



*A personal commitment  
to New Mexico*

## **Request for Proposals**

for

**Renewable Energy Resources**

**July 18, 2008**

Minor Revision 10/2/08

**TABLE OF CONTENTS**

**Purpose and Scope ..... 1**  
    Background.....1  
    Eligible Proposals .....3  
    Projected Need .....4

**RFP Process..... 5**  
    Communication.....5  
    Schedule.....6  
    Pre-Bid Conference.....6  
    Notification of Intent to Respond .....7

**Proposal Content..... 7**  
    Pricing.....7  
    Transmission.....7  
    Respondent Requirements .....8  
    Respondent's Qualifications.....9  
    Proposed Service Agreement Terms.....9

**RFP Submission ..... 10**  
    Bid Forms.....10  
    Bid Submission Fee .....10  
    Bid Submission.....10  
    Confidentiality .....11  
    Collusion.....12  
    Compliance with Regulations.....12

**Evaluation of Proposals..... 12**  
    Non-Price Evaluation.....13  
    Price Evaluation Process.....14

**Disclaimers..... 16**

**Definitive Agreement..... 17**

**Attachment 1 – NMPRC Rule 572 ..... 18**  
**Attachment 2- SNM Path 47 ..... 28**  
**Attachment 3 – NNM Path 48..... 29**

**Purpose and Scope**

Public Service Company of New Mexico (“PNM” or the “Company”) issues this Request for Proposals (“RFP”) to solicit multiple competitive proposals (“Proposals”) for renewable energy with all associated environmental attributes including renewable energy certificates (“RECs”) to comply with New Mexico’s Renewable Portfolio Standard (“RPS”) beginning in 2010 or earlier. PNM will consider offers for asset purchases, purchase power agreements, renewable fuels or other arrangements. Offers of renewable capacity supply that can meet a portion of the PNM retail network load and reserve margin needs are also encouraged, but not required as a part of this RFP.

PNM is a wholly owned subsidiary of PNM Resources (NYSE: PNM) based in Albuquerque, N.M., with consolidated operating revenues of \$2.3 billion. The Company provides retail electric service to a large area of north central New Mexico, including the cities of Albuquerque, Santa Fe, Rio Rancho, Las Vegas, Belen and Bernalillo. The Company also provides retail electric service to Deming, Ruidoso, Alamogordo, Lordsburg, Silver City and Bayard in southwestern New Mexico and to Clayton in northeastern New Mexico.

**Background**

In 2004, the Renewable Energy Act (“REA”) became effective, which established the RPS. The New Mexico Public Regulation Commission (“NMPRC” or “Commission”) established 17.9.572 NMAC (“RPS rule”) to carry out the REA. The current rule is included as **Attachment 1 – NMPRC Rule 572**. The REA and the RPS rule were amended in 2007 to require investor-owned electric utilities and electric cooperatives to produce or buy increasing amounts of renewable energy such that renewable energy must make up six percent of the utilities' retail sales to New Mexico customers in 2008-2010 timeframe ratcheting up to 10% in 2011, 15% in 2015, and 20% in year 2020. As defined in the RPS rule, “renewable energy” is electric energy that

- (1) is generated by use of low- or zero-emissions generation technology with substantial long-term production potential; and
- (2) is generated by use of renewable energy resources that may include:
  - (a) solar, wind, hydropower and geothermal resources;

- (b) fuel cells that are not fossil fueled; and
  - (c) biomass resources, such as agriculture or animal waste, small diameter timber, salt cedar and other phreatophyte or woody vegetation removed from river basins or watersheds in New Mexico, landfill gas and anaerobically digested waste biomass; but
- (3) does not include electric energy generated by use of fossil fuel or nuclear energy.

The REA also enacted provisions requiring the NMPRC to establish a Reasonable Cost Threshold (“RCT”) and a system of renewable energy certificates known as RECs to be used by public utilities to establish compliance with the RPS. Additionally the REA provides for cost recovery and requires that the renewable energy used for compliance with the RPS must be contracted for delivery in New Mexico. A REC in New Mexico is defined as 1 kWh of electricity produced by a renewable resource. Rule 572 requires that all RECs used for RPS compliance must be registered in the Western Renewable Energy Information System (“WREGIS”) beginning in 2008.

