

**BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION**

**IN THE MATTER OF PUBLIC SERVICE )  
COMPANY OF NEW MEXICO'S )  
CONSOLIDATED APPLICATION FOR )  
APPROVALS FOR THE ABANDONMENT, ) 19-\_\_\_\_\_-UT  
FINANCING, AND RESOURCE REPLACEMENT )  
FOR SAN JUAN GENERATING STATION )  
PURSUANT TO THE ENERGY TRANSITION ACT )**

**PUBLIC SERVICE COMPANY OF NEW MEXICO'S CONSOLIDATED  
APPLICATION FOR THE ABANDONMENT, FINANCING AND REPLACEMENT OF  
THE SAN JUAN GENERATING STATION PURSUANT TO THE ENERGY  
TRANSITION ACT**

Public Service Company of New Mexico (“PNM” or the “Company”) files its *Consolidated Application for the Abandonment, Financing and Replacement of the San Juan Generating Station Pursuant to the Energy Transition Act* (“Consolidated Application”). The Energy Transition Act charts a new energy policy course for the state. New Mexico now has a framework to address challenges that come from aging coal-fired generation facilities, and to meet ambitious targets for renewable energy and zero carbon resources. This new legislative road map gives the New Mexico Public Regulation Commission (“Commission” or “NMPRC”) new regulatory tools to accelerate the state’s transition to a significantly cleaner and more diverse energy mix for customers. The Energy Transition Act also gives the Commission authority to directly address the resulting impacts on plant and mine workers and the tribal and local communities in the San Juan area in a way that is not otherwise contemplated by the Public Utility Act.

The Consolidated Application follows the Energy Transition Act’s balanced approach to energy transition, which minimizes rate impacts and brings long-term benefits to consumers and the State of New Mexico. PNM seeks the Commission’s approval to retire and replace 497 MW

of retail coal-fired generation resources at the San Juan coal plant with a portfolio of new generation resources with equivalent capacity that save our customers money over the long run.

The ultimate question and touchstone for the Commission is whether the replacement of the San Juan coal plant is in the public interest. Although the plant has been a reliable, reasonably priced source of electric energy and significant operating reserves for the PNM system for four decades, this coal generation plant is a large source of carbon emissions. The Energy Transition Act mandates new January 1, 2023 emission levels for the San Juan coal plant that confirm the value of retiring the plant at the end of June 2022. Retiring this coal-fired facility results in environmental as well as economic benefits for customers.

PNM has evaluated four different competitively procured replacement resource scenarios consistent with the replacement considerations included in the new Act. PNM is proposing approval of a replacement portfolio (“Scenario 1”) which is a combination of renewable energy and energy storage facilities supported by natural gas-fired peaking units. PNM’s proposed replacement mix is designed to maintain system reliability, add significant new solar resources, and effectively integrate a proposed 130 MW of energy storage technology.

As an alternative, PNM has developed another scenario, “Scenario 2”, which locates 476 MW of new resources in San Juan County. This alternative involves installing flexible and reliable natural gas units at the San Juan coal plant site, which preserves as much as possible the property tax base for the affected school district; it is also a more costly option for customers. PNM’s proposed Scenario 1 and alternative Scenario 2 result in a reliable electric system and bring local jobs and property tax benefits. As explained in testimony, two other scenarios are included, which eliminate gas generation through exclusive reliance on renewable generation or

relatively heavy reliance on battery storage, which are not adequate and reliable replacement portfolios for the San Juan coal plant.

PNM also requests approval of securitized financing. The Act authorizes that portions of the energy transition bond proceeds be dedicated to severance payments and job training for employees who lose their jobs, and to fund state-administered programs for impacted tribal and local communities. PNM proposes to take all necessary actions to secure the securitized financing of the San Juan coal plant abandonment in the amounts as defined and allowed in the Energy Transition Act.

PNM's Consolidated Application to abandon, finance pursuant to an Energy Transition Act financing order, and replace the San Juan coal plant with adequate reliable replacement resources satisfies the Energy Transition Act's provisions and the public benefit standards adhered to by the Commission. Even if operation of the coal plant beyond January 1, 2023 were feasible under the emissions standards in the Act, continued operation would be uneconomic compared to available and adequate replacement resource portfolios. The public interest is best served through a planned retirement process that not only results in customer benefits but also acknowledges the broader impact to the state's economy and the effect on the San Juan region.

Finally, this Application includes a request that consideration be given by Case No. 13-00390-UT signatories and the Commission to a separate commercial scale solar facility at the San Juan coal plant site, as a means of fulfilling PNM's Modified Stipulation Paragraph 40 commitments. PNM includes this proposal in this case so that the signatories and the Commission have an opportunity to consider how the Energy Transition Act's focus on increasing renewable energy and assisting impacted communities might influence the best way for PNM to comply with Paragraph 40.

## **I. SUMMARY AND TIMING OF REQUESTED APPROVALS**

PNM's Consolidated Application seeks approval for three primary actions: abandonment of the San Juan coal plant; addition of new replacement resources; and securitized financing of plant abandonment along with funding state-administered tribal and community programs. Reviewing all three of these significant actions in a consolidated filing gives a complete context to the Commission and parties, so that each request is assessed as part of the larger San Juan coal plant energy transition picture. The Energy Transition Act anticipates the Commission will review consolidated applications and provides a straightforward yet flexible timeframe to do so.

PNM requests that the Commission apply the Energy Transition Act timeframe and issue a decision on the consolidated requests within the six-month period, to be extended by up to three months should the Commission find there is good cause. Section 5(A) and (C) allows the Commission to issue a financing order, together with abandonment and replacement resource approvals, within six months from the date the application for a financing order is filed. A consolidated review allows the Commission to hear from all stakeholders and affected communities at the same time regarding the standards and goals the Energy Transition Act. Section 2 of the Energy Transition Act directly ties securitized financing and its benefits to tribal and regional communities to the coal plant being abandoned before 2023, and expressly contemplates the securitized financing and abandonment be ruled on in a single proceeding. The Commission generally requires assurances that there are adequate replacement alternatives that will be operational before approving a plant shutdown, and this consolidated approach is endorsed in Sections 4(D) and 5(C) of the Energy Transition Act.

Sections 4(D) and 5(C) of the Energy Transition Act also recognize, however, that the Commission can defer new resource approvals to a separate docket. If the Commission were to defer resource selection to a separate proceeding, the Commission could apply a six-month clock

under the PPA Rule (17.9.551 NMAC) and a nine-month clock under the CCN statute (NMSA 1978, § 62-9-1). While the Energy Transition Act further allows a utility to file for replacement resources up to a year after approval of abandonment (Section 3(A)), extending the timeframe for reviewing new resources could prove detrimental. The competitive supplier agreements that PNM is proposing are dependent on approvals within the six to nine-month framework if customers are to benefit from favorable pricing that relies on non-utility investment tax credits currently available to suppliers, which decline over time.

Each of the Consolidated Application's requested approvals is summarized below and explained in detail thereafter in the Application and in supporting testimonies and exhibits.

***Abandonment:***

PNM requests the Commission approve the abandonment of the San Juan coal plant as of July 1, 2022. More specifically, PNM requests that the Commission approve:

- Abandonment of the San Juan coal plant and facilities located at Waterflow, New Mexico;
- Decommissioning of the plant and facilities and mine reclamation; and
- Recovery of Energy Transition Act-defined abandonment and other energy transition costs in an estimated amount of approximately \$360.1 million, which includes \$340.3 million for the following:
  - Undepreciated investments totaling \$283.0 million;
  - Costs for job training and severance for employees at San Juan coal plant and the San Juan coal mine in the amount of \$20.0 million;
  - Decommissioning and reclamation costs of \$28.6 million; and
  - Transactional costs associated with issuing energy transition bonds and obtaining approval of abandonment of \$8.7 million.

Assuming the qualifying plant is to be abandoned before 2023, the new law also allows for approximately \$19.8 million under Section 16 of the Energy Transition Act to fund state-administered programs identified in the requested Securitized Financing section below.

In connection with this abandonment, PNM asks that the NMPRC authorize the recording by PNM of regulatory assets with carrying costs as supported by PNM Witness Monroy and shown in PNM Exhibit HEM-13. This will allow PNM to recover the advancement of funds associated with severance and job training and state administered programs for affected communities; identified undepreciated investments, coal mine reclamation and plant decommissioning costs; and stranded inventories net of salvage values. Further, pursuant to Section 4(B)(10) of the Act, PNM will track and reconcile each component of the energy transition costs. Accordingly, PNM also requests authority to record and defer with carrying charges any difference between the amounts financed by the energy transition bonds and the final actual energy transition costs to either a regulatory asset (if the actual final energy transition costs are greater than the estimated energy transition costs) or a regulatory liability (if the actual final energy transition costs are less than the estimated energy transition costs) for recovery/(crediting) to be amortized over a reasonable period established in PNM's next general rate case.

***Replacement Resources:***

PNM requests the Commission approve PNM's proposed portfolio (Scenario 1) to replace the retired 497 MW of capacity and energy produced by San Juan coal plant Units 1 and 4. Scenario 1's resource portfolio consists of a combination of supplier-owned and PNM-owned resources. PNM seeks approval of long-term purchase power agreements and energy storage agreements ("PPAs") and certificates of public convenience and necessity ("CCNs"), as follows:

- A twenty-year PPA for the output from a 50 MW solar facility (the Jicarilla PPA) located on Jicarilla Apache tribal lands, combined with a 20 MW battery storage agreement;
- A twenty-year PPA for the output from a 300 MW solar facility (the Arroyo PPA) located in McKinley County combined with a 40 MW battery storage agreement;

- CCNs for a 40 MW and a 30 MW utility-owned energy storage system, referred to as the Sandia and Zamora facilities, respectively, located at two existing utility plant sites in Bernalillo County; and
- A CCN for 280 MW of utility-owned natural gas-fired generating units, referred to as the Pinon Gas Plant, located at the San Juan coal plant site in Waterflow, New Mexico.

Additionally, PNM is proposing that consideration be given to a PNM-owned 20 MW solar facility to be installed at the San Juan coal plant site. This proposal would fulfill PNM's obligation to buy renewable energy certificates as offsets for Unit 4 emissions between January 1, 2020 and the plant's shutdown. This obligation is detailed in Paragraph 40 of the Modified Stipulation in Case No. 13-00390-UT. PNM has included this proposal, which would use already-committed and additional customer funds to install solar facilities at the coal plant site, so signatories and the Commission can consider property tax benefits from adding renewable plant in San Juan County and generating actual energy for customer use. This compares to purchasing 2.5 years of renewable energy certificates.

***Securitized Financing:***

PNM requests that the Commission issue a financing order approving the issuance of highly rated bonds secured by a non-bypassable customer charge. The proposed bonds are designed to meet the requirements for a "AAA" or equivalent credit rating and recover the Energy Transition Act-defined abandonment and other energy transition costs listed above. Securitized financing also results in PNM financing and transferring a portion of the bond proceeds for the state to establish and administer the following programs:

- Energy Transition Indian Affairs Fund to be administered by the Indian Affairs Department, in an estimated amount of \$1.8 million;

- Energy Transition Economic Development Assistance Fund to be administered by the Economic Development Department, in an estimated amount of \$5.9 million; and
- Energy Transition Displaced Worker Assistance Fund, to be administered by the Workforce Solutions Department, in an estimated amount of \$12.1 million.

The bonds are to be issued at or around the time the San Juan coal plant is closed. If the Consolidated Application is approved, PNM proposes to transfer a portion of the estimated funds to the state prior to the issuance of the energy transition bonds to assist the state in implementing these programs before rather than after the plant shutdown.

PNM currently estimates the securitized bonds will be issued in an aggregate amount of approximately \$361 million. The precise amount of bonds to be issued will be based on financing costs at the time of issuance of the bonds as described further in this Consolidated Application.

As part of the requested securitized financing, PNM asks the Commission to determine that the financing portions of the Consolidated Application meet the requirements of Section 4 of the Energy Transition Act, and approve the following:

- PNM's proposed use of proceeds of the energy transition bonds;
- Formation and capitalization of a special purpose entity that will be a wholly owned subsidiary of PNM (the "SPE") and will issue energy transition bonds with a scheduled final maturity of not more than 25 years;
- Collection of non-bypassable energy transition charges, effective upon bond issuance and filing of an advice notice pursuant to the Energy Transition Act, to be paid by all customers receiving electric delivery service from PNM and all customers who acquire electricity from an alternative or subsequent electricity supplier in the utility service area currently served by PNM, to the extent such acquisition is permitted by New Mexico law;
- An adjustment mechanism, effective upon issuance of the energy transition bonds, to make adjustments to the energy transition charges to correct for any over- or under-collection of those charges and to provide for the timely and complete payment of the bonds and recovery of financing costs;



- A description of the energy transition property to be created under the financing order together with PNM's simultaneous sale of the energy transition property to the SPE;
- PNM's entry into principal financing agreements and other necessary or appropriate ancillary agreements related to the issuance of the securitized bonds;
- A ratemaking adjustment mechanism to reconcile the estimated energy transition costs with actual costs; and
- A ratemaking method to account, as needed, for the reduction in PNM's cost of service associated with the amount of undepreciated investments being recovered by the energy transition charges at the time those charges become effective.

For the reasons detailed below, PNM also requests that the Commission issue these financing approvals in the form of a stand-alone financing order in conjunction with the requested abandonment and replacement resource orders, in order to fulfill statutory requirements for securitization.

## **II. BACKGROUND FOR SAN JUAN COAL PLANT ABANDONMENT**

PNM serves its customers from a diverse power supply portfolio that includes coal and nuclear baseload generation, natural gas-fired generation, solar and wind generation, geo-thermal and other purchased power obtained through wholesale market transactions. One of PNM's baseload coal generating facilities operating pursuant to CCN authority is the San Juan coal plant.<sup>1</sup> The plant initially consisted of four coal-fired units with 1,683 MW of electric generation capacity; the four units came on-line separately in 1973, 1976, 1979, and 1982. The facility is located in Waterflow, New Mexico, an unincorporated community in San Juan County fifteen miles west of Farmington. PNM is a part-owner and the operator of the plant.<sup>2</sup>

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<sup>1</sup> CCNs for SJGS were granted in Case No. 965 (January 9, 1970), Case No. 1111 (January 22, 1974) and Case No.1221 (September 2, 1975).

<sup>2</sup> The operation of San Juan coal plant Units 1 and 4 currently is governed by the Amended and Restated San Juan Project Participation Agreement. The current plant owners oversee PNM's management and operation of the plant,

Units 2 and 3 were shut down in December 2017, in accordance with environmental agreements and pursuant to the Commission's Final Order in Case No. 13-00390-UT. The Commission required that PNM obtain additional prior approval to operate Units 1 and 4 after June 30, 2022 when the current coal supply and operating agreements expire. None of the San Juan coal plant Participants have entered into new operating contracts that would allow the plant to continue running post-2022; the majority of the owners, including PNM, do not intend to rely on the plant after June 30, 2022. PNM's 2017 Integrated Resource Plan ("2017 IRP") and subsequent analyses show it benefits customers to replace the coal plant with alternative resources.

### **III. SUPPORT FOR CONSOLIDATED APPLICATION**

1. PNM's Consolidated Application is filed pursuant to and in accordance with the provisions of the Energy Transition Act. On March 13, 2019, the state legislature passed the Energy Transition Act in the form of Senate Bill 489, which was signed into law by the governor on March 22, 2019 and became effective June 14, 2019. The Energy Transition Act permits the abandonment of qualifying facilities such as the San Juan coal plant to be financed with securitized bonds to help reduce costs for customers. The abandonment and financing portions of the Energy Transition Act are integral predicates to PNM meeting the Energy Transition Act's increasing renewable portfolio standards and achieving a zero-carbon resource portfolio by as soon as 2040. In addition to requiring utilities to transition to zero-carbon resources, the Energy Transition Act also includes certain preferences and criteria for the Commission to consider when evaluating new resources to replace abandoned facilities.

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and the owners review and approve capital and operations budgets. The coal for the plant is supplied under the current Coal Supply Agreement.

2. The testimonies and exhibits filed with this Application provide substantial factual support for PNM's consolidated requests for 1) approval of the abandonment and decommissioning of the San Juan coal plant upon its closure on June 30, 2022, with related mine reclamation; 2) approval of both supplier- and utility-owned new generation and energy storage plant and facilities included in PNM's recommended replacement resources, referred to as Scenario 1; and 3) approval of the issuance of energy transition bonds for securitized financing of energy transition costs, including funding for public interest programs identified in the Energy Transition Act. In addition to those testimonies and exhibits, this Consolidated Application incorporates herein the following Attachments, which may variously be referred to by witnesses as Exhibits or Attachments to the Application:

Attachment 1: Reference Table of Witnesses and Testimony Topics

Attachment 2: Proposed Form of Notice

Attachment 3: Proposed Form of Financing Order

3. PNM's most recent economic analyses detailed in the supporting testimonies and exhibits prove there are available adequate replacement resources that cost less than and will be available to replace the existing San Juan coal plant capacity, which is needed to serve customers, before the end of the plant's anticipated operable life.

4. PNM is a New Mexico corporation that owns, operates and controls public utility plant, property and facilities, including generation, transmission and distribution facilities that provide retail and wholesale electric service in New Mexico. PNM is a duly incorporated public utility subject to the jurisdiction of the Commission pursuant to the Public Utility Act, NMSA 1978, §§ 62-1-1 to 62-6-28 and §§ 62-8-1 to 62-13-15 ("PUA"). PNM is authorized to provide utility service within multiple municipalities and communities in various service areas

throughout the state. As a public utility, PNM is required to provide adequate, efficient and reasonable electric service. § 62-8-2.

***A. ABANDONMENT REQUESTS***

5. Pursuant to the Energy Transition Act, utilities must transition to zero-carbon resource portfolios by 2045 and coal plants exceeding 300 MW must meet stringent emissions standards beginning January 1, 2023. PNM cannot timely comply with the Energy Transition Act and continue to operate its interests in the San Juan coal plant past June 30, 2023. The Energy Transition Act sets forth certain treatments and approvals associated with the abandonment of qualifying generating facilities. The San Juan coal plant is a qualifying generating facility as defined in Section 2(S). As a result of its status as a public utility, its ownership interest in the qualifying generating facility and its role as the plant operator, PNM is a qualifying utility as defined by Section 2(T) of the Energy Transition Act. Section 4(A) of the Energy Transition Act provides that a utility may apply for a financing order to recover all its energy transition costs through issuance of energy transition bonds and provides that an abandonment order be obtained pursuant to Section 62-9-5 of the Public Utility Act.

6. Section 62-9-5 states that the Commission may approve the abandonment of a utility facility if the present and future public convenience and necessity do not otherwise require the continuation of the use of the facility. The Commission has held that there must be a showing of a net benefit in order to approve a utility plant's abandonment. By its terms, the Energy Transition Act establishes benefits to the state from the transition to cleaner energy resources.

7. Historically, the Commission followed four factors from what is referred to as the *Commuters' Committee*<sup>3</sup> case as a guide to determining if an abandonment results in a net benefit. These historical factors examined: (1) the extent of the carrier's loss on the particular branch or portion of the service, and the relation of that loss to the carrier's operation as a whole; (2) the use of the service by the public and prospects for future use; (3) a balancing of the carrier's loss with the inconvenience and hardship to the public upon discontinuance of service; and (4) the availability and adequacy of substitute service.

8. PNM's testimonies and exhibits provide substantial factual evidence that abandonment of the San Juan coal plant is in the public interest under the Energy Transition Act as well as the *Commuters' Committee* case.

- a. The terms of the Energy Transition Act do not leave room for a feasible scenario under which PNM could continue to operate the San Juan coal plant and meet renewable and emissions requirements in the new law. Abandoning the plant also will be necessary in order for PNM to i) meet the Renewable Energy Act's renewable energy portfolio standards, as amended by Section 29 of the Energy Transition Act; and ii) meet the environmental standards of performance for the San Juan coal plant contained in Section 36 of the Energy Transition Act.
- b. PNM has modeled its overall generation portfolio under "with the San Juan coal plant" and "without the San Juan coal plant" assumptions. It would be more costly for customers if PNM operates the plant after June 30, 2022, when the current agreements expire. Operating the plant after the existing contracts

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<sup>3</sup> *Commuters' Committee v. Pennsylvania Public Utility Commission*, 170 Pa. Superior Ct. 596, 604-605, 88 A.2d 420, 424 (1952).

terminate is not economically viable for PNM, because a majority of the owners will no longer take power from San Juan coal plant.

- c. The Energy Transition Act provides mechanisms that mitigate impacts to tribal and local communities from the shutdown of the plant, and PNM's analyses demonstrate customers benefit from the plant shutdown when compared to being supplied from alternative generation resources. Abandonment of the facilities when accomplished in conjunction with the issuance of energy transition bonds results in increased savings to customers and benefits impacted communities.
- d. PNM has identified adequate alternative resources that, subject to Commission approvals, will be available to replace the San Juan coal plant at the time of closure, and, together with the closure of the plant, result in a net public benefit.

***B. PPA AND CCN REQUESTS***

9. The Public Utility Act and the Energy Transition Act govern the standards for selecting new resources. Fundamental to selection of resource portfolios is their reliability.<sup>4</sup> Section 3 of the Energy Transition Act requires a qualifying utility to apply for approval of competitively procured replacement resources within one year after abandonment approval. Projects are to be ranked based on cost, economic development opportunity and ability to provide jobs with comparable pay and benefits to those lost due to a qualifying facility's abandonment. Section 3(B) states that the Commission shall prefer resources with the least environmental impacts, those with higher ratios of capital costs to fuel costs, and those able to reduce the cost of reclamation and use for lands previously mined within the county of the

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<sup>4</sup> ETA Sections 3(F), 25(D)(3) and (6), 29(B); NMSA 1978, Section 62-6-25; Rules 17.7.3 and 17.9.560 NMAC.

abandoned facility. New resource additions are also governed by Section 62-9-1, as amended by Section 25 of the Energy Transition Act and by the PPA Rule.

10. PNM conducted a competitive “all resources” Request for Proposals (“RFP”) process to select alternative resources to provide ongoing utility service to customers. As part of this competitive resource selection process, PNM issued an all resources RFP in October 2017, and issued a supplement to the RFP for additional bids for utility-owned energy storage facilities in April 2019.

11. PNM solicited competitive bids for both third party PPAs and utility-owned energy storage facilities. Bids were received in response to the all-source RFP issued in October 2017 and the supplemental RFP issued in April 2019. Bidders were informed that PNM promotes and encourages the use of workers residing in New Mexico, and that this would be considered in evaluating proposals. The bids were evaluated by a third-party engineering firm, which identified “best in class” proposals for supplier-owned combined solar and battery storage projects, long-term contracts for supplier-owned stand-alone energy storage, and for utility-owned energy storage systems. PNM selected both supplier-owned and utility-owned projects, which are described below.

12. As a result of this competitive bidding and evaluation process, PNM has identified and selected for Commission approval an economic and affordable portfolio of resources, Scenario 1, that assures reliable service for customers and satisfies Energy Transition Act criteria. In addition, PNM presents an alternative resource portfolio, Scenario 2, with all of the replacement resource investments located in San Juan County that also meets Energy Transition Act standards and reliability and operational requirements for adequate replacement resources. PNM also identified two additional scenarios with resources that exclude new gas

generation facilities. These scenarios present operational challenges and are inconsistent with a reliable system and therefore would not be adequate replacement resource options for PNM's system. These three alternative scenarios provide added insight for the Commission when determining whether it is in the public interest to approve the proposed Scenario 1, which is low-cost and meets system reliability and operational requirements. PNM seeks PPA and CCN approvals for the Scenario 1 portfolio, as well as cost recovery through future rate cases of the reasonable investments and expenses for each resource.

