Comments of Merrimack Energy on PNM's 2029 – 2032 Generation Resources RFP

1. Section 1.2 of RFP Document – consider adding a reference or link to 2023 IRP and Commission Orders approving RFP.
   PNM Response: – PNM has added a link to the 2023 IRP into Section 1.2. PNM does not believe that a Commission Order approving the RFP is available.

2. Section 1.2 – paragraph 4 – It states the RFP is requesting resources that are guaranteed to achieve commercial operation and delivery of new, incremental capacity by or before Feb 1, 2029 or Feb 1, 2031. This is a bit confusing. Is PNM looking for capacity between these timelines or can a bidder offer capacity before Feb 1, 2029 and after 2031 since this RFP is couched as a 2029-2032 generation RFP.
   PNM Response: PNM has revised the wording regarding the dates for eligible project dates to avoid confusion.

3. Section 1.2 – paragraph 5 – states that long-term resources as well as short-term resources with a maximum duration of two years tied to a physical asset will be considered. This is a bit confusing and may need to be clarified. Is PNM looking for short-term resources before Feb 1, 2029 as a transition to new resources in the Feb 1, 2029 – 2031 timeframe. Do the resources have to be new or can existing resources submit a proposal?
   PNM Response: As PNM desires long-term resources consistent with the IRP, PNM has revised Section 1.2 - paragraph 5 to require a minimum term of 15 years, as follows: "The requested resources are required to serve forecast load growth and plant retirements while also acquiring reliable, cost-effective, ~~short-term and~~ long-term resources consistent with the direction set forth in PNM's 2023 IRP to serve known, existing, and future customers. Long-term resources ~~as well as short-term resources~~ with a minimum duration of fifteen~~two~~ (15~~2~~) years ~~tied to a physical asset~~ will be considered in response to this RFP." Furthermore, the first bullet in Section 3 of the RFP has been modified to remove "Proposals may include short-term PPAs tied to a physical generating asset."

4. Section 1.2 – paragraph 5 – Responses must satisfy Minimum Requirements – consider referencing Section 1.4 where the minimum requirements are listed as well as Attachment B – Minimum Requirements Checklist.
   PNM Response: PNM has referenced this Section and the applicable Attachments B (for Market bids and BT bids) within Paragraph 6 of Section 1.2.
   "As will be further discussed in subsequent sections of this RFP, **all resources proposed in response to this RFP must satisfy the RFP Minimum Requirements included in Section 1.4 of this Instructions to Bidders or be excluded from further consideration.** Compliance with these Minimum Requirements (as verified by the Respondent in the Minimum Requirements Checklist included as Attachment B or BT Attachment B) is a firm and non-negotiable requirement and is required to facilitate the RFP evaluation process within a timeline established by the IRP Rule and as represented in the RFP schedule identified in Section 5.2 of this Instructions to Bidders."

5. Section 1.3 – page 6 – paragraph 4 – it states that capacity will be expected to be available for delivery to PNM by an expected COD that falls prior to Oct 31 of the year prior to the year of

Guaranteed Start Date. Does this mean that a proposal for delivery beginning Feb 1, 2029 should have a COD by Oct 31, 2028?
PNM Response: Yes. As outlined in the form agreements, it is expected that projects awarded under the RFP will have an Expected COD after which delay damages would apply. If the Respondent does not have the project in operation by the Guaranteed Start Date of February 1 (now changed to January 1), this would represent a contractual default condition. Therefore, as stated, the expectation is that there is an Expected COD at least 90 days prior to the Guaranteed Start Date.

6. Section 1.3 – page 6 – last bullet – Proposals that afford increased assurance … etc. – What does this mean? Is this referring to Build Own Transfer options or all projects?
PNM Response: This applies to all projects and is in reference to the Respondent's willingness to comply with or improve upon the form agreement security and damage provisions, reporting requirements during development/construction, willingness to comply with the commissioning and testing requirements in the form agreements, as well as PNM's rights to access and monitor the site during construction and commissioning to ensure the project is on schedule. The bullet is modified as follows to clarify the intent:

"Proposals that afford increased assurance and oversight over the development and implementation of the Project via early commitments for the provision of the form agreement Development Security, agreement with the form agreement schedule and performance damages and penalties, frequent reporting, compliance with the applicable form agreement commissioning and testing requirements, and accessibility to the project to allow PNM proper diligence to ensure a successful and timely implementation schedule for PNM's customers."

7. Section 1.4 – page 7 – How many days will PNM allow for a bidder to cure its proposal if they fail to meet minimum requirements. PNM could state a specific number of days or state "a limited time" to cure. If there is not such a clarifier, bidders may think they could submit a limited proposal and cure the proposal after submission.
PNM Response: Section 1.4 has been modified to indicate the following:

"Respondents will be afforded one opportunity during Phase One of the bid evaluation process to correct any shortfalls in compliance with the Minimum Requirements within five (5) business days of notification of a shortfall in the form of a request for clarification from PNM. Should any Minimum Requirement not be satisfied after the opportunity to address any noted shortfall or if it is subsequently determined that any Proposal falsely claimed to satisfy any Minimum Requirement, such proposal will be excluded from further consideration under this RFP."

8. Section 1.4.1 – second item – are demand-side resources still eligible or would they have to submit into the DR RFP?
PNM Response: Demand-side resources will remain eligible under this all-source RFP as the DR RFP is now requesting resources by or before June 1, 2027. There is no change to the RFP document.