The REA states that a public utility shall not be required to add renewable energy to its electric energy supply portfolio at a cost above the RCT. In 2008, the NMPRC amended the RCT to establish a rate impact cost criterion for RPS compliance that will be used by PNM in the RFP evaluations. The overall rate impact cost criterion is capped at an overall customer rate increase of no more than 1.6% in 2009 increasing by 0.2% until 2011, 2.0% in 2011 increasing by 0.125% until 2015, and 3.0% in 2015 and thereafter. A current NMPRC proceeding (Case No. 08-00198-UT) is exploring a standard methodology for determining the cost of renewable energy resources for the purpose of applying the RCT. PNM will incorporate the resulting methodology in the RFP evaluation.

Prior to 2011, public utilities may meet the RPS with any type of renewable resources as long as the portfolio is diverse taking into consideration the overall reliability, availability, dispatch flexibility and cost of the various renewable resources; however, by 2011, renewable procurement shall further be designed to achieve a fully diversified renewable energy portfolio to

the extent that it meets the RCT. The RPS rule defines a fully diversified renewable energy portfolio as one in which the RPS requirement is met with:

- wind resources of no less than 20%;
- solar resources of no less than 20%;
- non-wind, non-solar resources of no less than 10%; and
- distributed generation resources of no less than 1.5% from 2011 through 2014 and no less than 3% thereafter.

The remaining percentage is at the discretion of the utility to source. Distributed generation is defined in the RPS rule as electric generation sited at a customer's premises, providing electric energy to the customer load at that site and/or providing electric energy to a public utility or a rural electric distribution cooperative for use by multiple customers in one or more contiguous distribution substation service areas.

### ***Eligible Proposals***

The following types of proposals are eligible for this RFP:

- a) Offers for purchase of a renewable generating asset (or ownership) contracted for delivery of energy in New Mexico;
- b) Offers for renewable energy, with or without capacity, from a generating unit with capability to deliver to loads in either southern or northern New Mexico;
- c) Offers for biogas to be delivered to an interstate natural gas pipeline in New Mexico.

Eligible Proposals must meet the following general guidelines to be considered for evaluation:

- Proposals must provide renewable energy as defined by the RPS rule.
- Proposals can be for a portion of PNM's needed RPS requirement, but projects must supply the minimum equivalent of renewable energy of at least 2,025 MWh annually.
- Proposals offering biogas must meet interstate natural gas pipeline standards and be delivered to New Mexico.
- All Proposals must be submitted in accordance with the instructions of this RFP.
- Proposals must comply with all applicable federal, state and local laws.

- Proposals and pricing must remain valid and binding through January 31, 2009 with the date of expiration explicitly stated in the Proposal.

PNM is currently participating in a separate project with other entities called the New Mexico Project Participants to jointly develop a new, large-scale concentrated solar power facility using parabolic trough technology located within New Mexico. A separate RFP was released on June 30, 2008 and a separate RFP evaluation process will take place concurrently. For this reason, this RFP *will not consider* any proposals that qualify for consideration in the parabolic trough RFP. This renewable RFP will consider bids from other concentrated solar power technologies such as power tower or concentrated photovoltaic technologies. For more details on the New Mexico Project Participant Parabolic Trough RFP, please refer to PNM's website at <http://www.pnm.com/rfp/solar>.

Additionally, PNM will not consider the following proposals:

- Offers for RECs without the associated energy,
- Offers for demand side management programs including energy efficiency, and
- Offers for unproven/non-commercial technologies or submittals for research and development projects.

### ***Projected Need***

The following table outlines the 5 year projected renewable energy needs by year and resource type taking into account PNM's existing renewable portfolio for PNM. PNM requires renewable energy resources beginning in 2010. PNM's interpretation of the RPS rule is that PNM has the ability to choose the resources for the amounts that are not specified as to source taking into consideration the overall reliability, availability, dispatch flexibility and cost of the various renewable resources. In 2011, when full diversity targets must be considered in the portfolio, PNM will need renewable energy from all types of renewable resources except for wind. However, wind proposals, as well as any other renewable resource proposals, can meet the unspecified amounts.

