

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

**IN THE MATTER OF THE TARIFFS,)
AGREEMENTS, AND FORMS PROPOSED)
BY QUALIFYING UTILITIES FOR THE)
COMMUNITY SOLAR PROGRAM)**

Case No. 23-00071-UT

NOTICE OF EVIDENTIARY PROCEEDINGS

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

On March 1, 2023, the Commission issued an Order opening this docket for a two-phase proceeding concerning issues to be decided by the PRC regarding tariffs (rates, agreements, and forms) proposed by Public Service Company of New Mexico (PNM), Southwestern Public Service Company (SPS), and El Paso Electric Company (EPE) (together “Companies”) to implement the statewide Community Solar Program pursuant to PRC Rule 17.9.573 of the New Mexico Administrative Code (NMAC) and the New Mexico Community Solar Act, NMSA 1978, §§ 62-16B-1, to -8 (2021). The March 1st Order also consolidated Docket Nos. 22-00240-UT (SPS) and 22-00243-UT (EPE) into this proceeding.

All matters raised by the Companies in their filings in the above-referenced dockets and all Advice Notices filed to date by the Companies, including Advice Notices filed by PNM in Docket No. 22-00020-UT to implement the statewide Community Solar Program, including those the PRC has allowed to go into effect, will be addressed in the two-pharse proceeding. The PRC will not address proposals the PRC determines violate the law or that are subject to resolution of SPS’s appeals pending before the New Mexico Supreme Court.

The March 1st Order specifically provides:

1. This proceeding will include tariffs (rates, agreements, and forms) proposed by the Companies, as well as proposed alternatives and any potential additional tariffs needed to

implement the statewide Community Solar Program. These issues will be addressed in one joint proceeding as many of the issues are common to all three of the Companies.

2. The proceeding will be conducted in two phases. The first phase (Phase I) will address the proposed subscriber organization agreements and the proposed customer data forms. The first phase will be expedited.

3. It is the Commission's intention to complete the evidentiary portion of Phase 1 of this proceeding on or before July 31, 2023.

4. The second phase (Phase 2) will address all issues concerning proposed tariffs (rates, agreements, and forms) that are not addressed in the first phase. These issues include but are not limited to the calculation of the three-percent subsidization limit for each of the Companies, proposed rate riders for various costs, proposed charges and fees, proposed terms of payment, and the calculation of community solar bill credits.

5. It is the Commission's intention to complete the evidentiary portion of Phase 1 of this proceeding on or before March 29, 2024.

6. The PRC has assigned Case No. 23-00071-UT to this proceeding and all inquiries or written comments concerning this proceeding should refer to that case number.

7. The PRC has delegated the Chief Hearing Examiner the authority to appoint a panel of hearing examiners to preside over this proceeding to develop a separate evidentiary record for each of the two phases.

8. The procedural schedules for Phases 1 and 2 are delineated under paragraphs 9 and 10 below. Additional procedural details and requirements are set forth in the Procedural Order issued by the Hearing Examiner on March 31, 2023.

Phase 1 Procedural Schedule

9. The Phase 1 procedural schedule is as follows:
- a. The Companies shall file their respective proposed subscriber organization agreements and customer consent forms with supporting direct testimony no later than **May 8, 2023**.
 - b. Any person desiring to intervene to become a party (intervenor) in this case must file a motion to intervene that conforms to 1.2.2.23(A), (B) NMAC on or before **May 19, 2023**.
 - c. Staff shall and any intervenor may file testimony in response to the Companies' initial filings on or before **June 26, 2023**.
 - d. Any rebuttal testimony shall be filed on or before **July 10, 2023**.
 - e. With regard to the Companies' initial filings and Staff and intervenors' testimony in response, motions *in limine*, motions to strike, and other prehearing motions shall be filed on or before **July 3, 2023**. Responses to such motions shall be filed on or before **July 7, 2023**.
 - f. With regard to rebuttal testimony, motions *in limine*, motions to strike, and other prehearing motions shall be filed on or before **July 12, 2023**. Responses to such motions shall be filed on or before **July 14, 2023**.
 - g. A prehearing conference is tentatively scheduled for **July 17, 2023**, commencing at 2:00 p.m. on the Zoom videoconference platform. The purpose of that conference is to address, among other things, the following matters:
 - 1) The order of presentation of the parties and their respective witnesses.
 - 2) Designation by each party of the witnesses they intend to cross-examine and for what length of time.

3) Pending motions *in limine*, motions to strike, and other prehearing motions.

4) Any other matters that may expedite orderly conduct and disposition of this proceeding.

h. The July 17, 2023 prehearing conference may be vacated by the presiding hearing examiner if the conference is determined not necessary.

i. The public hearing in Phase 1 will be held beginning on **July 20, 2023** and will continue as determined to be necessary by the presiding hearing Examiner on **July 21, 2023**. Each hearing session shall commence at 9:00 a.m. Mountain Time (MT) unless otherwise ordered.

j. Based on present conditions and logistical issues, the Hearing Examiner has concluded it will be necessary to conduct evidentiary hearings 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 above.

k. 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, the Hearing Examiner, and the court reporter. The requirements for those and any other necessary submissions shall be set forth in a subsequent prehearing order issued by the Hearing Examiner.

