

NEW MEXICO PUBLIC REGULATION COMMISSION

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NEWS RELEASE

Commissioners Adopt Final Order in San Juan Case, Approving PNM's Application to Abandon Two Units

SANTA FE – Commissioners with the New Mexico Public Regulation Commission (NMPRC) on Wednesday, December 16, reached a decision in a case that has been in the works at the NMPRC for nearly two years – the application sought by Public Service Company of New Mexico (PNM) to abandon two units at the San Juan Generating Station located in northwestern New Mexico.

On Wednesday morning, Commissioners heard oral arguments from interveners in this highly contentious case. Opponents and proponents were given a total of 30 minutes to state their cases. The opponents split their 15 minutes between two speakers, while the proponents split their allotment between five speakers.

Santa Fe-based renewable energy attorney Bruce Throne, an opponent to this case, stated that the burden of proof regarding the feasibility of options for renewable resources associated with this proposal rests on the shoulders of the utility, however, that matter has never been satisfactorily rebutted, and spoke of protecting the public interest.

Another opponent, Mariel Nanasi of New Energy Economy (NEE), spoke of a clean energy future including wind and solar energy, and spoke of the lower costs of renewable when compared to coal and nuclear power. Coal markets are collapsing in light of the evidence associated with global warming, she stated, adding that “no other utility in the nation is investing in coal except PNM.”

On the side of the proponents, PNM Attorney Rick Alvidrez stated that a successful settlement to this case was presented, and all of the parties who signed onto this agreement are united. “What we are talking about here is shutting down half of San Juan, and that is not an insignificant reduction,” he stated. “Long term, the savings to customers will be \$290 million. This is the most economical outcome for New Mexico consumers, and all agree, with the exception of NEE’s expert.”

NMPRC Staff Attorney Patrick Lopez stated that a solvent utility protects ratepayers, and that the modified stipulation agreed upon starts on a path to renewable energy. Lopez spoke of the process undertaken by numerous parties working together to come to the agreement presented to the Commission. He recommended the Commission adopt the modified stipulation as it has been presented.

Cholla Khoury, of the New Mexico Attorney General’s Office, stated that New Mexico is a poor state with a fragile economy. “The modified stipulation provides important benefits,” she stated. “It reduces the rate impact on ratepayers throughout the state while transitioning away from coal.”

Attorney Chuck Noble of the Coalition of Clean & Affordable Energy – a coalition that represents 12 environmental, consumer and health groups – asked that the modified stipulation be approved as is. “This modified stipulation is

important because it provides an opportunity in 2018 to evaluate the remaining units at San Juan,” he stated. “The burden of proof will be on PNM.”

“It’s important that this case not be decided on sound bites in the media, but on informed judgments, and facts and evidence,” stated Steve Michel, Western Resource Advocates’ Chief Counsel for the Clean Energy Program. “We support the modified stipulation because it provides less coal and more renewable energies than any litigated outcome could provide. The modified stipulation provides the best result.”

At the conclusion of oral arguments, NMPRC Office of General Counsel Attorney Rick Blumenfeld provided the Commission with a detailed review of the history of the case, assessing the many exceptions filed in the case by NEE and providing responses disputing each exception in his final order.

Vice-Chair Lynda Lovejoy moved to adopt the final order as presented to the Commission, and that motion was seconded by Commissioner Patrick Lyons.

The Commission ultimately elected to adopt the final order, with a vote of 4-1, with Commissioner Valerie Espinoza placing the sole dissenting vote.

COMMISSION STATEMENTS

Commissioners shared their thoughts and the rationale they used to reach their individual decisions in this case during Wednesday morning’s vote.

“The modified stipulation we approved today is a vast improvement over what was originally proposed,” stated Chairwoman Karen Montoya of Albuquerque. “It protects the public interest and reduces environmental pollution while minimizing economic impacts and keeping utility bills as low as possible.” PRC staff estimated the revenue requirement impact in 2018 has been reduced from \$95.5 million in PNM’s amended application, to \$65.9 million in the original stipulation and \$10.7 million under the final agreement. “This issue was thoroughly vetted,” she said. “This was truly an amazing process. I thank everyone for their hard work and dedication on all sides. The people of New Mexico were represented well.” The NMPRC’s decision comes after years of complex negotiations and sometimes contentious public hearings involving numerous parties and government agencies. Chairwoman Montoya thanked the parties for their participation.