13. PNM specifically requests approval of two long-term PPAs for 300 MW and 50 MW of solar power pursuant to Section 8 of the PPA Rule, which requires written approval from the Commission prior to PNM becoming irrevocably obligated under the terms of a PPA with a term of five or more years. In combination with these solar PPAs, PNM seeks approval of 40 MW and 20 MW respectively of associated energy storage facilities agreements, also in accordance with provisions for capacity agreements in the PPA Rule. The 300 MW Arroyo PPA includes an energy purchase price of \$18.65 MWh and a capacity price for the 40 MW of battery storage of \$7.46 kW-month. The 50 MW Jicarilla PPA includes an energy purchase price of \$19.73 MWh and a capacity price for the 20 MW of battery storage of \$9.97 kW-month.

14. These combined solar/battery PPAs are sponsored by PNM Witness Fallgren and supported by analyses detailed in the resource selection testimonies and exhibits. These PPAs were selected as integral components of Scenario 1. PNM's supporting testimonies and exhibits provide the necessary detail concerning the terms and conditions of each PPA and its associated costs. The evidence presented shows that the PPAs are consistent with the provision of safe and reliable service at the lowest reasonable cost, considering both short and long-term costs and other relevant factors set forth in the PPA Rule. These PPAs are consistent with PNM's 2017



IRP as updated and are resources that provide benefits to customers that are equal or greater to benefits that would be provided from utility-owned resources.

15. PNM intends to recover the PPA costs in accordance with the Commission's ratemaking requirements specifically established in the PPA Rule. Section 9 of the rule states that unless otherwise ordered, PNM shall recover energy costs through its Fuel and Purchase Power Cost Adjustment Clause; PNM requests that the associated energy storage costs also be recovered through the Adjustment Clause until PNM's next general rate case proceeding.

16. PNM also seeks approval to construct, own and operate two separate energy storage facilities, the Sandia 40 MW facility and the Zamora 30 MW facility, located in Bernalillo County at sites where PNM has existing generation facilities. Section 62-9-1(D) of the Public Utility Act as amended by Section 25 of the Energy Transition Act allows PNM to seek a CCN for energy storage facilities. These utility-owned energy storage resources are sponsored by PNM Witness Fallgren and supported by analyses detailed in the resource selection testimonies and exhibits. These projects were selected through the competitive bidding and evaluation process and are integral components of Scenario 1. PNM will seek to recover the certificated estimated capital cost of the Sandia facility of \$48.9 million and the certificated estimated capital cost of the Zamora facility of \$39.0 million, respectively, in PNM's rate base in a future general rate case.

17. Consistent with the Energy Transition Act, PNM's supporting testimonies and exhibits demonstrate that the proposed utility-owned energy storage facilities will reduce customer costs associated with new generation and transmission and distribution system upgrades; reduce the amount of fossil-fuel resources being proposed by PNM; assist with grid reliability and transmission and distribution system stability while helping to integrate renewable

resources; support resource diversification and enhance grid security; reduce air emissions; provide PNM with discretion to operate, maintain and control energy storage systems to ensure reliable and efficient service; and provide a cost-effective energy storage option among feasible alternatives. PNM seeks permission to include the costs of these facilities in its rates through a general rate case in accordance with Section 62-9-1(B).

18. PNM requests approval to construct the Pinon Gas Plant, which consists of 280 MW of nameplate capacity natural gas-fired generating units at the San Juan coal plant site in Waterflow, New Mexico. The 280 MW facility consists of seven 40 MW LM6000 simple-cycle aeroderivative units capable of providing quick start generation to meet peak load capacity and essential reliability requirements. Section 62-9-1(A) of the Public Utility Act requires PNM to obtain prior approval through the issuance of a CCN for any generating unit PNM seeks to construct and operate. These utility-owned natural gas generation resources are sponsored by PNM Witness Fallgren and supported by analyses detailed in supporting testimonies and exhibits. The Pinon Gas Plant was selected through a competitive bidding and evaluation process and is an integral component of Scenario 1. It provides a property tax base and local jobs in San Juan County. The evidence presented supports the conclusion that issuance of a CCN for these generating units is in the public interest because they will provide necessary load-following capacity and energy and ensure safe and reliable service at a reasonable cost to customers. PNM will seek to recover the certificated estimated capital costs of the Pinon Gas Plant of \$190.9 million in PNM's total rate base in a future general rate case, in accordance with Rule 17.3.580 NMAC.

19. Scenario 1 is consistent with PNM's 2017 IRP; this proposed replacement portfolio for the coal plant will provide operating reserves necessary to maintain reliable service

to consumers. The resources were selected through a competitive RFP process and include a reasonably priced mix of solar, natural gas and battery storage resources. Each of these projects have approval date provisions written into their associated contracts to either ensure the renewable tax credits can be fully utilized, or in order to ensure project engineering and equipment purchases can occur to meet the 2022 installation dates. These contract deadlines are listed below:

- The Arroyo Solar Project: April 30, 2020
- The Arroyo Storage Project: April 30, 2020.
- The Jicarilla 1 Solar Project: April 30, 2020.
- The Jicarilla 1 Storage Project: April 30, 2020.
- The Sandia Storage Project: September 30, 2020.
- The Zamora Storage Project: September 30, 2020.
- Pinion Gas Plant: September 30, 2020

20. In addition to the resources in Scenario 1, PNM seeks consideration of an additional 20 MW of solar facilities to be located at the San Juan coal plant site. PNM proposes that this additional renewable resource be considered as a reasonable means of complying with Paragraph 40 of the Modified Stipulation approved in Case No. 13-00390-UT. Paragraph 40 requires that PNM buy solar or wind credits or allowances for its customers to offset up to 197 MW of production from Unit 4 of the coal plant, between January 1, 2020 and the plant's shut down. Paragraph 40(d) and (e) contemplate that PNM will purchase wind or solar RECs as defined by the Renewable Energy Act, either in matching MWh amounts or in an amount of bundled RECs (with energy) that has a cost to customers of up to \$7 million per year, or \$17.5

million in total. PNM proposes that this amount could be increased to \$24 million for the solar facility, to be included in PNM's rate base, so that customers can benefit from long-term renewable energy production that offsets system fuel costs, rather than purchasing short-term RECs over a 2.5-year period. PNM initiated preliminary discussions with the signatories to the Modified Stipulation regarding this project in order for them to consider how to best achieve the environmental and customer outcomes contemplated in Paragraph 40. Because this renewable project would be located in the school district for the abandoned facilities (at the San Juan coal plant site), it could generate up to \$200,000 in annual additional tax revenues. PNM believes that addressing the possibility of this 20 MW solar project for Paragraph 40 compliance at the same time as the San Juan coal plant replacement resources gives the Commission, as well as the signatories, an opportunity to consider the Energy Transition Act's Section 3 location preference in weighing the merits of this proposal.

### ***C. Financing Order Requests***

#### ***Overview***

21. As a qualifying utility under Section 2(T) of the Energy Transition Act, the Company is authorized pursuant to Section 4(A) of the Energy Transition Act to file a financing application for issuance of a financing order under Section 5 of the Energy Transition Act (the "Financing Order") as part of the Combined Application under which the Company has requested approval to abandon the San Juan coal plant, a qualifying generating facility.

22. As described in supporting testimonies and exhibits, the Company seeks the issuance of the Financing Order to recover the costs of abandonment (and other related Energy Transition Act-defined energy transition costs) through the issuance of energy transition bonds as defined by the Energy Transition Act (the energy transition bonds to be issued pursuant to the

Financing Order, the “Energy Transition Bonds”), using the securitization financing mechanism provided in the Energy Transition Act (the “Securitization”). PNM will recover its Energy Transition Act-defined energy transition costs (the “Energy Transition Costs”) through the Securitization. The bonds are to be issued around the time the San Juan coal plant is abandoned. The proposed Securitization allows for the recovery of costs relating to the abandonment of the San Juan coal plant at substantially lower customer impacts than would be required through traditional ratemaking methods.

23. The testimony of PNM Witness Atkins of Guggenheim Securities Inc. includes a review of utility securitization transactions generally and a detailed discussion of the Securitization proposed by the Company in this Financing Application and provides the memorandum regarding potential bond ratings required by the Energy Transition Act. Guggenheim Securities, LLC is a securities firm attested to by the State Board of Finance as being experienced in the marketing of bonds and capable of providing such a memorandum.

24. In order to facilitate the Securitization, the Company will form the SPE, which will be a Delaware limited liability company that will be wholly-owned by the Company. The SPE will be formed for the limited purposes of issuing one or more series of energy transition bonds, paying the net proceeds of any such issuance to the Company to purchase energy transition property as defined in Section 2(I) of the Energy Transition Act created by a financing order, and performing other activities related thereto. The proposed Energy Transition Bonds will be issued by the SPE under an indenture between the SPE and an indenture trustee (the “Indenture”).

25. The SPE will be capitalized through the issuance of the Energy Transition Bonds and a concurrent equity capital contribution from the Company. The Company intends that its

equity capital contribution to the SPE will be 0.5% of the total capital of the SPE (with the Energy Transition Bonds representing the remaining 99.5% of the capitalization of the SPE). In accordance with Section 4(B)(8) of the Energy Transition Act, the Company's equity capital contribution to the SPE will not be less than 0.5% of the total capital of the SPE. This minimum capitalization level also will satisfy existing Internal Revenue Service safe harbors so that the Company will not recognize gross income upon the receipt of cash in exchange for the issuance of the Energy Transition Bonds. The Company proposes earning a return on this capital contribution equal to the interest rate on the longest maturing tranche of the Energy Transition Bonds, and to be paid as an ongoing financing cost of the Securitization.

26. PNM currently estimates that the SPE will issue approximately \$361 million in aggregate principal amount of the Energy Transition Bonds, as discussed further below. The SPE will use the proceeds it receives from the sale of the Energy Transition Bonds to (i) pay the upfront financing costs as defined in Section 2(K) of the ETA incurred in connection with the issuance of the Energy Transition Bonds (including reimbursement to the Company of any such costs paid by the Company) (the "Upfront Financing Costs"), as described in the testimony of PNM Witnesses Eden and Monroy, and (ii) purchase from PNM, on the date of issuance of the Energy Transition Bonds, the energy transition property created under the Financing Order (the "Energy Transition Property").

27. In accordance with Section 10 of the Energy Transition Act, PNM will use the proceeds it receives from the sale of the Energy Transition Property to the SPE (i) to make any required Section 16 Payments and (ii) for purposes of providing utility service to customers, including paying Energy Transition Act-defined abandonment costs (including severance payments and mine-reclamation and plant decommissioning costs).

28. The purchase of the Energy Transition Property by the SPE from the Company will be made pursuant to the terms of an energy transition property purchase and sale agreement between the Company and the SPE (the “Purchase Agreement”). The Energy Transition Property to be purchased by the SPE includes the right to impose, charge, collect and receive energy transition charges (the “Energy Transition Charges”) in an amount necessary to provide for full payment and recovery of all of the Energy Transition Costs identified in the Financing Order. As set forth in Section 2(G) of the Energy Transition Act, the Energy Transition Charges are the non-bypassable charges paid by all PNM customers to fully recover the Energy Transition Costs identified in the Financing Order, including paying the principal of and interest on the Energy Transition Bonds as scheduled and in full, as well as the other ongoing financing costs associated with the Energy Transition Bonds. The Energy Transition Property also includes the adjustment mechanism required by Section 6 of the Energy Transition Act, which is the ability to adjust the amount of the Energy Transition Charges owed by PNM’s customers in order to ensure that the amounts actually collected are sufficient to pay all amounts owed with respect to the Energy Transition Bonds as scheduled and in full, including the other ongoing financing costs. The methods of calculating the Energy Transition Charges and the Company’s proposed adjustment mechanism required by Section 6 of the Energy Transition Act are described in the testimony of PNM Witness Settlage.

29. PNM currently estimates that the Energy Transition Bonds will be issued in a single series with multiple tranches with varying maturities to attract a greater number of investors. PNM proposes and expects that the Energy Transition Bonds will be sold pursuant to a negotiated sale to investors, coordinated through one or more underwriters in a public offering registered with the Securities and Exchange Commission. PNM proposes to retain the flexibility

to determine at the time of issuance, consistent with its commitment to commercially reasonable efforts to achieve the lowest cost objective, whether to conduct a public offering or a Rule 144A private placement. The Company currently expects that the Energy Transition Bonds will be issued with a final scheduled maturity date of approximately 25 years from the date of issuance of the Energy Transition Bonds, and a final legal maturity date of approximately 28 years from the date of issuance, and with semiannual payments of principal and interest. The initial debt service payment may be scheduled to take place more than six months after issuance of the Energy Transition Bonds. The number, size and tenor of the series and tranches offered to investors will be determined by rating agency requirements and investor demand at the time of pricing, and as a result, the actual structures may differ. In no event will the final scheduled maturity date of the Energy Transition Bonds be more than 25 years from the date of issuance of the Energy Transition Bonds. A discussion of scheduled maturity dates and legal maturity dates is included in the testimony of PNM Witness Atkins.

30. The assets of the SPE, consisting primarily of the Energy Transition Property and the collection account established under the Indenture (the “Collection Account”), will be pledged as collateral to secure payment of the Energy Transition Bonds.

31. The Collection Account will be held by the indenture trustee and will facilitate the payment of principal of and interest on the Energy Transition Bonds and other ongoing financing costs associated with the Energy Transition Bonds. The Collection Account will consist of three or more subaccounts, including: (i) a general subaccount into which the Company as servicer will remit Energy Transition Charge collections on a regular basis; (ii) a capital subaccount to hold the initial equity capital contribution made by the Company to the SPE; and (iii) an excess funds subaccount to hold excess remittances and investment earnings on the Collection Account



not needed to pay the current Periodic Revenue Requirement (as defined below) so that such amounts can be available to make payments in future periods. Other forms of credit enhancement and other mechanisms (e.g., letters of credit, additional amounts of overcollateralization or reserve accounts, or surety bonds) to improve the credit quality and marketability of the Energy Transition Bonds may be used in furtherance of the lowest cost objective. The structure and operation of the Collection Account is described in more detail in the testimony of PNM Witness Atkins.

32. Each tranche of the Energy Transition Bonds will bear interest at a fixed rate.

33. The Company will enter into a servicing agreement with the SPE (the “Servicing Agreement”). Under the Servicing Agreement, the Company will be responsible for billing, monitoring, collecting and remitting the Energy Transition Charges. As compensation for its duties under the Servicing Agreement, PNM proposes to receive from the SPE a servicing fee equal to 0.05% per annum of the initial principal balance of the Energy Transition Bonds. This fee is based on current market rates in similar utility securitization transactions. As described in the testimony of PNM Witness Atkins, payment of a servicing fee that is consistent with market rates is necessary to maintain the essential bankruptcy-remote nature of the SPE.

34. The Company further proposes that the Company may not resign from its duties as servicer unless (i) the Company determines that performance of its duties as servicer is no longer permissible under applicable law, or (ii) the Company shall have received the consent of the Commission and that such action will not result in a suspension, reduction or withdrawal of the then current ratings on any of the Energy Transition Bonds. If the Company defaults on its duties as servicer or is required for any reason to discontinue those functions, then a successor servicer acceptable to the indenture trustee and, if required, the rating agencies, may be named to

replace the Company. In this event, the servicing fee paid to a successor servicer would likely need to be higher than the servicing fee paid to the Company. The Company has proposed that, in the event a successor servicer is appointed, the servicing fee be allowed to increase; provided that the Commission's consent would be required for any servicing fee in excess of 0.60% per annum on the initial principal balance of the Energy Transition Bonds.

***Description of Qualifying Facility***

35. Section 4(B)(1) of the Energy Transition Act requires that a qualifying utility's application for a financing order include a description of the facility that the qualifying utility proposes to abandon or for which abandonment authority was granted after December 31, 2018. The facility the Company proposes to abandon is the San Juan Generating Station, also referred to as the San Juan coal plant. The facility is further described above and in more detail in the testimony of PNM Witness Fallgren.

36. The San Juan coal plant is served by the San Juan Mine. The San Juan Mine only provides services to the coal plant. Plant abandonment also encompasses the associated mine reclamation.

***Estimate of Energy Transition Costs***

37. Section 4(B)(2) of the Energy Transition Act requires that a qualifying utility's application for a financing order include an estimate of Energy Transition Costs, defined in Section 2(H) as the sum of: (1) financing costs (as defined in the Energy Transition Act); (2) abandonment costs (as further described in Section 2(H)(2) of the Energy Transition Act)("Abandonment Costs"); (3) any other costs required to comply with changes in law enacted after January 1, 2019 incurred by the qualifying utility at the qualifying generating facility ("Change in Law Costs"); and (4) payments required pursuant to Section 16 of the Energy

Transition Act (the “Section 16 Payments”). Through the testimony of PNM Witnesses Monroy and Eden, PNM has provided an aggregate estimate of approximately \$360.1 million of Abandonment Costs, Upfront Financing Costs and Section 16 Payments. PNM has not identified any Change in Law Costs in this Consolidated Application. The estimated Upfront Financing Costs and Section 16 Payments are subject to change and will be updated at the time of issuance of the Energy Transition Bonds as provided in Section 4(B)(6) of the Act.

38. The Company proposes that the maximum principal amount of the Energy Transition Bonds to be issued pursuant to the Financing Order would be equal to the sum of (A) the \$331.6 million of estimated Abandonment Costs set forth in this Consolidated Application that are recoverable pursuant to Section 2(H)(2) of the Energy Transition Act; (B) Section 16 Payments (updated as of the time of issuance and provided to the Commission following issuance in accordance with Section 4(B)(6) of the Energy Transition Act); and (C) Upfront Financing Costs (updated as of the time of issuance and provided to the Commission following issuance in accordance with Section 4(B)(6) of the Energy Transition Act). If the Company identifies additional Abandonment Costs or any Change in Law Costs, the Company may seek an amendment to the Financing Order pursuant to Section 7(B)(2) of the Energy Transition Act to update the maximum principal amount of the Energy Transition Bonds that may be issued.

39. In addition to the Upfront Financing Costs, additional financing costs as defined in Section 2(K) of the Energy Transition Act will be incurred while the Energy Transition Bonds remain outstanding (the “Ongoing Financing Costs”). The Ongoing Financing Costs will be recovered through the Energy Transition Charges. The Ongoing Financing Costs will include payment of principal and interest on the Energy Transition Bonds (“Debt Service Payments”), and other fees and expenses incurred during the life of the Energy Transition Bonds to service

and support the Energy Transition Bonds (the “Other Ongoing Financing Costs”). The testimony of PNM Witness Atkins includes a proposed preliminary structure for the Energy Transition Bonds, including estimated Debt Service Payments. PNM Witness Eden’s testimony includes a schedule of estimated Other Ongoing Financing Costs. The estimated Ongoing Financing Costs are subject to change and will be updated at the time of bond issuance as provided by Section 4(B)(6). While the servicing fee, administration fee and return on capital contribution will be based upon fixed amounts upon bond issuance, other components of these costs will be subject to variation over the life of the Energy Transition Bonds.

***Estimated Energy Transition Charges and True-Up Adjustment Mechanism***

40. Section 4(B)(3) of the Energy Transition Act requires that a qualifying utility’s application for a financing order include an estimate of the amount of Energy Transition Charges necessary to recover the estimated Energy Transition Costs provided in a financing application and the proposed calculation of the estimated Energy Transition Charges, based on the estimated date of issuance and estimated principal amount of each series of energy transition bonds proposed to be issued. PNM estimates that the Energy Transition Charges for the initial full year (2023) following issuance of the Energy Transition Bonds will be approximately \$23 million. Through PNM Exhibit MJS-6, PNM has provided the estimated amount of Energy Transition Charges for the initial full year following issuance of the Energy Transition Bonds for each rate schedule.

41. A detailed discussion of the proposed calculation of the Energy Transition Charges is included in the testimony and related exhibits of PNM Witness Settlage. The Company’s proposed calculation of the Energy Transition Charges involves a multi-step process that begins with an estimate of the Energy Transition Charge collections that would be necessary

to pay on a timely basis all scheduled payments of principal and interest (or deposits to sinking funds in respect of principal and interest) and all Other Ongoing Financing Costs over a specified period of time (the period covered by such estimate, the “Remittance Period,” and the estimated revenue required for such period, the “Periodic Revenue Requirement”). In establishing the initial Energy Transition Charges, the Company will estimate the Periodic Revenue Requirement for a Remittance Period beginning on the date of issuance of the Energy Transition Bonds and ending on the first scheduled principal and interest payment date on the Energy Transition Bonds. The Periodic Revenue Requirement for any subsequent Remittance Period will be further adjusted through the true-up adjustment mechanism described below.

42. PNM will next determine the aggregate amount of Energy Transition Charges that must be assessed during a Remittance Period to collect the Periodic Revenue Requirement during the Remittance Period (the “Periodic Billing Requirement”). The Periodic Billing Requirement accounts for collection lag and uncollectible amounts. For each Remittance Period, PNM will estimate the timing of collections of Energy Transition Charges based on a weighted average balance of days outstanding on PNM’s customer bills. PNM also will estimate an uncollectible amount.

43. After determining the Periodic Billing Requirement, the next step in the Company’s proposed process of calculating the Energy Transition Charges involves allocating the Periodic Billing Requirement to the Company’s various customer classes and further sub-allocating the Periodic Billing Requirement based on PNM’s rate schedules within the customer classes. In accordance with the requirements of Sections 5(F)(3) and 6(A) of the Energy Transition Act, the Company’s proposed method of allocation will be consistent with the production cost allocation methodology authorized in the Company’s most recent general rate

case. PNM's proposed allocation methodology is described in the testimony and exhibits of PNM Witness Settlement.

44. The final step in the Company's proposed process of calculating the Energy Transition Charges involves determining the Energy Transition Charges for customers within each customer class and rate schedule based on the portion of the Periodic Billing Requirement allocated to each class. In accordance with the requirements of Sections 5(F)(3) and 6(A) of the Energy Transition Act, the Company's proposed process for calculating the initial Energy Transition Charges would assess the charges consistent with energy and demand cost allocations within each customer class. Given the differing characteristics of each customer class and rate schedule, differing methodologies will be used. A detailed description of the proposed methodology for each of the Company's customer classes and rate schedules is included in PNM Exhibit MJS-5.

45. In addition, Section 4(B)(4) of the Energy Transition Act requires that a qualifying utility's application for a financing order include a description of the proposed adjustment mechanism that complies with Section 6 of the Energy Transition Act.

46. Section 6(B) of the Energy Transition Act provides that the Commission shall periodically approve adjustments of energy transition charges pursuant to the adjustment mechanism approved in a financing order to correct for any over-collection or under-collection of the energy transition charge and to provide for timely payment of scheduled principal of and interest on energy transition bonds and the payment and recovery of financing costs in accordance with the financing order. Pursuant to Sections 6(B) and 6(C) of the Energy Transition Act, the qualifying utility shall file at least semiannually (and at least quarterly during the two-year period preceding the final maturity date of the energy transition bonds), or more

frequently as provided in the financing order: (1) a calculation estimating whether the existing energy transition charge is sufficient to provide for timely payment of scheduled principal of and interest on the energy transition bonds and the payment and recovery of other financing costs in accordance with the financing order or if either an over-collection or under-collection is projected; and (2) a calculation showing the adjustment to the energy transition charge to correct for any over-collection or under-collection of energy transition charges.

