

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

**IN THE MATTER OF PUBLIC SERVICE)
COMPANY OF NEW MEXICO'S APPLICATION)
FOR CONTINUATION OF A PLAN TO MANAGE)
FUEL AND PURCHASED POWER COSTS BY)
ENTERING INTO CERTAIN FORWARD)
MARKET TRANSACTIONS,)
)
PUBLIC SERVICE COMPANY OF NEW MEXICO,)
)
Applicant.)
_____)**

Case No. 24-00__-UT

APPLICATION

Public Service Company of New Mexico ("PNM" or "Company") hereby applies to the New Mexico Public Regulation Commission ("Commission") for approval to continue its hedging plan ("Plan"), which was approved for an initial five-year period in Case No. 09-00321-UT and for additional five-year periods in Case Nos. 14-00190-UT and 19-00187-UT. Under the Plan, PNM enters into certain forward market transactions, the benefits and costs of which are passed to the Company's jurisdictional customers through PNM's Fuel and Purchased Power Cost Adjustment Clause ("FPPCAC"). The Plan benefits customers by reducing fluctuations in the FPPCAC. In support of this Application, PNM states:

1. PNM is a New Mexico corporation that owns, operates and controls plant, property and facilities for the generation, transmission, distribution and sale of electric energy to the public in portions of the State of New Mexico (i.e., retail services), and to purchasers for resale (i.e., wholesale customers).
2. PNM is a public utility in New Mexico, as defined in NMSA 1978, § 62-3-3, and is subject to the jurisdiction and authority of the Commission.

3. As a public utility, PNM is required to furnish adequate, efficient and reasonable service at just and reasonable rates. NMSA 1978, §§ 62-8-1 and 62-8-2.

4. PNM's principal office is located at 414 Silver Ave. SW, Albuquerque, NM 87102.

5. PNM's attorneys and corporate representatives who should receive all notices, pleadings, discovery requests and responses and other documents related to this case are:

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6. PNM is filing with this Application the supporting direct testimony and exhibits of Shane Lewis, which are included and incorporated as if set forth fully herein. The Plan for which PNM is seeking approval to continue is described in detail in the testimony and is summarized below in this Application.

7. Consistent with Commission Rule 550 (17.9.550 NMAC), the Company has in place an FPPCAC, the current form of which was approved by the Commission in Case Nos. 13-00187-UT and 19-00159-UT, and most recently continued in Case No. 22-00270-UT. PNM was first granted approval to implement a FPPCAC in Case No. 08-00092-UT, in which the Commission approved an Emergency FPPCAC which included several conditions, including that PNM not

recover hedging costs through the Emergency FPPCAC until such time as the Commission approves PNM's hedging practices.¹

8. In Case No. 09-00321-UT, the Commission approved PNM's Plan to participate in the forward markets by engaging in forward and futures transactions as a means of improving the management of fuel and purchased power costs that PNM recovers from its customers through the FPPCAC, of reducing volatility in fuel and purchased power expenses and providing other customer benefits. Specifically, the Plan involved PNM's participation in the forward markets for the month-ahead and the longer term in order to conduct the following activities: (a) procuring natural gas and energy in the forward markets to serve jurisdictional load, including (i) procurement of natural gas fuel for generation at PNM's gas-fired generating plants during the current calendar year and up to two calendar years in advance at a price set either by contract or the use of financial instruments; and (ii) procurement of electricity through purchases during the current calendar year and for up to two calendar years in advance at a price set either by contract or the use of financial instruments; and (b) entering into off-system sales in the forward markets to enhance margins benefitting jurisdictional customers, including: (i) off-system sales of anticipated excess energy during the current calendar year and for up to one calendar year in advance at a price set either by contract or the use of financial instruments; and (ii) sales from PNM's gas-fired generating plants for fixed-margin, "spark-spread" financial transactions during the current calendar year and for up to one calendar year in advance. The Commission approved the continuation of this plan in Case Nos. 14-00190-UT and 19-00187-UT.

¹ See Case No. 07-00077-UT *Joint Motion of PNM and IBEW, Local No. 611, for Implementation of Emergency FPPCAC* at ¶ 9 (March 20, 2008) (describing the Emergency FPPCAC that was approved, with conditions, by the Commission's May 22, 2008 *Final Order* in Case No. 08-00092-UT).

9. In approving the Plan in Case No. 09-00321-UT, the Commission also approved a set of guidelines that PNM would follow in participating in hedging transactions. The guidelines serve to limit how much natural gas and purchased power may be hedged in the forward markets as well as limit the Company's participation in off-system sales and spark spread transactions in the forward markets. The Commission approved these same guidelines in Case Nos. 14-00190-UT and 19-00187-UT.