PNM's 2008 Request for Proposals for Renewable Energy Resources

Resource Type	2010	2011	2012	2013	2014	2015
	(MWh)	(MWh)	(MWh)	(MWh)	(MWh)	(MWh)
Wind		-	-	-	-	-
Solar		190,000	192,400	195,000	201,700	307,000
Other Source		95,000	96,200	97,500	100,800	153,400
DG		5,900	3,600	1,100	-	26,900
Unspecified	92,000	422,400	329,900	343,000	368,400	710,300
<b>Total</b>	<b>92,000</b>	<b>713,300</b>	<b>622,100</b>	<b>636,600</b>	<b>670,900</b>	<b>1,197,600</b>

In addition to meeting the RPS requirements, PNM will consider Proposals that can supply more than the minimum as detailed in the table as long as the price remains competitive against other supply side resource alternatives. For information regarding PNM's system and other supply side alternatives, see the draft IRP report at [http://www.pnm.com/regulatory/irp\\_electric.htm](http://www.pnm.com/regulatory/irp_electric.htm).

PNM is also interested in summer peaking capacity from renewable resources in the same time frame. Although Respondents have the option of providing renewable energy from any location that would deliver energy in the state of New Mexico, preference will be given to energy and capacity supplied in either one of two separate geographic areas, Northern New Mexico ("NNM") and Southern New Mexico ("SNM"). These locations are identified in **Attachment 2-SNM Path 47** and **Attachment 3 – NNM Path 48**.

**RFP Process**

***Communication***

All inquiries and other communications relating in any manner to this RFP must be directed in writing, by mail, facsimile or e-mail, to the PNM RFP administrator. The questions and corresponding answers (without identification of the party asking the questions) will be e-mailed to all parties that have provided a Notification of Intent to Respond ("Notification") to this RFP. Contact information is provided below.

**RFP Administrator**  
**Public Service Company of New Mexico**  
**Alvarado Square MS 1006**  
**Albuquerque, N.M., 87158-0001**  
**PHONE: 505-241-4700 FAX 505- 241-2202**  
**E-mail: [renewableRFP@pnm.com](mailto:renewableRFP@pnm.com)**

**Schedule**

PNM reserves the right to revise, suspend, or terminate this RFP Process and any schedule related thereto at its sole discretion without liability to persons or entities responding to this RFP ("Respondents"). PNM will communicate in writing (via hard copy, facsimile, or e-mail) to prospective Respondents regarding the status of this RFP Process, including any and all changes and addenda to this RFP or attendant schedules.

*The RFP process will proceed in accordance with the following schedule:*

<b>RFP Process Calendar 2008</b>	<b>Date (close of business at 5:00 p.m. MDT)</b>
RFP Issued	July 18, 2008
Pre-Bid Conference	July 30, 2008
Notice of Intent to Respond to RFP Due	August 1, 2008
RFP Responses Due	October 15, 2008
PNM Final Analysis Complete	November 5, 2008
Begin to Notify Respondents of Short List	November 8, 2008
Successful Respondent(s) Notification	November 22, 2008
Begin Contract Negotiation	November 2008
Complete/Successful Contract(s) Negotiation	February 2009
NMPRC Approval Process Initiated	February 2009

**Pre-Bid Conference**

On July 30, 2008, PNM will host a pre-bid conference detailing the information requested in the RFP. A dial-in number is provided for those parties who cannot attend. Interested parties and bidders are encouraged to attend or listen and bring any questions regarding clarification.

**Date:** Wednesday, July 30, 2008  
**Time:** 9:00 am – 11:00 am, MDT  
**Where:** PNM Headquarters  
Alvarado Square – 2<sup>nd</sup> Floor (Commercial Kitchen)  
414 Silver Ave. SW  
Albuquerque, N.M., 87102-3289  
**Dial-In:** (888) 251-3334 Event ID: 125037

***Notification of Intent to Respond***

In order to identify persons or entities interested in submitting a Proposal, and to assure that all those having such an interest receive any subsequent information distributed in the proposal process, interested parties, should submit via e-mail or FAX a Notification on or before **5:00 P.M. MDT on Friday, August 1, 2008**. The form for the Notification can be downloaded via PNM's website at <http://www.pnm.com/systems/new-renewables.htm>.

**Proposal Content**

***Pricing***

All pricing must be in terms of current US dollars and should include all costs to deliver energy and any costs associated with compliance with Rule 572, including WREGIS registration and transfer fees, if applicable. Please detail the escalation assumptions. Bids tied to the general inflation rate will be excluded. Bid pricing should remain valid through January 2009.

***Transmission***

Expected transmission costs relating to system upgrades and interconnection should be explicitly broken out in the Respondent's Proposal, and will be the financial and logistical responsibility of the Respondent. The schedule for transmission service procurement should also be included in all Respondents' Proposals. Transmission wheeling charges, if any, to deliver capacity to the PNM system, will be incorporated in the evaluation of the Proposal.

