

**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, )  
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 )  
Applicant )  
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Case No. 13-00390-UT

**NOTICE OF PUBLIC SERVICE COMPANY OF NEW MEXICO  
OF FILING SAN JUAN RESTRUCTURING AGREEMENTS AND COAL  
AGREEMENTS PURSUANT TO COMMISSION ORDERS**

Public Service Company of New Mexico (“PNM”) hereby submits its *Notice of Filing San Juan Restructuring Agreements and Coal Agreements* (“Notice”) pursuant to the orders of the New Mexico Public Regulation Commission (“Commission”). This Notice and the accompanying exhibits are filed pursuant to the May 27, 2015 *Order on Further Proceedings* (“Proceedings Order”), as modified by the June 24, 2015 *Order Granting Motion for Extension of Time to Submit Executed Agreements* (“Extension Order”).<sup>1</sup>

**I. INTRODUCTION**

All agreements necessary for the ownership restructuring of the San Juan Generating Station (“San Juan”) to implement the terms of the Revised State Implementation Plan (“Revised

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<sup>1</sup> On June 25, 2015, the Commission issued an *Errata Notice to Order Granting Motion for Extension of Time to Submit Executed Agreements* correcting the language in the Extension Order that allowed PNM to file the signature pages from the City of Anaheim for the Ownership Restructuring Agreements.

SIP”) and the October 1, 2014 Stipulation (“Stipulation”) have been finalized.<sup>2</sup> Four of the ten parties to the Ownership Restructuring Agreements, consisting of PNM, PNMR Development and Management Corporation (“PNMR-D”), the City of Farmington, and Tucson Electric Power Company (“TEP”), have executed these agreements and copies of the partially executed agreements are being filed with this Notice. The six remaining parties are pursuing approval of the Ownership Restructuring Agreements in accordance with their applicable processes. The fully executed Ownership Restructuring Agreements will be filed with the Commission, along with supporting testimony, no later than August 1, 2015.

The new San Juan Coal Agreements have likewise been finalized and they have also been fully executed by all parties.<sup>3</sup> Pursuant to the Extension Order, copies of the fully executed Coal Agreements, together with supporting testimony, are being filed with this Notice. A copy of the fully executed Stock Purchase Agreement between BHP Billiton New Mexico Coal, Inc. (“BBNMC”) and Westmoreland Coal Company (“Westmoreland”) for the purchase and sale of the San Juan Coal Company (“SJCC”) stock is also being filed with this Notice in accordance with the Proceedings Order.

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<sup>2</sup> The Ownership Restructuring Agreements consist of the (a) San Juan Project Restructuring Agreement (“Restructuring Agreement”); (b) Amended and Restated Mine Reclamation and Trust Funds Agreement (“Reclamation Agreement”); (c) San Juan Decommissioning and Trust Funds Agreement (“Decommissioning Agreement”); (d) SJPPA restructuring amendment (“Restructuring Amendment”); (e) SJPPA exit date amendment (“Exit Amendment”); (f) Capacity Option and Funding Agreement (“Option Funding Agreement”); and (g) Parental Guaranty Agreement (“Parental Guaranty”) by PNM Resources, Inc. for PNMR-D.

<sup>3</sup> The Coal Agreements consist of the (a) Coal Supply Agreement (“Coal Supply Agreement”) between Westmoreland and PNM; (b) Reclamation Services Agreement (“Mine Reclamation Agreement”) between Westmoreland and PNM; (c) Coal Combustion Residuals Disposal Agreement (“CCR Disposal Agreement”) between Westmoreland and PNM; (d) Underground Coal Sales Agreement Termination and Mutual Release Agreement (“UG-CSA Termination Agreement”), dated July 1, 2015 among PNM, SJCC, BBNMC and TEP; (e) Coal Combustion Byproduct Disposal Agreement Termination and Mutual Release Agreement (“Disposal Termination Agreement”), dated July 1, 2015 among PNM, SJCC, BBNMC and TEP; and (f) Letter Agreement Termination (“Letter Termination Agreement”), dated July 1, 2015 between PNM and Westmoreland.

The agreements attached to this Notice contain all of the terms and conditions relating to the San Juan ownership restructuring and the coal supply for San Juan through June 30, 2022. Accordingly, they provide the Commission with sufficient certainty to assess and approve PNM's request for a certificate of public convenience and necessity ("CCN") for an additional 132 MW in San Juan Unit 4. As demonstrated by the parties supporting the Stipulation in this case, the Stipulation Portfolio, which includes the 132 MW interest in San Juan, is the most cost-effective among all feasible alternative generation portfolios. The Stipulation Portfolio is even more cost-effective, both in overall terms and relative to other portfolios, as a result of the Coal Agreements and the Ownership Restructuring Agreements. It is estimated that these agreements will save PNM's customers approximately \$340 million over the term of the Coal Agreements compared to the existing coal agreements and the previously estimated future coal costs presented in support of the Stipulation.

The Ownership Restructuring Agreements and the Coal Agreements are necessarily inter-related and conditioned upon one another. That is, unless the Ownership Restructuring Agreements become effective, the Coal Agreements will not become effective and vice versa. Moreover, both sets of agreements are premised on the approval of the CCN for the 132 MW of San Juan Unit 4.