47. The Company's proposed adjustment mechanism (the "True-Up Adjustment Mechanism") is described in detail in the testimony and related exhibits of PNM Witness Settlage and in the proposed form of Financing Order attached as Attachment 3 to this Consolidated Application. The True-Up Adjustment Mechanism is a formula-based mechanism to periodically adjust the Energy Transition Charges to correct for any over-collection or under-collection of the Energy Transition Charges and to provide for timely payment of scheduled principal of and interest (or deposits to sinking funds in respect of principal and interest) on the Energy Transition Bonds and the payment of Other Ongoing Financing Costs. The True-Up Adjustment Mechanism will remain in effect until the Energy Transition Bonds and all financing costs have been fully paid and recovered, any under-collection is recovered from customers and any over-collection is returned to customers. In addition to the required semi-annual (and quarterly during the two-year period preceding the final maturity date of the Energy Transition Bonds) standard adjustments, the Company also proposed to be granted authority to make optional interim true-up adjustments at any time, without limits as to frequency, in order to ensure timely payment of scheduled principal of and interest (or deposits to sinking funds in respect of principal and interest) on the Energy Transition Bonds and the payment of Other Ongoing Financing Costs. In addition, the Company proposes to make a non-standard true-up

adjustment in connection with any general rate case, as necessary to reflect any changes to the allocation of the Energy Transition Charges as a result of changes in the production cost allocation methodology used in such general rate case.

***Securities Firm Memorandum***

48. Section 4(B)(5) of the Energy Transition Act requires that a qualifying utility's application for a financing order include a memorandum with supporting exhibits from a securities firm (the "Securities Firm Memorandum") indicating that the proposed issuance satisfies the current published "AAA" rating or equivalent criteria of at least one nationally recognized statistical rating organization for issuances similar to the proposed energy transition bonds. Under Section 4(B)(5) of the Energy Transition Act, the securities firm providing the Securities Firm Memorandum must be attested by the State Board of Finance as being experienced in the marketing of bonds and capable of providing the Securities Firm Memorandum.

49. On May 21, 2019, the State Board of Finance issued its written attestation of Guggenheim Securities, LLC as being experienced in the marketing of bonds and capable of providing the Securities Firm Memorandum. As required by Section 4(B)(5) of the Energy Transition Act, Guggenheim Securities, LLC has delivered its Securities Firm Memorandum, a copy of which is included with the testimony of PNM Witness Atkins as PNM Exhibit CNA-4.

***Commitments of the Company***

50. In accordance with Section 4(B)(6) of the Energy Transition Act, the Company commits to file with the Commission following the issuance of the Energy Transition Bonds (a) a description of the final structure and pricing of the Energy Transition Bonds, (b) the updated Upfront Financing Costs, Ongoing Financing Costs and Section 16 Payments, and (c) an updated



calculation of the Energy Transition Charges. This commitment of the Company is addressed in the testimony of PNM Witness Eden. In accordance with Section 5(J) of the Energy Transition Act, upon the issuance of the Energy Transition Bonds, the Company will file an advice notice with the Commission, subject to review by the Commission for errors and corrections, that identifies the actual Energy Transition Charges to be included on customers' bills, effective fifteen days from the date the advice notice is filed.

51. Section 4(B)(12) of the Energy Transition Act requires that a qualifying utility's application for a financing order include a statement from the qualifying utility committing that the qualifying utility will use its commercially reasonable efforts to obtain the "lowest cost objective" (as defined in Section 2(N) of the Energy Transition Act). Under Section 2(N) of the Energy Transition Act, the lowest cost objective means that the structuring, marketing and pricing of energy transition bonds results in the lowest energy transition charges consistent with prevailing market conditions at the time of pricing of energy transition bonds and the structure and terms of energy transition bonds approved pursuant to a financing order.

52. The Company commits that it will use commercially reasonable efforts to obtain the lowest cost objective. The Company's commitment is addressed in the testimony of PNM Witness Eden. As described by PNM Witness Eden, the Company believes that the Commission's approval of the Financing Order substantially in the form proposed in Attachment 3 of this Combined Application (and specifically including all of the key provisions identified in the testimony of PNM Witness Atkins) will best position the Company to achieve the lowest cost objective.

### ***Proposed Timing of Issuance and Term of the Energy Transition Bonds***

53. Section 4(B)(7) of the Energy Transition Act requires that a qualifying utility's application for a financing order include an estimate of timing of the issuance and term of the energy transition bonds, or series of bonds; provided that the scheduled final maturity for each bond issuance shall be no longer than twenty-five years.

54. As described in the testimony of PNM Witness Eden, the Company expects to cause the issuance of the Energy Transition Bonds as promptly as possible after the last of the following events have occurred: (1) issuance of a final, non-appealable financing order acceptable to the Company; (2) the abandonment of the San Juan coal plant; (3) delivery of any necessary Securities and Exchange Commission approvals under the Securities Act of 1933; and (4) completion of the rating agency process. The Company currently estimates the issuance of the Energy Transition Bonds would occur in 2022.

55. As described above, the latest scheduled maturity for any tranche of the Energy Transition Bonds will be not more than 25 years from the date of issuance of the bonds. The latest final legal maturity date for any tranche of the Energy Transition Bonds may be more than 25 years from the date of issuance of the Energy Transition Bonds.

### ***Assignee of the Energy Transition Property***

56. Section 4(B)(8) of the Energy Transition Act requires that a qualifying utility's application for a financing order include identification of plans to sell, assign, transfer or convey, other than as security, interest in energy transition property, including identification of an "assignee" (as defined in Section 2(C) of the Energy Transition Act), and demonstration that the assignee will be a financing entity wholly owned, directly or indirectly, by the qualifying utility

that will initially be capitalized by the qualifying utility in such a way that equity interests in the financing entity are at least one-half percent of the total capital of the assignee.

57. As discussed above, the Company will form the SPE, which will be a newly created Delaware limited liability company, with the Company as the sole member of the SPE. As discussed above, the limited purposes of the SPE will be to issue energy transition bonds, to pay the net proceeds of such issuance to the Company to purchase energy transition property created by a financing order, and to perform other activities related thereto, and the equity interests in the SPE will be at least 0.5% of the total capital of the SPE. PNM's plans to sell the Energy Transition Property to the SPE as assignee are described above.

#### ***Potential Ancillary Agreements***

58. Section 4(B)(9) of the Energy Transition Act requires that a qualifying utility's application for a financing order include identification of "ancillary agreements" (as defined in the Energy Transition Act) that may be necessary or appropriate. Pursuant to Section 2(B) of the Energy Transition Act, an ancillary agreement means a bond, insurance policy, letter of credit, reserve account, surety bond, interest rate lock or swap arrangement, hedging arrangement, liquidity or credit support arrangement or other similar agreement arrangement entered into in connection with the issuance of the energy transition bonds that is designed to promote the credit quality and marketability of the bonds or to mitigate the risk of an increase in interest rates.

59. Based on the testimony of PNM Witness Atkins, the Company does not anticipate requiring any credit enhancements to issue the Energy Transition Bonds (other than the 0.5% capital subaccount and True-Up Adjustment Mechanism). However, as described in the testimony of PNM Witness Atkins, it is important that PNM has flexibility to enter into ancillary agreements to include other forms of credit enhancement and other mechanisms (e.g., letters of

credit, additional amounts of overcollateralization or reserve accounts, or surety bonds) to improve the marketability of the Energy Transition Bonds in furtherance of the lowest cost objective.

***Proposed Ratemaking Matters***

60. As required by Section 4(B)(10) of the Energy Transition Act, a description of PNM's proposed ratemaking process to reconcile and recover or refund any difference between the Energy Transition Costs financed by the Energy Transition Bonds and the actual final Energy Transition Costs incurred by PNM is included in the testimony of PNM Witness Monroy.

61. As required by Section 4(B)(11) of the Energy Transition Act, PNM's proposed ratemaking method to account for the reduction in the qualifying utility's cost of service associated with the amount of undepreciated investments being recovered by the energy transition charge at the time that charge becomes effective is included in the testimony of PNM Witness Monroy.

***Proposed New Resources***

62. Section 4(C) of the Energy Transition Act provides that an application for a financing order may include requests for approvals for new resources necessitated by the abandonment of a qualifying generating facility. In accordance with Sections 3 and 4(C) of the Energy Transition Act, this Consolidated Application includes requests for approvals for new resources to replace the abandoned San Juan coal plant.

***Draft Transaction Documents***

63. PNM has submitted drafts of the following agreements: (1) a limited liability company operating agreement (the "SPE LLC Agreement"), between the SPE and PNM; (2) the Indenture; (3) the Purchase Agreement; (4) the Servicing Agreement; and (5) an administration

agreement (the “Administration Agreement” and, together with the SPE LLC Agreement, the Indenture, the Purchase Agreement and the Servicing Agreement, the “Transaction Documents.”). PNM has provided drafts of the Transaction Documents to allow the Commission to evaluate the principal rights and responsibilities of the parties thereto. The final versions of these agreements, however, will be subject to change based on input from the rating agencies, investors and other parties involved in the marketing and structuring of the energy transition bonds. PNM has requested that the Commission approve the substance of the Transaction Documents, which would be executed substantially in the form submitted to the Commission, subject to such changes as are legally appropriate and necessary to satisfy bankruptcy or rating agency considerations or that otherwise are consistent with the provisions of the Financing Order.

***Required Provisions for Issuance of a Financing Order***

64. Pursuant to Section 5(E) of the Energy Transition Act, the Commission shall issue the Financing Order as a stand-alone order approving the financing application if the Commission finds that the financing portions of this Application comply with the requirements of Section 4 of the Energy Transition Act. The Commission also must include in the Financing Order authorizing the Securitization the items required by Section 5 of the Energy Transition Act.

65. The Company has included as Attachment 3 to this Financing Application the proposed form of Financing Order containing detailed Findings of Fact, Conclusions of Law and Ordering Paragraphs addressing matters relating to the Securitization. These provisions of the proposed Financing Order reflect the level of detail and scope that will be expected by investors and the rating agencies. These detailed findings and conclusions maximize the stability of the

cash flows in the Securitization and provide the basis for the legal opinions upon which the rating agencies will rely in assigning the highest possible ratings for the Energy Transition Bonds. The combination of maximized cash flow stability and the highest possible ratings will allow the Energy Transition Bonds to be structured and priced to meet the statutory requirements. Accordingly, the Company requests that the Commission issue the Financing Order for the Energy Transition Bonds in substantially the form of the proposed Financing Order attached as Attachment 3 to this Consolidated Application.

#### **IV. NOTICE AND PROCEDURAL REQUIREMENTS**

66. PNM's proposed form of Notice is attached to the Application as Attachment 2. As required by the Energy Transition Act, its proposed Form of Financing Order is attached to the Application as Attachment 3. PNM will publish the approved Notice as may be issued by the Commission in the manner so directed.

67. PNM has served a copy of this Application and supporting pre-filed direct testimony on the New Mexico Attorney General, the Commission's Utility Division Staff, and parties to Case Nos. 13-00390-UT and 17-00174-UT.

68. The following designated corporate representatives and legal counsel for PNM should receive all notices, discovery requests, objections and responses, briefs, and all other documents related to this case:

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69. The following witnesses provide testimonies and exhibits in support of the Consolidated Application. The testimonies and exhibits are incorporated by reference herein. The application elements that they support are outlined in Attachment 1.

- a. Ron Darnell, PNM Senior Vice President of Public Policy
- b. Thomas Fallgren, PNM Vice President of Generation
- c. William Kemp, Enovation Partners, LLC
- d. Nicholas Phillips, PNM Director of Integrated Resource Planning
- e. Roger W. Nagel, Vice President, HDR Engineering Inc.
- f. Nick Wintermantel, Principal Consultant and Partner, Astrapé
- g. Gary W. Dorris, Chief Executive Officer, Ascend Analytics, LLC
- h. Jeff R. Mechenbier, PNM Director of Transmission/Distribution Planning
- i. Henry Monroy, PNMR Services Controller, Utility Operations
- j. Michael Settlage, PNMR Services Lead Pricing Analyst
- k. Elisabeth Eden, PNMR Services Vice President, Human Resources
- l. Charles Atkins, Senior Advisor, Guggenheim Securities, LLC
- m. Mark Fenton, PNM Executive Director of Regulatory Policy & Case Management

**WHEREFORE**, PNM respectfully requests that the Commission issue notice of this proceeding, conduct all necessary hearings in accordance with the statutory deadlines contained in the Energy Transition Act, and issue a stand-alone Financing Order and related Final Order that expressly include the Findings and Conclusions set forth in PNM's form of Financing Order included in Attachment 3 and incorporated herein, and the requests for abandonment and new replacement resource approvals. PNM requests that the Commission approve the Consolidated Application after review in a single proceeding and among other things determine that:

A) PNM should be authorized to engage in ongoing activities related to the shutdown of the San Juan coal plant, the decommissioning of the plant site, and mining reclamation.

B) It will be more economic for customers if PNM shuts down the San Juan coal plant rather than continues operating the plant until a later retirement with a longer operable life period for the plant.

C) The public convenience and necessity do not require the continued operation of the San Juan coal plant for customers after June 30, 2022 and the San Juan coal plant should be retired and abandoned when current contracts expire on June 30, 2022. It is in the public interest for PNM to abandon its interests in and the operation of the San Juan coal plant effective on or around July 1, 2022 and PNM should be authorized to take steps to abandon the coal plant and thereafter expend funds for the purposes of plant decommissioning and mine reclamation.

D) It is in the public interest to grant PNM's request to establish regulatory assets, with carrying charges, to support the advancement of funds associated with severance and job training and state administered programs for affected communities; undepreciated investments; coal mine reclamation and plant decommissioning and stranded inventories to be amortized over a reasonable period of time established in PNM's next general rate case.



E) It is further in the public interest to authorize PNM to establish regulatory assets and liabilities to address differences between amounts financed by the energy transition bonds and final actual energy transition costs through either a regulatory asset (if the actual final energy transition costs are greater than the estimated energy transition costs) or a regulatory liability (if the actual final energy transition costs are less than the estimated energy transition costs) for recovery/(crediting) to be amortized over a reasonable period established in PNM's next general rate case.

F) PNM's request to for regulatory approval of the executed long-term PPAs for the 50 MW Jicarilla Solar facility combined with a 20 MW battery storage facility on Jicarilla Apache tribal lands, and the 300 MW Arroyo Solar facility combined with a 40 MW battery storage facility in McKinley County is in the public interest and should be granted, in accordance with the terms of the PPA Rule. PNM's requested rate recovery of the costs of these long-term contracts should be approved.

G) PNM's request to own and operate the Sandia and Zamora energy storage facilities is in the public interest and CCNs for such plant and facilities should be issued by the Commission. PNM proposal for rate recovery for the estimated capital investments of \$48.9 million for the Sandia facilities and \$39.0 million for the Zamora facilities should be approved, subject to Commission review and approval in a future general rate case.

H) PNM's request to construct, own and operate natural gas-fired generation is in the public interest and a CCN for the Pinon Gas Plant and facilities should be issued by the Commission. PNM should be permitted to recover the certificated estimated capital investment of \$190.9 million for the Pinon Gas Plant and related costs in a future general rate case, subject to Commission review and approval in such proceeding.


I) PNM's request for issuance of a Financing Order that meets the provisions of Sections 4 through 7, 9, and 17 through 19 of the Energy Transition Act is in the public interest and should be approved and separately issued as a stand-alone order, and such order shall contain the necessary detailed findings and conclusions set forth in PNM's proposed form of Financing Order.

J) PNM should be granted any other such authorizations necessary to implement the proposed actions in accordance with the requirements of the Public Utility Act, the Energy Transition Act, and applicable Commission rules.

K) Further, to the extent the signatories have agreed, and the Commission has determined it will comply with PNM's obligation under Paragraph 40 of the Modified Stipulation, PNM should be granted any necessary or appropriate approvals and authorizations associated with its proposal for a 20 MW solar facility located at the San Juan coal plant site in Waterflow, New Mexico. If approved, PNM should be permitted to recover the costs of this proposal through a general rate case.

Respectfully submitted this 1<sup>st</sup> day of July 2019.

**PUBLIC SERVICE COMPANY OF NEW MEXICO**

  
\_\_\_\_\_  
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GCG#525657

## Consolidated Application Attachment 1--Witness List and Areas of Testimony

Witness	Area of Testimony
	<b>POLICY</b>
<p>Ron Darnell Senior Vice President, PNM Public Policy</p>	<ul style="list-style-type: none"> <li>Filing Overview</li> <li>Community Impact</li> </ul>
	<b>RESOURCES</b>
<p>Thomas G. Fallgren Vice President, PNM Generation</p>	<ul style="list-style-type: none"> <li>Background of the San Juan Coal Plant</li> <li>Abandonment Considerations</li> <li>Replacement Resource Selection Process</li> <li>Replacement Resource Scenarios (1-4)</li> <li>Requested CCN Approvals</li> <li>Requested Purchase Power Agreement Approvals</li> <li>Additional Proposal for Case No. 13-00390-UT Solar Credits</li> </ul>
<p>Roger Nagel Vice President for the HDR Engineering Inc.</p>	<ul style="list-style-type: none"> <li>Overview of RFP Process</li> <li>HDR's Role in PNM's RFP Process</li> <li>Determination of Best in Class</li> <li>Bidder Negotiations</li> <li>Independent Opinion on RFP Process, Best in Class, Negotiation process</li> </ul>
<p>William Kemp Enovation Partners</p>	<ul style="list-style-type: none"> <li>History of Battery Technology</li> <li>Current Battery Technology and Operational Challenges</li> <li>Optimization of Battery Installation Sizes</li> <li>Benefits of Battery Ownership</li> <li>Independent Recommendations on Battery Size/Location</li> </ul>
<p>Nicholas Phillips Director, Planning and Resources for PNM</p>	<ul style="list-style-type: none"> <li>San Juan Coal Plant Past Analyses: IRPs and Updates</li> <li>Current Resource Planning Analysis with and without San Juan Coal Plant</li> <li>Summary of PNM Modeling and Scenario Assessments</li> <li>Economic Impact Study: PNM Service Areas</li> </ul>
<p>Nick Wintermantel Principal Consultant and Partner, Astrapé Consulting</p>	<ul style="list-style-type: none"> <li>Astrapé Evaluation Process and Results</li> <li>Astrapé Evaluation Report</li> <li>Independent Opinion on Resource Scenarios</li> </ul>
<p>Gary W. Dorris Chief Executive Officer, Ascend Analytics, LLC</p>	<ul style="list-style-type: none"> <li>Analysis of Resource Reliability and Economics</li> <li>Economic Evaluation of Replacement Scenarios Using PowerSimm</li> <li>Independent Opinion on Effective Battery Utilization</li> </ul>

## Consolidated Application Attachment 1--Witness List and Areas of Testimony

Witness	Area of Testimony
	<b>TRANSMISSION</b>
<p>Jeff R. Mechenbier Director of PNM Transmission and Distribution Planning</p>	<ul style="list-style-type: none"> <li>• PNM Transmission System and Constraints</li> <li>• Review of Bidder Transmission Inputs</li> <li>• Summary of Transmission Costs for Selected Resources</li> </ul>
	<b>COST OF SERVICE</b>
<p>Henry E. Monroy Controller, PNM Utility Operations</p>	<ul style="list-style-type: none"> <li>• Reduction in Revenue Requirement from Abandonment</li> <li>• Quantification and Recovery of ETA-defined costs and charges related to issuance of Energy Transition Bonds</li> <li>• Ratemaking Adjustments and Mechanisms</li> <li>• Establishment of Regulatory Assets and Liabilities</li> <li>• Revenue Requirements for Proposed Retirement and Replacement Scenarios versus San Juan Continues</li> </ul>
	<b>RATE DESIGN</b>
<p>Michael Settlege PNM Lead Pricing Analyst</p>	<ul style="list-style-type: none"> <li>• ETA Non-bypassable Charge</li> <li>• ETA Rider Methodology</li> <li>• ETA Reconciliation Adjustment Process</li> <li>• ETA Charge Examples</li> <li>• Bill Impacts for Replacement Scenarios versus San Juan Continues</li> </ul>
	<b>FINANCING</b>
<p>Elisabeth A. Eden PNM Vice President of Human Resources, former PNM Treasurer</p>	<ul style="list-style-type: none"> <li>• Background on Financing Application</li> <li>• Securitization Transaction</li> <li>• Overview of Estimated Financing Costs</li> <li>• PNM's Commitment to Use Reasonable Efforts to Obtain the Lowest Cost Objective</li> </ul>
<p>Charles N. Atkins II Senior Advisor at Guggenheim Securities, LLC</p>	<ul style="list-style-type: none"> <li>• Background on Utility Securitization</li> <li>• Preliminary Energy Transition Bond Structure</li> <li>• Required Key Components of Financing Order and Servicing Agreement</li> <li>• Securities Firm Memorandum</li> </ul>
	<b>COMPLIANCE</b>
<p>Mark Fenton Executive Director, PNM Regulatory Planning and Policy</p>	<ul style="list-style-type: none"> <li>• Abandonment Regulatory Framework</li> <li>• Replacement Resources Regulatory Framework</li> <li>• Financing Regulatory Framework</li> </ul>

## Consolidated Application Attachment 1: Topical References to Testimony

APPROVAL REQUEST	TOPIC	PRINCIPAL TESTIMONY
Abandonment	NMSA 1978, §§ 62-9-5 and 62-6-12(A)(4), NMAC 17.7.3.6  SJGS abandonment is in present and future public convenience and necessity considering impact of proposed abandonment on all consumers served in the state, directly or indirectly, by SJGS.	Darnell, Fallgren, Phillips, Monroy, Settlage, Fenton
Abandonment	Satisfaction of <i>Commuter's</i> Test Elements for Abandonment: facility proposed for retirement is not economic, adequate replacements are available and a net benefit to the public served by the utility results from retirement and replacement,  ( <i>Commuters' Committee v. Pennsylvania Pub. Util. Comm'n</i> , 88 A.2d 420, 424 (Pa. Super. Ct. 1952)).	Darnell, Fallgren, Phillips, Monroy, Settlage, Fenton
Abandonment	Impacts on Cost of Service and Revenue Requirements	Phillips, Monroy, Wintermantel, Dorris
Abandonment	Customer Bill Impact	Settlage
Abandonment	Reduction in Financing Costs	Atkins, Eden, Monroy
Abandonment	Comparative Reliability Benefits	Fallgren, Phillips, Kemp
Abandonment	Accounting and Ratemaking Credit for Removal of San Juan Coal Plant	Monroy,
Replacement	NMSA 1978 § 62-9-1 (as amended by SB 489) Adequate Replacement Resources satisfying NMPRC PPA approval and certificate of need requirements	Darnell, Fallgren, Phillips, Monroy, Fenton
Replacement	Competitive procurement of adequate replacement resources	Fenton, Phillips, Fallgren, Nagel, Mechenbier, Wintermantel and Dorris
Replacement	Reliability of replacement portfolio	Fallgren, Kemp, Mechenbier, Phillips, Nagel, Dorris, Wintermantel
Replacement	Rule 551 PPA approvals for Arroyo Solar Project (300 MW) Arroyo Solar Project Storage (40 MW); Jicarilla 1Solar Project (50 MW); Jicarilla Storage Project (20 MW)	Fallgren, Fenton, Monroy, Mechenbier
Replacement	CCN and ETA rate treatment approvals for Sandia Storage Project (40 MW), Zamora Storage Project (30 MW), Pinion Gas Plant (280 MW)	Fallgren, Monroy, Fenton
Replacement	Request for consideration of additional 20 MW solar at San Juan Generating Site	Fallgren
Replacement	ETA Storage conditions	Fallgren, Phillips, Fenton
Replacement	ETA hiring and local tax requirements	Darnell