10. The Commission in Case No. 19-00187-UT approved PNM's implementation of the Plan through the end of 2024, provided that PNM is allowed to enter into forward transactions under the Plan that will not close until the end of 2025. The Commission also directed PNM to make a filing by June 30, 2024, concerning the continuation of the Plan, after conferring with Staff and other parties about whether and under what terms and conditions the Plan should be continued.

11. PNM is proposing to continue the Plan, along with the existing guidelines, to permit the Company to continue to participate in the forward markets by engaging in forward and futures transactions. PNM seeks approval to continue the Plan through the end of 2029, provided that the Company would be allowed to enter into forward transactions under the Plan that will not close until the end of 2030. PNM also seeks approval to flow the benefits, as well as the costs, of the Plan to PNM's jurisdictional customers through the Company's FPPCAC. No change is being sought in the Company's base electric rates.

12. The Plan is consistent with NMSA 1978, Section 62-8-7, Commission Rule 550 (17.9.550 NMAC), the Commission's Final Order Approving Continued Use of FPPCAC in Case No. 22-00270-UT, and the final orders in PNM's previous Plan cases.

13. PNM requests the expeditious consideration of this Application so that the benefits of the Plan can continue to be provided to customers uninterrupted. PNM requests that the Commission

approve the Application without holding a hearing unless the Commission's Utility Division Staff or an intervenor makes a filing in the case docket demonstrating that a hearing is necessary.

14. Attached hereto as Exhibit A is a Proposed Form of Notice of Proceeding.

WHEREFORE, PNM requests that the Commission enter an order on an expeditious basis approving this Application, approving continuation of the Plan described herein, including the flow-through of associated benefits and costs through the Company's FPPCAC; and granting PNM all other authorizations, approvals and variances that are or may be necessary in connection with the relief requested herein.

Respectfully submitted,

PUBLIC SERVICE COMPANY OF NEW MEXICO

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Case No. 24-00__-UT

PROPOSED FORM OF NOTICE OF PROCEEDING

1. On June 28, 2024, Public Service Company of New Mexico (“PNM” or “Company”) filed with the New Mexico Public Regulation Commission (“NMPRC” or “Commission”) its Application for approval of the continuation of PNM’s hedging plan (“Plan”), initially approved by the Commission in Case No. 09-00321-UT and continued in Case Nos. 14-00190-UT and 19-00187-UT, to manage its fuel and purchased power costs by entering into certain forward market transactions, and for such approvals, authorizations and variances that may be required in connection with the Plan (“Application”).

2. PNM is a corporation doing business in the State of New Mexico as a public utility and is subject to the Commission’s jurisdiction pursuant to the New Mexico Public Utility Act, NMSA 1978, § 62-3-1, *et seq.*

3. PNM is requesting that the Commission approve the continuation of its Plan to participate in forward gas and electric markets by engaging in forwards and futures transactions through 2029, provided that the Company would be allowed to enter into forward transactions under the Plan that will not close until the end of 2030. Forward markets are the markets for month-

ahead or longer term, which could be up to two to three years ahead. PNM states that its ability to participate in forward markets has enabled it to improve the management of its fuel and purchased power costs, reduced volatility in fuel and purchased power expenses and provided other benefits to customers. PNM proposes to continue to flow the benefits, as well as the costs, of the Plan to PNM's retail customers through the Company's Fuel and Purchased Power Cost Adjustment Clause ("FPPCAC"). The Company states that no change is being sought in its base electric rates.

4. Specifically, the Plan involves PNM's participation in the forward markets for the month-ahead and the longer term in order to conduct the following activities: (a) to procure natural gas and energy in the forward markets to serve jurisdictional load, including (i) procurement of natural gas fuel for generation at PNM's gas-fired generation plants during the current calendar year and for up to two calendar years in advance at a price set either by contract or the use of financial instruments; and (ii) procurement of electricity through purchases during the current calendar year and for up to two calendar years in advance at a price set either by contract or the use of financial instruments; and (b) to enter into off-system sales in the forward markets to enhance margins benefiting jurisdictional ratepayers, including: (i) off-system sales of anticipated excess energy during the current calendar year and for up to one calendar year in advance at a price set either by contract or the use of financial instruments; and (ii) sales from PNM's gas-fired generation plants for fixed-margin, "spark-spread" financial transactions during the current calendar year and for up to one calendar year in advance.

5. PNM requests the expeditious consideration of its Application so that the benefits of the Plan can continue to be provided to customers uninterrupted.

