

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

REBUTTAL TESTIMONY

OF

ELISABETH A. EDEN

November 15, 2019

**NMPRC CASE NO. 19-00018-UT
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ELISABETH A. EDEN**

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

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AFFIDAVIT

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OF ELISABETH A. EDEN
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I. INTRODUCTION

Q. PLEASE STATE YOUR NAME, POSITION AND BUSINESS ADDRESS.

A. My name is Elisabeth A. Eden. I am the Vice President of Human Resources for PNMR Services Company. For the three years prior to April 28, 2018, I was the Vice President and Treasurer of PNMR Services Company. My address is 414 Silver Ave SW, Albuquerque, New Mexico 87102.

Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?

A. The purpose of my rebuttal testimony is principally to refute testimony asserting that the pending application of Public Service Company of New Mexico (“PNM”) for a financing order issued under the Energy Transition Act is deficient with respect to the Energy Transition Act requirement that PNM make a commitment to use commercially reasonable efforts to achieve the lowest cost objective in the structuring, marketing and pricing of the energy transition bonds issued under the requested authorization. Specifically, Charlotte A. Grubb, on behalf of New Energy Economy (“NEE”) erroneously asserts that PNM failed to make a statement that PNM will use commercially reasonable efforts to achieve the lowest cost objective required by the Energy Transition Act Section 62-18-4(B)(12)). She is not accurate in her testimony, and my rebuttal testimony reaffirms PNM’s previously stated commitment.

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1 In addition, I respond to certain suggestions and concerns of Michael P. Gorman
2 and James R. Dauphinais submitted on behalf of New Mexico Affordable
3 Reliable Energy Alliance (“NM Area”) that pertain to the Energy Transition Act
4 financing application, which generally have previously been addressed in PNM’s
5 direct testimony as well as by the provisions of the Energy Transition Act itself.
6 Finally, I address queries made by Marc A. Tupler on behalf of the Utility
7 Division Staff (“Staff”) of the New Mexico Public Regulation Commission
8 (“NMPRC” or “Commission”). These also were addressed in the filing and
9 supporting testimony.

10
11 **II. RESPONSE TO CLAIMED DEFICIENCIES RELATED TO THE**
12 **LOWEST COST OBJECTIVE**

13 **Q. DOES PNM’S FINANCING APPLICATION INCLUDE A STATEMENT**
14 **FROM PNM COMMITTING TO USE COMMERCIALY REASONABLE**
15 **EFFORTS TO ACHIEVE THE LOWEST COST OBJECTIVE AS**
16 **REQUIRED BY THE ENERGY TRANSITION ACT (SECTION 62-18-**
17 **4(B)(12))?**

18 **A.** Yes. Contrary to NEE Witness Grubb’s assertion, paragraph 52 of PNM’s
19 financing application specifically makes the required commitment. Paragraph 52
20 of PNM’s financing application states as follows:

21 The Company commits that it will use commercially reasonable efforts to
22 obtain the lowest cost objective. The Company’s commitment is
23 addressed in the testimony of PNM Witness Eden. As described by PNM
24 Witness Eden, the Company believes that the Commission’s approval of
25 the Financing Order substantially in the form proposed in Attachment 3 of

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1 this Combined Application (and specifically including all of the key
2 provisions identified in the testimony of PNM Witness Atkins) will best
3 position the Company to achieve the lowest cost objective.
4

5 Section VI of my direct testimony (page 25, lines 5 through 17) also included this
6 commitment.

7
8 PNM reaffirms this commitment. In furtherance of the lowest cost objective,
9 PNM also re-confirms that the company intends to follow the recommendations
10 set forth in the direct testimony of PNM Witness Atkins in connection with the
11 structuring, marketing and pricing of the bonds, which outline commercially
12 reasonable efforts that may be taken to obtain lowest cost securitized bonds
13 consistent with prevailing market conditions and the structure and terms of energy
14 transition bonds approved by the Commission's financing order.

