

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

**IN THE MATTER OF PUBLIC SERVICE)
COMPANY OF NEW MEXICO'S)
ABANDONMENT OF SAN JUAN)
GENERATING STATION UNITS 1 AND 4) Case No. 19-00018-UT
_____)**

**IN THE MATTER OF PUBLIC SERVICE)
COMPANY OF NEW MEXICO'S CONSOLIDATED)
APPLICATION FOR APPROVALS FOR THE)
ABANDONMENT, FINANCING, AND RESOURCE)
REPLACEMENT FOR SAN JUAN GENERATING)
STATION PURSUANT TO THE ENERGY)
TRANSITION ACT.) Case No. 19-00195-UT
_____)**

**RESPONSE OF PUBLIC SERVICE COMPANY OF NEW MEXICO
TO ORDER ON WRA'S MOTION TO PERMIT INTERLOCUTORY APPEAL
OF ORDER FOR CLARIFICATION**

Public Service Company of New Mexico ("PNM") files this Response to the *Order on WRA's Motion to Permit Interlocutory Appeal of Order for Clarification* ("Order") issued August 21, 2019, by the New Mexico Public Regulation Commission ("Commission"). As further detailed below, PNM must respectfully decline to toll or waive the statutory deadlines applicable to its Consolidated Application. PNM responds to the Order as follows:

1. The Order requires PNM to make a filing by 4:00 pm Friday, August 23, 2019, indicating whether PNM agrees to toll the applicable statutory deadlines in these proceedings. If PNM agrees to toll these deadlines, the Commission states that it will suspend the current procedural schedule and implement "a process to determine in an expedient fashion whether Section IV, Art. 34 of the New Mexico Constitution bars application of the ETA to PNM's application as indicated above."¹

¹ Order, ¶ C at 12.

2. The Order improperly places PNM in the position of having to waive the deadlines under the New Mexico Public Utility Act and the Energy Transition Act applicable to PNM's Consolidated Application,² in exchange for a potentially earlier determination by the Commission on the legal issue of what law controls these proceedings. In the absence of such a waiver, the Commission indicated it will not provide an expedient determination of what law applies. The briefing deadlines in the Hearing Examiners' scheduling orders do not set a date for a final determination on the applicability of the Energy Transition Act.

3. The New Mexico Legislature has determined that it is in the public interest that certain proceedings before the Commission be heard and concluded within specified timeframes. It is not apparent to PNM how these statutory timeframes preclude the Commission from otherwise rendering an expedient ruling on whether the Energy Transition Act applies to these proceedings. PNM must respectfully decline to toll or waive the statutory deadlines applicable to its Consolidated Application.

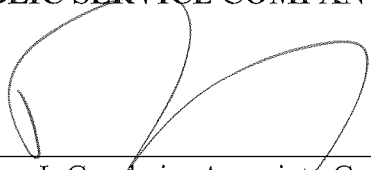
4. A timely determination on PNM's Consolidated Application within the applicable statutory deadline is in the public interest. As reflected in the Consolidated Application, the procurement contracts for PNM's proposed replacement resources have termination dates so that the resources may no longer be available, or if they are available, their costs will be higher to customers because applicable federal tax credits that were considered in the pricing of the resources will expire. More broadly, other stakeholders, which include workers at the San Juan Generating Station and the San Juan Coal Mine, and impacted communities, have an interest in a timely determination of the issues in these proceedings.

² *Consolidated Application for the Abandonment, Financing and Replacement of the San Juan Generating Station Pursuant to the Energy Transition Act* filed July 1, 2019 in Case No. 19-000195-UT.

5. The Order confirms that it is feasible for the Commission to make an expedient determination on whether the Energy Transition Act is applicable to this case. The Commission recognizes that a determination of whether the Energy Transition act is applicable is a “critical issue” in these proceedings.³ PNM respectfully urges the Commission to make an expedient determination on what law applies in these proceedings.

Respectfully submitted this 23rd day of August, 2019 by

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³ July 24, 2019 *Order on Motion for Clarification*.

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**IN THE MATTER OF PUBLIC SERVICE)
COMPANY OF NEW MEXICO'S)
CONSOLIDATED APPLICATION FOR)
APPROVALS FOR THE ABANDONMENT,) Case No. 19-00195-UT
FINANCING, AND RESOURCE REPLACEMENT)
FOR SAN JUAN GENERATING STATION)
PURSUANT TO THE ENERGY TRANSITION ACT)**

CERTIFICATE OF SERVICE

I hereby certify that **Response of Public Service Company of New Mexico to Order on WRA's Motion to Permit Interlocutory Appeal of Order for Clarification** was emailed to those persons at the email addresses on August 23, 2019 as shown below:

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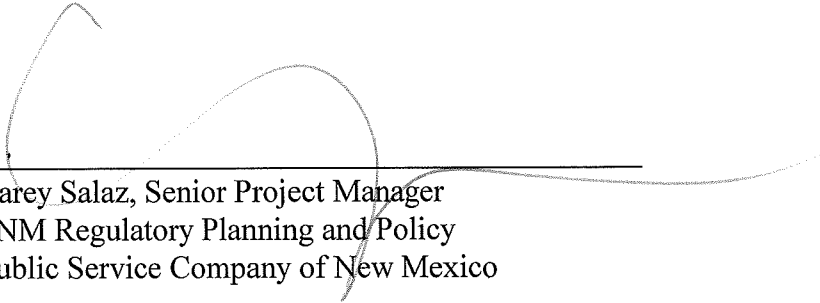
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