Delivery points for NNM Proposals of energy located within the WECC Path 48 transmission boundary are preferred. Delivery points for SNM Proposals of energy located within the WECC Path 47 transmission boundary are acceptable but may be evaluated with additional wheeling. PNM will consider other delivery points on a case-by-case basis and will add applicable wheeling in the evaluation phase. Resources located outside of Path 48 may require replacement with load-side resources at times of transmission congestion, causing PNM to incur an energy penalty. This will be considered in the evaluation phase of the RFP.

***Respondent Requirements***

Credit quality of the Respondent is an important factor in the selection process. PNM will utilize the better of the published credit ratings from Standard & Poor's Ratings Group ("S&P") or Moody's Investor Services, Inc. ("Moody's) for long-term senior unsecured debt to determine a Respondent's credit rating. PNM will also consider a Dun & Bradstreet ("D&B") credit rating of 3A2 or better. Execution of an agreement under this RFP is conditional upon full satisfaction of any PNM credit support requirements.

PNM requires respondents to either have an investment grade rating (S&P BBB- or above; Moody's Baa3 or above; D&B 3A2 or above), or have sufficient equity security to cover Respondent's anticipated delivery obligations under any contract entered into as a result of this RFP process.

If Respondent is unable to satisfy the foregoing credit standards, Respondent may designate a Credit Support Provider/Guarantor, and if the Credit Support Provider/Guarantor is satisfactory to PNM, the Respondent shall be deemed to have satisfied PNM's credit standards. The quality of credit of the proposed Credit Support Provider/Guarantor will be evaluated under the same standards as set forth in the previous paragraph.

In lieu of designating a Credit Support Provider/Guarantor, a Respondent that is otherwise unable to satisfy the foregoing credit standards may elect to satisfy PNM's credit standards by providing adequate collateral to PNM, in the form of either: (i) a letter of credit from a financial institution satisfactory to PNM; or (ii) a security deposit in the form of cash. In either event, the collateral must be sufficient to cover Respondent's two months of anticipated delivery obligations under any contract entered into as a result of this RFP process.

PNM reserves the right to require additional credit standards and to review and evaluate the quality of credit of each Respondent and to make adjustments, as necessary, in the application of the foregoing standards.

***Respondent's Qualifications***

Each Proposal must include the most current Securities and Exchange Commission (“SEC”) Form 10-K and 10-Q reports of any Respondent or its guarantor subject to SEC filing requirements, including a list, with names, addresses and other electric generation and transmission activities of all equity participants having 10% or greater ownership interest in the system or facilities from which power is to be supplied to PNM.

Any Respondent or guarantor not subject to SEC filing requirements should provide its most recently issued statement of financial condition, including balance sheet, income statement, cash flow statement and complete footnotes, with (if available) an unqualified statement certified by a nationally recognized certified public accounting firm for the 3 most recent fiscal years, and its most recent un-audited interim statement.

***Proposed Service Agreement Terms***

Each Respondent must submit, with its Proposal(s), proposed contract provisions to be used as a basis for negotiation of an agreement if its Proposal is selected for further negotiation. The proposed contract provisions should reflect important expectations of PNM, including but not limited to:

- 1) Regulatory disallowance provisions.
- 2) Limitations on the applicability of force majeure.
- 3) Respondent's default provisions, included Liquidated Damages, performance security and delayed damages.
- 4) Respondent's negligence indemnification for PNM.
- 5) New Mexico governing law.
- 6) Purchase Option
- 7) Conditions precedent, including requirement of commercial operation by a specified date.

**RFP Submission**

***Bid Forms***

In addition to the information described elsewhere in this RFP, all Respondents must include as part of their Proposal completed RFP Form Sheets which can be downloaded via PNM's website at <http://www.pnm.com/systems/new-renewables.htm>. Additionally, all Proposals must include the information required under the Respondent Requirements and sections of this RFP and all information requested by PNM that may be needed for a thorough understanding or evaluation of their Proposals.

***Bid Submission Fee***

A non-refundable RFP submission fee of \$1,000.00 per project will accompany the Proposal in order to qualify the Proposal(s) for consideration to ensure the adequate technical evaluation can be accomplished. For purposes of this RFP, multiple options at a project site using the same technology are considered a single bid. The fee may be paid by certified check made out to "Public Service Company of New Mexico" and submitted with proposal or arrangements can be made for electronic funds transfer for any Respondent upon request.