15
16 **Q. THROUGH HIS TESTIMONY (PAGE 4, LINES 26-30 AND RELATED**
17 **DISCUSSION ON PAGES 5-8), DOES NM AREA WITNESS GORMAN**
18 **EXPRESS CONCERNS PERTAINING TO PNM'S COMMITMENT TO**
19 **THE LOWEST COST OBJECTIVE?**

20 **A.** No. While NM AREA Witness Gorman references his concerns as though they
21 pertained to the Energy Transition Act defined lowest cost objective, NM AREA
22 Witness Gorman's testimony on pages 5 through 8 discusses subjects that are
23 unrelated to the structuring, marketing and pricing of the energy transition bonds.
24 Instead, his testimony seeks ratemaking accounting commitments unrelated to the

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1 structuring, marketing and pricing of the energy transition bonds. I refer you to
2 the rebuttal testimony of PNM Witness Monroy which addresses NM AREA
3 Witness Gorman's comments with respect to these requested accounting
4 commitments (related to accumulated deferred income taxes).

5
6 The Energy Transition Act (Section 62-18-2(N)) defines "lowest cost objective"
7 to mean that the structuring, marketing and pricing of the energy transition bonds
8 results in the lowest energy transition charges consistent with prevailing market
9 conditions at the time of pricing of the energy transition bonds and the structure
10 and terms of the energy transition bonds approved pursuant to the financing order.
11 The Energy Transition Act (Section 62-18-4(B)(12)) requires PNM to include in
12 its application "a statement from the qualifying utility committing that the
13 qualifying utility will use commercially reasonable efforts to obtain the lowest
14 cost objective." As discussed above, this commitment is stated at paragraph 52 of
15 PNM's financing application, as well as in Section VI of my testimony. Again,
16 PNM has made and reiterates the required commitment.

17
18 **III. QUERIES FROM NM AREA WITNESSES GORMAN AND DAUPHINAIS**

19 **Q. ON PAGE 4 (LINES 31-34) OF HIS TESTIMONY, NM AREA WITNESS**
20 **GORMAN GENERALLY NOTES THAT THE FINANCING COSTS**
21 **SHOWN ON PNM EXHIBITS EAE-2 AND EAE-3 SHOULD BE SHOWN**

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1 **TO BE REASONABLE. WAS THIS ADDRESSED IN PNM'S ORIGINAL**
2 **FILING?**

3 **A.** Yes. As discussed on pages 18 (lines 15 through 19) and 22 (lines 14 through 20)
4 of my direct testimony, PNM developed these estimated costs based on a review
5 of the fees incurred by other utilities in similar transactions, vendor estimates and
6 regulatory filing fees, and PNM's estimates of these types of fees based on
7 previous financings. NM AREA Witness Gorman did not provide any evidence
8 that contradicts this information or shows that the estimated costs are
9 unreasonable. NM AREA Witness Gorman's general comment is also addressed
10 by PNM Witness Atkins' direct testimony supporting the reasonableness of the
11 estimated fees (page 14 at lines 1 through 8).

12
13 **Q.** **ON PAGE 4 (LINES 11 THROUGH 19) AND PAGE 13 (LINES 1**
14 **THROUGH 20) OF HIS TESTIMONY, NM AREA WITNESS GORMAN**
15 **ASSERTS THAT PNM'S RETURN ON THE 0.5% CAPITAL**
16 **CONTRIBUTION TO THE SPE SHOULD BE REDUCED TO PNM'S**
17 **WEIGHTED AVERAGE COST OF CAPITAL. IS HIS CONCERN**
18 **ALREADY ADDRESSED BY PNM'S APPLICATION?**

19 **A.** Yes. NM AREA Witness Gorman appears to have assumed PNM was requesting
20 an equity return on the contributed capital. This assumption is incorrect. Under
21 the Energy Transition Act (Section 62-18-4(B)(8)), PNM is obligated to make a
22 capital contribution to the SPE in an amount of at least 0.5% of the principal
23 amount of the energy transition bonds issued. Lines 16 through 18 on page 21 of

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1 my direct testimony explain that PNM has proposed a debt rate of return on its
2 required capital contribution to the SPE that would be equal to the interest rate on
3 the longest maturing tranche of the energy transition bonds. PNM therefore is
4 requesting a debt rate of return on this required contribution that is less than its
5 weighted average cost of capital.