9. Section 1.4.1 – Item 13 – Can a bidder meet this requirement by identifying a credit support provider such as a bank or financial institution that is willing to support the security for the project? This information should be consistent with Section 4.6.
   PNM Response: – Yes. The second sentence was intended to address this but has been modified as follows to further clarify the intent:

   "Respondents that are unable to balance sheet finance the proposed project must provide evidence of a good faith commitment from a credit support provider or guarantor in the form of a financial institution or lender ~~prior to the Phase 2 shortlist selection under this RFP~~;"

10. Section 1.4.1 – item 15 – does this mean a bidder can revise its price after 24 months or does the 24-month timeframe mean they have to commit to their bid price for 24 months. Does this apply to PPAs and BTs.
    PNM Response: This item 15 applies to all projects proposed and is intended to require the bidders to hold their price fixed throughout the expected duration of the RFP evaluation period and NMPRC approval process at which time a contract will have been executed that incorporates the fixed price. The 24 months is intended to suggest that if the regulatory approval process is not completed within a 24 month time period, we cannot reasonably expect them to continue to hold their pricing. Item 15 is modified slightly as follows to clarify the intent:

    "Within the 24 month time period, for the Proposals selected, it is expected that a contract would be executed within 10 months after Proposal submittal and a full notice to proceed would be expected within 24 months after Proposal submittal. The firm, fixed pricing shall remain valid if the full notice to proceed is received within 24 months after Proposal submittal. To the extent that a contract is executed and a full notice to proceed is not received within this time period, the validity of the Proposal pricing will be addressed in accordance with the terms of the applicable form agreement. Respondents must provide……"

11. Section 1.4.1 – item 16 – The contracts included in the Appendix have specific PPAs for various resource types but only include one Build Transfer Agreement. Will PNM accept BTAs for all the same resources as PPAs or are you limiting the requirements for BTAs based on technology and location?
    PNM Response: The revised RFP will allow BT projects only on PNM controlled sites with potential technologies as identified by PNM for those sites. PNM has determined that third-party BT projects on third-party sites will be excluded from this RFP based upon historical experience with these types of Proposals. PNM has historically received fewer than 5 third-party BT Proposals in each of its RFPs and none of these have complied with the New Mexico Contractor licensing requirements and have been removed in Phase 1 of the process. For this reason, BT projects will be limited to sites defined by PNM and the BT form agreement will be appropriate for use with energy storage, hybrid solar with energy storage, and/or thermal/gas fired technologies.

12. Section 1.4.1 – Item 20 states stand-alone solar will not be considered but there are other references within the documents that do not appear consistent with this requirement. See Appendix B B.2.1.

    PNM Response: Appendix B, B.2.1 is intended to address consideration of solar resources as they may be offered in a hybrid solar + BESS configuration. Section B.2.1 will be modified for clarity as follows:

    "PNM will evaluate new wind ~~and solar~~ resource Proposals with respect to their capabilities for operational flexibility and system reliability capability such as automatic generation control, fast frequency response, curtailment optionality, capacity firming optionality, or other reliability technologies and tools. Wind ~~and solar~~ resources with these operational/reliability advantages assist in meeting the reliability requirements of the PNM system.
    Solar resources will be considered solely in conjunction with a hybrid or capacity firming configuration."

13. Section 1.4.1 – Item 22 – what is the distinction between Item 21 and 22? Is 21 addressing the total capacity in MW of all projects completed by the Respondent in the US relative to the size of the project proposed in this RFP (e.g. if a bidder proposes a 100 MW solar + storage project it has to have completed at least 200 MW of capacity in total for all solar + storage projects completed in the US), while 22 refers to the size of the bid project relative to the size of other projects completed (e.g., if the bidder is submitting a 75 MW solar + storage project, it has to demonstrate that it has completed (or is developing?) a 100 MW solar + storage project.

    PNM Response: The statement above regarding Item 21 is correct. Regarding Item 22, the only clarification is that the example would be as follows (e.g., if the bidder is submitting a 100 MW solar + storage project, it has to demonstrate that it has completed a 75 MW solar + storage project). Item 21 is with respect to total technology experience (in the U.S) across all projects and Item 22 is a measure of single project size and scale. For clarity, PNM has reworded Items 21 and 22 as follows:

    "Respondents must have successful and completed experience within the United States with projects of the same technology at a total installed capacity of all projects of at least twice the capacity proposed in response to the RFP;"

    "Respondents must have completed at least one successful project ~~prior experience~~ with the technology and in the project structure/role proposed under this RFP at a scale that is at least 75% of the size and scale proposed;"

14. Section 1.4.1 – Item 24 – In addition to the respondent agreeing to post development security, we would suggest PNM consider requiring that bidder pricing be based on PNM's security requirements. We have seen cases where the bidder redlines this section and then submits pricing based on it's redline.

    PNM Response: This was the intent of Item 24. Perhaps to make it a bit more clear, PNM has reworded Item 24 as follows:

"Respondents must be willing to post ~~the contractually identified~~ Development Security, at the amount identified in the applicable form agreement (See Appendices H through K), within 90 days of execution of a final definitive agreement resulting from the RFP process ("Agreement");

15. Section 1.4.1 – Item 29 – if all projects must be fully dispatchable, in addition to requiring that all solar options must include storage and not be bid as a standalone solar (Item 20), wouldn't the same requirement apply to wind?
    PNM Response: No. Wind generation, due to its generation profile, can bring value to PNM's system to offset the currently solar-heavy portfolio. With that said, wind generation will need to be controlled and/or curtailed as necessary from PNM's operations centers. PNM has modified Item 29 to state:

    "Except when maximum dispatch may be limited by the availability of a renewable energy resource, Projects shall be fully dispatchable by PNM, including intra-hour dispatch changes, and be able to operate under automatic generation control (AGC) with the ability to respond to dispatch and disconnection signals that originate remotely from PNM operations centers;"

16. Section 1.4.1 – Item 35 – please explain the rationale of this requirement. Does this mean no energy storage project can be proposed with project financing arrangements?
    PNM Response: This requirement is driven by the desire to avoid the potential consolidation of debt and the associated impacts to PNM's credit rating. This does not mean that the energy storage project cannot be proposed with project financing arrangements but that the debt is just not held at the Seller entity. As indicated in Item 35, the project debt can "be held outside of the project entity and may be held by an affiliate or parent organization." This has successfully been accomplished by Developers to date on all of PNM's executed ESAs.

17. Section 1.5.1 – 1.5.3 - page 13 – Is there a link to register for the Jaggaer procurement platform? How do bidders get access to Jaggaer?
    PNM Response: Bidders can access Jaggaer via the links included in Section 1.5.1. The first sentence within the third paragraph of Section 1.5.1 has been modified as follows:

    "In order to efficiently administer this RFP for 2029 to 2032 Resources, the RFP is structured within the on-line Jaggaer procurement platform which can be accessed at the PNM websites identified above."