## Consolidated Application Attachment 1: Topical References to Testimony

APPROVAL REQUEST	TOPIC	PRINCIPAL TESTIMONY
Abandonment/ Replacement	Proposed SJGS retirement and replacement portfolio satisfies ETA environmental requirements	Darnell, Fallgren
Financing	Financing Order consolidated with replacement resource approvals	Darnell, Fallgren, Fenton, Monroy, Phillips, Eden, Atkins, Settlage
Financing	Calculation of Energy Transition Costs	Monroy
Financing	Coal Mine Reclamation Expense	Monroy
Financing	Decommissioning Expense	Monroy
Financing	Job Training and Severance	Darnell, Monroy
Financing	Energy Transition Cost and Charges Estimates	Monroy, Settlage
Financing	Description of Adjustment Mechanism	Settlage
Financing	Attestation Memorandum from Securities Firm	Atkins, PNM Exhibit CNA-4
Financing	Commitment to file a description of the final structure and pricing of financing	Eden
Financing	Commitment to file updated financing costs and payment amount required pursuant to Section 16 of the Energy Transition Act	Eden
Financing	Commitment to file an updated calculation of the energy transition charges	Eden
Financing	Estimate of timing of issuances	Eden
Financing	Ancillary Agreements	Atkins
Financing	Accounting and ratemaking to reconcile and recover or refund differences between financed energy transition costs and actual energy transition costs	Monroy
Financing	Proposed ratemaking treatment to account for the reduction in cost of service through recovery of undepreciated investment through the energy transition charge	Monroy
Financing	Lowest Cost Objective	Darnell, Eden, Monroy, Atkins
Financing	Adequacy of New Resources	Darnell, Fallgren, Fenton, Nagel, Phillips
Financing	Compliance with Financing Order Requirements	Darnell, Fenton, Atkins, Eden, Monroy, Settlage, Fallgren, Phillips
Financing	Non-bypassable charge development and adjustment mechanism	Settlage, Monroy
Financing	Transfers to State Treasury Indian Affairs Fund, Energy Transition Economic Development Assistance Fund and Energy Transition Displaced	Darnell, Monroy, Eden

GCG#525659

**BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION**

**IN THE MATTER OF PUBLIC SERVICE )**  
**COMPANY OF NEW MEXICO'S )**  
**CONSOLIDATED APPLICATION FOR )**  
**APPROVALS FOR THE ABANDONMENT, ) 19-\_\_\_\_-UT**  
**FINANCING, AND RESOURCE REPLACEMENT )**  
**FOR SAN JUAN GENERATING STATION )**  
**PURSUANT TO THE ENERGY TRANSITION ACT )**

**PROPOSED FORM OF NOTICE**

**NOTICE** is hereby given of the following matters pertaining to the above captioned case pending before the New Mexico Public Regulation Commission (“NMPRC” or “Commission”):

On July 1, 2019, Public Service Company of New Mexico filed its Consolidated Application for the Abandonment, Financing and Replacement of the San Juan Generating Station Pursuant to the Energy Transition Act, requesting the following approvals from the Commission:

(1) abandonment of the San Juan Generating Station (“SJGS”), including (a) abandonment of the SJGS plant and facilities located at Waterflow, New Mexico, (b) decommissioning of the SJGS plant and facilities and reclamation of the coal mine that provides fuel for SJGS, and (c) recovery of abandonment costs and related energy transition costs as defined in the Energy Transition Act (“ETA”) of approximately \$360.1 million;

(2) new generating resources to replace the retired 497 MW of capacity and energy produced by PNM’s share of SJGS, including (a) twenty-year purchased power agreements (“PPAs”) for the output from a 50 MW solar facility located on Jicarilla Apache tribal lands combined with a 20 MW battery storage agreement, and for the output from a 300 MW solar facility located in McKinley County combined with a 40 MW battery storage agreement, and (b) issuance of certificates of public convenience and necessity (“CCN”) for 40 MW and 30 MW

utility-owned energy storage systems, located at two sites in Bernalillo County and 280 MW of utility-owned natural gas-fired generating units, located in Waterflow, New Mexico at the SJGS site; and

(3) a financing order under the ETA approving the issuance of highly-rated Energy Transition Bonds in the principal amount of approximately \$361 million secured by a non-bypassable customer charge that will provide for recovery of: a) PNM's undepreciated investments totaling \$283.0 million; b) costs for job training and severance for employees at SJGS and the coal mine in the amount of \$20.0 million; c) decommissioning and reclamation costs of \$28.6 million; d) transactional costs associated with issuing energy transition bonds and obtaining approval of abandonment of \$8.7 million; e) the Energy Transition Indian Affairs Fund to be administered by the Indian Affairs Department, in the amount of \$1.8 million; f) the Energy Transition Economic Development Assistance Fund to be administered by the Economic Development Department, in the amount of \$5.9 million; and g) the Energy Transition Displaced Worker Assistance Fund, to be administered by the Workforce Solutions Department, in the amount of \$12.1 million.

PNM requests that the Commission issue these approvals within six months of PNM filing its Application, to be extended for up to three months should the Commission find good cause, as required by Section 5(A) of the ETA.

In addition to the approvals for new resources to replace SJGS, PNM also requests that consideration be given to a proposal for a PNM-owned 20 MW solar facility to be installed at the SJGS site as a means to fulfill PNM's obligation under Paragraph 40 of the Modified Stipulation approved in Case No. 13-00390-UT.



PNM is not requesting adjustment to its general base rates in its Application, but states that if the Application is approved, customers will be assessed an Energy Transition Charge on their bills after issuance of the Energy Transition Bonds. This non-bypassable charge will be filed and implemented through an Advice Notice filing at the time the bonds are issued. PNM also states that customers will receive a credit in the form of a regulatory liability in a future rate case for SJGS related costs collected in base rates after the Energy Transition Charge takes effect. PNM requests that the costs of the replacement resource be recovered through the Fuel and Purchased Power Cost Adjustment Clause and placed in rates in a future rate case.

PNM estimates the net bill impact of these charges and credits will be a savings of \$5.93 for a residential customer using an average of 600 kWh per month in 2023, the first full year PNM expects the resources in PNM's recommended replacement resource portfolio will be in service. PNM further states that failure to approve SJGS abandonment will result in larger bill increases in the future because the costs of continuing to rely on SJGS exceed the costs of abandoning SJGS and replacing its capacity with a mix of new resources.

In support of its Application, PNM presented the testimonies of 13 witnesses.

The following is a summary of PNM's assertions and testimony filed in support of the Application:

(1) PNM filed its Consolidated Application under the ETA, which charts a new energy policy course for the state and provides a framework to address the challenges that come from aging coal-fired generation facilities like SJGS, and to meet ambitious targets for renewable energy and zero carbon resources. The ETA mandates new January 1, 2023 emission restrictions that confirm the need to retire SJGS. The ETA also provides the Commission with tools to address the SJGS plant and mine closure impact on workers and the local economy in the Four

Corners region, through issuance of Energy Transition Bonds. PNM requests approval of ETA authorized securitized financing, which dedicates a portion of the energy transition bond proceeds for those purposes.

(2) PNM has consolidated its requests for approvals – abandonment of SJGS, replacement resources, and issuance of a financing order – in a consolidated filing so that each request can be assessed as part of the whole picture.

(3) Abandonment of SJGS will result in a net benefit to customers. PNM’s analyses demonstrate that it is financially more costly for customers to continue to operate SJGS beyond the current operational period, through June 30, 2022, when the plant’s current coal supply and operating agreements expire. The abandonment of SJGS also will be necessary in order for PNM to meet the Renewable Energy Act’s renewable energy portfolio standards, as amended by Section 29 of the ETA, and meet the environmental standards of performance for SJGS contained in Section 36 of the ETA.

(4) PNM’s recommended portfolio of replacement resources, Scenario 1, is consistent with the resource selection criteria in the ETA and protects system reliability so that adding cutting edge energy storage technology will not compromise service to PNM’s customers. In addition to the Scenario 1 portfolio, PNM has presented alternative scenarios, including a reliable combination of resources that preserves as much as possible the tax base for the school district that will be affected by the closure of SJGS, although it is a more costly option for PNM’s customers.

(5) Scenario 1 meets all requirements of the Public Utility Act and ETA. PNM conducted a competitive “all resources” Request for Proposals process to select replacement resources to provide ongoing utility service to customers.

(6) In addition to its proposed replacement portfolio, PNM seeks consideration of an additional 20 MW of solar facilities to be located at the SJGS plant site pursuant to Paragraph 40 of the Modified Stipulation approved in Case No. 13-00390-UT. Paragraph 40 requires that PNM buy solar or wind credits or allowances for its customers to offset up to 197 MW of production from SJGS Unit 4, between January 1, 2020 and the plant's shut down, at a cost to customers of up to \$7 million per year, or \$17.5 million in total. PNM proposes that this amount be increased to \$24 million for the solar facility, to be included in PNM's rate base, so that customers can benefit from long-term renewable energy production that offsets system fuel costs, rather than purchasing short-term renewable energy certificates over a two-and-a-half-year period.

(7) PNM is a "qualifying utility" under Section 2(T) of the ETA and therefore is authorized pursuant to Section 4(A) of the ETA to file a financing application for issuance of a financing order under Section 5 of the ETA in its Application. PNM will recover its ETA-defined energy transition costs through the securitization financing defined in the ETA. The proposed Securitization allows for the recovery of costs relating to the abandonment of SJGS at substantially lower customer impacts than would be required through traditional ratemaking methods.

(8) As part of the approval for securitized financing, PNM also asks the Commission to determine that the Application contains all information required by Section 4 of the ETA and to approve in its financing order the issuance of \$361 million in securitized bonds in the manner set forth in PNM's Consolidated Application and subject to the requirements for financing orders in the ETA.

(9) Proceeds of the sale of the Energy Transition Bonds will be used to finance payment of certain abandonment costs pursuant to the ETA, including providing severance and job training for employees losing their jobs as a result of the closure of SJGS, and will be used for utility purposes, including expenditures authorized by the ETA. The non-bypassable Energy Transition Charge will be reset periodically. PNM estimates the first year revenue requirement to be recovered through the non-bypassable charge to be \$22.8 million, which will be allocated to rate classes consistent with the production cost allocation methodology authorized in the Company's most recent general rate case:

1 – Residential	\$12,548,110
2 – Small Power	\$2,663,608
3B – General Power	\$3,551,930
3C – General Power Low LF	\$499,530
4B- Large Power	\$2,086,259
5B – Lg. Svc. (8 MW)	\$109,421
10 – Irrigation	\$73,500
11B – Wtr/Swg Pumping	\$184,286
15B – Universities 115 kV	\$113,715
30B – Manuf. (30 MW)	\$602,487
33B – Lg. Svc. (Station Power)	\$4,899
35B – Lg. Svc. (3 MW)	\$342,024
36B – SSR – Renew. Energy Res.	\$42,253
6 – Private Lighting	\$11,973
20 – Streetlighting	\$34,668

PNM proposes to assess the charges to customers within each rate class consistent with energy and demand cost allocations within the class. PNM estimates that the initial Energy Transition Charge for residential customers that consume 900 kWh of power per month or less will be \$1.90/month, and will be \$4.97/month for residential customers that consume more than 900 kWh per month. For small power customers, PNM estimates that the initial Energy Transition Charge will be \$4.15/month. PNM presents these revenue requirements and bill impacts for

informational purposes only; the final revenue requirements and Energy Transition Charges may vary from the amounts included in PNM's Application.

Further information regarding this case can be obtained by contacting PNM or the Commission at the addresses and telephone numbers provided below. The Commission has assigned Case No. 19-\_\_\_\_\_-UT to this proceeding and all inquiries or written comments concerning this matter should refer to that case number.

The present procedural schedule for this case is as follows:

a. On or before \_\_\_\_\_, 2019, any person desiring to intervene to become a party ("intervenor") in this case must file a motion for leave to intervene in conformity with NMPRC Rules of Procedure 1.2.2.23(A) and (B) NMAC. Persons who wish to provide comments on this case without becoming a party may do so without filing a motion to intervene.

b. On or before \_\_\_\_\_, 2019, Staff shall, and Intervenors may, file Direct Testimony.

c. Rebuttal testimony may be filed on or before \_\_\_\_\_, 2019.

d. A public hearing on this matter shall be held beginning on \_\_\_\_\_, commencing at 9:30 a.m. MT at the offices of the Commission, P.E.R.A. Building, 1120 Paseo de Peralta, Santa Fe, New Mexico, and continuing thereafter until concluded.

The procedural dates and requirements of this case are subject to further order of the Commission or Hearing Examiner. Interested persons should contact the Commission for confirmation of the hearing date, time, and place since hearings are occasionally rescheduled.

Any interested person may examine PNM's Application and all other pleadings, testimony, exhibits and other documents filed in the public record for this case at the offices of PNM at the following address: Public Service Company of New Mexico, 414 Silver Ave. SW,

Albuquerque, New Mexico 87102, telephone (505) 241-2700, with the Commission, P.E.R.A. Building, 1120 Paseo de Peralta, Santa Fe, New Mexico, 87501, telephone (888) 427-5772 or at “Case Lookup Edocket” on the Commission’s website at [www.nmprc.state.nm.us](http://www.nmprc.state.nm.us).

The Commission’s Rules of Procedure (1.2.2.1 NMAC) shall apply to this proceeding except as modified by order of the Commission or Hearing Examiner. A copy of the rules may be obtained from the offices of the Commission or at <http://164.64.110.134/parts/title01/01.002.0002.html>.

Anyone filing pleadings, documents or testimony in this case may file either in person at the Commission’s docketing office in the P.E.R.A. Building in Santa Fe, New Mexico, or by mail to the Commission’s address at P.O. Box 1269, Santa Fe, New Mexico 87504-1269, and shall serve a copy on all parties of record and Staff in the manner specified on the most recent Certificate of Service for this case. All filings shall be e-mailed on the date they are filed with the Commission. Any such filings shall also be e-mailed to the Hearing Examiner at \_\_\_\_\_. All documents emailed to the Hearing Examiner shall include Word files if created in that format.

Any person whose testimony has been pre-filed shall attend the hearing and submit to examination under oath.

Any interested person may appear at the time of hearing and make a written or oral comment pursuant to 1.2.2.23(F) NMAC without becoming an intervenor.

Interested persons may also send written comments, which shall reference NMPRC Case No. 19-\_\_\_\_\_-UT, to the Commission at the mailing address set out below. Such comments will not be considered as evidence in this proceeding.

All documents mailed to the Commission and its personnel shall be mailed to:

New Mexico Public Regulation Commission, P.E.R.A. Building, P.O. Box 1269, Santa Fe, New Mexico, 87504-1269. The following physical address of the Commission shall be used only for special or hand deliveries: 1120 Paseo de Peralta, Santa Fe, NM 87501.

Additional details regarding this proceeding and its procedural requirements are set forth in the Hearing Examiner's \_\_\_\_\_, 2019 Procedural Order.

**ANY PERSON WITH A DISABILITY REQUIRING SPECIAL ASSISTANCE IN ORDER TO PARTICIPATE IN THIS PROCEEDING SHOULD CONTACT THE COMMISSION AT LEAST 24 HOURS PRIOR TO THE COMMENCEMENT OF THE HEARING.**

**Issued at Santa Fe, New Mexico, on \_\_\_\_\_, 2019.**

**NEW MEXICO PUBLIC REGULATION COMMISSION**

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**Hearing Examiner**

*GCG#525662*

PROPOSED FORM OF FINANCING ORDER

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

IN THE MATTER OF PUBLIC SERVICE )  
COMPANY OF NEW MEXICO'S )  
CONSOLIDATED APPLICATION FOR )  
APPROVALS FOR THE ABANDONMENT, ) 19-\_\_\_\_-UT  
FINANCING, AND RESOURCE REPLACEMENT )  
FOR SAN JUAN GENERATING STATION )  
PURSUANT TO THE ENERGY TRANSITION ACT )

FINANCING ORDER

**THIS MATTER** comes before the New Mexico Public Regulation Commission (“Commission”) upon the Recommended Decision issued \_\_\_\_\_ (“RD”) by Hearing Examiner \_\_\_\_\_. Having considered the RD and the record in this case, and being fully informed in the premises, the Commission issues the following as its Finance Order in this case. **THE COMMISSION FINDS AND CONCLUDES:**

The Statement of the Case contained in the RD fully sets out the history of this case up to the time of its issuance and is incorporated herein by reference. [No exceptions were filed to the Hearing Examiner’s recommendation to adopt the Proposed Form of Financing Order filed by Public Service Company of New Mexico (“PNM” or the “Company”) as Attachment 3 to its Consolidated Application and attached to the RD as Exhibit \_\_\_\_\_.] The recommended Financing Order attached to the RD as Exhibit \_\_\_\_ is ADOPTED, APPROVED, and ACCEPTED as a Finding and Conclusion of the Commission.



## **I. BACKGROUND AND SUMMARY**

### ***History***

On July 1, 2019, PNM filed its *Consolidated Application for the Abandonment, Financing and Replacement of the San Juan Generating Station Pursuant to the Energy Transition Act* (“Consolidated Application”). The Consolidated Application incorporated supporting testimony of witnesses on behalf of PNM (the “Supporting Testimony”).

PNM filed the Consolidated Application pursuant to the provisions of the Energy Transition Act (the “ETA”), which became effective on June 14, 2019. Among other things, the ETA authorizes qualifying utilities that abandon certain generating facilities to issue bonds pursuant to a financing order issued by the Commission. Through the Consolidated Application, PNM requested (1) approval to abandon the San Juan coal plant effective July 1, 2022, (2) approval of certain generating resources to replace the San Juan coal plant, and (3) issuance of a financing order approving the issuance of energy transition bonds under the ETA to recover PNM’s costs associated with the abandonment of the San Juan coal plant and related financing costs.

In a separate order issued on the date hereof, the Commission authorized PNM to abandon the San Juan coal plant effective July 1, 2022.

### ***Summary of PNM’s Request for a Financing Order***

In the Consolidated Application, PNM requested that the Commission issue a financing order under the ETA approving the issuance of highly-rated bonds secured by a non-bypassable customer charge, using the securitization financing mechanism provided in the ETA (the “Securitization”). The proposed bonds are designed to meet the requirements for a “AAA” or equivalent credit rating and recover ETA-defined abandonment costs and other energy transition

costs described in this financing order (this “Financing Order”). The Securitization will also result in PNM financing and transferring a portion of the bond proceeds for the State of New Mexico to establish and administer the following programs:

- Energy Transition Indian Affairs Fund to be administered by the Indian Affairs Department;
- Energy Transition Economic Development Assistance Fund to be administered by the Economic Development Department;
- Energy Transition Displaced Worker Assistance Fund, to be administered by the Workforce Solutions Department.

In the Consolidated Application, PNM estimated that it would issue energy transition bonds in a principal amount of approximately \$361 million.

As part of the approval for the Securitization, PNM also asked the Commission to determine that the financing portions of the Consolidated Application meet the requirements of Section 4 of the ETA and approve the following:

- PNM’s proposed use of proceeds of the energy transition bonds;
- Formation and capitalization of a special purpose entity that will be a wholly-owned subsidiary of PNM (the “SPE”) and will issue energy transition bonds with a scheduled final maturity of not more than 25 years;
- Collection of non-bypassable energy transition charges, effective upon bond issuance and filing of an advice notice pursuant to the ETA, to be paid by all customers receiving electric delivery service from PNM and all customers who acquire electricity from an alternative or subsequent electricity supplier in the utility service area currently served by PNM, to the extent such acquisition is permitted by New Mexico law;
- An adjustment mechanism, effective upon issuance of the energy transition bonds pursuant to the ETA, to make adjustments to the energy transition charges to correct for any over- or under-collection of those charges and to provide for the timely and complete payment of the bonds and recovery of financing costs;
- A description of the energy transition property to be created under the financing order together with PNM’s simultaneous sale of the energy transition property to the SPE;

- PNM's entry into principal financing agreements and other necessary or appropriate ancillary agreements related to the issuance of the securitized bonds;
- A ratemaking adjustment mechanism to reconcile the estimated energy transition costs with actual costs; and
- A ratemaking method to account, as needed, for the reduction in PNM's cost of service associated with the amount of undepreciated investments being recovered by the energy transition charges at the time those charges become effective.

In connection with the Consolidated Application, PNM has submitted drafts of the following agreements: (1) a limited liability company operating agreement (the "SPE LLC Agreement"), between the SPE and PNM; (2) an indenture (the "Indenture"), between the SPE and an indenture trustee (the "Indenture Trustee"); (3) an energy transition property purchase and sale agreement (the "Purchase Agreement"), between the SPE and PNM; (4) an energy transition property servicing agreement (the "Servicing Agreement"), among the SPE, PNM and the Indenture Trustee; and (5) an administration agreement (the "Administration Agreement" and, together with the SPE LLC Agreement, the Indenture, the Purchase Agreement and the Servicing Agreement, the "Transaction Documents." PNM provided drafts of the Transaction Documents to allow the Commission to evaluate the principal rights and responsibilities of the parties thereto. The final versions of these agreements, however, will be subject to change based on input from the rating agencies, investors and other parties involved in the marketing and structuring of the energy transition bonds. PNM has requested that the Commission approve the substance of the Transaction Documents, which would be executed substantially in the form submitted to the Commission, subject to such changes as are legally appropriate and necessary to satisfy bankruptcy or rating agency considerations or that are otherwise consistent with the provisions of this financing order (this "Financing Order").

### ***Standard of Review***

As enacted by the New Mexico legislature, the ETA authorizes qualifying utilities such as PNM to recover the costs of abandoning a qualifying generating such as the San Juan coal plant through the issuance of energy transition bonds under the ETA. Under Section 4(A) of the ETA, PNM was authorized to file an application requesting issuance of this Financing Order as part of its Consolidated Application requesting approval to abandon the San Juan coal plant.

Under Section 5(E) of the ETA, the Commission shall issue a financing order authorizing the issuance of energy transition bonds only after finding that a qualifying utility's application for a financing order satisfies the requirements of Section 4 of the ETA.

As authorized in Section 5(A) of the ETA, the Commission held formal hearings to consider to PNM's request for a financing order filed as part of the Consolidated Application. Section 5(A) of the ETA provides that the Commission shall issue an order granted or denying the application for the financing order within six months from the date the application is filed with the Commission. For good cause shown, the Commission may extend the time for issuing the order for an additional three months.

### ***Summary of Decision***

This Financing Order reflects the decision of the Commission with respect to PNM's application for issuance of a financing order under the ETA. In this Financing Order, the Commission finds that the Consolidated Application satisfies the requirements of Section 4 of the ETA. As a result, the Commission has issued this Financing Order, which includes the approvals required in Section 5 of the ETA. In accordance with Section 8(A) of the ETA, this Financing Order is being issued as a separate order from any other order with respect to the approvals requested in the Consolidated Application.