## **II. AGREEMENTS FILED WITH THE COMMISSION**

### ***A. The Ownership Restructuring Agreements***

PNM hereby files the following partially executed Ownership Restructuring Agreements:

- **Exhibit A** – Restructuring Agreement – This agreement includes the basic terms and conditions of the San Juan ownership restructuring. It reflects that M-S-R Public Power Agency ("M-S-R"), the City of Anaheim, California ("Anaheim"),

Southern California Public Power Agency (“SCPPA”) and Tri-State Generation and Transmission Association, Inc. (“Tri-State”) are exiting ownership of San Juan. This Agreement also provides that PNM will acquire a 132 MW interest, and PNMR-D will acquire a 65 MW interest, in San Juan Unit 4.

- **Exhibit B** – Reclamation Agreement – This agreement addresses the terms and conditions of the rights and obligations of the San Juan Participants with respect to the reclamation of the San Juan Coal Mine.
- **Exhibit C** – Decommissioning Agreement – This agreement addresses the terms and conditions of the rights and obligations of the San Juan Participants with respect to the interim and final decommissioning of San Juan.
- **Exhibit D** – Restructuring Amendment – This is an amendment to the San Juan Project Participation Agreement (“SJPPA”) that reflects the exchange of ownership interests among certain participants, including PNM’s acquisition of a 132 MW interest and PNMR-D’s acquisition of a 65 MW interest in San Juan Unit 4.
- **Exhibit E** – Exit Amendment – This is an amendment to the SJPPA that reflects the exit of M-S-R, SCPPA, Anaheim and Tri-State from San Juan effective December 31, 2017.
- **Exhibit F** – Option Funding Agreement – This agreement provides for payment by PNM of a fee to M-S-R and Anaheim for the option to purchase their interests in San Juan Unit 4. This is a mechanism for PNM to pay certain incremental capital costs incurred with respect to San Juan Unit 4 for the period from January 1, 2015 through the effective date of the Restructuring Agreement.

- **Exhibit G** – Parental Guaranty – This is an agreement whereby PNM Resources, Inc. guarantees certain performance of PNMR-D under the Restructuring Agreements.

As noted above, copies of the fully executed Ownership Restructuring Agreements, together with supporting testimony, will be filed no later than August 1, 2015.

### ***B. The Coal Agreements***

PNM is filing the Coal Agreements as exhibits to the following supporting testimony:

- **PNM Exhibit H** – July 1, 2015 Supplemental Testimony of Chris M. Olson. In his testimony Mr. Olson presents the Coal Agreements and provides a summary description of their significant terms and the benefits to PNM’s customers. The Coal Agreements are attached as the following exhibits to Mr. Olson’s testimony:
  - **PNM Exhibit CMO-1 (July 1, 2015, Supplemental)** – Coal Supply Agreement – This agreement addresses the terms and conditions for the supply of coal to San Juan for the period from January 1, 2016 through June 30, 2022.
  - **PNM Exhibit CMO-2 (July 1, 2015 Supplemental)** – CCR Disposal Agreement – This agreement addresses the terms and conditions for the deposition coal combustion residuals from San Juan for reclamation purposes at the San Juan Coal Mine.
  - **PNM Exhibit CMO-3 (July 1, 2015 Supplemental)** – Mine Reclamation Agreement – This agreement addresses the terms and conditions of mine reclamation services provide by Westmoreland through SJCC for the San Juan Coal Mine.

- **PNM Exhibit CMO-4 (July 1, 2015 Supplemental)** – UG-CSA Termination Agreement – This agreement addresses the terms and conditions of the termination of the existing Underground Coal Sales Agreement with SJCC.
- **PNM Exhibit CMO-5 (July 1, 2015 Supplemental)** – Disposal Termination Agreement – This agreement addresses the terms and conditions of the termination of the existing coal combustion by-product agreement with SJCC.
- **PNM Exhibit CMO-6 (July 1, 2015 Supplemental)** – Letter Termination Agreement – This Agreement addresses the terms and conditions of the termination of the Letter Agreement between PNM and Westmoreland.
- **PNM Exhibit CMO-7 (July 1, 2015 Supplemental)** – Stock Purchase Agreement – This agreement addresses the terms and conditions of the sale of SJCC stock by BBNMC to Westmoreland. The Stock Purchase Agreement is not one of the Coal Agreements, but is required to be filed by Commission pursuant to the Proceedings Order.
- **PNM Exhibit I** – July 1, 2015 Supplemental Testimony and Exhibits of Henry E. Monroy. In this testimony, Mr. Monroy addresses and quantifies the estimated fuel cost savings to PNM customers as a result of the Coal Agreements and the coal provisions of the Ownership Restructuring Agreements.


### ***C. Confidential Information***

Because they contain confidential and proprietary information and trade secrets, the Coal Agreements and the Stock Purchase Agreement as filed in the public record have been redacted.

Confidential PNM Exhibit HEM-2 (July 1, 2015 Supplemental) and Confidential PNM Exhibit HEM-3 (July 1, 2015 Supplemental) attached to the July 1, 2015 Supplemental Testimony of Henry E. Monroy also include confidential pricing information that has been redacted. Un-redacted copies of these documents have been submitted under seal pursuant to the Protective Order in this case, provided to each Commissioner, the Hearing Examiner and the Office of General Counsel, and served on representatives of the parties who have signed confidentiality agreements.

Respectfully submitted this 1<sup>st</sup> day of July 2015,

**PUBLIC SERVICE COMPANY OF NEW MEXICO**



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I hereby certify that the **Confidential Exhibits** referenced in the **Notice of Public Service Company of New Mexico of Filing San Juan Restructuring Agreements and Coal Agreements Pursuant to Commission Order** were filed under seal and mailed first-class, postage-paid, to the following persons whose mailing addresses are listed below and emailed to those persons at the email addresses and hand-delivered on July 1, 2015 as shown below:

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Dated this 1<sup>st</sup> day of July, 2015.

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