

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

IN THE MATTER OF PUBLIC SERVICE)
COMPANY OF NEW MEXICO’S APPLICATION)
FOR APPROVAL OF A PURCHASED POWER)
AGREEMENT AND AN ENERGY STORAGE) **Case No. 23-00251-UT**
AGREEMENT PURSUANT TO 17.9.551 NMAC,)
)
PUBLIC SERVICE COMPANY OF NEW MEXICO,)
)
)
Applicant.)

SECOND NOTICE OF PROCEEDING

To customers of Public Service Company of New Mexico (“PNM” or “Company”): this document is required by the New Mexico Public Regulation Commission (“NMPRC” or “Commission”). The purpose of this document is to provide you with notice of PNM’s Application requesting NMPRC approval of a purchased power agreement and an energy storage agreement pursuant to 17.9.551 NMAC. This notice:

- Describes the PRC process for considering PNM’s Application; and
- Describes how you can participate in this process if you wish to do so.

If you would like to participate in this process, the information below details how you may participate. **IF YOU DO NOT WANT TO PARTICIPATE IN THIS PROCESS, NO ACTION IS REQUIRED ON YOUR PART.**

On or before August 18, 2023, PNM published the Notice of Proceeding and Hearing (“original notice”) approved in the August 4, 2023, Procedural Order in newspapers of general circulation in New Mexico and posted it on PNM’s website. On or before September 19, 2023, PNM completed mailing the notice to each customer as a bill insert. The original notice specified a deadline for filing customer protest of PNM’s application as September 22, 2023. No protests were subsequently filed. The original notice specified a deadline for intervention of September 29, 2023. No party subsequently filed to intervene before the deadline or after it.

Pursuant to the October 30, 2023 *Order Requiring Response, Vacating Hearing and Extending Protest Period*, it was determined that the period for protest of PNM's application should be extended until November 20, 2023; and the hearing set for November 7, 2023, be vacated. Following that date, the Hearing Examiners will determine any further procedural schedule, including hearing, if any is required.

The procedural schedule for this case is as follows:

A. By **November 3, 2023** PNM shall post to the "Regulatory Information" page on the PNM website, <https://www.pnm.com/regulatory>, a copy of this Second Notice of Procedure, and shall serve, by email, a copy of this Second Notice to the service list of this proceeding. PNM shall ensure that an affidavit confirming the posting and service of this notice is promptly filed in the docket.

B. On or before **November 10, 2023**, PNM shall cause, at its sole expense, this Second Notice of Procedure to be published once in the Albuquerque Journal, a newspaper of general circulation available in every county where PNM provides service in New Mexico. PNM shall ensure that an affidavit confirming the publication is promptly filed in the docket.

C. Rule 551 provides that the Commission may approve the Application, as it pertains to the PPA request, without a formal hearing if no protest is filed within 60 days after the date that notice is given. The original notice of this proceeding was completed on September 19, 2023, so the period for protest should be extended until **November 20, 2023**. If no written Protests objecting to the requested approval of the Application are filed by **Monday, November 20, 2023**, specifying the grounds for protest and demonstrating the need for a formal hearing on PNM's Application, the Commission may waive a formal hearing on this matter.

D. The Hearing Examiners will determine any further procedural schedule, to include a hearing if required, following the November 20, 2023 deadline for protests.

E. 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.

F. 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

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

H. Interested persons should contact the Commission at (505) 690-4191 or Ana.Kippenbrock@prc.nm.gov for information on further procedural matters.

I. 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.

J. 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 Examiners 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 Examiners' discretion.

K. Any interested person may examine PNM's filing in this case together with any exhibits and related papers which may be filed in this case at PNM Headquarters, Main Offices, Albuquerque, New Mexico 87158, telephone: (505) 241-2700, website www.pnm.com, or on the Commission's website at <https://www.prc.nm.gov> under "Case Lookup – eDocket." This case has been docketed as Case No. 23-00251-UT and any inquiries or written comments should refer to that case number.

L. PERSONS WITH DISABILITIES

ANY PERSON WITH A DISABILITY REQUIRING SPECIAL ACCOMODATION 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.