18. Section 2.1 – consider providing a link to the IRP Rule (NMAC).
    PNM Response: PNM has added the following:

    "The IRP Rule can be found at the following link:

    https://www.srca.nm.gov/parts/title17/17.007.0003.html"

19. Section 2.3 – 2.5 – Will the requirements or preferences be part of the evaluation and scoring criteria? If not, how will these requirements or preferences be included in the process?
    PNM Response: Per Section C.1.2.2 E.e)(iii) of Appendix C, "Evaluation of Respondent's intention for employment of local, New Mexico work force, minority and woman-owned businesses, and apprentices for the construction of the facilities" will be evaluated as a non-price evaluation factor. Furthermore, per Section 1.4.1, Item #7, the requirement to comply with the hiring of apprentices per Section 62-13-16 of the PUA is an RFP Minimum Requirement.

20. Section – Part 3 – first bullet – it states that proposals may include short-term PPAs tied to a physical generating asset. Can an existing resource be proposed? Does it have to be renewable or storage? Are there any timeframe requirements (i.e., 2026-2029)? Are these short-term options essentially transition resources or new resources with shorter terms?
    PNM Response: In accordance with the response to Item #3 above, the RFP will now limit the minimum PPA or ESA term to fifteen (15) years. On this basis, the sentence "Proposals may include short-term PPAs tied to a physical generating asset." has been removed.

21. Section – Part 3 – last bullet – are demand-side resources eligible in this RFP or limited to DR RFP?
    PNM Response: Demand-side resources do remain eligible in this RFP. The DR RFP is requesting resources in 2027.

22. Section 4.4 – Merrimack Energy and PNM to discuss lease accounting and VIE requirements. We have seen some utilities require that the bidder provide a certification with its proposal stating that the proposal will not trigger lease accounting or VIE treatment.
    PNM Response: Appendix E, Section E.1.1 does request such a statement in the Executive Summary of the Proposal. However, we have generally found that the Bidders do not have a good grasp of the requirements to avoid on-balance sheet lease liabilities for PNM. As such the contract terms in the form agreements are structured to avoid these lease liabilities.

23. Section 4.8 – first example and items 3 and 5 regarding bid fees discusses bid fees for a stand-alone solar project. However, Item 20 under Section 1.4.1 states that stand-alone solar projects will not be considered. Check for consistency purposes.
    PNM Response: "Stand-alone solar" in item #1 (now of Section 4.9) has been changed to "stand-alone wind". Item 3 has been left as-is as this is identifying a hybrid wind, solar and storage offer. It is, therefore, not allowing a stand-alone solar project. Item 5 (now Item 4) has been modified to "an energy storage BT" in lieu of "a solar PPA."

Appendix A – Resource Capacity Accreditation

1. It looks like the ELCC values in Appendix A are from the 2020 IRP. Will the table be updated with ELCC values from the 2023 IRP?
   PNM Response: Yes. ELCC values have been updated.

Appendix B – Resource Characteristics

2. Appendix B – Section B.5 states that PNM will evaluate proposals for DSR capacity and energy products. Similar to the point raised above, will demand side resources be eligible to bid given the DR RFP or can DR bidders submit into both RFPs?
   PNM Response: DSM bidders can submit offers into both RFPs.

Appendix C – Bid Evaluation Process

3. Appendix C – Section C.1.1 – During phase one of the process will bidders have the opportunity to cure to meet minimum requirements. How many business days is PNM contemplating allowing bidders to cure?
   PNM Response: Yes, noting the reference in Section C.1.1 to RFP Section 1.4, bidders will have the opportunity to cure. As noted in Item 7 above, Section 1.4 of the RFP now reflects a five (5) business day cure period after notification from PNM. For clarity, the third sentence in Section C.1.1 has been modified as follows:

   "Deficiencies in meeting the Minimum Requirements after being provided an opportunity to correct any such deficiency (See RFP Section 1.4) will disqualify a Proposal from further consideration, and the Respondent will be notified in such event."

4. Appendix C – Section C.1.2.2.C (c) – This section discusses comparable project based on technology and size. Please clarify – does Minimum Requirements section 21 mean that the Respondent has to have successfully completed projects of the same technology with a total capacity for all projects completed to be at least twice the capacity as proposed in this RFP.
   PNM Response: Yes. See response to Item 13 above.

5. Appendix C – Section D – for BTs may want to consider adding evaluation criteria associated with warranties as well as a maintenance agreement for at least the first few years of operations.
   PNM Response: PNM has added the following:

   e) "For BT Proposals, planned warranties and maintenance agreement structure."

6. Appendix C – Shortlist selection – page 5 of 7 – will shortlists be selected by technology or as all one group. Our experience has been that since there can be different values and costs associated with different technologies that selecting shortlists by technology type is more efficient and ensures that all resource types have the opportunity to compete for the final portfolio through portfolio optimization modeling.
   PNM Response: PNM plans to shortlist by technology as we have done in our past RFPs. As noted on Page 1 of 7, "If available in response to the RFP and consistent with previous practices, a sufficient quantity of "best-in-class" Proposals of each proposed technology will be carried into the selected short-list for each of the requested Guaranteed Start Dates to fulfill the RFP needs identified herein."

7. What is the rationale for weighting non-price at 55%. We often see commercial/contract compliance included as a non-price category as well. How would this category be evaluated as a price factor?
   PNM Response: This approach is consistent with PNM's prior RFPs. Commercial/contract compliance is identified as a Non-Price factor in Section C.1.2.2. It and its evaluated ratings are simply combined with the Pricing factor for a combined rating that receives 45% of the total evaluated weighting. Based upon past PNM experience, the importance of the non-price factors (namely the viability of the project and the achievable schedule) is of critical significance to avoid failed or defaulted projects. This weighting of 55%, combined with the detailed system modeling performed in Phase 3 of the evaluation has been proven to provide meaningful and reliable results while also selecting the lowest cost resources.

Appendix D – RFP Roles and Responsibilities

8. Page 2, second paragraph – this paragraph states that SMEs will provide input to the RFP Administration or the Self-Build Proposal Development team … We interpret this to mean that individual SMEs can only provide input to one team or the other and not to both teams. So, as an example, an SME from the Engineering Dept can only to allocated to provide input to one team. If the other team needs the services of an SME, a different engineer would be allocated to that team. Is that correct?
   PNM Response: PNM will not be offering any self-build proposals into the RFP. As such, this Appendix has been re-written to reflect that PNM will establish two independent technical evaluation teams with independent responsibilities and limited access to the respective build-transfer or market proposals. The technical teams and SMEs will not otherwise participate in the overall bid evaluation and final proposal selection process performed by the RFP Administration Team.

