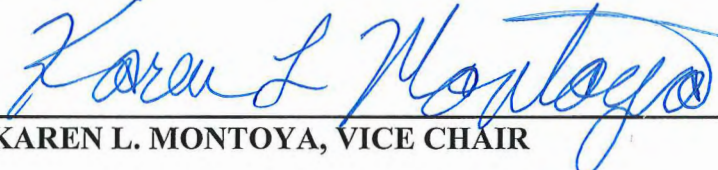
D. A copy of this order shall be served on all parties listed on the attached certificate of service via e-mail where such e-mail addresses are known and if not known, by regular first class postal delivery.

E. This order is effective immediately

ISSUED under the Seal of the Commission at Santa Fe, New Mexico, this 24th day  
of August, 2016.

NEW MEXICO PUBLIC REGULATION COMMISSION

  
VALERIE ESPINOZA, CHAIR

  
KAREN L. MONTOYA, VICE CHAIR

  
LYNDA LOVEJOY, COMMISSIONER

  
PATRICK H. LYONS, COMMISSIONER

  
SANDY JONES, COMMISSIONER

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SERVICE COMPANY OF NEW MEXICO FOR )  
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)  
PUBLIC SERVICE COMPANY OF NEW MEXICO, )  
APPLICANT )

Case No. 15-00261-UT

OFFICIAL SERVICE LIST

I CERTIFY that on this date I sent to the parties listed below, via email only, a true and correct copy of the *Order on Motions Concerning August 12, 2016 Bench Request and Extending Suspension Period*, issued August 24, 2016.

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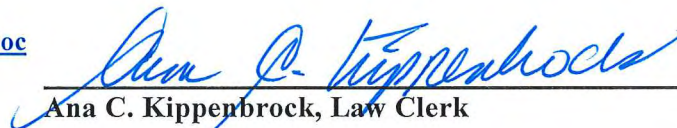
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**DATED** this 24th day of August 2016.

**NEW MEXICO PUBLIC REGULATION COMMISSION**

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