As required by Section 4 of the ETA, PNM has committed to use its commercially reasonable efforts to obtain the “lowest cost objective” when issuing the energy transition bonds authorized by this Financing Order (the “Energy Transition Bonds”). As defined in the ETA, the lowest cost objective means that the structuring, marketing and pricing of the Energy Transition Bonds results in the lowest energy transition charges consistent with prevailing market conditions at the time of the pricing of the Energy Transition Bonds and the structure and terms of the Energy Transition Bonds approved pursuant to this Financing Order. In addition, as required by Section 4 of the ETA, PNM delivered a memorandum with supporting exhibits from Guggenheim Securities, LLC, a firm attested by the New Mexico State Board of Finance as being experienced in the marketing of bonds, that PNM’s proposed issuance of the Energy Transition Bonds satisfies the current published “AAA” rating or equivalent criteria of at least one nationally recognized rating agency.

PNM’s proposed form of financing order filed as part of the Consolidated Application contained detailed Findings of Fact, Conclusions of Law and Ordering Paragraphs addressing matters relating to the Securitization. As described in the Supporting Testimony, these provisions of the proposed Financing Order reflect the level of detail and scope that will be expected by investors and the rating agencies. The Supporting Testimony demonstrates that these findings and conclusions maximize the stability of the cash flows in the Securitization and provide the basis for the legal opinions upon which the rating agencies will rely in assigning the highest possible ratings for the Energy Transition Bonds. The Supporting Testimony further shows that the combination of maximized cash flow stability and the highest possible ratings will allow the Energy Transition Bonds to be structured and priced to meet the statutory requirements. Based upon the Commission’s review of the record, including the Supporting

Testimony, the Commission has determined that PNM's proposed inclusion of these provisions in this Financing Order in furtherance of its commitments relating to the lowest cost objective is reasonable and appropriate.

## **II. SUMMARY OF PROPOSED SECURITIZATION**

A description of the Securitization proposed by PNM is contained in the Consolidated Application, including the Supporting Testimony. A brief summary of the proposed Securitization is provided in this section. A more detailed description is included in Section III below.

The proposed structure of the Securitization as described in the Consolidated Application, including the Supporting Testimony, and in this Financing Order is referred to herein as the "Securitization Transaction Structure."

In order to facilitate the Securitization, PNM will form the SPE as a Delaware LLC, and a wholly-owned subsidiary of PNM. The SPE will be formed for the limited purposes of issuing one or more series of energy transition bonds, paying the net proceeds of any such issuance to PNM to purchase energy transition property, and performing other activities related thereto. The SPE LLC Agreement will contain provisions designed to ensure that the SPE will be a bankruptcy-remote limited purpose entity.

The SPE will issue the Energy Transition Bonds authorized in this Financing Order. PNM has estimated that the aggregate principal amount of Energy Transition Bonds to be issued is approximately \$361 million. The maximum aggregate principal amount of Energy Transition Bonds that may be issued is set forth below in this Financing Order.

The SPE will use the proceeds from the sale of the Energy Transition Bonds to pay upfront financing costs incurred in connection with the issuance of the bonds and to purchase the

energy transition property created under this Financing Order (the “Energy Transition Property”) from PNM. The Energy Transition Property includes PNM’s rights under this Financing Order, including the right to impose, charge, collect and receive energy transition charges as defined in Section 2(G) of the ETA in an amount necessary to provide for full payment and recovery of all ongoing financing costs associated with the Energy Transition Bonds, including payment of principal and interest on the bonds. The energy transition charges authorized by this Financing Order (the “Energy Transition Charges”) shall be allocated to customer classes and rate schedules and assessed within rate schedules as described in this Financing Order.

The assets of the SPE, consisting primarily of the Energy Transition Bonds and the collection account established under the Indenture, will be pledged as collateral to secure the Energy Transition Bonds.

PNM will act as the initial servicer under the Servicing Agreement. PNM will be responsible for billing, monitoring, collecting and remitting the Energy Transition Charges to the Indenture Trustee for deposit in the collection account established under the Indenture as security for the Energy Transition bonds. As compensation for these services, PNM has proposed to receive from the SPE a servicing fee equal to 0.05% per annum of the initial aggregate principal amount of the Energy Transition Bonds. PNM has proposed that it will not resign as servicer unless (i) PNM determines that performance of its duties as servicer is no longer permissible under applicable law or (ii) PNM receives the consent of the Commission and confirmation that the resignation will not result in a suspension, reduction or withdrawal of the then current ratings on the Energy Transition Bonds. In the event a successor servicer is appointed, the servicer will be allowed to increase; provided that the Commission’s consent would be required as described

in this Financing Order for any servicing fee in excess of 0.60% per annum of the initial aggregate principal amount of the Energy Transition Bonds.

Section 6(B) of the ETA provides that the Commission will periodically approve adjustments to the Energy Transition Charges pursuant to the adjustment mechanism approved by the Commission in this Financing Order to correct for any over-collection or under-collection of Energy Transition Charges and to provide for timely payment of scheduled principal and interest on the Energy Transition Bonds and recovery of all financing costs approved in this Financing Order. Pursuant to Sections 6(B) and (C), PNM will file at least semiannually (and at least quarterly during the two-year period preceding the final maturity date of the Energy Transition Bonds), or more frequently as provided in this Financing Order: (1) a calculation estimating whether the existing Energy Transition Charges are sufficient to provide for timely payment of scheduled principal and interest on the Energy Transition Bonds and payment and recovery of other financing costs in accordance with this Financing Order; and (2) a calculation showing the adjustment to the Energy Transition Charges to correct for any over-collection or under-collection of Energy Transition Charges. PNM's proposed adjustment mechanism is described in this Financing Order.

In addition to the semi-annual true-up adjustments described above, PNM has proposed authority for PNM to implement optional standard true-up adjustments at any time, without limitation as to frequency, in order to ensure timely payment of scheduled principal of and interest (or deposits to sinking funds in respect of principal and interest) on the Energy Transition Bonds and the payment of other ongoing financing costs. PNM also has proposed to make non-standard true-up adjustments in connection with any general rate case, as necessary to



reflect any adjustments in the allocation of the Energy Transition Charges as a result of changes in the production cost methodology used in such general rate case.

### **III. FINDINGS OF FACT**

#### ***Identification of Applicant and Qualifying Generating Facility***

1. PNM is a New Mexico corporation that owns, operates and controls public utility plant, property and facilities, including generation, transmission and distribution facilities that provide retail and wholesale electric service in New Mexico. PNM is a public utility subject to the jurisdiction of the Commission pursuant to the Public Utility Act, NMSA 1978, §§ 62-1-1 to 62-6-28 and §§ 62-8-1 to 62-13-15 (“PUA”).

2. The San Juan coal plant is a coal-fired generating facility.<sup>1</sup> The San Juan coal plant initially consisted of four coal-fired units with 1,683 MW of electric generation capacity; the four units came on-line separately in 1973, 1976, 1979, and 1982. The facility is located in Waterflow, New Mexico, an unincorporated community in San Juan County fifteen miles west of Farmington. PNM is a part owner and the operator of the San Juan coal plant.<sup>2</sup> The San Juan coal plant is served by the San Juan mine. The San Juan mine only provides services to the San Juan coal plant. The abandonment of the San Juan coal plant also encompasses the associated mine reclamation. Through the Supporting Testimony, a further description of the San Juan coal plant was included in the Consolidated Application.

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<sup>1</sup> CCNs for the San Juan coal plant were granted in Case No. 965 (January 9, 1970), Case No. 1111 (January 22, 1974) and Case No. 1221 (September 2, 1975).

<sup>2</sup> The operation of the San Juan coal plant Units 1 and 4 currently is governed by the Amended and Restated San Juan Project Participation Agreement (“Participation Agreement”). The current plant owners oversee PNM’s management and operation of the San Juan coal plant, and the owners review and approve capital and operations budgets. The coal for the plant is supplied from the San Juan Coal Company (“SJCC”) pursuant to the current Coal Supply Agreement (“CSA”).

### ***Application History***

3. Pursuant to Section 4(A) of the ETA, in order to obtain a financing order, a qualifying utility shall obtain approval to abandon a qualifying generating facility pursuant to Section 62-9-5 of the NMSA 1978. Section 4(A) provides that the application for the financing order may be filed as part of the application for approval to abandon a qualifying generating facility. On July 1, 2019, PNM filed the Consolidated Application which sought approval for three primary actions: (1) abandonment of the San Juan coal plant; (2) the addition of new replacement resources; and (3) the issuance of a financing order to authorize securitized financing related to the San Juan coal plant abandonment.

4. In a separate order issued on the date hereof, the Commission authorized PNM to abandon the San Juan coal plant effective July 1, 2022.

### ***Energy Transition Costs to be Securitized***

5. Pursuant to Section 4(A) of the ETA, a qualifying utility that is abandoning a qualifying generating facility may apply to the Commission for a financing order to recover all of its energy transition costs through the issuance of energy transition bonds. Section 4(B)(2) of the ETA requires that a qualifying utility's application for a financing order include an estimate of the "energy transition costs" (as defined in the ETA). Under Section 2(H) of the ETA, energy transition costs means the sum of: (1) financing costs (as defined in the ETA); (2) abandonment costs (as further described in Section 2(H)(2) of the ETA); (3) any other costs required to comply with changes in law enacted after January 1, 2019 incurred by the qualifying utility at the qualifying generating facility; and (4) payments required pursuant to Section 16 of the ETA.

### ***Estimated Upfront Financing Costs and Estimated Ongoing Financing Costs***

6. Under Section 2(K) of the ETA, financing costs mean the costs incurred by a qualifying utility or an assignee to issue and administer energy transition bonds, including: (1) payment of the fee authorized pursuant to Section 5(L) of the ETA; (2) principal, interest, acquisition, defeasance and redemption premiums that are payable on energy transition bonds; (3) any payment required under an ancillary agreement and any amount required to fund or replenish a reserve account or other account established under any indenture, ancillary agreement or other financing document relating to the energy transition bonds; (4) any costs, fees and expenses related to issuing, supporting, repaying, servicing and refunding energy transition bonds, the application for a financing order, including related state board of finance expenses, or obtaining an order approving abandonment of a qualifying generating facility; (5) any costs, fees and related expenses incurred relating to any existing secured or unsecured obligation of a qualifying utility or an affiliate of a qualifying utility that are necessary to obtain any consent, release, waiver or approval from any holder of such an obligation to permit a qualifying utility to issue or cause the issuance of energy transition bonds; (6) any taxes, fees, charges or other assessments imposed on energy transition bonds; (7) preliminary and continuing costs associated with subsequent financing; and (8) any other related costs approved for recovery in the financing order.

7. As discussed in the Supporting Testimony, certain financing costs will constitute costs of issuing the Energy Transition Bonds and of obtaining this Financing Order and the approval of the abandonment of the San Juan coal plant. These financing costs under Section 2(K) of the ETA will be financed through the issuance of the Energy Transition Bonds and are referred to herein as “Upfront Financing Costs.” As described in the Supporting Testimony, the Upfront Financing Costs will include (i) the fees and expenses of incurred by the Company in

obtaining the Financing Order and the order approving the abandonment of the San Juan coal plant, including the fee of bond counsel to the Commission as contemplated by Section 5(L) of the ETA, and (ii) the fees and expenses associated with issuing the Energy Transition Bonds, including underwriting discount, a financial advisor structuring fee, the fees of legal counsel, rating agency fees, trustee fees and expenses, accounting and auditing fees, printing, filing and marketing expenses, Securities and Exchange Commission (“SEC”) registration fees, costs of organizing the SPE, servicer set up fees, original issue discount and miscellaneous other costs. As described in the Supporting Testimony, it is important that this Financing Order provide for flexibility to include other forms of credit enhancement and other mechanisms (*e.g.*, letters of credit, additional amounts of overcollateralization or reserve accounts, or surety bonds) to improve the marketability of the Energy Transition Bonds. These credit enhancements are additional potential Upfront Financing Costs and Other Ongoing Financing Costs (as defined below). The Upfront Financing Costs will include amounts paid directly by the SPE and amounts paid to PNM as reimbursement for amounts paid with respect to such costs. The Upfront Financing Costs are financing costs pursuant to Section 2(K)(4) of the ETA (and Section 2(K)(1) with respect to the fee authorized by Section 5(L) of the ETA). PNM Exhibit EAE-2 included estimated Upfront Financing Costs are \$8.7 million. PNM Exhibit EAE-2 also provided that additional Upfront Financing Costs relating to original issue discount for the Energy Transition Bonds were not expected to exceed 0.05% of the aggregate principal amount of the Energy Transition Bonds. The estimated Upfront Financing Costs are subject to change and will be updated at the time of issuance of the Energy Transition Bonds as provided in Section 4(B)(6) of the ETA.

8. In addition to the Upfront Financing Costs, which will be recovered from the proceeds of the sale of the Energy Transition Bonds, additional financing costs as defined in Section 2(K) of the ETA will be incurred while the Energy Transition Bonds remain outstanding (the “Ongoing Financing Costs” and, together with the Upfront Financing Costs, the “Financing Costs”). The Ongoing Financing Costs will be recovered through the Energy Transition Charges. The Ongoing Financing Costs will include payment of principal and interest on the Energy Transition Bonds (“Debt Service Payments”), which are financing costs pursuant to Section 2(K)(2) of the ETA. PNM Exhibit CA-4 includes a proposed preliminary structure for the Energy Transition Bonds, including estimated Debt Service Payments. In addition to Debt Service Payments, the Ongoing Financing Costs also will include other fees and expenses incurred during the life of the Energy Transition Bonds to service and support the Energy Transition Bonds (the “Other Ongoing Financing Costs”). As described in the Supporting Testimony, these Other Ongoing Financing Costs include servicing fees, the return on PNM’s capital contribution, administration fees, auditor fees, legal fees, rating agency surveillance fees, trustee fees and expenses, independent director or manager fees, credit enhancement costs and miscellaneous other costs. These Other Ongoing Financing Costs are financing costs pursuant Section 2(K)(4) of the ETA. As set forth in the Supporting Testimony and PNM Exhibit EAE-3, PNM’s estimated annual Other Ongoing Financing Costs are approximately \$515,000. The estimated Ongoing Financing Costs are subject to change and will be updated at the time of issuance of the Energy Transition Bonds as provided in Section 4(B)(6) of the ETA. While the servicing fee, administration fee and return on capital contribution will be based upon fixed amounts upon issuance of the Energy Transition Bonds, other components of the Other Ongoing Financing Costs will be subject to variation over the life of the Energy Transition Bonds.

### *Estimated Abandonment Costs*

9. Pursuant to Section 2(H)(2) of the ETA, energy transition costs include abandonment costs, which for a qualifying generating facility shall not exceed the lower of \$375,000,000 or 150% of the undepreciated investment in a qualifying generating facility being abandoned, as of the date of abandonment. Section 2(H)(2) of the ETA further provides that the abandonment costs subject to this limitation include: (a) up to \$30,000,000 per qualifying generating facility in costs not previously collected from the qualifying utility's customers for plant decommissioning and mine reclamation costs, subject to any limitations ordered by the Commission prior to January 1, 2019 and affirmed by the New Mexico Supreme Court prior to the effective date of the ETA, associated with the abandoned qualifying generating facility; (b) up to \$20,000,000 per qualifying generating facility in costs for severance and job training for employees losing their jobs as a result of an abandoned qualifying generating facility and any associated mine that only services the abandoned qualifying generating facility; (c) undepreciated investments as of the date of abandonment on the qualifying utility's books and records in a qualifying generating facility that were either being recovered in rates as of January 1, 2019 or are otherwise found to be recoverable through a court decision; and (d) other undepreciated investments in a qualifying generating facility incurred to comply with law, whether established by statute, court decision or rule, or necessary to maintain the safe and reliable operation of the qualifying generating facility prior to the facility's abandonment.

10. Through the Supporting Testimony, PNM provided an estimate of the undepreciated investment in the San Juan coal plant as of the time of the proposed abandonment (the "Undepreciated Investment"). PNM's calculation of the estimate of the Undepreciated Investment is described in the Supporting Testimony and PNM Table HEM-5. PNM's resulting

estimate was \$283 million of Undepreciated Investment. The Undepreciated Investment is an energy transition cost pursuant to Section 2(H)(2)(c) and 2(H)(2)(d) of the ETA.

11. Through the Supporting Testimony, PNM provided an estimate of (1) underground coal mine reclamation costs associated with the San Juan mine, and (2) costs associated with keeping the surface mine pits open to backfill with coal ash (“ash period costs” and, together with the underground mine reclamation costs, the “Reclamation Costs”). PNM currently recovers the Reclamation Costs from customers through accretion expense, which assumed a plant and coal mine termination date of 2053. PNM is not seeking recovery of surface mine reclamation costs because prior Commission decisions have capped recovery from customers for these costs. PNM’s accounting methodology with respect to the Reclamation Costs is addressed in the Supporting Testimony and formed the basis of PNM’s estimate of Reclamation Costs not previously collected from customers of \$9.4 million. The Reclamation Costs are energy transition costs pursuant to Section 2(H)(2)(a).

12. Through the Supporting Testimony, PNM provided an estimate of the decommissioning costs associated with the abandonment of the San Juan coal plant that have not yet been collected from customers through existing depreciation and accretion expense (the “Decommissioning Costs” and, together with the Reclamation Costs, the “Decommissioning and Reclamation Costs”). PNM’s accounting methodology with respect to the Decommissioning Costs is addressed in the Supporting Testimony and formed the basis of PNM’s estimate of Decommissioning Costs not previously collected from customers of \$19.2 million. The Decommissioning Costs are energy transition costs pursuant to Section 2(H)(2)(a). The aggregate amount of estimated Decommissioning and Reclamation Costs of \$28.6 million does not exceed the \$30 million limitation in Section 2(H)(2)(a).

13. Through the Supporting Testimony, PNM provided an estimate of \$20.6 million of severance and job training for employees losing their jobs as a result of the abandonment of the San Juan coal plant and the San Juan mine (“Severance and Job Training Costs”). As Pursuant to Section 2(H)(2)(b), PNM is limited to recovery of \$20 million of Severance and Job Training Costs through the issuance of the Energy Transition Bonds. The Severance and Job Training Costs are energy transition costs pursuant to Section 2(H)(2)(b) of the ETA.

14. The Undepreciated Investment, Decommissioning and Reclamation Costs and Severance and Job Training Costs are referred to herein as the “Abandonment Costs.” As described in the paragraphs above, PNM has estimated aggregate Abandonment Costs of \$331.6 million. In accordance with Section 2(H)(2) of the ETA, the maximum amount of the Abandonment Costs that would qualify as energy transition costs subject to recovery through the issuance of the Energy Transition Bonds is limited to the lesser of (1) \$375,000,000 or (2) 150% of the undepreciated investment of the San Juan coal plant as of the date of abandonment (or \$424.5 million based on the estimated Undepreciated Investment). As a result, the Company’s estimated Abandonment Costs proposed to be financed through the issuance of the Energy Transition Bonds does not exceed the limitations of Section 2(H)(2) of the ETA.

#### *Change in Law Costs*

15. Through the Consolidated Application, PNM did not identify any costs that qualify as energy transition costs pursuant to Section 2(H)(3) (“Change in Law Costs”).

#### *Section 16 Payments*

16. Through the Consolidated Application, including the Supporting Testimony, PNM has provided an estimate of the Section 16 Payments. Section 16(J) of the ETA requires that within 30 days after receiving the proceeds of Energy Transition Bonds, PNM will be



required to make payments equal to the following percentages of the financed amount of the Energy Transition Bonds as follows:

- 0.50% to the Indian affairs department for deposit in the energy transition Indian affairs fund established under the ETA;
- 1.65% to the economic development department for deposit in the energy transition economic development assistance fund established under the ETA; and
- 3.35% to the workforce solutions department in the energy transition displaced worker assistance fund established under the ETA.

The Section 16 Payments are energy transition costs pursuant to Section 2(H)(4) of the ETA. PNM's estimate of \$19.8 million of Section 16 Payments is based upon its estimate of the other energy transition costs to be financed through the issuance of the Energy Transition Bonds, including \$331.6 million of Abandonment Costs and \$8.7 million of Upfront Financing Costs. The estimated Section 16 Payments are subject to change and will be updated at the time of issuance of the Energy Transition Bonds as provided in Section 4(B)(6) of the ETA.

17. Through the Consolidated Application, including the Supporting Testimony, and as provide in Section 4(B)(6) of the ETA, PNM has committed to file with the Commission following the issuance of any Energy Transition Bonds: (1) a description of the final structure and pricing of the bonds; (2) updated Financing Costs and Section 16 Payment amounts, and (3) an updated calculation of the Energy Transition Charges.

*Maximum Amount of Energy Transition Bonds Authorized for Issuance*

18. Pursuant to Section 5(F) of the ETA, a financing order shall include, among other things, approval for the qualifying utility or assignee to issue energy transition bonds as requested in the application, to use energy transition bonds to finance the maximum amount of energy transition costs as requested in the application, as may be adjusted pursuant to Section 4(B)(6) of the ETA. PNM has proposed that the maximum amount of the Energy Transition

Bonds to be issued by the SPE shall be equal to the sum of (A) the \$331.6 million of estimated Abandonment Costs set forth in the Consolidated Application, (B) Section 16 Payments (updated as of the time of issuance and provided to the Commission following issuance in accordance with Section 4(B)(6) of the ETA), and (C) Upfront Financing Costs (updated as of the time of issuance and provided to the Commission following issuance in accordance with Section 4(B)(6) of the ETA).

19. Through the Supporting Testimony, the Consolidated Application includes a proposed ratemaking process to reconcile and recover or refund any difference between the energy transition costs financed by the Energy Transition Bonds and the actual final energy transition costs incurred by PNM or the SPE. PNM will track and reconcile each component of the energy transition costs described above. Any difference between the amounts financed by the Energy Transition Bonds and the final actual energy transition costs will be deferred and recorded to either a regulatory asset (if the actual final energy transition costs are greater than the estimated energy transition costs) or a regulatory liability (if the actual final energy transition costs are less than the estimated energy transition costs). PNM proposed to include the amortization of the regulatory asset or regulatory liability in its next general rate case, after the final energy transition costs are known. PNM stated that it will propose to recover or refund the differences back to customers over the remaining life of the Energy Transition Bonds. PNM proposed to include the unamortized balance of the regulatory asset or regulatory liability in rate base in its general cost of service studies, to compensate PNM or its customers for the time value of money.

### ***Structure of the Energy Transition Bonds***

20. PNM will form the SPE as a Delaware limited liability company, with PNM as the sole member. The SPE will be formed for the limited purposes of issuing one or more series of energy transition bonds, paying the net proceeds of any such issuance to PNM to purchase energy transition property as defined in Section 2(I) of the ETA created by a financing order, and performing other activities related thereto.

21. The SPE will be managed by a board of managers with rights and duties set forth in the SPE LLC Agreement. As long as any Energy Transition Bonds remain outstanding, the SPE will have at least one independent manager with no organizational affiliation with PNM other than possibly acting as independent manager(s) for another bankruptcy-remote subsidiary of PNM or its affiliates. The SPE will not be permitted to amend the provisions of the SPE LLC Agreement or other organizational documents that relate to bankruptcy-remoteness of the SPE without the consent of the independent manager(s). Similarly, the SPE will not be permitted to institute bankruptcy or insolvency proceedings or to consent to the institution of bankruptcy or insolvency proceedings against it, or to dissolve, liquidate, consolidate, convert or merge without the consent of the independent managers. Other restrictions to facilitate bankruptcy-remoteness may also be included in the SPE LLC Agreement as required by the rating agencies.