9. We did note the requirements in Appendix M – Governance. Is there a Code of Conduct or NDA that PNM staff involved in the RFP or outside consultants will be require to execute as part of the process?
   PNM Response: All PNM staff and consultants will be held to the confidentiality (NDA) requirements existing within their employment and/or contractual agreements. They will also be held to industry Code of Conduct expectations. Appendix M is the Governance document that all parties will be required to execute as part of the process, in addition to complying with existing employment and/or contractual agreements.

Appendix E – Proposal Format and Content

10. Section E.1.2.1 – Supplemental Bid Information – PNM may want to consider adding to the 3rd line – "in the order and format identified". If there are a large number of proposals submitted it is easier to review and evaluate proposals if all proposals are presented similarly in terms of the order of the topics to be addressed as well as providing the same header and section Reference number or letter.
    PNM Response: PNM has modified the 3rd line as follows:

"….must include the following, in the order and format identified, with each topic beginning on a separate page."

11. Section E.1.2.1 – page 2 – What does Section S. Projects to be built refer to. Does this mean that only new projects which would be under development for this RFP would be required to complete this section or does it mean only projects to be built for PNM (i.e. Build Transfer options).
    PNM Response: This section is applicable to all projects that will be built. Item S (now Item T) is modified to indicate:

T. Projects to-be-built (inclusive of all Proposals except those that are already in operation)

Appendix L-3 Battery Storage Technical Specifications

12. PNM requires a total of 10 hours of discharge per day (i.e., 2.5 4-hour cycles). This seems excessive and may be challenging for standard 4-hour discharge Li-ion batteries to manage cost effectively. We have generally seen a maximum of 2 cycles per day.
    PNM Response: The energy storage technical specifications requirements for cycling have been modified to reflect the following:

- Energy storage projects must offer a minimum total cycle-life equivalent as follows:
    - Storage duration of up to and including 8 hours – 365 annual equivalent full charge and discharge cycles multiplied by the resource life proposed; and
    - Storage duration of > 8 hours – as proposed by Respondent.
- Be provided with cycling capability as follows:
    - Storage duration of up to and including 5 hours – up to 2 full cycles per day; and
    - Storage duration of > 5 hours – daily cycling limit as proposed by Respondent.

Appendix M – PNM Governance for Competitive Bidding Processes

13. Page 4 – General Rules – PNM may want to consider revising point 2 as follows: "Any Affiliate team and members of the team that submit a proposal shall be considered as an independent third-party bidder and shall not participate in the evaluation and selection of the proposals."
    PNM Response: PNM has determined that there will be no Affiliate bids submitted in response to this RFP. Therefore, this point is no longer applicable and the Governance document has been modified accordingly.

14. Will there be an internal PNM Compliance Officer (or attorney) who will be responsible for addressing any potential violations of the Governance requirements or serve as a resource if members of any of the teams have a question or issue to discuss.

PNM Response: The members of the RFP Administration Team will all be responsible for identifying any potential violations of the Governance requirements and will bring any issues of concern to the Project Manager and team members for review and resolution.

15. Addendum 1 – Does PNM provide Governance or Code of Conduct training to members of the project team?
PNM Response: Addendum 1 has been removed from Appendix M as there will be no utility self-build proposals offered. PNM's project team receives training on Code of Conduct and Governance requirements and guidelines through PNM's normal suite of training programs and employee manuals.

16. Addendum 1 – similar to question 11 above, the reference in the last paragraph regarding the PNM Development Team should probably also include a reference to any member of the team.
PNM Response: Please see revised Governance document that no longer includes Addendum 1. As PNM will not be offering any self-build alternatives, this Addendum is no longer applicable.

Attachment A – Bid Profile

17. The 4th line on page 1 has a reference to Project Financing Approach – We would suggest PNM consider removing this from here and creating a separate Attachment, similar to Attachments F, G, H or I focused on Financing plan, financing experience, and possibly tax credit strategy.
PNM Response: The Pricing Basis tab of the respective Attachment D-1 through D-5 requests information on the tax credit strategy and Section E.1.2.1 of Appendix E requests Bidders to provide their "Financial Information / Credit Quality" and "Contract Accounting / Project Financing Plan" as part of the Supplemental Bid Information. We have found this to be sufficient and appropriate through our past RFPs.

18. Bottom section of page 1 – There are two options for New Capacity Guaranteed Start Date listed – Feb 1, 2029 and Feb 1, 2031. This reference also appears to be consistent with page 5 of 28 in the RFP directions. Does this mean that a Respondent could not request a Feb 1, 2030 start date. The "by or before Feb 1, 2029 or Feb 1, 2031" reference on page 5 implies that the guaranteed start date could be within the Feb 1, 2029 to Feb 1, 2031 window. But after reviewing Attachment A it appears to mean that there are only two start dates allowed – Feb 1, 2029 or Feb 1, 2031.
PNM Response: PNM has revised the requested start dates to now request bids with Guaranteed Start Dates of January 1 of 2029, 2030, 2031, and/or 2032.

Attachment E – Technical Description

19. This form does not seem to cover a sufficient amount of information on key resources that may be submitted. For example, there are no questions about storage characteristics such as

discharge duration, ac or dc-coupled hybrid systems, etc. As a result, PNM may want to consider developing specific technical description forms for technologies that may have different characteristics than is included in Attachment E.
PNM Response: This more detailed technical information is included in the respective Attachment D (D-1 through D-5) for the respective types of offers.

Attachment H – Permitting, Land Use, Zoning, and Community Engagement

20. Under Land Acquisition/Ownership – PNM may want to consider adding a question regarding site control which is "what percent (%) of land required for full site control is under an eligible site control agreement."
    PNM Response: This question has been added into the Bid Form after the question "Does Respondent have site and access control"

Other

21. Generally, we believe turning Data Forms into Excel workbooks that can have data validations included facilitates the review and evaluation of proposals. This will also result in more consistent inputs and responses from bidders that will require less follow-up after submission.
    PNM Response: Our preference is to not limit and restrict the responses. While this does require some follow-up, we find that it does provide a more accurate representation of the Proposals and allows the Bidders to expand upon their responses to provide a full understanding of their Proposals.

Comments of Interwest Energy Alliance on PNM's 2029 – 2032 Generation Resources RFP

1. There is a misalignment with the RFP schedule and transmission study schedule that creates uncertainty and confusion for bidders. The Interim Transition Cluster Study Results are currently expected on June 30th, 2025, according to PNM's FERC Order 2023 compliance filing. With this schedule, bidders may be forced to compensate for unknown interconnection risk in the form of increased prices, while some bidders with eligible projects may not bid at all.

