

**BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION**

<b>IN THE MATTER OF PUBLIC SERVICE COMPANY )</b> <b>OF NEW MEXICO’S APPLICATION FOR )</b> <b>APPROVAL OF TWO ECONOMIC DEVELOPMENT )</b> <b>PROJECTS AND ISSUANCE OF AN ACCOUNTING )</b> <b>ORDER GOVERNING THE TREATMENT OF COSTS )</b> <b>RELATED TO THOSE PROJECTS )</b> <b>)</b> <b>PUBLIC SERVICE COMPANY OF NEW MEXICO, )</b> <b>)</b> <div style="text-align: center;"><b>Applicant )</b></div>	<b>Docket No. 25-00 ____-UT</b>
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**APPLICATION**

Public Service Company of New Mexico (“PNM”) files this Application with the New Mexico Public Regulation Commission (“NMPRC” or “Commission”), which requests that the Commission approve two economic development projects, the Westpointe 115 kV Substation project and Mesa del Sol project, pursuant to NMSA 1978, Section 62-6-26(E), and issue an accounting order governing the accounting treatment of costs related to them.

This Application is, in part, the result of the enactment of Senate Bill 170 (“SB 170”) by the New Mexico Legislature in 2025.<sup>1</sup> SB 170 establishes a policy for proactive electrical infrastructure investments beyond immediate need and under expedited timelines. SB 170 codifies the collaborative roles that PNM, the Commission, and the New Mexico Economic Development Department (“NMEDD”) play to undertake infrastructure investments. SB 170 is essentially a “build it and they will come” law enabling “public utilities to recover prudent and reasonable costs incurred by a public utility for the ongoing development, construction or maintenance of resources for economic development projects that provide incremental capacity, or serve incremental load growth, within the economic

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<sup>1</sup> The portions of Senate Bill 170 relevant to this Application are codified at NMSA 1978, Sections 62-6-26(E) and (F), and 62-9-1(D).

development project's service area.”<sup>2</sup> SB 170 also provides that “[a] public utility shall be allowed to defer costs incurred for economic development projects that are not included in rates to a regulatory asset.”<sup>3</sup> Such projects require site certification from the NMEDD<sup>4</sup> prior to approval by the Commission. Both of the projects associated with this Application provide incremental capacity for the sites that have received NMEDD certifications.

Based on the information outlined below and filed in support of this Application, the two projects described in this Application are objectively valuable assets to business-attraction efforts of state, regional and local economic development stakeholders, such as the NMEDD, Albuquerque Regional Economic Alliance, developers, landowners and real estate brokers. Economic development projects pursued pursuant to SB 170 enhance the competitiveness of certified sites and support New Mexico’s efforts to attract investment and job-creating opportunities. Authorizing PNM to create a regulatory asset provides PNM an opportunity to recover the reasonable costs of constructing these projects, subject to Commission review of the regulatory asset in a future rate case. PNM seeks the approval of the economic development projects and issuance of an accounting order by the Commission no later than July 1, 2026, that specifically:

- 1) Finds that PNM’s Application and supporting testimonies and exhibits comply with any applicable filing requirements;
- 2) Approves the two projects as “economic development projects” pursuant to NMSA 1978, Section 62-6-26(E);<sup>5</sup>

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<sup>2</sup> NMSA 1978, § 62-6-26(E) (2025).

<sup>3</sup> NMSA 1978, § 62-6-26(E) (2025).

<sup>4</sup> See NMSA 1978, § 62-6-26(F) (2025) (“The [NMEDD] shall certify, using industry standard guidelines for site selection, whether the economic development project will support reasonably anticipated economic development within the state.”)

<sup>5</sup> NMSA 1978, § 62-6-26(E) (2025) (“All projects shall be certified by the [NMEDD] using industry standard guidelines for site selection *and approved by the commission.*” Emphasis added).

- 3) Authorizes PNM to create a regulatory asset that allows PNM to seek recovery of the costs associated with the capital investments and operating and maintenance costs of constructing the Westpointe 115 kV Substation and Mesa del Sol economic development projects; and
- 4) Defers ratemaking treatment and cost recovery determinations to a future PNM general rate case.