6
7 **Q. ARE THE PROPOSALS MADE BY NM AREA WITNESSES GORMAN**
8 **AND DAUPHINAIS THAT PNM MAKE ADDITIONAL UPDATED**
9 **FILINGS MONTHS PRIOR TO THE ISSUANCE OF THE BONDS**
10 **WARRANTED?**

11 **A.** No they are not. Both the Energy Transition Act and PNM's financing
12 application include provisions to account for changes in cost estimates that occur
13 between the issuance of a financing order and the issuance of energy transition
14 bonds, as well as any difference between the estimated costs financed through the
15 bond issuance and the actual energy transition costs ultimately incurred by PNM.

16
17 The Energy Transition Act includes provisions that address changes in the cost
18 estimates reflected in a financing order and the cost estimates ultimately reflected
19 in the securitization bond issuance. Consistent with these provisions, PNM has
20 proposed in numbered paragraph 38 of its financing application that the maximum
21 principal amount of energy transition bonds to be issued would be equal to the
22 sum of (1) the \$331.6 million of estimated abandonment costs described in the
23 financing application, (2) the upfront financing costs (updated as of the time of

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1 issuance and provided to the Commission following issuance in accordance with
2 the Energy Transition Act (Section 62-18-4(B)(6)), and (3) the amount of required
3 payments under Section 62-18-16 of the Energy Transition Act (updated as of the
4 time of issuance and provided to the Commission following issuance in
5 accordance with the Energy Transition Act (Section 62-18-4(B)(6)).

6
7 As described in the application and consistent with the Energy Transition Act, if
8 PNM identified increased estimated abandonment costs, or any costs relating to
9 changes in law that are authorized for recovery under the Energy Transition Act
10 (Section 62-18-2(H)(3)) (none were included in PNM's financing application),
11 PNM could seek an amendment of the financing order prior to issuance of the
12 bonds. Any such amendment would require Commission approval pursuant to the
13 Energy Transition Act (Section 62-18-7(B)(2)). If PNM's abandonment cost
14 estimate at the time of issuance is lower than the estimate included in the
15 financing application, PNM would reduce the size of the bond issuance
16 accordingly.

17
18 With respect to financing costs, the Energy Transition Act (Section 62-18-
19 4(B)(6)) expressly contemplates these cost estimates will be updated in a filing
20 with the Commission following the bond issuance, and PNM has committed to
21 make this required filing.

22

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1 With respect to payments required under Section 62-18-16, the Energy Transition
2 Act (Section 62-18-4(B)(6)(b)) expressly contemplates these cost estimates will
3 be updated in a filing with the Commission following the bond issuance, and
4 PNM has committed to make this required filing. The Section 62-18-16 payments
5 are a set percentage of the bond principal amount and would only increase if the
6 abandonment costs, change in law costs or upfront financing costs increased. Any
7 increases in these costs are subject to the protections I discussed above.

8
9 The Energy Transition Act also includes further provisions designed to protect
10 customers if the estimated amount of energy transition costs financed through the
11 bond issuance exceed the actual amount of energy transition costs PNM
12 ultimately incurs. Under the Energy Transition Act (Section 62-18-4(B)(10)), a
13 financing application must include a description of a proposed ratemaking process
14 to reconcile and recover or refund any difference between the energy transition
15 costs financed by the energy transition bonds and the actual final energy transition
16 costs incurred by the qualifying utility. Paragraph 60 of the PNM's financing
17 application and the direct testimony of PNM Witness Monroy discuss PNM's
18 proposal for a ratemaking treatment that will reconcile and recover or refund
19 differences between estimated and actual costs that are financed through energy
20 transition bonds.

21
22 As noted on page 16 (lines 1 through 5) of my direct testimony, PNM will provide
23 the Commission with a copy of each registration statement, prospectus, Form 8-K

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1 or other filing made with the Securities and Exchange Commission (the “SEC”) in
2 connection with the energy transition bonds within 5 business days following the
3 date of such filing with the SEC. This will provide the Commission with updated
4 information regarding the energy transition bonds in the months leading up to the
5 issuance of the bonds.

6
7 Based on all of the foregoing provisions, NM AREA Witness Gorman’s
8 recommendation should be rejected.

9
10 For the same reasons, the proposal of NM Area Witness Dauphinais should be
11 rejected as well. The provisions above protect customers by insuring that changes
12 in cost estimates that would impact the energy transition charges are appropriately
13 trued-up.