   NMAC 17.7.3.12 (I) (7) and (8) require the utility to include in its evaluation the estimated cost and environmental impact of transmission upgrades, and that each bidder shall be responsible for all costs associated with interconnecting its project to the grid. With much of the potential bidder pool in the Interim Transition Cluster, it will be hard for PNM and potential bidders to have much certainty around interconnection cost assumptions.

   Interwest recommends PNM utilize the interconnection facility cost assumptions in Section 1.4 that Public Service Company of Colorado used in its 2022 RFP

   Another methodology that would be reasonable to account for the unknown network upgrade cost would be to allow for adjustment in the PPA price after shortlist once network upgrade cost is known to compensate the Developer for funding the network upgrades and the associated carrying cost.

PNM Response:
In order to address the uncertainty associated with Network Upgrade costs including both Station Network Upgrades (for interconnection) and other Network Upgrade costs, Item #19 of the RFP Minimum Requirements allows Bidders to provide "costs developed through Federal Energy Regulatory Commission ("FERC") transmission interconnection request processes". In the case that Cluster Study results are not available at the time of Proposal submittal, Bidders must identify that in the Proposal. PNM will review all costs submitted and supplement as needed for evaluation purposes.

While an Interconnection Customer may be required to fund Network Upgrades during construction, these upgrades are refunded with interest upon completion of the required facilities identified in the LGIA. As a result, the developer should be compensated for the costs regardless of whether these are known at the time a proposal is submitted. A portion of cost for Interconnection Facilities known as TPIF, is not refunded, however, the scope of TPIF is limited by FERC rules resulting in a cost that should not be a significant uncertainty. A review of recent Generator Interconnection Facility Studies posted on PNM's OASIS should provide insight on the potential range of the TPIF costs.

Given the short RFP evaluation period of 120 days under the IRP Rule, PNM cannot entertain an option that allows pricing adjustments in the midst of the evaluation period or after shortlisting as this may change the ranking and selection of RFP resources and extend the time period required for evaluation of Proposals.

2. Model PPA Section 3.6, 6.1, 14.1(E) (and other documents) should be updated to reflect that interconnection caused delays should be included alongside Force Majeure as an event outside of the developer's control and responsibility. Receipt of all necessary rights for the interconnection and delivery of energy on a time frame consistent with being able to meet the Expected Commercial Operation Date (COD) is crucial for timely placing projects in service. Developers are unable to control the timing and cost of transmission studies or construction, and thus should not bear the risk that these studies or facilities are not able to adequately meet required timelines.

PNM Response: The form agreements included in the RFP have been updated to incorporate an extension for delays associated with interconnection of the project but only to the extent that such delay is the result of a PNM-caused interconnection delay.

3. Interwest recommends PNM specifically add Surety Bonds as a specified acceptable form of credit support in RFP Section 4.4 and other documents.

PNM Response: Surety Bonds have been added as an acceptable form of credit support into RFP Section 4.4 and the form of Surety Bond has been added to the PPA and ESA form agreements included in the RFP Appendices.

4. Model PPA (and other documents) Development Security should be reduced from $100,000/MW to $75,000/MW.

PNM Response:
Consistent with executed agreements from the most recent PNM RFP for 2026 resources, PNM will be retaining the Delivery Term Security at $100,000 per MW.

5. Delivery Term Security should be reduced from $150,000/MW to $100,000/MW.

PNM Response:
Consistent with executed agreements from the most recent PNM RFP for 2026 resources, PNM will be reducing the Delivery Term Security to $125,000 per MW.

6. Model PPA Section 3.7 (and other documents) Delay Damages should be changed from $350/MW-day to $200 MW-day.

PNM Response:
Given current PPA rates for solar and wind being over $35/MWh and capacity factors averaging approximately 35%, PNM does not agree with reducing the Delay Damages to $200 per MW-day. If we assume the availability of replacement energy at the PPA rate (which would represent a

minimum cost scenario), the cost to PNM per day would be $35/MWh x 24 hours/day x 0.35 = $294/MW/day. PNM would expect the actual market rate to replace this shortfall to be higher than this and therefore will retain the $350/MW-day value to cover the risk to PNM and PNM's customers. The cost to replace the energy is higher than the proposed $200/MW/day.

7. Section 3.8 Capacity Shortfall Damages should be changed from $1,200,000/MW to $250,000/MW.

PNM Response:
PNM will be retaining the $1,200,000/MW capacity shortfall damage as this is representative of the cost to replace the shortfall in capacity with another replacement resource.

8. The Annual Solar Availability Damages Cap in Model PPA Exhibit H should be reduced from $60,000/MW to $30,000/MW.

PNM Response:
PNM disagrees with the reduction of the Annual Solar Availability Damages Cap. The value of $60,000 per MW is established to cover the cost of replacement energy associated with unavailability of the PPA over the transformer failure duration outlined in the Seller default condition in Section 12.1(B)(6) of the PPA (which is allowed to occur once over the duration of the PPA term). We do agree that $30,000 per MW is reasonable for a typical PPA year and will retain this value as a basis of the Aggregate Solar Availability Damages Cap accounting for a single occurrence of a transformer failure at $60,000 per MW with two additional years reaching a cap of $30,000 per MW totalling to a $120,000 per MW cap over the term of the agreement.

9. Interwest recommends that curtailment provisions reflect that the cost of curtailment equals the Solar Energy Output Payment Rate, adjusted for PTC losses. PTC losses due to curtailment would need to reflect the then-current IRS-published PTC rate.

PNM Response:
PNM does not agree with automatically incorporating the payment of PTC losses for periods of solar curtailment for the following reasons:

(i) This would assume that all solar facilities are applying for the Production Tax Credits and not the Investment Tax Credits. While PTCs are more prevalent, some Bidders have quoted under the assumption of the ITCs.

(ii) Payment for PTC losses represent an additional cost to PNM and PNM's customers for curtailments that PNM does not have full control over.

PNM feels that the approach outlined in the form agreements sufficiently and equitably addresses the payment for and sharing of costs and risks associated with curtailments.

10. Curtailment should be explicitly excluded from Battery Energy Storage System (BESS) Annual Performance Test calculations, since one aspect of BESS performance is time-shifting energy around curtailment causing constraints.