### **Background of Application**

1. On November 4, 2024, PNM identified Westpointe 40 and Mesa del Sol as key sites for economic development, noting 16 instances of the site being evaluated for Westpointe 40 and 27 instances for Mesa del Sol between 2021–2024 in a response to a Commission Bench Request in Docket No. 24-00257-UT.<sup>6</sup>

2. On February 13, 2025, PNM’s presentation to the Commission during a Workshop listed both Mesa del Sol and Westpointe 40 as priority economic development sites in Albuquerque/Bernalillo County.<sup>7</sup>

3. On April 10, 2025, PNM filed a response to the second bench request in Docket No. 24-00257-UT, and again references both Westpointe 40 and Mesa del Sol as high-interest sites for economic development, noting the potential to pre-plan infrastructure upgrades for these locations due to historical interest and repeated requests.<sup>8</sup>

4. On August 1, 2025, and later supplemented on October 15, 2025, PNM filed its Responses to Third Bench Request in Docket No. 24-00257-UT, which included the Westpointe 115

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<sup>6</sup> Docket No. 24-00257-UT, *PNM’s Response to Bench Request*, pp. 7-9 (Nov. 4, 2024).

<sup>7</sup> Docket No. 24-00257-UT, *PNM’s Presentation to NMPRC Workshop*, p. 11 (Feb. 13, 2025).

<sup>8</sup> Docket No. 24-00257-UT, *PNM’s Response to Second Bench Request*, p. 13 (Apr. 10, 2025).

kV Substation and Mesa del Sol projects.<sup>9</sup> PNM has also provided informal updates and briefings to interested stakeholders and NMPRC Utility Division Staff to keep them informed of PNM's plans on infrastructure investments that may be of interest.

5. On November 14 and 25, 2025, the NMEDD issued site certification letters for the Westpointe 40 and Mesa del Sol sites, respectively, as locations that will support reasonably anticipated economic development in the state and meet the requirements under NMSA 1978, Section 62-6-26(F). The letters clarify that while the NMEDD certifies the sites for their economic potential, the analysis and approval of specific power generation, transmission, or distribution projects is the responsibility of the Commission, not NMEDD.

#### **Request for Approval of Economic Development Projects**

6. Section 62-6-26(G)(1) defines an “economic development project” as follows:  
[T]he construction or modification of new or existing electric generation facilities, energy storage facilities, transmission and distribution facilities, zero-carbon resources as defined in Subsection K of Section 62-16-3 NMSA 1978, alternative fuel facilities, energy efficiency programs, renewable energy and fuel cell facilities, recycled energy or other technologies necessary to serve reasonably anticipated new load and that have been certified by the economic development department pursuant to Subsection F of this section;

7. PNM has submitted concurrently with this application PNM 440 Filing Nos. 1328 (Westpointe 115 kV Substation) and 1329 (Mesa del Sol) for the substations and related facilities that will serve the certified economic development sites.

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<sup>9</sup> Docket No. 24-00257-UT, *PNM's Supplemental Responses to Third Bench Request*, pp. 2-3 (Oct. 15, 2025).

8. The projects identified in PNM's 440 Filings were acknowledged by NMEDD as providing support to the certified economic development sites. PNM requests that the Commission confirm that these projects meet the definition of an "economic development project" and approve them accordingly pursuant to NMSA 1978, Section 62-6-26(E).

9. The Testimony and Exhibits supporting this Application support the conclusion that there will be benefits to customers and to the State from PNM constructing the two projects, and thus granting the Application is consistent with the public interest.

### **Request for Accounting Order**

10. PNM seeks the issuance of an accounting order by the Commission allowing PNM the opportunity to recover in a future rate case reasonable expenditures for these two projects through a regulatory asset. Regulatory assets (and regulatory liabilities) are defined by the Federal Energy Regulatory Commission ("FERC"), at 18 CFR Part 101, as follows:

Regulatory Assets and Liabilities are assets and liabilities that result from rate actions of regulatory agencies. Regulatory assets and liabilities arise from specific revenues, expenses, gains, or losses that would have been included in net income determination in one period under the general requirements of the Uniform System of Accounts but for it being probable:

A. that such items will be included in a different period(s) for purposes of developing the rates the utility is authorized to charge for its utility services;

or

B. in the case of regulatory liabilities, that refunds to customers, not provided for in other accounts, will be required.

11. In this instance, there is statutory language that provides direction for the Commission to authorize the creation of regulatory assets for the purposes sought in this Application.