22. The SPE will require ongoing administration services, such as corporate maintenance, reporting and internal accounting functions. The SPE will have no staff to provide these administrative services. These services will be provided by PNM pursuant to the terms of the Administration Agreement.

23. The SPE will be capitalized through the issuance of the Energy Transition Bonds and a concurrent equity capital contribution from PNM. Through the Supporting Testimony,

PNM estimated that its equity capital contribution to the SPE will be 0.5% of the total capital of the SPE (with the Energy Transition Bonds representing the remaining 99.5% of the capitalization of the SPE). In accordance with Section 4(B)(8) of the ETA, PNM's equity capital contribution to the SPE will not be less than 0.5% of the total capital of the SPE. This minimum capitalization level also will satisfy existing Internal Revenue Service safe harbors so that PNM will not recognize gross income upon the receipt of cash in exchange for the issuance of the Energy Transition Bonds. PNM proposed earning a return on this equity capital contribution equal to the interest rate on the longest maturing tranche of the Energy Transition Bonds, to be paid as an Ongoing Financing Cost.

24. The SPE will issue and sell the Energy Transition Bonds in one or more series consisting of one or more tranches. Through the Supporting Testimony, PNM included a preliminary projected bond structure with the Energy Transition Bonds being issued in a single series with multiple tranches. As described in the Supporting Testimony, PNM expects that the Energy Transition Bonds will be issued with a final scheduled maturity date of approximately 25 years from the date of issuance of the Energy Transition Bonds, and a final legal maturity date of approximately 28 years from the date of issuance, with semiannual payments of principal and interest. The initial debt service payment may be scheduled to take place more than six months after issuance of the Energy Transition Bonds. As discussed in the Supporting Testimony, the difference between the scheduled final payment date and legal final maturity date is to provide additional credit protection by allowing shortfalls in principal payments to be recovered over this additional time period due to any unforeseen circumstance, in furtherance of achieving the desired "AAA" or equivalent credit ratings for the bonds. The rated final maturity of the Energy Transition Bonds will be the legal final maturity date. The number, size and tenor of the series

and tranches offered to investors will be determined by rating agency requirements and investor demand at the time of pricing, and as a result, the actual structures may differ. In no event will the final scheduled maturity date of the Energy Transition Bonds be more than 25 years from the date of issuance of the Energy Transition Bonds.

25. The Energy Transition Bonds will be structured in a manner designed to provide for substantially levelized annual revenue requirements over the expected life of the bonds.

26. PNM has proposed that the Energy Transition Bonds will be sold pursuant to a negotiated sale to investors, coordinated through one or more underwriters in a public offering registered with the Securities and Exchange Commission (the “SEC”). As discussed in the Supporting Testimony, SEC-registered transactions are considered to be more liquid than Rule 144A or other private placement transactions. Publicly offered transactions are not limited to “qualified institutional investors” or “accredited investors” upon initial issuance or resale, as privately placed transactions are, and this broader potential investor universe will potentially be more attractive to investors and more likely to obtain lower interest rate coupons on any particular pricing day. While PNM has proposed and expects the transaction to be conducted as an SEC-registered offering conducted through a negotiated sale to underwriters, PNM will determine at the time of the proposed transaction, consistent with its commitment to use its commercially reasonable efforts to achieve the lowest cost objective, whether transaction will be conducted as a SEC-registered public offering or a Rule 144A private placement.

27. As described in the Supporting Testimony, each tranche of the Energy Transition Bonds will bear interest at a fixed rate.

28. As described in the Consolidated Application, including the Supporting Testimony, PNM expects to cause the issuance of the Energy Transition Bonds as promptly as

possible after the last of the following events have occurred: (1) issuance of a final, non-appealable financing order acceptable to the Company; (2) the abandonment of the San Juan coal plant; (3) delivery of any necessary SEC approvals under the Securities Act of 1933; and (4) completion of the rating agency process. PNM estimated that the issuance of the Energy Transition Bonds would occur in 2022.

#### *Energy Transition Property*

29. Concurrent with the issuance of any series of the Energy Transition Bonds, PNM will transfer to the SPE the Energy Transition Property, including all of its rights under this Financing Order and specifically the right to impose, charge, collect and receive the Energy Transition Charges approved in this Financing Order. This transfer will be structured so that it will qualify as a “true sale” within the meaning of Section 14(A) of the ETA. The transfer of the Energy Transition Property will be made pursuant to the Purchase Agreement and a related bill of sale, and the Purchase Agreement will expressly state that the transaction is a sale or other absolute transfer. By virtue of this transfer, the SPE will acquire all of the right, title and interest of PNM in the Energy Transition Property created under this Financing Order.

#### *Security*

30. The payment of the Energy Transition Bonds and related charges authorized by this Financing Order is to be secured by the Energy Transition Property created by this Financing Order and by certain other collateral as described in the Consolidated Application, including the Supporting Testimony. The Energy Transition Bonds will be issued pursuant to the Indenture under which the Indenture Trustee will administer the trust. Pursuant to the Indenture, the SPE will establish a collection account (the “Collection Account”) to be held by the Indenture Trustee as collateral to facilitate the payment of the principal of, interest on and other costs approved in

this Financing Order related to the Energy Transition Bonds in full and on a timely basis. The Collection Account will include a general subaccount (the “General Subaccount”), a capital subaccount (the “Capital Subaccount”), an excess funds subaccount (the “Excess Funds Subaccount”), and may include other subaccounts (the General Subaccount, the Excess Funds Subaccount, the Capital Subaccount and any other subaccounts under the indenture, collectively are the “Subaccounts”).

31. The Indenture Trustee will deposit in the General Subaccount the Energy Transition Charge remittances that the servicer remits to the Indenture Trustee. The Indenture Trustee will apply moneys in the General Subaccount according to the priorities set forth in the Indenture to pay expenses of the SPE, to pay principal of and interest on the Energy Transition Bonds, and to meet the funding requirements of the other Subaccounts. Funds in the General Subaccount will be invested by the Indenture Trustee in short-term, high-quality investments, and such funds (including, to the extent necessary, investment earnings) will be applied by the Indenture Trustee to pay principal of and interest on the Energy Transition Bonds and all other components of the Periodic Revenue Requirement (as defined below), and otherwise in accordance with the terms of the Indenture.

32. PNM will make its capital contribution (as described above) to the SPE, and the SPE will deposit that capital contribution into the Capital Subaccount. The Capital Subaccount will serve as collateral to facilitate the timely payment of principal of and interest on the Energy Transition Bonds and all other components of the Periodic Revenue Requirement. Any funds drawn from the Capital Subaccount to pay these amounts due to a shortfall in the Energy Transition Charge remittances will be replenished to its original level through future Energy Transition Charges as adjusted through the true-up adjustment mechanism described below. The

funds in the Capital Subaccount will be invested by the Indenture Trustee in short-term, high-quality investments, and such funds (including, to the extent necessary, investment earnings) will be applied by the Indenture Trustee to pay principal of and interest on the Energy Transition Bonds and all other components of the Periodic Revenue Requirement.

33. The Excess Funds Subaccount will hold any Energy Transition Charge remittances and investment earnings on the Collection Account in excess of the amounts needed to pay current principal of and interest on the Energy Transition Bonds and to pay all other components of the Periodic Revenue Requirement (including, but limited to, funding or replenishing the Capital Subaccount). Any balance in or amounts allocated to the Excess Funds Subaccount on a true-up adjustment mechanism date will be subtracted from the Periodic Revenue Requirement for purposes of the true-up adjustment. The funds in the Excess Funds Subaccount will be invested by the Indenture Trustee in short-term, high-quality investments, and such funds (including, to the extent necessary, investment earnings) will be applied by the Indenture Trustee to pay principal of and interest on the Energy Transition Bonds and all other components of the Periodic Revenue Requirement.

34. If for any reason the amount of Energy Transition Charges remitted to the General Subaccount is insufficient to make, on a timely basis, all scheduled payments of principal of and interest on the Energy Transition Bonds and to make payment on all other components of the Periodic Revenue Requirement, the Excess Funds Subaccount and the Capital Subaccount will be drawn upon, in that order, to make those payments. Any deficiency in the Capital Subaccount due to such withdrawals must be replenished on a periodic basis through the true-up adjustment mechanism process. Following repayment of the Energy Transition Bonds and all related Financing Costs and the release of funds by the Indenture Trustee, the SPE will distribute the



final balance of the Collection Account to PNM. PNM has proposed that it will credit customers by the amount of the distribution, less the amount of the Capital Subaccount and any unpaid return on the capital contribution due to PNM as set forth in this Financing Order.

35. Other forms of credit enhancement and other mechanisms (*e.g.*, letters of credit, additional amounts of overcollateralization or reserve accounts, or surety bonds) to improve the credit quality and marketability of the Energy Transition Bonds may be used in furtherance of the lowest cost objective.

### ***Servicing Arrangements***

36. PNM will enter into the Servicing Agreement, under which PNM will serve as the initial servicer of the Energy Transition Property and the Energy Transition Bonds. The Servicing Agreement will, among other things, include the following provisions:

(a) PNM will be responsible for metering, calculating, billing, collecting and remitting the collected Energy Transition Charges from electric utility customers arising from the Energy Transition Property owned by the SPE. As servicer, PNM will be obligated to make daily remittances of the Energy Transition Charges (or estimates of such receipts) to the trustee on servicer business days.

(b) PNM will be responsible for making all true-up adjustment mechanism filings with the Commission to make periodic adjustments to the Energy Transition Charges, and for preparing and filing any other reports with the Commission, the Indenture Trustee, the rating agencies or other financing parties; and

(c) PNM will not be permitted to resign voluntarily from its duties as servicer unless  
(i) PNM determines that its continued performance of the duties of servicer would no longer be

permitted under applicable law or (ii) PNM receives the consent of the Commission and confirmation that such action will not result in a suspension, reduction or withdrawal of the then current ratings on any of the Energy Transition Bonds.

37. As compensation for its duties under the Servicing Agreement, PNM has proposed that it receive from the SPE a servicing fee equal to 0.05% per annum of the initial aggregate principal amount of the Energy Transition Bonds. As described in the Supporting Testimony, this fee is based on current market rates in similar utility securitization transactions. As described in the Supporting Testimony, payment of a servicing fee that is consistent with market rates is necessary to maintain the essential bankruptcy-remote nature of the SPE.

38. If PNM defaults on its duties as servicer or is required for any reason to discontinue those functions, then an independent successor servicer acceptable to the Indenture Trustee and, if required, the rating agencies, may be named to replace PNM. In this event, the servicing fee paid to a successor servicer would likely need to be higher than the servicing fee paid to PNM. PNM has proposed that, in the event a successor servicer is appointed, the servicing fee be allowed to increase; provided that the Commission's consent would be required for any servicing fee in excess of 0.60% per annum on the initial aggregate principal balance of the Energy Transition Bonds, as described in this Financing Order.

***PNM as Administrator of the SPE***

39. Under the Administration Agreement, PNM will establish the SPE and perform the administrative duties necessary to maintain the SPE.

40. PNM has proposed that it receive an annual fee of \$50,000 plus out-of-pocket expenses for performing the services required by the Administration Agreement.

***Imposition of Energy Transition Charges/Non-Bypassability***

41. Through the Consolidated Application, including the Supporting Testimony, PNM has requested that the Commission authorize PNM to impose, charge, collect and receive Energy Transition Charges from electric utility customers in an amount sufficient to provide for the timely payment of principal and interest on the Energy Transition Bonds and all Other Ongoing Financing Costs. The Energy Transition Charges will be non-bypassable charges (as defined by Section 2(P) of the ETA) that must be paid by all customers receiving electric delivery from PNM or its successors under Commission-approved rate schedules or special contracts, and all customers who acquire electricity from an alternative or subsequent electricity supplier in the utility service area currently served by PNM, to the extent such acquisition is permitted by New Mexico law. The Energy Transition Charges will be imposed until the Energy Transition Charges and the Financing Costs are paid in full.

42. PNM has proposed that the Energy Transition Charges will be collected by the servicer through an Energy Transition Charge that is separate and apart from PNM's other rates, in the manner described in the Supporting Testimony and in the proposed ETA Rider included as PNM Exhibit MJS-2. The Energy Transition Charges will appear as a separate line item on each customer's electric bill. In addition, all electric bills will state that the Energy Transition Charges are owned by the SPE.

43. In the event a customer of PNM does not pay the full amount of any bill that includes Energy Transition Charges, such partial payments shall be allocated in accordance with applicable Commission requirements and any other requirements of applicable law. PNM has proposed that, following the issuance of any Energy Transition Bonds, for amounts billed on the same date, charges will be credited based on a priority waterfall, with late payment charges being

credited first, the Energy Transition Charges being credited second, and other charges being credited thereafter in the priority waterfall. PNM has proposed that if more than one series of Energy Transition Bonds are outstanding, partial payments allocable to Energy Transition Charges shall be allocated pro rata based upon the amount of Energy Transition Charges owing with respect to each series.

44. Through the Supporting Testimony, in accordance with Section 4(B)(11) of the ETA, PNM proposed a ratemaking method to account for the reduction in PNM's cost of service associated with the amount of undepreciated investments being recovered by the Energy Transition Charge at the time that charge becomes effective. As described in the Supporting Testimony, upon abandonment of the San Juan coal plant, the SPE will issue the Energy Transition Bonds. PNM has proposed that if it begins to collect the Energy Transition Charges from customers and has not adjusted its base rates charged to customers in a general rate case to reflect the retirement and abandonment of the San Juan coal plant, then PNM will record as a regulatory liability the revenue requirement associated with the undepreciated investment of the San Juan coal plant equal to the amount financed through the issuance of the Energy Transition Bonds. PNM will calculate the revenue requirements reflecting a return on and return of the amount financed related to the undepreciated investment of the San Juan coal plant. PNM will defer these amounts for as long as the San Juan coal plant is no longer used and useful and abandoned, PNM is collecting the Energy Transition Charges, and has not adjusted its base rates to reflect the removal of the undepreciated investment in customer's rates.

#### ***Estimated Energy Transition Charges***

45. The Consolidated Application, including the Supporting Testimony, includes PNM's estimate of the Energy Transition Charges based on the estimated date of issuance,

estimated maturity and estimated principal amount of the Energy Transition Bonds to be issued as described above. Through the Supporting Testimony, PNM estimates that the Energy Transition Charges for the initial full year (2023) following issuance of the Energy Transition Bonds will be approximately \$23 million. Through PNM Exhibit MJS-6, PNM has provided the estimated amount of Energy Transition Charges for the initial full year following issuance of the Energy Transition Bonds for each rate schedule. The estimated amounts for each rate schedule are based on the production cost allocation methodology used in 15-00261-UT, the Company's most recent general rate case.

*Allocation and Calculation of Energy Transition Charges*

46. A detailed discussion of PNM's proposed allocation and calculation of the Energy Transition Charges is included in the Supporting Testimony. PNM's proposed calculation of the Energy Transition Charges involves a multi-step process that begins with an estimate of the Energy Transition Charge collections that would be necessary to pay on a timely basis all scheduled payments of principal and interest (or deposits to sinking funds in respect of principal and interest) and all Other Ongoing Financing Costs over a specified period of time (the period covered by such estimate, the "Remittance Period" and the estimated revenue required for such period, the "Periodic Revenue Requirement"). In establishing the initial Energy Transition Charges, the Company will estimate the Periodic Revenue Requirement for a Remittance Period beginning on the date of issuance of the Energy Transition Bonds and ending on the first scheduled principal and interest payment date on the Energy Transition Bonds. The Periodic Revenue Requirement for any subsequent Remittance Period will be further adjusted through the true-up adjustment mechanism described below.

47. PNM will next determine the aggregate amount of Energy Transition Charges that must be assessed during a Remittance Period to collect the Periodic Revenue Requirement during the Remittance Period (the “Periodic Billing Requirement”). The Periodic Billing Requirement accounts for collection lag and uncollectible amounts. For each Remittance Period, PNM will estimate the timing of collections of Energy Transition Charges based on a weighted average balance of days outstanding on PNM’s customer bills. PNM also will estimate an amount that will be uncollectible.

48. After determining the Periodic Billing Requirement, the next step in the Company’s proposed process of calculating the Energy Transition Charges involves allocating the Periodic Billing Requirement to the Company’s various customer classes and further sub-allocating the Periodic Billing Requirement based on PNM’s rate schedules within the customer classes. In accordance with the requirements of Sections 5(F)(3) and 6(A) of the ETA, the Company’s proposed method of allocation will be consistent with the production cost allocation methodology used in the Company’s most recent general rate case. PNM’s proposed allocation methodology is described in the Supporting Testimony and PNM Exhibit MJS-3 and PNM Exhibit MJS-4.

49. The final step in the Company’s proposed process of calculating the Energy Transition Charges involves determining the Energy Transition Charges for customers within each customer class based on the portion of the Periodic Billing Requirement allocated to each class. In accordance with the requirements of Sections 5(F)(3) and 6(A) of the ETA, the Company’s proposed process for calculating the initial Energy Transition Charges would assess the charges consistent with energy and demand cost allocations within each customer class. Consistent with the Company’s most recent general rate case, the Periodic Billing Requirements

will be further allocated to various rate schedules within customer classes. Given the differing characteristics of each customer class and rate schedule, differing methodologies will be used as described in the Supporting Testimony. A detailed description of the proposed methodology for each of the Company's customer classes and rate schedules is included in the Supporting Testimony and PNM Exhibit MJS-5.

*True-Up Adjustment Mechanism*

50. As described in the Supporting Testimony and PNM Exhibit MJS-2, PNM has proposed a formula-based "adjustment mechanism" within the meaning of Section 2(A) of the ETA (the "True-Up Adjustment Mechanism").

51. The True-Up Adjustment Mechanism is a formula-based mechanism to periodically adjust the Energy Transition Charges to correct for any over-collection or under-collection of the Energy Transition Charges and to provide for timely payment of scheduled principal of and interest (or deposits to sinking funds in respect of principal and interest) on the Energy Transition Bonds and the payment of Other Ongoing Financing Costs. The True-Up Adjustment Mechanism will remain in effect until the Energy Transition Bonds and all financing costs have been fully paid and recovered, any under-collection is recovered from customers and any over-collection is returned to customers. The Company proposes that the True-Up Adjustment Mechanism should include both standard adjustments ("Standard True-Up Adjustments") and non-standard adjustments ("Non-Standard True-Up Adjustments" and, together with Standard-True Up Adjustments, "True-Up Adjustments").

52. A Standard True-Up Adjustment is an automatic adjustment to the Energy Transition Charges that is required to occur at least semi-annually (and at least quarterly during the two-year period preceding the final maturity date of the Energy Transition Bonds). A

Standard True-Up Adjustment is designed to ensure that the level of Energy Transition Charges to be charged over the next set of collection periods is corrected for over- and under-collection in prior periods, for changes in projected consumption and collection patterns, and for changes in the Periodic Revenue Requirement. In order to effect a Standard True-Up Adjustment, the Company, as servicer under the Servicing Agreement, will file with the Commission a letter requesting the Standard True-Up Adjustment (the “Standard True-Up Adjustment Letter”), which will include the calculations required by Section 6(B) of the ETA. A form of Standard True-Up Adjustment Letter is attached as an exhibit to this Financing Order.

53. In connection with each True-Up Adjustment, PNM will calculate the Periodic Revenue Requirement described above for the current Remittance Period and the next Remittance Period (two six-month periods). Except with respect to the initial True-Up Adjustment, PNM will further adjust the Periodic Revenue Requirement to take into account any over-collection or under-collection of the Energy Transition Charges during the preceding Remittance Period. These proposed calculations are shown in PNM Exhibit MJS-2. PNM will then calculate the Periodic Billing Requirement, allocate the Periodic Billing Requirement to customer classes and rate schedules, and calculate the adjusted Energy Transition Charges as described in paragraphs 47, 48 and 49 above. In connection with the each True-Up Adjustment, the calculation of the adjusted Energy Transition Charges will be based upon updated projections of customer count, electricity usage and demand for the applicable Remittance Periods.

54. In addition to the required semi-annual (and quarterly during the two-year period preceding the final maturity date of the Energy Transition Bonds) Standard True-Up Adjustments, the Company also proposed to be granted authority to make optional interim Standard True-Up Adjustments at any time, without limits as to frequency, in order to ensure



timely payment of scheduled principal of and interest (or deposits to sinking funds in respect of principal and interest) on the Energy Transition Bonds and the payment of Other Ongoing Financing Costs.

55. A Non-Standard True-Up Adjustment is an adjustment in connection with any general rate case, as necessary to reflect any changes to the allocation of the Energy Transition Charges as a result of changes in the production cost allocation methodology used in such general rate case. In order to effect a Non-Standard True-Up Adjustment, the Company, as servicer under the Servicing Agreement, will file with the Commission a request letter (together with the Standard True-Up Adjustment Letter, a “True-Up Adjustment Letter”), which will include the calculations required by Section 6(B) of the ETA and as described above.

#### ***Use of Proceeds***

56. As described in the Consolidated Application, including the Supporting Testimony, the SPE will use the proceeds it receives from the sale of the Energy Transition Bonds to (i) pay the Upfront Financing Costs incurred in connection with the issuance of the Bonds (including reimbursement to PNM of any such costs paid by PNM) and (ii) purchase the Energy Transition Property from PNM pursuant to the terms of the Purchase Agreement.

57. As described in the Consolidated Application, including the Supporting Testimony, PNM will use the proceeds it receives from the sale of the Energy Transition Property to the SPE (i) to make required Section 16 Payments and (ii) for purposes of providing utility service to customers, including paying certain Abandonment Costs financed with the Bonds.

#### ***Lowest Cost Objective***

58. In the Consolidated Application, including the Supporting Testimony, PNM has committed to use its commercially reasonable efforts to obtain the lowest cost objective.

#### **IV. CONCLUSIONS OF LAW**

1. PNM is a “public utility” as defined in Section 2(R) of the ETA.
2. The San Juan coal plant is a qualifying generating facility as defined in Section 2(S) of the ETA. As a public utility that (i) owns plants, property and facilities for the generation, transmission or distribution, sale or furnishing to or for the public of electricity for light, heat or power or other uses, and (ii) owns a qualifying generating facility, PNM is a qualifying utility as defined in Section 2(T) of the ETA.
3. PNM was authorized to apply to the Commission for this Financing Order through the Consolidated Application pursuant to Section 4(A) of the ETA to recover all of its energy transition costs as defined in Section 2(H) of the ETA through the issuance of the Energy Transition Bonds.
4. The Commission has jurisdiction over this matter pursuant to the ETA.
5. On the date hereof, the Commission approved PNM’s abandonment of the San Juan on July 1, 2022.
6. Section 5(E) of the ETA provides that the Commission shall issue a financing order approving PNM’s request to issue the Energy Transition Bonds if the Commission finds that the Consolidated Application complies with the requirements of Section 4 of the ETA. Pursuant to Section 5(A) of the ETA, the Commission shall issue an order granting or denying the application for the financing order within six months from the date the application for the financing order is filed with the Commission. For good cause shown, the Commission may extend the time for issuing the order for an additional three months.
7. As discussed above in this Financing Order, in compliance with Section 4(B)(1) of the ETA, the Consolidated Application includes a description of the San Juan coal plant, the

facility for which abandonment authority was requested and granted by the Commission after December 31, 2018.