14
15 **Q. DOES THE ENERGY TRANSITION ACT ADDRESS NM AREA**
16 **WITNESS GORMAN’S RECOMMENDATIONS REGARDING A**
17 **POTENTIAL EXTENSION OF THE ORIGINAL LIFE OF THE**
18 **SECURITIZED BONDS?**

19 **A.** Yes. On page 9 (lines 13 through 18) of his testimony, NM AREA Witness
20 Gorman recommends that the Commission expressly state that the securitization
21 bonds cannot be amended, re-issued or refinanced in a way that extends the
22 original life of the bonds. This recommendation is unnecessary because the
23 Energy Transition Act (Section 62-10-7(B)(1)) only allows refinancing or

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1 reissuance of the energy transition bonds if prior Commission approval is
2 obtained. As a result there does not appear to be a need for NM AREA Witness
3 Gorman's proposal.

4
5 **Q. PLEASE RESPOND TO NM AREA WITNESS GORMAN'S ASSERTION**
6 **(PAGE 4, LINES 22 THROUGH 25) THAT THE AMORTIZATION**
7 **PERIOD FOR THE BONDS SHOULD NOT BE SET UNTIL THE**
8 **QUALIFYING ENERGY TRANSITION ACT COSTS ARE MORE**
9 **CLEARLY DISCLOSED AND KNOWN.**

10 **A.** As an initial matter, and contrary to NM AREA Witness Gorman's assertion,
11 PNM has disclosed the estimated energy transition costs. Further, PNM is not
12 requesting that the Commission lock in a specific amortization period in its
13 financing order and has not proposed bonds must be issued with a 25-year
14 amortization period. Instead, PNM has requested authority to issue energy
15 transition bonds with a scheduled final maturity date of not more than 25 years,
16 consistent with the longest scheduled final maturity date permitted under the
17 Energy Transition Act. As indicated earlier in my testimony, PNM has
18 committed to use commercially reasonable efforts in the structuring, marketing
19 and pricing of the bonds to achieve the lowest cost objective, and therefore the
20 ultimate number of tranches and maturities for each tranche should reflect rating
21 agency requirements and investor demand at the time of pricing. Any limitation
22 on the ability to structure the maturity of the bonds within the parameters allowed
23 under the Energy Transition Act will simply limit PNM's ability to act in

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1 furtherance of the lowest cost objective. Accordingly, Mr. Gorman's proposal to
2 delay approval of a specific amortization period is unnecessary. The Energy
3 Transition Act and PNM's proposed financing order provides the necessary
4 flexibility to structure the amortization period for the energy transition bonds
5 consistent with the lowest cost objective at the time of pricing.

6
7 **Q. CAN YOU RESPOND TO THE PROPOSAL OF NM AREA WITNESS**
8 **DAUPHINAIS THAT THE REGULATORY ASSETS AND LIABILITIES**
9 **PROPOSED IN THE DIRECT TESTIMONY OF PNM WITNESS**
10 **MONROY (SUCH AS ADVANCE PAYMENT OF A PORTION OF THE**
11 **PAYMENTS REQUIRED UNDER SECTION 62-18-16) SHOULD**
12 **ACCRUE A RETURN AT A DEBT RATE RATHER THAN THE**
13 **COMPANY'S WEIGHTED AVERAGE COST OF CAPITAL?**

14 **A.** As discussed in the testimony of other PNM witnesses, PNM has proposed to
15 make certain advance payments of amounts that would otherwise be funded only
16 after the securitization is completed. NM Area Witness Dauphinais asserts these
17 amounts should accrue a debt return because that is the return that will accrue on
18 these costs once they are financed through the securitization. This simply ignores
19 PNM's actual cost of financing these amounts prior to the securitization. Prior to
20 the securitization, PNM will be required to finance these amounts through its
21 ordinary means, which requires a mix of debt and equity financing. Accordingly,
22 PNM will incur its weighted average cost of capital in financing these payments.
23 In contrast, after the securitization is completed, PNM will be able to finance

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1 these costs entirely with debt (the energy transition bonds), thus permitting the
2 debt rate return.