“The modified stipulation has broad support geographically from every area of PNM’s service territory,” stated Vice-Chair Lynda Lovejoy, who represents District 4, where the San Juan Generating Station is located. “Signatories include the Attorney General, New Mexico Industrial Energy Consumers, Western Resource Advocates, the Coalition of Clean & Affordable Energy, the New Mexico Independent Power Producers, the Interwest Energy Alliance, NMPRC Staff, as well as PNM. These entities include every constituency from the small ratepayer, the large ratepayer, the environmentalist, renewable energy advocates and the utility. Although other parties did not sign the modified stipulation, they also indicated they would not oppose it. These parties include the Water Authority and the counties of Bernalillo and Santa Fe. The reason for this widespread support is that the modified stipulation, taken as a whole, fairly balances the interests of these many constituencies, and results in a just and reasonable outcome that is in the public interest.”

“I disagree with the PRC Attorneys statements here today about the fairness to the ratepayers. The result of this decision is going to be borne by the ratepayers, and there is no assurance that this will be the best deal for ratepayers. We need to protect the ratepayers,” stated Commissioner Valerie Espinoza of Santa Fe. “I don’t believe anyone is acting on behalf of the public. My decision is based on balancing all of the interests of the public. Why more coal? Ratepayers are the ones that will be hit twice because this case is separate from the upcoming rate case. My main concerns continue to be the replacement power options. I cannot support the nuclear power replacement option as it is structured. I believe that the Palo Verde Unit 3 option should have been structured as a purchase power agreement with its ownership and the clean-up risks and costs continuing to be the sole responsibility of PNM’s shareholders, not the ratepayers. In my opinion, the incurrence of costs are not prudent or reasonable. I don’t believe that more coal or nuclear is the best alternative.”

“This is a very detailed stipulation that benefits all New Mexicans, the environment, the ratepayer, and keeps the lights on at a reasonable cost while maintaining reliable electricity to the customer,” stated Commissioner Patrick Lyons, who represents the eastern half of the state.

MODIFIED STIPULATION

The NMPRC Hearing Examiner assigned to this case, in his Certification to the Commission, recommends that the NMPRC approve, with minor changes, a modified stipulation among a number of parties to the case that would grant

PNM's abandonment application. His recommendation is based in part on his determination that the modified stipulation provides a reasonable approach to replacing the capacity that would be lost with the retirement of the two units at the San Juan Generating Station with assurances of adequate and reliable replacement power.

The Hearing Examiner advises the Commission that the modified stipulations also produce a significant environmental improvement by eliminating 836 megawatts of coal-fired generation, which represents 50 percent of the capacity at San Juan, a reduction of approximately half of the greenhouse gases at the facility, and about 50 percent less water use and dust emissions. Furthermore, the stipulations provide for the purchase of emission reduction credits or allowances, which should help offset the use of fossil fired generation and encourage the development of additional renewable resources.

The modified stipulation also that secured a meaningful opportunity for the NMPRC to review the future of the entire facility in 2018 based upon the costs of operating the station after the expiration of the current ownership agreement and the new coal supply contract. This review will address uncertainties associated with the new coal agreement and the San Juan ownership agreement, both of which are set to expire mid-2022, and will determine the extent to which the San Juan facility should continue serving the needs of PNM's retail customers.

The modified stipulation requires PNM to receive firm pricing and other terms for the supply of coal from Westmoreland prior to initiating the 2018 review, and prohibits PNM from entering into a binding post-2022 coal supply agreement before the conclusion of the review.

The coal supply agreement produces \$340 million in savings through June 2022, as stated in the Hearing Examiner's recommendation. The modified stipulation also produces an additional \$41 million in savings, comprised of \$38 million in savings resulting from the reduction of the rate base value of power obtained from the Palo Verde nuclear power plant in Arizona and \$3 million in savings resulting from the shortened depreciation period for the costs associated with the pollution controls project proscribed for the remaining units at San Juan.

In addition, the modified stipulation asked the Commission to approve the ability for PNM to recover one-half of its unrecovered costs with the two retired units at the generating station, and requires a proof of the rationale behind PNM's decision to install a balanced draft flue system at San Juan in their pending rate case.

The modified stipulation illustrates that the impact on ratepayers has also been reduced.

The replacement portfolio reduces PNM's coal capacity by 221 megawatts and its base load capacity by 152 megawatts. PNM previously added 60 megawatts of solar capacity in a related case before the Commission, and PNM has proposed 187 megawatts of natural gas peaking capacity in another related case before the NMPRC.

About the NMPRC

The NMPRC regulates public utilities, telecommunications companies and motor carriers operating in the State of New Mexico. It also administers the State Fire Marshal's Office, the New Mexico Firefighters Training Academy in Socorro, N.M., and the Pipeline Safety Bureau.

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