PNM Response:
PNM is generally in agreement that curtailment of a BESS should not be considered in the determination of annual BESS performance, and we don't believe that it is included. PNM feels that this item is sufficiently addressed in the current form agreements.

11. Interwest recommends removal of the requirement that Energy Storage Agreements (ESAs) cannot be financed with project level debt. This term is excessive and not commercially reasonable, and outside of industry standard.

PNM Response:
PNM has modified this requirement from prior agreements such that Sellers may hold debt during construction and commissioning of the project but the Seller is requested to not retain any debt after the Commercial Operation Date. This is required by PNM to avoid potential consolidation of debt and the associated impact to PNM's credit rating. PNM has found in all of the executed ESA agreements that Sellers have been able to readily comply with this requirement with any debt held by an affiliate, parent, or other related entity. As such, to avoid the impacts to PNM and PNM's customers, PNM intends to retain this requirement. It is noted that this does not preclude the project from using project financing for the implementation of the project but that the debt is just not held at the Seller entity.

12. Interwest recommends significantly more information be provided to bidders outlining how volumetric ESA BESS bids be structured. Specifically, how does PNM intend to compare, and expect bidders to price, volumetric ($/MW) to capacity ($/MW-mo) pricing? How would a 50% above fixed capacity pricing be calculated? Volumetric ESAs themselves may be problematic. If a capacity priced facility subjects a utility to a specific cost or tax treatment, it is eminently reasonable for the Commission to be able to address that cost during ratemaking proceedings to provide sufficient recovery for PNM, and in fact accounting and tax treatment are common issues for the Commission to address in ratemaking proceedings. Volumetric ESAs alone deprive the Commission from seeing potentially more favorable bids because they do not allow bids to be tailored specifically to meet the utility's actual capacity needs.

PNM Response:
PNM is no longer requesting that ESA bids be structured on a volumetric pricing basis. The updated form agreements and RFP Instructions to Bidders are requesting bidders to price these projects on a variable, available hour basis. With this structure, payment will be made for the MWhs of available ESA capacity each month resulting from the energy storage system capacity (in MW) multiplied by the energy storage system available hours (availability) during each month. On this basis, all of the language regarding volumetric pricing has been removed from the RFP.

13. The NMPRC Commissioners recently voiced skepticism regarding volumetric pricing of ESAs, raising concerns about accounting techniques and effect on use of the battery and customer costs. Interwest recommends that PNM address these issues and hold a specific ESA BESS workshop prior to or immediately after issuance of the RFP, and with sufficient time to tailor bids thereafter, so that bidders can attend, learn the specificity of PNM's expectations, and ask questions so that they can provide the most robust responses to this RFP.

PNM Response: Further to the response to Comment #12 above, PNM is no longer pursuing a volumetric pricing structure and will be utilizing an availability-based pricing structure dependent solely upon the availability and performance of the energy storage system. PNM feels that this approach is more straightforward, and it has been successfully applied within the utility industry. PNM is willing to support a workshop to discuss this approach if the parties feel that it would be beneficial.

14. Interwest recommends that international tariffs on solar panels and other equipment be specifically added to applicable law definitions and provisions. There is significant uncertainty surrounding tariffs on integral renewable energy components, specifically solar panels. Any tariff changes after bids are submitted are not within the control of the developer, and thus should be correctly treated as a change in law that requires compliance. All Model PPA and ESA agreements should incorporate a Change in Law definition that does not unreasonably subject developers to unforeseen and unavoidable changes that are outside of their control.

PNM Response:

The form agreements have now incorporated the concept of an "Eligible Change in Tariff" which "means any duty, tariff, import tax, or other similar import fee or cost that becomes effective after, or the enforcement of which commences after, the Execution Date, or any increase to the applicable rate of any of the foregoing which becomes effective after the Execution Date,". This concept involves a requirement that the Parties use good faith and commercially reasonable efforts to agree on any adjustment in PPA or ESA pricing should the Eligible Change in Tariff increase Seller's costs by more than 1.5% of the Contract Value at Contract execution.

The RFP Minimum Requirements will also continue to require the following in order to capture the intent and potential cost risk associated with known, potential tariffs. "Proposals must identify the applicable governmental tariffs and duties accounted for in the proposed pricing. Proposals shall also identify any known and pending tariffs and duties that are not accounted for in the proposed pricing. If such tariffs and duties are not accounted for, the Respondent shall identify alternative pricing that addresses these extra costs or shall identify the proposed methodology for accounting for these costs within this RFP process;".

PNM will continue to monitor and address these potential changes in tariffs in an effort to comply with Commission guidelines and approvals, to control costs and risks to its customers as well as to minimize future PPA and ESA price adjustments.

15. Interwest recommends that the requirement that bidders submit a firm, fixed price that is not subject to escalation or change for a period of 24 months after submittal be modified. Firm, fixed price bids held for a period of 24 months after submittal is excessive and not commercially reasonable. If 24 months is truly required, an updated Best and Final Offer stage should be explicitly identified to allow for developers to update stale bids. However, effective bid selection should require no more than 180 days of firm price commitment, and Interwest recommends that this be changed to 180 days to better align firm pricing with expected material and financing cost. Excessive delays in selecting projects can lead to price escalation, and Interwest believes that there is significant benefit to a term that incentivizes quick project selection.

PNM Response:
PNM, in accordance with the requirements of the IRP Rule intends to evaluate and select final proposals under the RFP process within 120 days (4 months) of receipt of the Proposals. It is then expected that contract negotiations would be initiated immediately and continue for the following 2 to 3 months after which a contract with the selected Bidders would be executed. It is at this time that the resources would be filed with the NMPRC for review and approval initiating a time clock that may extend for up to 15 months or more. It is for this reason that bids have been requested to be firm and fixed for a 24 month period. While it is expected that contract execution could occur within 180 to 210 days of Proposal submittal, the contract will remain contingent upon, and cannot be fully released until after, finalization of the regulatory approval process. Understandingly, PNM and the commission cannot accept price changes within this evaluation and approval time period as it would require re-evaluation of all resources submitted under the RFP for continued cost competitiveness. PNM has made no change to the RFP for this comment.

16. Interwest also recommends that PNM add language to Section 17.3(B) to provide for a meet and confer, similar to that contained in Section 17.3(B)(2), in the event that final NMPRC approval is not obtained by the Regulatory End Date or another appropriate date due to an appeal of the NMPRC order, that could result in delay and impede the developer's ability to timely obtain financing through no fault of the developer.