6. Further information regarding this case can be obtained by contacting PNM or the Commission at the address and telephone numbers provided below. The Commission has assigned

Case No. 24-00____-UT to this proceeding, and all inquiries or written comments concerning this matter should refer to that case number.

7. The following procedural schedule has been established for this case:

A. On or before _____, 2024, PNM shall cause, at its sole expense, the Notice of Proceeding and Hearing to be published once in a newspaper of general circulation available in every county where PNM provides service in New Mexico. PNM shall ensure that an affidavit confirming such publication is promptly filed in the docket.

B. On or before _____, 2024, PNM shall mail (by bill insert or separately at its sole expense) the Notice. PNM shall ensure that an affidavit confirming such mailing is promptly filed in the docket.

C. PNM shall also post as promptly as feasible to the “Regulatory Information” page on the PNM website, <https://www.pnm.com/regulatory>, copies of the Notice as well as the Application, and the supporting pre-filed direct testimony, exhibits, and related papers. PNM shall ensure that an affidavit confirming such posting is promptly filed in the docket.

D. Any person desiring to become a party (“intervenor”) to this case must file a motion for leave to intervene in conformity with PRC Rules of Procedure 1.2.2.23(A) and 1.2.2.23(B) NMAC on or before _____. All motions for leave to intervene shall be served on all existing parties and other proposed intervenors of record.

E. Staff shall and any intervenor may file direct testimony by _____.

F. With regard to PNM’s direct testimony and Staff and intervenors’ testimony, motions in limine, motions to strike, and other prehearing motions shall be filed on or before _____. Responses to such motions shall be filed on or before _____.

G. Any rebuttal testimony shall be filed on or before _____.

H. Any stipulation entered into among some or all parties may be filed no later than _____, together with testimony in support of that stipulation. If Staff is a stipulating party, Staff shall file direct testimony.

I. Solely with regard to rebuttal testimony, motions in limine, motions to strike, and other prehearing motions shall be filed on or before _____. Responses to such motions shall be filed on or before _____.

J. Any response testimony regarding a stipulation shall be filed by _____.

K. Service of all documents filed in this proceeding and discovery requests and responses shall be via e-mail unless a party requests a hard copy or unless otherwise ordered. PNM shall post the discovery requests it receives from the parties or Staff and PNM's responses to discovery requests, including exhibits, on PNM's file sharing platform.

L. Responses to discovery shall be produced by close of business on the date that the certificate of service confirming such production is filed in the record. Discovery responses produced after 5:00 p.m. on the date that the certificate of service is filed shall be deemed produced the following day.

M. Responses to discovery requests solely regarding rebuttal testimony shall be served within three (3) days of service of the request unless otherwise agreed or ordered.

N. A prehearing conference is tentatively scheduled for _____, commencing at ____ Mountain Time ("MT") on the Zoom videoconference platform. The prehearing conference may be vacated by the Hearing Examiner if it is determined that the conference is not necessary.

O. A public hearing will be held beginning on _____ and will continue through _____, or to such further date as may be determined to be necessary by the Hearing Examiner. Each hearing session shall commence at 9:00 a.m. MT unless otherwise ordered.

P. The evidentiary hearing shall be conducted via the Zoom videoconference platform. Access to and participation in the evidentiary hearing shall be limited to party-participants (i.e., counsel and witnesses), the Commissioners, and other essential Commission personnel. The Zoom hearing will be livestreamed through YouTube and will be displayed on the Commission's website at <https://www.nm-prc.org>. Persons not participating in the evidentiary hearing as an attorney or witness may view the hearing on the Commission's website and shall not join the hearing via Zoom except to provide oral comment as allowed below.

Q. Interested persons who are not affiliated with a party may make written comment as allowed by Rule 1.2.2.23(F) NMAC. The Commission may also schedule one or more public comment hearings at a place and time to be determined in the Commission's discretion. However, as Rule 1.2.2.23(F) provides, "commenters are not parties and shall not have the right to introduce evidence, to examine or cross-examine witnesses, to receive copies of pleadings and documents, to appeal from any decisions or orders, or to otherwise participate in the proceeding other than making their comments."

R. Since the evidentiary hearing will be conducted via Zoom, the parties and Staff will be required to electronically distribute the exhibits they intend to offer for admission into evidence at the hearing in advance of the hearing. That electronic distribution shall provide the documents to all parties and the Hearing Examiner. The requirements for those and any other necessary submissions shall be set forth in a subsequent prehearing order issued by the Hearing Examiner.