8. As discussed above in this Financing Order, in compliance with Section 4(B)(2) of the ETA, the Consolidated Application includes an estimate of PNM's energy transition costs as defined in Section 2(H) of the ETA. The Upfront Financing Costs and Ongoing Financing Costs are energy transition costs as defined in Section 2(H)(1) of the ETA. The Undepreciated Investment, the Decommissioning and Reclamation Costs and the Severance and Job Training Costs are energy transition costs as defined in Section 2(H)(2) of the ETA. The Section 16 Payments are energy transition costs as defined in Section 2(H)(4) of the ETA.

9. As discussed above in this Financing Order, in compliance with Section 4(B)(3) of the ETA, the Consolidated Application includes an estimate of the amount of Energy Transition Charges necessary to recover the estimated energy transition costs provided in the Consolidated Application and the proposed calculation of the estimated Energy Transition Charges, based on the estimated date of issuance and estimated principal amount of each series of the Energy Transition Bonds proposed to be issued.

10. As discussed above in this Financing Order, in compliance with Section 4(B)(4) of the ETA, the Consolidated Application includes a description of the True-Up Adjustment Mechanism, which is a proposed adjustment mechanism that complies with Section 6 of the ETA.

11. As discussed above in this Financing Order, in compliance with Section 4(B)(5) of the ETA, the Consolidated Application includes the Securities Firm Memorandum indicating that the proposed issuance of the Energy Transition Bonds by the SPE satisfies the current

published “AAA” rating or equivalent criteria of at least one nationally recognized statistical rating organization for issuances similar to the proposed Energy Transition Bonds.

12. As discussed above in this Financing Order, in compliance with Section 4(B)(6) of the ETA, the Consolidated Application includes a commitment by PNM to file with the Commission following the issuance of the Energy Transition Bonds (a) a description of the final structure and pricing of the bonds, (b) updated financing costs and payment amount required pursuant to Section 16 of the ETA, and (c) an updated calculation of the Energy Transition Charges.

13. As discussed above in this Financing Order, in compliance with Section 4(B)(7) of the ETA, the Consolidated Application includes an estimate of timing of the issuance of the Energy Transition Bonds and term of the Energy Transition Bonds, including a provision that the scheduled final maturity for the Energy Transition Bonds shall be no longer than twenty-five years. The legal final maturity of the Energy Transition Bonds may be longer than twenty-five years.

14. As discussed above in this Financing Order, in compliance with Section 4(B)(8) of the ETA, the Consolidated Application includes (i) identification of plans to sell, assign, transfer or convey, other than as security, interest in the Energy Transition Property, including identification of the SPE as the assignee as defined in Section 2(C) of the ETA, and (ii) demonstration that the SPE will be a financing entity wholly owned, directly or indirectly, by PNM that will be initially capitalized by PNM in such a way that equity interests in the SPE are at least one-half percent of the total capital of the SPE.

15. As discussed above in this Financing Order, in compliance with Section 4(B)(9) of the ETA, the Consolidated Application includes identification of ancillary agreements as

defined in Section 2(B) of the ETA that may be necessary or appropriate in connection with the issuance of the Energy Transition Bonds, including various forms of credit enhancement or other mechanisms designed to improve the credit quality and marketability of the Energy Transition Bonds.

16. As discussed above in this Financing Order, in compliance with Section 4(B)(10) of the ETA, the Consolidated Application includes a description of PNM's proposed ratemaking process to reconcile and recover or refund any difference between the energy transition costs financed by the Energy Transition Bonds and the actual final energy transition costs incurred by PNM and the SPE.

17. As discussed above in this Financing Order, in compliance with Section 4(B)(11) of the ETA, the Consolidated Application includes PNM's proposed ratemaking method to account for the reduction in PNM's cost of service associated with the amount of undepreciated investments being recovered by the Energy Transition Charge at the time that charge becomes effective.

18. As discussed above in this Financing Order, in compliance with Section 4(B)(12) of the ETA, the Consolidated Application includes a statement from PNM committing that PNM will use its commercially reasonable efforts to obtain the lowest cost objective as defined in Section 2(N) of the ETA.

19. As discussed above in this Financing Order, in compliance with Section 4(C) and 4(D) of the ETA, the Consolidated Application and Supporting Testimony identified adequate potential new resources sufficient to provide reasonable and proper service to retail customers.

20. The Consolidated Application complies with all of the requirements of Section 4 of the ETA.

21. As required by Section 5(F)(1) of the ETA, this Financing Order includes approval for PNM to use the Energy Transition Bonds to finance the estimated amounts of Abandonment Costs identified in the Consolidated Application and this Financing Order. As required by Section 5(F)(1) of the ETA, this Financing Order includes approval for PNM to use the Energy Transition Bonds to finance the estimated amounts of Upfront Financing Costs and Section 16 Payments identified in the Consolidated Application and this Financing Order, as such amounts may be updated pursuant to Section 4(B)(6) of the ETA.

22. As required by Section 5(F)(2) of the ETA, this Financing Order includes approval for PNM to recover the Ongoing Financing Costs, as may be adjusted pursuant to Section 4(B)(6) of the ETA, requested in the Consolidated Application, through energy transition charges as defined in Section 2(G) of the ETA.

23. This Financing Order adequately details the estimated amount of energy transition costs to be financed through the issuance of the Energy Transition Bonds and recovered through the Energy Transition Charges. In accordance with Section 5(F)(1), this Financing Order authorizes the SPE to issue the Energy Transition Bonds in a maximum aggregate principal amount equal to the sum of: (A) the \$331.6 million of estimated Abandonment Costs set forth in the Consolidated Application and described in this Financing Order, (B) Section 16 Payments described in the Consolidated Application and this Financing Order (updated as of the time of issuance and provided to the Commission following issuance in accordance with Section 4(B)(6) of the ETA), and (C) Upfront Financing Costs described in the Consolidated Application and this Financing Order (updated as of the time of issuance and provided to the Commission following issuance in accordance with Section 4(B)(6) of the ETA). If the Company identifies additional Abandonment Costs or any Change in Law Costs, the Company may seek an amendment to the

Financing Order pursuant to Section 7(B)(2) of the ETA to update the maximum principal amount of the Energy Transition Bonds that may be issued.

24. As required by Section 5(H) of the ETA, this Financing Order authorizes the SPE to issue the Energy Transition Bonds in one or more series with a scheduled final maturity of no more than 25 years for each series. PNM shall not subsequently be required to secure a separate financing order prior to each issuance. In accordance with Section 5(H) of the ETA, this Financing Order provides that the rated final maturity may exceed 25 years.

25. The Energy Transition Bonds to be issued by the SPE pursuant to this Financing Order will constitute energy transition bonds as defined Section 2(F) of the ETA, and the Energy Transition Bonds issued pursuant to this Financing Order and the holders thereof shall be entitled to all of the protections of the ETA.

26. As required by Section 5(F)(3) of the ETA, this Financing Order (i) approves Energy Transition Charges necessary to recover the energy transition costs authorized in this Financing Order to be shown as a separate line item on customer bills, (ii) provides that the Energy Transition Charges shall be subject to the True-Up Adjustment Mechanism, and (iii) approves the proposed use of proceeds of the Energy Transition Bonds by the SPE and PNM. The Energy Transition Charges authorized in this Financing Order are energy transition charges as defined in Section 2(G) of the ETA. The approved use of proceeds of the Energy Transition Bonds by the SPE and PNM complies with the requirements of Section 10 of the ETA.

27. In accordance with Section 5(F)(3), the Energy Transition Charges authorized by this Financing Order are non-bypassable as defined in Section 2(P) of the ETA, meaning that the Energy Transition Charges may not be avoided by an electric service customer in PNM's utility service territory and shall be paid by each customer that receives electric delivery service from

the qualifying utility imposing the charge for as long as the Energy Transition Bonds remain outstanding and the related financing costs have not been recovered in full.

28. The methodology approved in this Financing Order for allocating Energy Transition Charges among customer classes and for assessing Energy Transition Charges within customer classes complies with the requirements of Section 5(F)(3) and Section 6(A) of the ETA. Pursuant to Section 6(A) of the ETA, the allocation of Energy Transition Charges among customer classes and the manner of assessing Energy Transition Charges within customer classes is subject to the True-Up Adjustment Mechanism.

29. As required by Section 5(F)(4) of the ETA, this Financing Order approves the True-Up Adjustment Mechanism. The True-Up Adjustment Mechanism approved by this Financing Order, including the Standard True-Up Adjustment Mechanism and Non-Standard True-Up Adjustment Mechanism, complies with the requirements of Section 6 of the ETA.

30. As required by Section 5(F)(5) of the ETA, this Financing Order includes a description of the Energy Transition Property that is created by this Financing Order. The Energy Transition Property created by this Financing Order includes the rights and interests of PNM or the SPE upon assignment under the Financing Order, including the right to impose, charge, collect and receive the Energy Transition Charges in an amount necessary to provide for full payment and recovery of all energy transition costs identified in the Financing Order, including all revenues or other proceeds arising from those rights and interests. The Energy Transition Property also includes the True-Up Adjustment Mechanism approved in this Financing Order. The Energy Transition Property created by this Financing Order is energy transition property as defined in Section 2(I) of the ETA.



31. As required by Section 5(F)(6) of the ETA, this Financing Order includes approval for PNM and the SPE to enter into appropriate ancillary agreements as defined in Section 2(B) of the ETA.

32. As required by Section 5(F)(7) of the ETA, this Financing Order approves PNM's plans for assigning, transferring and conveying, other than as security, all of its right, title and interest in and to the Energy Transition Property to the SPE. The SPE will be an assignee as defined in Section 2(C) of the ETA. The transfer of the Energy Transition Property to the SPE is in accordance with Section 12(B) of the ETA.

33. The rights, interests and property conveyed to the SPE under the Purchase Agreement, including without limitation the irrevocable right to impose, bill, collect and receive the Energy Transition Charges and the revenues and collections from the Energy Transition Charges are energy transition property within the meaning of Section 2(I) of the ETA.

34. As required by Section 5(F)(8) of the ETA, this Financing Order approves (i) PNM's proposed ratemaking process to reconcile and recover or refund any difference between the energy transition costs financed by the Energy Transition Bonds and the actual final energy transition costs incurred by PNM or the SPE, and (ii) PNM's proposed ratemaking method to account for the reduction in PNM's cost of service associated with the amount of undepreciated investments being recovered through the Energy Transition Charges at the time the Energy Transition Charges become effective.

35. As required by Section 5(G) of the ETA, this Financing Order provides that the creation of the Energy Transition Property shall be simultaneous with the sale of the Energy Transition Property to the SPE and the pledge of the Energy Transition Property to secure the Energy Transition Bonds. Upon its transfer to the SPE, the Energy Transition Property will

constitute an existing, present property right, notwithstanding that the imposition and collection of Energy Transition Charges depend on PNM continuing to provide electric energy or continuing to perform its service functions relating to the collection of the Energy Transition Charges or on the level of future energy consumption, as provided in Section 12(A) of the ETA.

36. Pursuant to Section 12(B) of the ETA, the Energy Transition Property will continue to exist until the Energy Transition Bonds and all related financing costs have been paid in full. Pursuant to Section 9(C) of the ETA, if the Energy Transition Bonds are outstanding and the Ongoing Financing Costs have not been paid in full, the Energy Transition Charges authorized in this Financing Order shall be collected by PNM or its successors or assignees, or a collection agent, in full through a non-bypassable charge that is a separate line item on customer bills and not part of the qualifying utility's base rates. The charge shall be paid by all customers receiving electric delivery from PNM or its successors under Commission-approved rate schedules or special contracts, and all customers who acquire electricity from an alternative or subsequent electricity supplier in the utility service area currently served by PNM, to the extent such acquisition is permitted by New Mexico law.

37. Upon the transfer by PNM of the Energy Transition Property to the SPE, the SPE will have all of the rights, title and interest of PNM with respect to such Energy Transition Property, including the right to impose, collect and receive the Energy Transition Charges authorized by this Financing Order.

38. As provided in Section 12(E) of the ETA, any transfer, sale, grant of security interest or pledge of the Energy Transition Property authorized by this Financing Order does not require prior consent and approval of the Commission.

39. Pursuant to Section 14(A), PNM's sale, assignment and transfer of the Energy Transition Property to the SPE under the Purchase Agreement and related bill of sale shall be an absolute transfer and true sale of, and not a pledge or secured transaction relating to, PNM's right, title and interest in, to and under the Energy Transition Property. As provided in Section 14(C) of the ETA, the characterization of the sale, assignment or transfer as an absolute transfer and true sale, and the corresponding characterization of the property interest of the SPE, shall not be affected or impaired by: (1) commingling of energy transition revenues with other funds; (2) the retention by PNM of (a) a partial or residual interest, including an equity interest, in the Energy Transition Property, whether direct or indirect, or whether subordinate or otherwise, or (b) the right to recover costs associated with taxes or license fees imposed on the collection of energy transition revenues; (3) any recourse that the SPE may have against PNM; (4) any indemnification rights, obligations or repurchase rights made or provided by PNM; (5) the obligation of PNM to collect energy transition revenues on behalf of the SPE; (6) treatment of the sale, assignment or transfer of Energy Transition Property for tax, financial reporting or other purposes; (7) any subsequent order of the Commission amending the Financing Order pursuant to Section 7(B) of the ETA; (8) any use of the adjustment mechanism approved in this Financing Order; or (9) anything else that might affect or impair the characterization of the Energy Transition Property.

40. Except as otherwise provided in Section 13 of the ETA, the creation, perfection and enforcement of a security interest in the Energy Transition Property to secure the repayment of the principal of and interest on the Energy Transition Bonds are governed by Section 13 of the ETA.

41. Pursuant to Section 13(C) of the ETA, a security interest in the Energy Transition Property will be created, valid and binding at the latest of when (a) this Financing Order is issued, (b) a security agreement is executed and delivered, or (c) value is received for the Energy Transition Bonds. Pursuant to Section 13(D) of the ETA, the security interest will attach without any physical delivery of collateral or other act and the lien of the security interest shall be valid, binding and perfected against all parties having claims of any kind against the SPE, regardless of whether such parties have notice of the lien, on the filing of a financing statement with Secretary of State of the New Mexico. Pursuant to Section 13(E) of the ETA, this security interest in the Energy Transition Property will be a continuously perfected security interest and will have priority over any other lien that may subsequently attach to the Energy Transition Property unless the holder of the security interest has agreed in writing otherwise.

42. Pursuant to Section 13(F) of the ETA, the priority of a security interest in the Energy Transition Property is not affected by the commingling of energy transition revenues with other funds. Any pledgee or secured party shall have a perfected security interest in the amount of all energy transition revenues that are deposited in any account of PNM and any other security interest that may apply to those funds shall be terminated when they are transferred to a segregated account for the SPE or a financing party.

43. As provided in Section 13(G) of the ETA, no order of the Commission amending this Financing Order and no application of the True-Up Adjustment Mechanism shall affect the validity, perfection or priority of a security interest in or transfer of the Energy Transition Property.

44. The Indenture Trustee will be a financing party as defined in Section 2(L) of the ETA. In addition, any other trustee, collateral agent or other person acting for the benefit of a

bondholder, and a party to any ancillary agreement as defined in Section 2(B) of the ETA or the Energy Transition Bonds will be a financing party. As provided in Section 12(G) of the ETA, the interests of the SPE, holders of the Energy Transition Bonds and the Indenture Trustee in the Energy Transition Property and in the revenues and collections arising from that property are not subject to setoff, counterclaim, surcharge or defense by PNM or any affiliate thereof.

45. If PNM defaults on any required payment to the Indenture Trustee of Energy Transition Charges collected, a court with jurisdiction in the matter, on application by an interested party and without limiting any other remedies available to the applying party, shall order the sequestration and payment of the energy transition revenues for the benefit of holders of the Energy Transition Bonds, the SPE, the Indenture Trustee and any other financing parties. The order shall remain in full force and effect notwithstanding any bankruptcy, reorganization or other insolvency or receivership proceedings with respect to the qualifying utility or any non-utility affiliate.

46. Pursuant to Section 19(A) of the ETA, the State of New Mexico has pledged to and agreed with holders of the Energy Transition Bonds, the SPE and the Indenture Trustee that the State of New Mexico shall not take or permit any action that impairs the value of the Energy Transition Property, except as allowed pursuant to Section 6 of the ETA, or reduces, alters or impairs Energy Transition Charges that are imposed, collected and remitted for the benefit of the holders of the Energy Transition Bonds, the SPE and the Indenture Trustee, until the entire principal of, interest on and redemption premium on the Energy Transition Bonds, all financing costs and all amounts to be paid to the SPE or a financing party under an ancillary agreement are paid in full and performed in full. Pursuant to Section 19(B) of the ETA, SPE is permitted to include the pledge specified in Section 19(A) of the ETA in the Energy Transition Bonds and

any ancillary agreements and documentation related to the issuance and marketing of the Energy Transition Bonds.

47. As provided in Section 17 of the ETA, the Energy Transition Bonds shall not constitute a debt or a pledge of the faith and credit or taxing power of the State of New Mexico or of any county, municipality or any other political subdivision of the State of New Mexico. Holders of the Energy Transition Bonds shall have no right to have taxes levied by the legislature or the taxing authority of any county, municipality or other political subdivision of the State of New Mexico for the payment of the principal of or interest on the Energy Transition Bonds. The issuance of Energy Transition Bonds does not obligate the State of New Mexico or a political subdivision of the State of New Mexico to levy any tax or make any appropriation for payment of the principal of or interest on the Energy Transition Bonds.

48. In accordance with Section 6(F) of the ETA, a True-Up Adjustment will be deemed approved by the Commission without a hearing thirty days after the Company's filing of the True-Up Adjustment Request Letter unless: (1) no later than twenty days from the date the Company files the True-Up Adjustment Letter, the Commission is notified of a potential mathematical or transcription error in the adjustment; and (2) the Commission determines that the calculation of the adjustment is unlikely to provide for timely payment, or is likely to result in a material overpayment, of scheduled principal of and interest on the Energy Transition Bonds and recovery of Other Ongoing Financing Costs in accordance with the Financing Order, suspends operation of the True-Up Adjustment Mechanism, pending a hearing limited to the issue of the error in the adjustment. In accordance with Section 6(F) of the ETA, any such suspension shall be for a period not to exceed sixty days from the date the Company filed the True-Up Adjustment Letter.

49. As provided in Section 6(G) of the ETA, any Commission hearing with respect to a Standard True-Up Adjustment or Non-Standard True-Up Adjustment will be limited to determining whether there is a mathematical or transcription error in the calculation of the Standard True-Up Adjustment or Non-Standard True-Up Adjustment, as applicable. If, after a hearing, the Commission determines that the calculation of a Standard True-Up Adjustment or Non-Standard True-Up Adjustment contains a mathematical or transcription error, the Commission shall issue an order that rejects and corrects such adjustment. The Company will adjust the Energy Transition Charges in accordance with the Commission's calculation within five days from issuance of any such order. If the Commission orders such a hearing and does not issue an order rejecting a Standard True-Up Adjustment or Non-Standard True-Up Adjustment with a determination of the corrected calculation within 60 days from the date the Company filed the applicable Standard True-Up Adjustment letter or Non-Standard True-Up Adjustment letter, the adjustment to the Energy Transition Charges shall be deemed approved.

50. As provided in Section 11(A) of the ETA, the Commission shall not treat (1) the Energy Transition Bonds as indebtedness of PNM, (2) the Energy Transition Charges paid under this Financing Order revenues of PNM, or (3) the energy transition costs to be financed by the Energy Transition Bonds as costs of PNM.

51. As provided in Section 11(C) of the ETA, if PNM decides not to issue Energy Transition Bonds, such decision shall not be a basis for the Commission to refuse to allow PNM to recover energy transition costs in an otherwise permissible fashion, or as a basis to refuse or condition authorization to issue securities pursuant to Sections 62-6-6 and 62-6-7 NMSA 1978.

52. This Financing Order constitutes a financing order as defined in Section 2(L) of the ETA.

53. This Financing Order meets the requirements for a financing order under Section 5 of the ETA.

54. This Financing Order will be operative and in full force and effect from the date of issuance by the Commission.

55. Pursuant to Section 12(H) of the ETA, any successor to PNM shall be bound by the requirements of the ETA and shall perform and satisfy all obligations of, and have the same rights under this Financing Order as, PNM under this Financing Order in the same manner and to the same extent as PNM, including the obligation to collect and pay energy transition revenues to the Indenture Trustee for the account of the SPE or to any other persons entitled to receive the revenues.

56. Pursuant to Section 7(A) of the ETA, this Financing Order is irrevocable and the Commission shall not reduce, impair, postpone or terminate the Energy Transition Charges approved in this Financing Order, the Energy Transition Property or the collection or recovery of energy transition revenues, including recovery of the Ongoing Financing Costs through the Energy Transition Charges.

57. Pursuant to Section 9(B) of the ETA, this Financing Order shall remain in effect and unabated notwithstanding the bankruptcy, reorganization or insolvency of the qualifying utility (PNM or its successors) or any non-utility affiliate or the commencement of any proceeding for bankruptcy or appointment of a receiver.

58. In accordance with Section 8(A) of the ETA, this Financing Order has been issued as a separate order from any other order issued by the Commission on the approvals requested in the Consolidated Application with respect to the Energy Transition Bonds and is a final order of the Commission. Pursuant to Section 8(A) of the ETA, a party aggrieved by the issuance of this



Financing Order may apply to the Commission for a rehearing in accordance with Section 62-10-16 NMSA 1978; provided that such application shall be due no later than 10 calendar days after the issuance this Financing Order. An application for rehearing shall be deemed denied if not acted upon by the Commission within 10 calendar days after the filing of the application for rehearing. Pursuant to Section 8(B), an aggrieved party may file notice of appeal with the Supreme Court of New Mexico in accordance with Section 62-11-1 NMSA 1978; provided that such notice shall be due no later than 10 calendar days after denial of an application for rehearing or, if rehearing is not applied for, no later than 10 calendar days after issuance of this Financing Order. Pursuant to Section 8(B) of the ETA, the Supreme Court of New Mexico shall proceed to hear and determine the appeal as expeditiously as practicable.

59. Pursuant to Section 22 of the ETA, effective on the date that any of the Energy Transition Bonds are first issued under this Financing Order, if any provision of the ETA is invalidated, superseded, replaced, repealed or expires for any reason, that occurrence shall not effect the validity of any action allowed pursuant to the ETA that is taken by the Commission, PNM or its successors, the SPE or any other person, a collection agent, a financing party, a bondholder or a party to an ancillary agreement and, to prevent the impairment of the Energy Transition Bonds issued or authorized in this Financing Order, any such action shall remain in full force and effect with respect to all Energy Transition Bonds issued or authorized pursuant to this Financing Order before the date that such provision is held to be invalid or is invalidated, superseded, replaced, repealed or expires for any reason.

## V. ORDERING PARAGRAPHS

Based upon the record, the Findings of Fact and Conclusions of Law set forth herein and, or the reasons stated above, **THE COMMISSION ORDERS:**

1. PNM's application for a financing order authorizing the issuance of one or more series of Energy Transition Bonds by the SPE is granted, subject to the terms set forth in this Financing Order.

2. PNM may use the Energy Transition Bonds to finance the estimated amounts of Abandonment Costs identified in the Consolidated Application and this Financing Order. PNM may use the Energy Transition Bonds to finance the estimated amounts of Upfront Financing Costs and Section 16 Payments identified in the Consolidated Application and this Financing Order, as such amounts may be updated pursuant to Section 4(B)(6)(b) of the ETA.