PNM Response:
PNM believes that this request is addressed in Section 17.3(B)(3) but agrees to modify 17.3(B)(3) as follows:

"If the NMPRC has not, for any reason, issued NMPRC Approval for ~~entered an order upon the request for approval of~~ all Requested Actions by [●] ("Regulatory End Date"), then the Parties shall meet and confer no later than fifteen (15) Days after the Regulatory End Date regarding a potential extension of the Regulatory End Date. If the Parties are unable to mutually agree to an extension of the Regulatory End Date, then this PPA shall automatically terminate ten (10) Days after the date on which the Parties conferred and be of no further force or effect, with no further obligation or liability of either Party to the other Party or to any other Person, unless

Buyer and Seller mutually agree in writing within such ten (10) Day period that this PPA remain in effect."

17. In Section 22.9, it should be clarified that only material amendments would require NMPRC approval.

PNM Response:
PNM will modify the second sentence of Section 22.9 as follows. This clause is not limited to NMPRC approval and is subject to the Governmental Authority's determination as to what is worthy of its approval.

"Subject to approval by any Governmental Authority with jurisdiction over this PPA, with such approval required as deemed necessary by such Governmental Authority, this PPA may be amended, changed, modified, or altered, provided that such amendment, change, modification, or alteration shall be in writing and signed by both Parties hereto, and provided, further, that the Exhibits and Schedules attached hereto may be changed according to the provisions of Section 13.7."

18. Black-start and 1-second latency are examples of requirements that should be considered for further definition, and these definitions should take into account the capabilities of specific technologies.

PNM Response:
The requirements for black-start capabilities will be removed from the ESA agreements in favor of retaining the requirement for the supply of grid-forming inverters.

The ESA contract definitions for latency are as follows. PNM does not intend to change these definitions. However, PNM does agree to retain the <1 second latency requirement for electric battery energy storage systems but allow Bidders to identify the achievable system latency for other energy storage technologies.

""Guaranteed System Latency" means the guaranteed time measured between when the control signal is received and the ESS responds to the signal by changing the discharge or charge power value by more than 1% of the control setpoint, as specified in Section 3.12.

Section F.2 of Exhibit F: Measured Charge Latency: The time measured from when the ESS receives the PMAX charge command until the power measured at the ESS Electric Metering Device changes from 0MW to at least 1% of charge PMAX shall be the Actual System Charge Latency

Section F.2 of Exhibit F: Measured Discharge Latency: The time measured from when the ESS receives the PMAX discharge command until the power measured at the ESS Electric Metering

Device changes from 0MW to at least 1% of discharge PMAX shall be the Actual System Discharge Latency"

19. Interwest recommends that the requirement that bidders have successful and completed experience within the United States with projects of the same technology at a total installed capacity of at least twice the capacity proposed in response to the RFP be modified.

    Many projects are developed using a special purpose LLC that is specifically created for the proposed generation project. It is unclear how the industry standard special purpose LLC can qualify.

    Additionally, especially regarding BESS technology, it is highly unlikely that many bidders will be able to meet the installed capacity requirement. Interwest appreciates PNM's desire to avoid project failures due to developer inexperience, but recommends allowing some level of flexibility in this requirement.

PNM Response:
PNM agrees to modify Item #21 of the RFP Minimum Requirements as presented in the modified Item #21 below. Regarding BESS technology, with around 16 GW of utility-scale battery storage technology deployed within the U.S. at the end of 2023, as reported by the U.S. Energy Information Administration, PNM continues to believe that the requested experience requirement is reasonable and prudent and will retain this as an RFP Minimum Requirement in an effort to minimize risks associated with project implementation and developer inexperience.

"21) United States Experience: Respondents must have successful and completed experience within the United States with projects of the same technology at a total installed capacity of at least twice the capacity proposed in response to the RFP. If the Respondent is a special purpose LLC established solely for the proposed resource, this requirement may be satisfied by the special purpose LLC's parent company and its subsidiaries;

20. PNM should identify and show estimated annual cost and rate impacts of IPP versus Utility Ownership on a portfolio basis for a wide range of options. This should be analyzed by the IM as a core component of whether the RFP was held within the bounds of the RFP Rule which requires the RFP to not unreasonably discriminate in favor of utility ownership.

PNM Response:
Throughout the RFP process, PNM has historically and further intends, with this RFP process, to provide a confidential comparison of all of the bids received whether they be IPP or, in this case, Build-Transfer proposals on PNM controlled sites. These comparisons identify the details and calculations of estimated annual costs, lifecycle costs, and net present values of the comparative offers. This is intended to provide sufficient information and detail on both an individual resource basis as well as on a portfolio basis to the IM to verify that the evaluation has not unreasonably discriminated in favor of utility ownership.

21. Interwest recommends that PNM create portfolios of new resources that includes 70% IPP ownership, 60% IPP ownership, and 50% IPP ownership to identify and show how annual cost and rate impacts change in addition to a Net Present Value (NPV) calculation comparison. This will allow the IM and the NMPRC to understand the value associated with changes in the portfolio ownership structure and to fulfil the requirements of the RFP Rule on this issue.

PNM Response:
PNM will be evaluating numerous portfolio combinations of resources based upon the resources submitted in response to the RFP. The IM and NMPRC will have access to the confidential annual costs and NPV calculations associated with each of the resources evaluated and each of the portfolios. As part of the RFP evaluation, a rate impact analysis will not be performed. The selection of resources and portfolios will be based upon the shortlisted Proposals after Phase 2 of the RFP evaluation process. The shortlist will include the best-in-class resources of each of the technologies proposed. This assessment of varying portfolios and best-in-class resources will identify the value to the IM and NMPRC associated with changes in the portfolio ownership.

22. Interwest recommends that PNM allow PPAs up to the assumed useful economic life of any PNM built or owned asset of the same technology.

PNM Response:
PNM has not placed any restrictions on the maximum term length of a PPA that can be offered in response to the RFP.