S. Any person filing prepared testimony consistent with 1.2.2.35(I) NMAC on behalf of a party shall attend the hearing and submit to examination under oath and shall appear via the Zoom video feed. All pre-filed testimonies of a witness shall be moved into evidence when the witness is first presented. Unless otherwise ordered or approved by the Hearing Examiner, only

pre-filed testimony in question-and-answer form and verified by the witness – and examination of witnesses on such pre-filed testimony – shall be accepted, considered, and received in evidence along with other relevant and otherwise admissible exhibits. Oral testimony elicited by a party or Staff presenting a witness (except for appropriate redirect examination) shall consist solely of the authentication and verification of each pre-filed testimony and identifications of any permitted corrections to that testimony. The party or Staff shall not elicit oral summaries of pre-filed testimony or other oral testimony.

T. Friendly cross-examination is prohibited. Friendly cross-examination is cross-examination of a witness by a party who does not disagree with the witness’s position on an issue.

U. Each witness at the hearing, and each witness’s attorney, shall have readily available to him or her at the hearing a copy of the pre-filed testimony of each witness and any related exhibits.

V. Any interested person may examine PNM’s application and supporting documents and other documents filed in the public record of this case on the Commission’s website, <https://edocket.nmprc.state.nm.us>, or at the offices of PNM at the following address:

Public Service Company of New Mexico
PNM Headquarters, Main Office
Albuquerque, New Mexico 87158
Telephone: (505) 241-2700

W. The procedural dates and requirements provided here are subject to further order of the Hearing Examiner or the Commission.

X. Interested persons should contact the Commission at (505) 690-4191 or Ana.Kippenbrock@prc.nm.gov for confirmation of the hearing date, time, and place, since hearings are occasionally rescheduled or canceled if deemed not required in the discretion of the Hearing Examiner or the Commission.

Y. The Commission's Rules of Procedure, 1.2.2.1 NMAC et seq., shall apply in this case except as modified by order of the Hearing Examiner or Commission. The Rules of Procedure and other NMPRC rules are available online at the New Mexico Compilation Commission at <https://nmonesource.com/nmos/en/nav.do>.

Z. Anyone filing pleadings, documents, or testimony in this case shall comply with the Commission's electronic filing policy which is amended from time to time. This includes compliance with the following (not exhaustive) set of requirements. Filings must be in .pdf format. They must include an electronic signature and be sent to the Records Management Bureau's e-mail address, PRC.Records@prc.nm.gov, or to another Records Bureau address as set out on the Commission's webpage. Any filing must be submitted within regular business hours of the due date to be considered timely filed. Documents received after regular business hours will be considered filed the next business day. Regular Commission business hours are from 8:00 a.m. to 5:00 p.m. MT. Parties shall serve a copy on all parties of record and Staff.

AA. All filings shall be emailed to the Hearing Examiner presiding over this matter on the date filed by no later than 5:00 p.m. MT. Any filing emailed to the Hearing Examiner shall include the Word or other native version of the filing (e.g., Excel or Power Point) if created in such format. Any filings not emailed to the Hearing Examiner in compliance with the requirements of this order and Commission rules are subject to being summarily rejected and stricken from the record at the Hearing Examiner's discretion.

BB. Except as expressly provided in this Order or subsequently ruled, discovery matters and any discovery disputes shall be governed by the Commission's discovery rules at 1.2.2.25 NMAC. The parties shall raise any disputes, questions, or concerns regarding discovery with the

Hearing Examiner at the earliest available opportunity so that all such issues may be considered well in advance of the hearing.

CC. An order of the Hearing Examiner or Commission is not required for agreements between or among any of the participants regarding discovery matters. All other participants shall be notified of such agreements.

DD. Motions regarding any discovery dispute shall not be considered unless accompanied by a statement that the participants have made a good faith effort to resolve the dispute but were unable to do so.

EE. This Order is effective immediately.

PERSONS WITH DISABILITIES

ANY PERSON WITH A DISABILITY REQUIRING SPECIAL ASSISTANCE TO PARTICIPATE IN THIS PROCEEDING SHOULD CONTACT THE COMMISSION’S ADA COORDINATOR AT (505) 412-3502 TO REQUEST SUCH ASSISTANCE AS SOON AS POSSIBLE, PREFERABLY AS SOON AS THE PERSON RECEIVES NOTICE OF THIS PROCEEDING TO ALLOW CONSIDERATION OF THE REQUEST AND TO ARRANGE FOR A POTENTIAL REASONABLE ACCOMMODATION.

ISSUED at Santa Fe, New Mexico this ____ day of _____, 2024.

NEW MEXICO PUBLIC REGULATION COMMISSION

HEARING EXAMINER

GCG #532661