12. The ability to create a regulatory asset allows a utility to invest in discretionary projects that, even if not necessary to provide safe and reliable service, can nonetheless provide future benefits to customers, as is the case with these two economic development projects. In order to create a regulatory asset under FERC accounting standards, PNM must have a Commission order or other basis for expecting that these deferred expenses will be recoverable in a future rate case. PNM therefore requests specific authorization by the Commission to create a regulatory asset in order to recover in a future ratemaking proceeding the identified costs associated with capital investments and operating and maintenance costs incurred by PNM to construct the Westpointe 115 kV Substation and Mesa del Sol projects. The actual balances in the regulatory asset will be subject to review by the Commission in a future PNM ratemaking proceeding to ensure that the costs were actually and reasonably incurred by PNM and are consistent with the estimated costs provided in this proceeding.

13. The Testimony and Exhibits supporting this Application support the conclusion that there will be benefits to customers and to the State from PNM constructing the two projects, and thus granting the Application is consistent with the public interest.

#### **Request for Timely Commission Review**

14. PNM requests approval of the economic development projects and the issuance of an accounting order from the Commission by no later than July 1, 2026, pursuant to NMSA 1978, Section 62-6-26(E), which provides that all economic development projects shall be certified by the NMEDD using industry standard guidelines for site selection and approved by the Commission. Timely consideration by the Commission is necessary for PNM to begin investing in these projects.

Prompt approval will help avoid delays in project schedules and prevent missed economic opportunities for New Mexico. The statute requires that the Commission issue a final order within six months from the date the application is filed.<sup>10</sup>

15. PNM requests that this matter be heard directly by the Commission in order to allow for an expedited review of PNM's Application.

16. Pursuant to NMSA 1978, Section 62-10-2, the Commission has discretion to establish the form and scope of notice and hearings for this matter and to provide for prompt consideration of an application. By way of example, the Public Utility Act directs the Commission to promptly act on applications for securities transactions within a 30-day period; allows for approval of advice notices to change rates after 30 days by operation of law or upon order of the Commission and for good cause shown without requiring the 30 days' notice; and contemplates that the Commission may issue a certificate of public convenience and necessity without a formal hearing if no protest is filed within sixty days of the date that notice of such a request is given. See NMSA 1978, §§ 62-6-13, 62-8-7(C), and 62-9-1(C).

17. PNM therefore requests that if no written protest to PNM's Application is filed within 30 days of issuance of the Commission-approved notice, the Commission waive a formal evidentiary hearing and issue a final order based on the verified, filed testimonies and exhibits.

### **Notice of Proceeding**

18. PNM has served its Application and supporting materials on the service list in PNM's most recent rate case, Docket No. 24-00089-UT. PNM has included a proposed form of notice as

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<sup>10</sup> NMSA 1978, § 62-6-26(E) ("the commission shall review a public utility's application for an economic development project and issue a final order approving, modifying or denying the application within six months of the application filing date; *provided, however, that the commission may extend the time for granting approval for an additional three months for good cause shown.*") (emphasis added).

Attachment A to this Application, to be published in a newspaper of general circulation in PNM's service territory, consistent with notice provisions set forth in 17.1.2.9(D) NMAC. No notice to other utilities is required under 17.1.2.9(B) NMAC or 17.5.440.8(A)(1)(a) NMAC because the facilities are not outside the limits of a municipality to a point within one-half mile of the facilities of any other utility or utilities rendering electric service.

19. The following designated corporate representatives and legal counsel for PNM should receive all notices, discovery requests, objections and responses, briefs, and all other documents related to this case:

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**WHEREFORE**, PNM respectfully requests that the Commission approve PNM's Application by no later than July 1, 2026. Based on the information outlined above and set forth in the supporting Testimonies and Exhibits, PNM further requests that the Commission: find PNM has complied with any applicable filing requirements; approve the projects as "economic development projects" pursuant to NMSA 1978, Section 62-6-26(E); and issue an accounting order that authorizes PNM to create a regulatory asset that allows PNM to seek recovery of the costs associated with the capital investments and operating and maintenance costs of constructing the Westpointe 115 kV Substation and Mesa del Sol economic development projects in a future general rate case, subject to review by the Commission.



Respectfully submitted this 29th day of December, 2025.

PUBLIC SERVICE COMPANY OF NEW MEXICO

/s/ John Verheul

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