Additional background on PNM's original application is provided below:

On July 24, 2023, Public Service Company of New Mexico (“PNM” or “Company”) filed an Application with the New Mexico Public Regulation Commission (“Commission” or “NMPRC”) for approval, pursuant to 17.9.551 NMAC, of the following long term purchased power agreement (“PPA”) and energy storage agreement (“ESA”):

1. The TAG PPA. This PPA provides that NMRD Data Center IV, LLC (“NMRD IV”), will sell PNM the capacity and associated energy from the TAG Solar Energy Center at the price of \$32.50/MWh over a 20-year term. The 20-year term begins on the facility’s commercial operation date, which is expected to be March 31, 2025. The TAG Solar Energy Center is a new 140 MW solar facility that will be located in Sandoval County, New Mexico.

2. The TAG ESA. This ESA provides that NMRD IV will sell PNM the energy storage capacity provided by the TAG Energy Storage facility at the price of \$11.00/kw-month over a 20-year term. The 20-year term begins on the TAG Energy Storage commercial operation date, which is expected to be March 31, 2025. The TAG Energy Storage facility is a new 50 MW 4-hour battery storage facility co-located with the TAG Solar Energy Center in Sandoval County.

PNM proposes to recover the costs of the PPA and ESA from Meta Platforms, Inc. (formerly Facebook, Inc.) subsidiary Greater Kudu LLC (“Customer”), as provided in the Second Amended and Restated Special Services Contract (“SSC”) entered into by PNM and the Customer and approved originally by the Commission in Case No. 16-00191-UT and, as amended, in Case No. 18-00269-UT. The energy and capacity provided by the PPA and ESA are necessary to meet Customer’s electric service requirements at its data center in Los Lunas, New Mexico (“Data Center”).

PNM's Application states that the SSC requires PNM to procure sufficient renewable resources, such as the PPA and ESA, to meet Customer's load at its Data Center. PNM contends that the SSC also provides that PNM shall recover from Customer the cost of these renewable resources such that there will be No Net Adverse Impact on PNM's other retail customers. No Net Adverse Impact is defined in the SSC as meaning that the SSC "and the PNM tariffs described [in the SSC] result in a neutral or positive impact on rates and service for PNM's other retail electric service customers considering all relevant benefits generated and burdens created by this Contract and those PNM tariffs." PNM's Application states that the PPA and ESA for which PNM seeks approval are consistent with the SSC and the Commission's Final Orders in Case Nos. 16-00191-UT, 18-0009-UT, 18-00269-UT and 21-00031-UT.

PNM's Application states that, pursuant to the SSC, Customer has specific requirements for its electric service needs at its Data Center, including that the electric service for the Data Center be provided, to the greatest extent practicable, by new renewable energy resources, *i.e.*, in addition to whatever renewable energy resources that are used to serve PNM's other customers, such that the production of additional renewable energy over the course of a year will equal the Data Center's energy demand and consumption. PNM contends that to satisfy this service requirement, Customer is willing to bear the cost of procuring the renewable resources, which are necessary to serve its Data Center load.

PNM's Application also states that in order to meet Customer's electric service requirements, PNM and Customer have worked collaboratively, expeditiously and in good faith to: (i) determine when it makes the most sense to bring new renewable resources into

service to match the data center’s projected load; (ii) identify and evaluate the costs and benefits of new renewable energy resources available to satisfy that growth; and (iii) determine the site(s) of those Additional Renewable Energy Procurements at locations that will avoid constraints on PNM’s transmission system. PNM contends it is important to Customer that these new renewable energy resources be above and beyond the state’s Renewable Portfolio Standard (“RPS”) requirements. This results in the PPA providing energy in PNM’s resource portfolio beyond what is required by the RPS.

PNM’s Application states that, in addition to meeting Customer’s need for renewable energy, completing construction of the TAG Solar Energy Center and TAG Energy Storage facility will provide economic benefits to New Mexico as a whole, including through direct investment, additional tax revenue, and job creation. Further, PNM’s Application also states that Customer’s expansion of its Data Center will create economic benefits for New Mexico, including through the creation of construction jobs and jobs at the data center, and through a multiplier spending effect that benefits other sectors of the local and regional economy.

Pursuant to 17.9.551 NMAC, PNM must receive Commission approval before becoming irrevocably bound under the PPA and ESA.

This Order is effective immediately.

ISSUED under the Seal of the Commission at Santa Fe, New Mexico this **1st** day of **November 2023**.



NEW MEXICO PUBLIC REGULATION COMMISSION

Hans Muller
Keven Gedko
Hearing Examiners