Phase 2 Procedural Schedule

10. The Phase 2 procedural schedule is as follows:
 - a. The Companies shall file their proposed tariffs, including Community Solar bill credit, on or before **August 1, 2023**.
 - b. The Companies also shall respectively file on or before **August 1, 2023** a proposed form of Notice to Customers (“Notice”) that, at a minimum, sets forth information regarding the company’s proposed tariffs (rates, agreements, and forms) to be addressed in Phase 2 and explains for customers the Community Solar Program’s subscriber eligibility and participation processes.
 - c. On or before **August 7, 2023**, any person proposing any revisions to the Companies’ proposed forms of notice shall file a red-lined (legislative formatted) version of the proposed form of notice.
 - d. The Companies shall file direct testimony supporting their proposed tariffs, including Community Solar bill credit, no later than **September 16, 2023**.
 - e. Any person desiring to intervene to become a party (intervenor) in Phase 2 that has not already intervened in Phase 1 must file a motion to intervene that conforms to 1.2.2.23(A), (B) NMAC on or before **October 17, 2023**. Intervenors in Phase 1 are automatically deemed intervenors in Phase 2.
 - f. Interested persons who do not wish to intervene in Phase 2 of this proceeding and are not affiliated with a party will have the opportunity to may make oral or written comment as allowed by Rule 1.2.2.23(F) NMAC. The public comment hearing in this matter shall be scheduled by the Commission on a date and time yet to be determined.
 - g. Staff shall and any intervenor may file response testimony on or before **November 10, 2023**.

h. Any rebuttal testimony shall be filed on or before **December 8, 2023**.

i. Motions *in limine*, motions to strike, and other prehearing motions shall be filed on or before **December 15, 2023**. Responses to such motions shall be filed on or before **December 22, 2023**.

j. A prehearing conference is tentatively scheduled for **January 11, 2024**, commencing at 2:00 p.m. on the Zoom videoconference platform. The purpose of that conference is to address, among other things, the following matters:

1) The order of presentation of the parties and their respective witnesses.

2) Designation by each party of the witnesses they intend to cross-examine and for what length of time.

3) Pending motions *in limine*, motions to strike, and other prehearing motions.

4) Any other matters that may expedite orderly conduct and disposition of this proceeding.

k. The January 11, 2024 prehearing conference may be vacated by the presiding hearing examiner if the conference is determined not necessary.

l. The public hearing in Phase 2 will be held beginning on **January 17, 2024** and will continue as determined to be necessary by the presiding hearing examiner through **January 19, 2024**. Each hearing session shall commence at 9:00 a.m. MT unless otherwise ordered.

m. 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 above.

n. 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, the Hearing Examiner, and the court reporter. The requirements for those and any other necessary submissions shall be set forth in a subsequent prehearing order issued by the Hearing Examiner.

11. The procedural dates and requirements provided herein are subject to further Order of the Commission or the Hearing Examiner. 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.

12. The PRC's rules of procedure, 1.2.2 NMAC, shall apply to this case except as modified by Order of the Commission or Hearing Examiner. The Rules of Procedure and other PRC rules are available online at the New Mexico Compilation Commission at <https://nmonesource.com/nmos/en/nav.do>.

13. Any person may examine the utility filings in this case together with any exhibits and related papers that may be filed in this case at the Commission's website under Case Lookup – eDocket at <https://edocket.nmprc.state.nm.us> or at the offices of the Companies at the following addresses:

Public Service Company of New Mexico
414 Silver Avenue SW MS 1105
Albuquerque, New Mexico 87158

Telephone: (505) 241-2700

Southwestern Public Service Company
790 S. Buchanan St.
Amarillo, Texas 79101
Telephone: (806) 378-2115

El Paso Electric Company
100 N. Stanton
El Paso, Texas 79960
Telephone: (915) 543-5841

14. Any person filing pleadings or testimony shall serve copies via email on all parties, Commission Staff, and the Hearing Examiner. Any person whose testimony has been pre-filed shall attend the hearing and submit to examination under oath. Anyone filing pleadings, testimony, and other documents must follow the Commission's filing policy. Pleadings, testimony, and other documents must be served on all parties of record and Staff in the way or ways specified in the most recent certificate of service issued by the Hearing Examiner. Copies of all filings shall also be emailed on the date of filing and service to the Hearing Examiners by no later than 5:00 p.m. MT at angelica.allen@prc.nm.gov, anthony.medeiros@prc.nm.gov, elizabeth.hurst@prc.nm.gov, and christopher.ryan@prc.nm.gov. 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.

PERSONS WITH DISABILITIES

ANY PERSON WITH A DISABILITY REQUIRING SPECIAL ASSISTANCE TO PARTICIPATE IN THIS PROCEEDING SHOULD CONTACT THE COMMISSION AT (505) 467-9116 OR (505) 690-4191 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 under the Seal of the Commission at Santa Fe, New Mexico this **31st** day of **March 2023**.



NEW MEXICO PUBLIC REGULATION COMMISSION

/s/ Anthony F. Medeiros

**Anthony F. Medeiros
Chief Hearing Examiner**