3
4 **IV. RESPONSES TO STAFF WITNESS TUPLER**

5 **Q. PLEASE RESPOND TO STAFF’S CONCERNS ON PAGES 13 (LINES 18-**
6 **23) AND 14 (LINES 1-2) OF STAFF WITNESS TUPLER’S TESTIMONY**
7 **AND IN STAFF EXHIBIT MAT-1, AND CLARIFY WHETHER PNM HAS**
8 **SATISFIED THE REQUIREMENTS OF THE ENERGY TRANSITION**
9 **ACT (SECTION 62-18-4(B)(9)) PERTAINING TO ANCILLARY**
10 **AGREEMENTS.**

11 **A.** Section 62-18-4(B)(9) requires that an application identify any ancillary
12 agreements, as defined by the Energy Transition Act, that may be necessary or
13 appropriate in connection with the issuance of energy transition bonds. At present
14 there are no ancillary agreements in place or that have been identified as being
15 necessary to put in place in connection with issuing the energy transition bonds.
16 Ancillary agreements are specifically addressed by paragraphs 58 and 59 on pages
17 35-36 of PNM’s consolidated application, and PNM included proposed language
18 permitting PNM to enter into necessary or appropriate ancillary agreements in
19 PNM’s proposed financing order, at page 4 and paragraphs 15 (pages 37-38), 31
20 (page 42) and Ordering Paragraph 6 (pages 52-53). The role of an ancillary
21 agreement is described on page 42 (lines 17-22) of PNM Witness Atkins’
22 testimony. PNM Witness Atkins provides further discussion of ancillary

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1 agreements in his rebuttal testimony, and identifies ancillary agreements that he
2 would recommend entering into if such agreement was designed to enhance the
3 credit quality and marketability of the bonds.
4

5 **Q. PLEASE RESPOND TO STAFF'S CONCERNS ON PAGES 13 (LINES 18-**
6 **23) AND 14 (LINES 1-2) AND IN STAFF EXHIBIT MAT-1 OF STAFF**
7 **WITNESS TUPLER'S TESTIMONY INDICATING THAT HE WAS**
8 **UNABLE TO VALIDATE WHETHER PNM HAD SATISFIED ALL OF**
9 **THE REQUIREMENTS OF SECTION 62-18-4(B)(2), BECAUSE HE WAS**
10 **UNABLE TO IDENTIFY A DISCUSSION OF COSTS NOT PREVIOUSLY**
11 **COLLECTED FROM PNM'S CUSTOMERS FOR PLANT**
12 **DECOMMISSIONING AND MINE RECLAMATION COSTS.**

13 **A.** PNM has satisfied the requirement of 62-18-4(B)(2)(b). These are part of the
14 abandonment costs that are referenced and included in the proposed bond
15 issuance amounts on page 9 of my direct testimony. The specifics of these costs
16 were presented in the direct testimony and exhibits of PNM Witness Monroy, at
17 pages 14 through 24 and in PNM Exhibits HEM-4, HEM-5 and HEM-6.
18

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1

V. CONCLUSION

2 **Q. PLEASE SUMMARIZE THE CONCLUSIONS OF YOUR REBUTTAL**
3 **TESTIMONY.**

4 A. PNM has provided the necessary information, statements and commitments
5 required by Section 62-18-4 of the Energy Transition Act in support of a
6 financing order to be approved by the Commission. The response testimonies of
7 Staff and other intervenors who have raised concerns or recommendations relating
8 to approval of a financing order have been addressed through the direct and
9 rebuttal testimonies and exhibits presented by PNM. As a result, the Commission
10 reasonably may find that PNM's financing application complies with Section 4 of
11 the Energy Transition Act (Section 62-18-4) and therefore should issue a
12 financing order in the form requested and provided by PNM with its consolidated
13 application.

14

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

16 A. Yes, it does.

GCG#526362

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AFFIDAVIT

STATE OF NEW MEXICO)
) ss
COUNTY OF BERNALILLO)

ELISABETH A. EDEN, VP, Human Resources at PNMR Services Company,
upon being duly sworn according to law, under oath, deposes and states: I have read the
foregoing **Rebuttal Testimony of Elisabeth A. Eden** and it is true and correct based on
my personal knowledge and belief.

SIGNED this 8th day of November, 2019.



ELISABETH A. EDEN

SUBSCRIBED AND SWORN to before me this 8th day of November, 2019.



NOTARY PUBLIC IN AND FOR
THE STATE OF NEW MEXICO

My Commission Expires:

12/23/19