23. Interwest recommends utilizing an Annuity Tail modeling methodology (Annuity Tail Method) to fully analyze the true PPA value as compared to similar utility-owned resources. The Annuity Tail Method takes the levelized cost of power of the PPA in the last year of its term and maintains that cost as a placeholder each year during the planning period. The purpose of the Annuity Tail Method is to set the replacement cost of the expiring bids equal to the initial costs, a method that is more reflective of actual market conditions at the expiration of a PPA during a resource planning period. The value of this Annuity Tail Method is to evaluate the PPAs and their actual bids without building bias in favor of utility-owned project into the model, something that is explicitly disallowed in the RFP rule. This methodology should be required in all portfolios for RFP Rule compliance and to qualify for comparison and selection of the short list.

PNM Response:
There is no bias in PNM's modeling of proposals based upon ownership or PPA/ESA pricing structures. PNM utilizes the replacement cost of expiring bids through the use of assumed future cost curves. This approach accounts for end-effects of PPAs in a way that captures the forward-looking cost of capital and cost of service. PNM does not agree with setting a "replacement cost of expiring bids equal to the initial costs" as this does not capture forward-looking costs or the

effects of escalation and inflation over time associated with the sourcing and contracting for replacement resources. The Annuity Tail modeling methodology as described is likely to bias bid evaluations in favor of non-utility ownership and would be considered imprudent planning.

24. The EPA recently released four new power plant rules that may have significant impact on the operation of current and new fossil fuel fired generating units. These rules are the Greenhouse Gas Standards and Guidelines (GHG Rule), Mercury and Air Toxics Standards, Effluent Guidelines, and Coal Combustion Residuals (CCR) Impoundments and Management (CCR Rule). The modeling should incorporate the four new EPA power plant rules. Modeling any impacts, if applicable to any unit, within this RFP will prevent unexpected cost increases due to these rules and give a true picture of the costs associated with a given portfolio of resources.

PNM Response:
Regarding the applicability of the Greenhouse Gas Standards and Guidelines (GHG Rule), PNM will add a requirement for fossil fueled generating units to identify their plan and associated costs to comply with the GHG Rule. These will be considered in the evaluation of total evaluated lifecycle costs and environmental impacts.

Appendix B – Resource Characteristics has added the following wording in Sections B.4 and B.6 indicating that the evaluation of flexible natural gas resources and other resources will consider the following:

"The Respondent's identified plan and associated costs to comply with the Greenhouse Gas Standards and Guidelines (GHG Rule)."

Appendix E – Proposal Format and Contents has also added the following supplemental information requirement for both Market Bids and BT Bids:

"Respondents offering fueled resources must describe the intended methodology, costs, and any operational restrictions associated with compliance with the Greenhouse Gas Standards and Guidelines (GHG Rule)"

Regarding the MATS, Effluent Guidelines, and CCR Rule, Minimum Requirement #20 in Section 1.4.1 of the RFP has been modified to reflect that coal-fired generation will not be accepted in response to the RFP.

Comments of Other Stakeholders on PNM's 2029 – 2032 Generation Resources RFP

NMPRC Staff

1. Page 5, the RFP references the 2020 IRP and Appendix A of the RFP contains the ELCC values from the 2020 IRP. Not sure why 2020 IRP values are being used when changes to the calculated ELCC for BESS were made in the 2023 IRP.
   PNM Response: – Appendix A has been updated and now includes the ELCC values from the 2023 IRP

Allium Renewable Energy, LLC

2. In RFP Section 1.4.1, Subsection (18) Transmission Deliverability – Does this section apply to energy resources interconnected on PNM system and delivering into the PNM balancing area?
   PNM Response: Subsection (18) is applicable to all proposals offered in response to the RFP as all resources are expected to deliver energy into PNM's balancing area and load centers.

3. If a resource is to be interconnected on the PNM system, does Transmission Deliverability imply that the resource is connected as an NRIS resource? Or is an ERIS resource also acceptable?
   PNM Response: The type of interconnection service in a projects LGIA can be either ERIS or NRIS. Transmission service is separate from interconnection service. Projects selected in the RFP evaluation process will become Designated Network Resources in PNM's portfolio and will require that PNM request Network Transmission service for delivery of the resources to PNM load. As a result, PNM, reviews transmission deliverability information provided in proposals but will supplement with an independent analysis as needed. For projects interconnected to non-PNM transmission provider systems, the bidder must provide firm delivery of the resource to PNM's system regardless of the LGIA designation.

4. Is transmission service required for deliverability to PNM load, if the resource is an ERIS interconnected resource on the PNM system?
   PNM Response: Yes. However, the transmission service is requested by PNM provided the power has been delivered to PNM's transmission system which would be the case for a resource interconnected on PNM's system. Also, see response to previous question.

FORM Energy

5. The RFP should expressly invite bids for energy storage with extended durations
   PNM Response: The RFP does not place any restrictions or limitations on the energy storage durations required. As this is an all-source RFP, PNM does not intend to expressly show preference for any specific bid type and Bidders are welcome to offer any duration of energy storage desired. However, to incorporate the concept, the first bullet under Section 1.3 - Resources Sought Through this RFP has been changed to reflect the following: "Stand-alone short-duration and long-duration energy storage and hybrid renewable-storage projects that maximize benefits to PNM ratepayers....." Other modifications have been made throughout the technical specification and bid form documents as well.

6. The RFP should be mofified to remove provisions that have the effect of precluding bids for energy storage with extended durations
   PNM Response: PNM is not aware of any provisions within the RFP that preclude bids for extended duration energy storage. PNM will allow non-electric battery Bidders to identify their achievable system latency in lieu of requiring a 1 second latency. Section L-3.1.1.6 of Appendix L-3 will be modified as follows regarding required system latency: "Electrochemical battery energy storage systems - 1 second or less; and Other energy storage systems - to be identified by Respondent". Please identify any other specific provisions that are viewed as precluding bids for extended duration storage."

7. PNM should appropriately value the benefits of long-duration and multi-day storage systems to its system
   PNM Response: In conjunction with the evaluation of all resources offered in response to the RFP, PNM does intend to appropriately value the benefits of long-duration and multi-day storage systems via the associated ELCC determination, the lifecycle economic analysis, and system portfolio / dispatch modeling performed as part of the Phase 2 and Phase 3 evaluation processes. The RFP does not indicate otherwise. Furthermore, PNM will include long-duration storage as a technology for which a "best-in-class" shortlist will be prepared at the end of the Phase 2 evaluation to ensure evaluation of this technology in the Phase 3 system modeling. There will be no change to RFP documents but the bid evaluation methodology will be modified to include long-duration storage as a shortlisted, best-in-class technology.