***Bid Submission***

Respondents shall submit **one (1) complete electronic copy of the proposal (CD or DVD), and two (2) hard copies** of the original proposal with one (1) of those copies bearing an original signature with evidence satisfactory to PNM that the signatory has full authority to bind the Respondent to all of the terms and conditions contained in the Proposal. **PNM will not accept Proposals via facsimile. Only sealed Proposals will be accepted.**

Complete Proposals, including all exhibits, forms, and fee, must be received on or before **5:00 p.m. (MDT) on Wednesday, October 15, 2008** at the following address. All Proposals must expressly confirm that the pricing and terms and conditions of the Proposal will be binding through the close of business (5:00 p.m. MDT) January 31, 2009.

**RFP Administrator**  
**Public Service Company of New Mexico**  
**Alvarado Square MS 1006**  
**Albuquerque, N.M., 87158-0001**

Proposals shall be delivered to the above address on or before the specified due date and hour, and shall be enclosed in a sealed envelope. On the envelope, Respondent shall indicate "**PNM RENEWABLE RFP.**" None of the material received by PNM from Respondents in response to this RFP will be returned. All Proposals and exhibits will become the property of PNM.

***Confidentiality***

PNM will take reasonable precautions and use commercially reasonable efforts to protect any claimed proprietary and confidential information contained in a Proposal; provided that such information is clearly identified by the Respondent as "PROPRIETARY AND CONFIDENTIAL" on the page on which proprietary and confidential material appears. PNM may nonetheless release such information: (1) to any external contractors for the purpose of evaluating Proposals, but such contractors will be required to observe the same care with respect to disclosure as PNM; and to others who have a need for such information for purposes of evaluating the RFP, the RFP process or the agreement resulting from the RFP process, including but not limited to the New Mexico Public Regulation Commission, its employees, staff, consultants and/or agents, and other parties, their consultants and/or agents, to any NMPRC proceedings relating thereto, or (2) if PNM is requested or compelled to disclose such information (or portions thereof) (i) pursuant to subpoena or other court or administrative process; (ii) at the express direction of any agency with jurisdiction over PNM, or (iii) as otherwise required by law. If PNM determines that the release of such information will be made under one of the circumstances set out above, PNM will provide Respondent with written notice. PNM holds no duty or requirement to Respondent to withhold such information if it is so requested as described above. Under no circumstances will PNM, or its directors, management, employees, agents or contractors be liable for any damages resulting from the disclosure of Respondent's claimed confidential information during or after the RFP process.

If a Respondent requires greater assurances of confidentiality in connection with its Proposal, it may include in its Notification of Intent to Respond, or in its Proposal, a form of confidentiality agreement which PNM will review and enter into, as deemed appropriate by PNM.

***Collusion***

By submitting a Proposal to PNM in response to this RFP, the Respondent certifies that the Respondent has not divulged, discussed, or compared its Proposal with other Respondents and has not colluded whatsoever with any other Respondent or parties with respect to this or other Proposals; provided, however, that this provision does not and is not intended to prevent multiple parties from making a joint Proposal in which the roles and responsibilities of each party are clearly delineated in the Proposal.

***Compliance with Regulations***

Each Respondent shall ensure that its Proposal is in full compliance with all applicable Federal, State and local laws, rules, regulations or other requirements.

***Evaluation of Proposals***

PNM anticipates a two-phase proposal and evaluation process. In Phase One, PNM requests Respondents to make fixed price offers to sell renewable assets, renewable energy with or without with all environmental attributes, biogas or other arrangements. From the Phase One evaluation results, a short list of resources will be developed, at which time respondents may be requested to supply additional information. The unsuccessful Respondents will be notified by mail/e-mail that their Proposals will not be considered further. The successful "short listed" Respondents will be notified both in writing and by phone that they have passed on to Phase Two of the process, whereupon additional evaluation will be conducted and the preferred renewable resource alternative(s) identified. Once the successful alternative(s) from that evaluation have been identified, PNM will pursue negotiations to secure renewable resources. PNM will then make appropriate filings seeking approval with the Commission based on the negotiated terms of the purchase agreement(s).

### **Phase I Evaluations**

Each Proposal will be checked for its conformance to the instructions and specifications set forth herein. If the required information is not provided in the forms provided in this RFP, the Proposal will be deemed non-responsive and will not be considered for further evaluation.