3. The SPE may issue one or more series of Energy Transition Bonds, with the maximum aggregate principal amount of such Energy Transition Bonds to be equal to the sum of (A) the \$331.6 million of estimated Abandonment Costs set forth in the Consolidated Application and this Financing Order, (B) Section 16 Payments (updated as of the time of issuance and provided to the Commission following issuance in accordance with Section 4(B)(6) of the ETA), and (C) Upfront Financing Costs (updated as of the time of issuance and provided to the Commission following issuance in accordance with Section 4(B)(6) of the ETA).

4. PNM is authorized to form the SPE to be structured as described in the Consolidated Application and this Financing Order. Concurrent with the issuance of the Energy Transition Bonds, PNM shall make an equity capital contribution to the SPE that shall not be less than 0.5% of the total capital of the SPE (with the aggregate principal amount of the Energy Transition Bonds representing not more than 99.5% of the capital of the SPE). PNM shall be

permitted to earn a rate of return on its equity capital contribution to the SPE at a rate equal to the rate of interest payable on the longest maturing tranche of Energy Transition Bonds and this return on the capital contribution will be an Ongoing Financing Cost and part of the Periodic Revenue Requirement.

5. Each series of the Energy Transition Bonds may be issued in one or more tranches. The SPE is authorized to enter into an Indenture with an Indenture Trustee, consistent with the provisions of this Financing Order, pursuant to which the Energy Transition Bonds shall be issued. Each tranche of the Energy Transition Bonds shall be issued with a fixed interest rate and shall have a scheduled final maturity of no more than 25 years from the date of issuance of such Energy Transition Bonds, provided that the legal final maturity may exceed 25 years. Following the initial scheduled payment of principal and interest, payments of principal and interest on the Energy Transition Bonds shall be made semiannually. Subject to compliance with the requirements of this Financing Order, PNM and the SPE shall be afforded flexibility in establishing the terms and conditions of the Energy Transition Bonds, repayment schedules, term, payment dates, collateral, redemption provisions, credit enhancement, required debt service, reserves, interest rates and other financing costs.

6. Each of PNM and the SPE is authorized to execute and deliver the Transaction Documents substantially in the form submitted with the Supporting Testimony, subject to such changes as are legally appropriate and necessary to satisfy bankruptcy or rating agency considerations or that are otherwise consistent with the provisions of this Financing Order. Each of PNM and the SPE is authorized to enter into any ancillary agreements (as defined in Section 2(B) of the ETA) consistent with the provisions of this Financing Order that may be appropriate in connection with the issuance of the Energy Transition Bonds, including various forms of

credit enhancement or other mechanisms designed to improve the credit quality and marketability of the Energy Transition Bonds in furtherance of the lowest cost objective. Each of PNM and the SPE is authorized to execute and deliver such additional agreements, documents, certificates and instruments as shall be legally appropriate and necessary in order to effectuate the issuance of the Energy Transition Bonds in accordance with the provisions of this Financing Order.

7. PNM is authorized to recover the Ongoing Financing Costs as described in the Consolidated Application and this Financing Order through the Energy Transition Charges authorized in this Financing Order.

8. PNM or the SPE as its assignee is authorized to impose, charge, collect and receive Energy Transition Charges necessary to recover the Ongoing Financing Costs, to be imposed as described in the Consolidated Application, including the Supporting Testimony, and in this Financing Order. The Energy Transition Charges shall be subject to the True-Up Adjustment Mechanism described in the Consolidated Application, including the Supporting Testimony, and in this Financing Order until the Energy Transition Bonds and the Ongoing Financing Costs are paid in full.

9. The Energy Transition Charges authorized in this Financing Order shall be nonbypassable as defined in Section 2(P) of the ETA, meaning that payment of an Energy Transition Charge may not be avoided by an electric service customer located within PNM's utility service area and shall be paid by each customer that receives electric deliver service from the qualifying utility (PNM or its successor) imposing the charge for as long as the Energy Transition Bonds secured by the Energy Transition Charges are outstanding and the related Ongoing Financing Costs have not been recovered in full.

10. The Energy Transition Charges shall appear as a separate line item on each customer's electric bill. In addition, all electric bills shall state that all rights to the Energy Transition Charges are owned by the SPE.

11. PNM's proposed ETA Rider as shown in PNM Exhibit MJS-2 is hereby approved.

12. Upon issuance of the Energy Transition Bonds, PNM shall file an advice notice with the Commission, subject to review by the Commission for errors and corrections, that identifies the actual initial Energy Transition Charges to be included on customers' bills, effective fifteen days from the date the advice notice is filed.

13. The True-Up Adjustment Mechanism described in the Consolidated Application, including the Supporting Testimony, and in this Financing Order is approved. PNM or its assignee is authorized to recover the Periodic Revenue Requirement through the Energy Transition Charges and shall file with the Commission at least semiannually (and at least quarterly during two-year period preceding the final maturity date of the Energy Transition Bonds) a True-Up Adjustment Letter as described in this Financing Order. In addition to the semiannual Standard True-Up Adjustments, PNM is authorized to implement optional Standard True-Up Adjustments at any time, without limitation as to frequency, in order to ensure timely payment of scheduled principal of and interest (or deposits to sinking funds in respect of principal and interest) on the Energy Transition Bonds and the payment of other ongoing financing costs, and to implement Non-Standard Adjustments as described above in this Financing Order.

14. In connection with each True-Up Adjustment, PNM shall file an advice notice with the True-Up Adjustment Request Letter to implement the revised Energy Transition Charges.

15. PNM's method of allocating the Periodic Billing Requirement to customer classes and rate schedules and assessing the Energy Transition Charges within rate schedules as described in the Consolidated Application, including the Supporting Testimony, and in this Financing Order is hereby approved. As provided in Section 6(A) of the ETA, the allocation and assessment of energy transition are both subject to the True-Up Adjustment Mechanism. PNM shall file a True-Up Adjustment Request Letter in connection with any general rate case when necessary to reflect any adjustments in the allocation of ETCs as a result of changes in the production cost methodology used in such general rate case.

16. The creation of the Energy Transition Property as described in this Financing Order is approved. The Energy Transition Property shall consist of all rights and interests of the qualifying utility (PNM or its successors) or its assignee under this Financing Order, including the right to impose, charge, collect and receive Energy Transition Charges in an amount necessary to provide for full payment and recovery of all Ongoing Financing Costs, including all revenues or other proceeds arising from those rights and interests. The Energy Transition Property also include the rights and interests of the qualifying utility (PNM or its successors) or its assignee in the True-Up Adjustment Mechanism approved under this Financing Order.

17. The creation of the Energy Transition Property is conditioned upon and shall be simultaneous with, the transfer of the Energy Transition Property to the SPE pursuant to the Purchase Agreement and related bill of sale and the pledge of the Energy Transition Property to

secure the Energy Transition Bonds. The Energy Transition Property shall continue to exist until the Energy Transition Bonds and all Ongoing Financing Costs have been paid in full.

18. In accordance with the terms and conditions of this Financing Order, the SPE may pledge to an Indenture Trustee, as collateral for payment of the Energy Transition Bonds, the Energy Transition Property, including the SPE's right to receive the related Energy Transition Charges when collected, and the other collateral described in the Indenture.

19. PNM shall structure the issuance of the Energy Transition Bonds in a manner consistent with the provisions of IRS Revenue Procedure 2005-62.

20. The Securitization Transaction Structure described in this Financing Order is approved.

21. In its capacity as the initial servicer of the Energy Transition Bonds under the Servicing Agreement, PNM is authorized to calculate, bill, collect and receive for the account of the SPE, the Energy Transition Charges established under this Financing Order, as adjusted from time to time pursuant to the True-Up Adjustment Mechanism, and to make such filings and take such other actions as are required or permitted by this Financing Order in connection with the True-Up Adjustment Mechanism. The servicer of the Energy Transition Bonds will be entitled to collect servicing fees in accordance with the provisions of the Servicing Agreement, provided that the annual servicing fee payable to PNM for acting as servicer (or any other servicer affiliated with PNM) shall be 0.05% of the initial aggregate principal amount of the Energy Transition Bonds plus out-of-pocket expenses, and (ii) the annual servicing fee payable to any other servicer not affiliated with PNM shall not at any time exceed 0.60% of the initial aggregate principal amount of the Energy Transition Bonds plus out-of-pocket expenses, except as provided in the paragraph below.

22. PNM shall not resign as servicer except upon either (a) a determination by PNM that the performance of its duties under as servicer shall no longer be permissible under applicable law, or (b) satisfaction of the following: (i) receipt of confirmation that such action will not result in a suspension, reduction or withdrawal of the then current ratings on any of the Energy Transition Bonds and (ii) the Commission shall have approved of such resignation. Upon the occurrence of an event of default under the Servicing Agreement relating to the servicer's performance of its servicing functions with respect to the Energy Transition Charges, the Indenture Trustee may replace PNM as the servicer in accordance with the terms of the Servicing Agreement. If the servicing fee of the replacement servicer will exceed the applicable maximum servicing fee specified herein, the appointment of such replacement servicer will not be effective until (i) the date the Commission approves the appointment of such replacement servicer or (ii) if the Commission does not act to either approve or disapprove the appointment, the date which is 45 days after notice of appointment of the replacement servicer is provided to the Commission. No entity may replace PNM as the servicer in any of its servicing functions with respect to the Energy Transition Charges and the Energy Transition Property authorized by this Financing Order, if the replacement would cause any of the then-current credit ratings of the Energy Transition Bonds to be suspended, withdrawn or downgraded.

23. The servicer shall remit collections (or estimated amounts of collections) of the Energy Transition Charges to the SPE or the Indenture Trustee for the SPE's account on each business day.

24. In the event a customer of PNM does not pay the full amount of any bill that includes Energy Transition Charges, such partial payments shall be allocated in accordance with applicable Commission requirements and any other requirements of applicable law. Following



the issuance of any Energy Transition Bonds, for amounts billed on the same date, charges shall be credited based on a priority waterfall, with late payment charges being credited first, Energy Transition Charges being credited second, and other charges being credited thereafter in the priority waterfall. If more than one series of Energy Transition Bonds are outstanding, partial payments allocable to Energy Transition Charges shall be allocated pro rata based upon the amount of Energy Transition Charges owing with respect to each series.

25. PNM shall be entitled to receive an administration fee for its performance of administration duties for the SPE under the Administration Agreement, provided that the aggregate annual administration fee payable to PNM (or any of its affiliates) while serving as administrator for the SPE shall be \$50,000 per year plus out-of-pocket expenses.

26. The servicing and administration fees collected by PNM (or any affiliate of PNM) acting as servicer or administrator under the Servicing Agreement or the Administration Agreement, respectively, shall be included in PNM's cost of service. The expenses incurred by PNM (or any affiliate of PNM) to perform obligations under the Servicing Agreement or Administration Agreement not otherwise recovered through the Energy Transition Charges shall be included in PNM's cost of service.

27. PNM has the continuing, irrevocable right to cause the issuance of the Energy Transition Bonds in one or more series in accordance with the terms of this Financing Order.

28. PNM shall provide the Commission with a copy of each registration statement, prospectus, Current Report on Form 8-K or other filing made with the SEC in connection with any issuance or proposed issuance of the Energy Transition Bonds within 5 business days following the date of such filing with the SEC.

29. In accordance with Section 4(B)(6) of the ETA, PNM shall file with the Commission within 30 days after the issuance of the Energy Transition Bonds, a report describing the final structure and pricing of the Energy Transition Bonds, updated Financing Costs and Section 16 Payments amounts, and an updated calculation of the Energy Transition Charges. In addition, PNM will file final forms of the Transaction Documents.

30. In connection with any issuance of the Energy Transition Bonds, PNM shall use its commercially reasonable efforts to obtain the lowest cost objective.

31. PNM's proposed method to reconcile and recover or refund any difference between the between the energy transition costs financed by the Energy Transition Bonds and the actual final energy transition costs incurred by the PNM or the SPE, as described in this Financing Order, is approved.

32. PNM's proposed method to account for the reduction in PNM's cost of service associated with the amount of undepreciated investments being recovered by the Energy Transition Charges at the time the charge becomes effective, as described in this Financing Order, is approved.

33. The SPE is authorized to the use the proceeds it receives from the sale of the Energy Transition Bonds to (i) pay the Upfront Financing Costs incurred in connection with the issuance of the Energy Transition Bonds (including reimbursement to PNM of any such costs paid by PNM) and (ii) to purchase the Energy Transition Property from PNM pursuant to the terms of the Purchase Agreement and related bill of sale. PNM and the SPE are authorized to enter the Purchase Agreement and related bill of sale consistent with the provisions of this Financing Order.

34. PNM is authorized to use the proceeds it receives from the sale of the Energy Transition Property to the SPE (i) to make required Section 16 Payments and (ii) for purposes of providing utility service to customers, including paying certain Abandonment Costs financed with the Energy Transition Bonds.

35. In accordance with Section 5(J) of the ETA, PNM shall file a report, within 30 days following receipt of the proceeds from the sale of the Energy Transition Bonds and annually thereafter until all bond proceeds have been disbursed, specifying (1) the gross amount of proceeds arising from the sale of the Energy Transition Bonds, (2) any amounts expended for payment of Upfront Financing Costs (including reimbursement to PNM for such costs paid by PNM), (3) the amount of Section 16 Payments made, (4) the amount of proceeds remaining after such payments, and (5) the use of the remaining proceeds for purposes related to providing utility service to customers.

36. Following repayment of the Energy Transition Bonds and all related financing costs and the release of funds by the Indenture Trustee, the SPE shall distribute the final balance of the Collection Account to PNM. PNM has proposed that it will credit customers by the amount of the distribution, less the amount of the Capital Subaccount and any unpaid return on the capital contribution due to PNM as set forth in this Financing Order. PNM shall similarly credit customers by the aggregate amount of any Energy Transition Charge collections subsequently received by the SPE.

37. In accordance with Section 5(I) of the ETA, to the extent permitted under applicable law, during any period in which the Energy Transition Bonds are outstanding, the SPE LLC Agreement shall provide that in order for the SPE to file a voluntary bankruptcy petition on behalf of the SPE, the prior unanimous consent of the managers of the SPE shall be required.

38. In accordance with Section 5(K) of the ETA, the Commission is authorized to review and audit the books and records of PNM and the SPE, relating to the Energy Transition Property and the receipt and disbursement of proceeds of the Energy Transition Bonds.

39. All regulatory approvals within the jurisdiction of the Commission that are necessary for the issuance of the Energy Transition Bonds and all related transactions, are granted.

40. The Commission finds that the Combined Application satisfies the requirements of Section 4 of the ETA. The Commission finds that this Financing Order constitutes a financing order within the meaning of Section 2(L) of the ETA. The Commission finds that this Financing Order complies with the provisions of Section 5 of the ETA. A financing order issued under Section 5 of the ETA gives rise to rights, interests, obligations and duties as expressed in the ETA. It is the Commission's express intention to give rise to those rights, interests, obligations and duties by issuing this Financing Order. PNM and any successor servicer are authorized to take all actions as are required to effectuate the transactions approved in this Financing Order, subject to compliance with the requirements of this Financing Order.

41. This Financing Order is irrevocable and the Commission shall not reduce, impair, postpone or terminate the Energy Transition Charges approved in this Financing Order, the Energy Transition Property or the collection or recovery of energy transition revenues, including recovery of the Ongoing Financing Costs through the Energy Transition Charges.

42. Any successor to PNM shall be bound by the requirements of the ETA and shall perform and satisfy all obligations of, and have the same rights under this Financing Order as, PNM under this Financing Order in the same manner as PNM, including the obligation to collect and pay energy transition revenues to the Indenture Trustee for the account of the SPE or to any

other persons entitled to receive the revenues. This Financing Order also is binding upon any servicer or other entity responsible for billing and collecting the Energy Transition Charges on behalf of the SPE, and upon any successor to the Commission.

43. If the Energy Transition Bonds are outstanding and the Ongoing Financing Costs have not been paid in full, the Energy Transition Charges authorized in this Financing Order shall be collected by PNM or its successors or assignees, or a collection agent, in full through a non-bypassable charge that is a separate line item on customer bills and not part of the qualifying utility's base rates. The charge shall be paid by all customers receiving electric delivery from PNM or its successors under Commission-approved rate schedules or special contracts, and all customers who acquire electricity from an alternative or subsequent electricity supplier in the utility service area currently served by PNM, to the extent such acquisition is permitted by New Mexico law.

44. This Financing Order shall remain in effect and unabated notwithstanding the bankruptcy, reorganization or insolvency of the qualifying utility (PNM or its successors) or any non-utility affiliate or the commencement of any proceeding for bankruptcy or appointment of a receiver.

45. In accordance with Section 19 of the ETA, the Commission pledges to and agrees with holders of the Energy Transition Bonds, the SPE and the Indenture Trustee that the Commission shall not take or permit any action that impairs the value of the Energy Transition Property, except as allowed pursuant to Section 6 of the ETA, or reduces, alters or impairs Energy Transition Charges that are imposed, collected and remitted for the benefit of the holders of the Energy Transition Bonds, the SPE and the Indenture Trustee, until the entire principal of, interest on and redemption premium on the Energy Transition Bonds, all financing costs and all

amounts to be paid to the SPE or a financing party under an ancillary agreement are paid in full and performed in full. The SPE is permitted to include this pledge in the Energy Transition Bonds and any ancillary agreements and documentation related to the issuance and marketing of the Energy Transition Bonds.

46. A copy of this Financing 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.

47. This Financing Order is effective immediately.

**ISSUED under the Seal of the Commission at Santa Fe, New Mexico, this \_\_\_\_ day of \_\_\_\_\_.**

**NEW MEXICO PUBLIC REGULATION COMMISSION**

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**THERESA BECENTI-AGUILAR, CHAIR, DISTRICT 4**

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**VALERIE ESPINOZA, VICE-CHAIR, DISTRICT 3**

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**CYNTHIA HALL, COMMISSIONER, DISTRICT 1**

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**JEFFERSON L. BYRD, COMMISSIONER, DISTRICT 2**

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**STEPHEN FISCHMANN, COMMISSIONER, DISTRICT 5**

## **EXHIBIT A**

### **FORM OF STANDARD TRUE-UP ADJUSTMENT LETTER**

New Mexico Public Regulation Commission  
[ADDRESS]  
Attention:

Re: Energy Transition Act Financing Order, 19-\_\_\_\_\_-UT

Dear [\_\_\_\_\_]:

Pursuant to the financing order of the New Mexico Public Regulation Commission (the “Commission”) adopted on [\_\_\_\_\_] in the above-referenced matter (the “Financing Order”), Public Service Company of New Mexico (“PNM”), as servicer of the energy transition bonds issued pursuant to the Financing Order, submits this filing for a True-Up Adjustment (as defined in the Financing Order) to the energy transition charges authorized pursuant to the Financing Order.

PNM has calculated the True-Up Adjustment in accordance with the methodology approved in the Financing Order. Attachment 1 hereto is the Energy Transition Charge True-Up Mechanism Form and Attachment 2 hereto is PNM’s workpapers showing the calculation of the adjusted energy transition charges. Attachment 3 hereto is PNM’s advice notice with respect to implementing the adjusted energy charges pursuant to the True-Up Adjustment.

Pursuant to the Financing Order and Section 6(F) of the Energy Transition Act, the True-Up Adjustment will be deemed approved by the Commission without a hearing thirty days after PNM’s filing of this letter unless: (1) no later than twenty days from the date PNM files this letter, the Commission is notified of a potential mathematical or transcription error in the adjustment; and (2) the Commission determines that the calculation of the adjustment is unlikely to provide for timely payment, or is likely to result in a material overpayment, of scheduled principal of and interest on the energy transition bonds and recovery of other ongoing financing costs in accordance with the Financing Order, and suspends operation of the True-Up Adjustment, pending a hearing limited to the issue of the error in the adjustment. In accordance with Section 6(F) of the Energy Transition Act, any such suspension shall be for a period not to exceed sixty days from the date PNM filed this letter.

Accordingly, so long as the Commission takes no action to suspend operation of the True-Up Adjustment, the True-Up Adjustment requested in this letter shall become effective on [\_\_\_\_\_].

Respectfully submitted,  
PUBLIC SERVICE COMPANY OF NEW MEXICO

By: \_\_\_\_\_  
Name:  
Title:



## Attachment 1 to True-Up Adjustment Request Letter

PNM Exhibit MJS-2, Appendix 1: Form of Recovery Period True-up						Page 1 of 1
Public Service Company of New Mexico (PNM)						
Energy Transition Bond rider true-up calculation summary report						
ETA Rider No 51						
Remittance Period Start Date: _____						
Remittance Period End Date: _____						
Line No.	Description	Equation	Calculation of the True-up (1)	Projected Revenue Requirement to be Billed and Collected (2)	Revenue Requirement for Projected Collection Period (1)+(2)=(3)	Data Source
1	Prior period remittances from Start date: to End Date:					
2						
3	True-up for the Prior Remittance Period					
4	Revenue Requirement					
5	Actual Cash Receipt Transfers Interest Income					
6	Cash Receipts Transferred to the SPE					
7	Interest Income on Subaccounts at the SPE					
8	Total Current Period Actual Daily Cash Receipts Transfers and Interest Income	Line 6 + Line 7	-			
9	(Over)/Under collection of prior remittance period revenue requirements	Line 4 + Line 8				
10	Cash in Excess Funds subaccount					
11	Cumulative (Over)/Under collections through the end of prior remittance period	Line 9 + Line 10	\$		\$	
12						
13						
14	Current Remittance Period with Start date: through End Date:					
15	Principal					
16	Interest					
17	Servicing Costs					
18	Other On-Going Costs					
		Line 15 + Line 16 + Line 17 + Line 18				
19	Current Remittance Period Total Revenue Requirement		\$			
20						
21	Current Remittance Period Cash Receipt Transfers and Interest Income:					
22	Cash Receipts Transferred to SPE		(A)	(B)		
23	Interest Income on Subaccounts at SPE		(A)	(B)		
24	Total Current Remittance Period Cash Receipt Transfers and Interest Income	Line 22 + Line 23	\$	\$		
25	Estimated Current Remittance Period (Over)/Under Collection	Line 19 + Line 24	\$	\$	\$	
26						
27						
28	Projected Remittance Period with Start date: through End Date:					
29	Principal					
30	Interest					
31	Servicing Costs					
32	Other On-Going Costs					
		Line 29 + Line 30 + Line 31 + Line 32				
33	Projected Remittance Period Total Revenue Requirement		\$	\$	\$	
34						
35	Revenue Requirements to be Billed in Projected Remittance Period, TOTAL	Line 11 + Line 25 + Line 33		(C)	\$	
36	Forecasted Sales (in kWh) for Projected Remittance Period (adjusted for uncollectibles)					
37	Average Energy Transition Bond rider charge per kWh	Line 35 / Line 36			\$	
38						
39						
40						
41	Footnotes:					
42	(A) Reflects cash receipts and interest income that have been billed, collected, and remitted to SPE					
43	(B) These are the remaining months in the current period whose collection is estimated.					
44	Remaining estimated months are for this time period:					
45	(C) This is the total amount for recovery.					

**Attachment 2 to True-Up Adjustment Request Letter**

[Advice Notice]

**Attachment 3 to True-Up Adjustment Request Letter**

[Workpapers]

GCG#525658