

**BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION**

**IN THE MATTER OF PUBLIC SERVICE )  
COMPANY OF NEW MEXICO'S APPLICATION )  
FOR APPROVAL OF TWO PURCHASED POWER )  
AGREEMENTS AND AN ENERGY STORAGE )  
AGREEMENT PURSUANT TO 17.9.551 NMAC, AN )  
ADDENDUM TO THE SPECIAL SERVICE )  
CONTRACT WITH GREATER KUDU LLC, AND )  
AMENDED RIDER NO. 49, )  
)  
)  
PUBLIC SERVICE COMPANY OF NEW MEXICO, )  
)  
Applicant. )  
\_\_\_\_\_ )**

**Case No. 21-00031-UT**

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**NOTICE TO CUSTOMERS**

**NOTICE** is hereby given that on February 8, 2021, Public Service Company of New Mexico (“PNM”) filed an Application with the New Mexico Public Regulation Commission (“Commission” or “NMPRC”) for approval of:

- 1) two purchased power agreements (“PPAs”) pursuant to 17.9.551 NMAC (“Rule 551”): an agreement with NMRD Data Center III, LLC (“NMRD III”) for 50 MW of solar energy from the Encino North Solar Energy Center (“Encino North PPA”) and an agreement with Sky Ranch Solar, LLC (“Sky Ranch Solar”) for 190 MW of solar energy from the Sky Ranch Solar facility (“Sky Ranch PPA”);
- 2) an energy storage agreement (“ESA”) with Sky Ranch Energy Storage, LLC (“Sky Ranch Energy Storage”) for 100 MW of four-hour energy capacity from the Sky Ranch Energy Storage facility (“Sky Ranch ESA”);

- 3) an Addendum to the Second Amended and Restated Special Service Contract (“SSC”) between PNM and Facebook, Inc. subsidiary Greater Kudu LLC (“Customer”); and
- 4) First Amended Rider No. 49, Production Cost Allocation Rider.

PNM proposes to recover the costs of the PPAs and ESA from the Customer through Rider No. 47, Green Energy Rider, as provided at Section 5.1 of the SSC. PNM asserts that the energy and capacity provided by the two PPAs and ESA are necessary to meet the Customer’s electric service requirements. PNM also asserts that the Addendum to the SSC and the amendments to Rider No. 49 are necessary to clarify the capacity value of controlled storage projects procured pursuant to the SSC for purposes of calculating the Contribution to Production Component of Rate No. 36B, Special Service Rate, applicable to the Customer.

PNM’s Application states that pursuant to the Renewable Energy Act and the SSC, PNM is committed to match one hundred percent of the Customer’s energy consumption on an annual basis with new renewable energy resources that will be paid for by the Customer. PNM asserts that the Customer recently notified PNM that it is planning a potential expansion of its Data Center as anticipated in the SSC and that PNM and the Customer worked together to identify and evaluate the proposed PPAs and ESA as required by the SSC and have determined that the proposed resources will provide sufficient energy and capacity to meet the expanded load.

Pursuant to 17.9.551 NMAC, PNM must receive Commission approval before becoming irrevocably bound under the PPAs. In addition, because the Encino North PPA is a Class I transaction pursuant to NMSA 1978, Section 62-3-3(K) (2009), PNM filed

written notification to the Commission within five (5) days of entering into the PPA, on February 8, 2021, pursuant to 17.6.450.11 NMAC.

PNM seeks a variance from 17.1.2.10(B)(2)(b) NMAC (which requires a statement comparing new rates with present rates) and from 17.9.530 ("Rule 530") (which prescribes minimum data requirements to be filed in support of a tendered new rate schedule). The Application states that a statement comparing new rates with present rates is unnecessary since the Addendum to the SSC and the amendments to Rider No. 49 being requested are not changing any present rates, merely modifying language. PNM states that the minimum data requirements established by Rule 530 are appropriate for general rate cases, will provide no additional information useful for evaluation of the approvals sought by PNM's Application and the time necessary to develop the information for the limited rate approvals sought would frustrate PNM's ability to timely obtain the necessary regulatory approvals in a timely manner that will allow completion of these projects to meet the growing needs of the Customer's Data Center.

Any interested person may inspect PNM's Application filed in this case at PNM's offices, 414 Silver Avenue, SW, Albuquerque, New Mexico, telephone number 505-241-2700; or through the Commission's website, [www.nmprc.state.nm.us](http://www.nmprc.state.nm.us), at the link that states case lookup. This case has been docketed as Case No. 21-00031-UT and any inquiries should refer to that number.

Consistent with the procedures allowed in Rule 551.10(A), the Commission may approve the PPAs and ESA and proposed cost recovery without a formal hearing if no protest is filed within the protest period. The procedural schedule for this case is as follows:

A. Any person desiring to protest the Application or intervene in this case, shall file either a protest or a Motion to Intervene pursuant to the Commission Rules of Procedure 1.1.2.23 NMAC. A protest or motion to intervene shall state whether the protestor or intervenor opposes the Application and, if so, the reason(s) for such opposition. Any person desiring to protest or intervene in this proceeding must file a protest or Motion to Intervene on or before **March 31, 2021**, pursuant to 1.1.2.23 NMAC. After March 31, 2021, the Commission will decide whether there will be a public hearing directly with the Commissioners and conducted in the manner prescribed by the Commission or a public hearing by a designated hearing examiner with a recommended decision issued by said hearing examiner. Such hearing may be vacated if deemed not required after review and consideration of the protests and interventions filed, if any.

B. The Commission's Utility Division Staff shall, and any intervenor may, file direct testimony on or before **April 14, 2021**. Any rebuttal testimony shall be filed on or before **April 21, 2021**.

C. A public hearing, if deemed necessary by the Commission, shall be held beginning on **April 28, 2021**, and continue as necessary, via a digital or zoom platform with log-in information posted on the Commission website. Such hearing may be vacated if deemed not required.

D. A Proposed Final Order may be filed by PNM or any Intervenor on or before **May 5, 2021**.

E. The Commission shall endeavor to issue a final order by **June 1, 2021**, however, the Commission does not commit to issuing a final order by June 1, 2021, given

that the State of New Mexico is currently subject to the restrictions of the Governor's Emergency Public Health Orders related to the COVID-19 pandemic.

F. The procedural dates and requirements provided herein are subject to further order of the Commission.

G. The Commission's Procedural Rules, 1.2.2 NMAC, apply to this case except as modified by Order of the Commission. A copy of such rules is available at the Commission website and also available at the official New Mexico Administrative Code website, [www.nmprc.state.nm.us/nmac/](http://www.nmprc.state.nm.us/nmac/).

H. Anyone filing pleadings, documents or testimony in this case shall serve copies on the Commissioners, Office of General Counsel, and all parties of record and the Commission Staff and shall comply with the Commission's emergency rule pertaining to electronic filing.

I. Interested persons that choose to send written comments (such comments shall not be considered as evidence in this case) shall reference NMPRC Case No. 21-00031-UT, to the Commission at: New Mexico Public Regulation Commission; Attention: Melanie Sandoval, Records Division, P.E.R.A. Building, P.O. Box 1269, Santa Fe, NM 87504-1269, Telephone: (505) 827-6968 or may file them in compliance with the Commission's emergency rule pertaining to electronic filing.

J. Any person with a disability requiring special assistance in order to participate in this proceeding should contact the Director of Administrative Services Jim Williamson at [Jim.Williamson@state.nm.us](mailto:Jim.Williamson@state.nm.us) or (505) 467-9116 at least 24 hours prior to the commencement of the hearing.