Proposals that have provided the required data will be passed to the initial screening phase of the evaluation. They will be evaluated individually for both the quality of the Proposals and the likelihood of achieving successful commercial operation under the terms proposed. Each Proposal will be scored using both price and non-price criteria. A Proposal's score from the non-price evaluation is combined with a price score, each of which represents approximately 50% of the total score. This combination of scores produces a ranked "short list."

### ***Non-Price Evaluation***

The following will be given consideration in the non-price evaluation process:

- 1) Respondent creditworthiness, which includes a Respondent's managerial and financial qualifications.
- 2) Respondent's Engineering, Construction, Operating and Environmental Team qualifications.
- 3) Project Engineering Plan.
  - a) Detailed operations and maintenance plan for the project.
  - b) Preliminary engineering study describing the generation technology, emission control equipment and fresh water usage.
  - c) Detailed project critical path schedule identifying all important development elements and their timing.
  - d) Identification of the major equipment supplier(s) to be used for the project.
- 4) Environmental and Siting Plan
  - a) An environmental assessment of the environmental feasibility for each site and all necessary right of ways.
  - b) A Respondent's Environmental Management System, i.e., how the Respondent handles the environmental risk associated with its operations.
  - c) An environmental milestone schedule addressing all requisite permits.
  - d) Detailed description of a water supply plan including a description of fresh water

conservation efforts and usage.

5) Fuels Supply Plan

- a) A detailed assessment of current and future fuel supply, fuel contracts in place, fuel storage, and fuel transportation, as appropriate per technology type. Meteorological data, as necessary, to support projected energy and capacity values.
- b) The respondent shall demonstrate fuel supply stability and a robust supply chain for the duration of the plant life or contract life.

6) If bidding capacity, preference will be given for NNM loadside.

7) Contribution to PNM's overall system reliability.

8) Operational flexibility of the Proposal.

9) Any potential for delay as the result of a Respondent's need for regulatory actions or approvals or for permitting licensing or transmission interconnection.

10) Ability to help PNM achieve the RPS resource diversity targets.

11) Ownership Structure

***Price Evaluation Process***

PNM ranks and score all Proposals from a cost standpoint. The price screening consists of measuring each Proposal's total cost impact, including:

- 1. Capital Costs and/or Capacity Costs
- 2. Fixed operation and maintenance costs
- 3. Variable production costs
- 4. Fuel and water costs
- 5. Transmission costs, including third party wheeling
- 6. Operational costs, including system regulation requirements as a result of the project
- 7. Other system benefits or costs, including impact to system losses
- 8. Contribution to capital - balance sheet impact of power purchase agreement as debt
- 9. Opportunities for marketing of excess energy
- 10. Comparison to RCT (rate impact cost criterion)
- 11. Any additional costs that are required but not provided for in the proposal

Proposals are scored and ranked on the basis of minimizing the net present value of revenue requirements (i.e. total cost impact). Proposals with a low total cost impact on the PNM system will receive a higher score than Proposals with a high total cost impact.

All eligible Proposals are evaluated on the basis of their Proposal prices and operational performance factors by simulating the impact of the Proposal on the overall costs to the PNM system. Respondent-supplied price information should be given in current dollars and shall include capital and/or capacity costs, fixed operations and maintenance costs, variable production cost, fuel cost components, transmission interconnection costs, and WREGIS fees. Installed cost should include all development costs, such as permitting, interest during construction, etc. Non-fuel variable O&M shall include costs for consumables, water, chemicals, and ash disposal for biomass technologies, for example, and labor and maintenance should be included in the fixed component of O&M.

A Proposal's impact on PNM's system production costs is calculated by comparing total system production costs from PNM's most current integrated resource plan ("IRP"), which is posted on PNM's website ([http://www.pnm.com/regulatory/irp\\_electric.htm](http://www.pnm.com/regulatory/irp_electric.htm)), including competing bid Proposal(s), to a resource plan that includes the Proposal.

### **Phase II Evaluation**

In the short list Proposal evaluation, Proposals are further evaluated on price and non-price factors and those Proposals that appear to have the most value to PNM and its customers are analyzed thoroughly. From this final set of alternatives, PNM will determine the preferred alternative or combination of alternatives to meet the RPS.

Respondents shall include sufficient detail for PNM to be able to evaluate all costs associated with the Proposal(s). Respondents are advised that price will be a major factor in PNM's evaluation, as well as creditworthiness and liquidated damages contract considerations, reliability, operational flexibility, deliverability and ability to meet diversity targets. Respondents should be aware that the evaluation is based on both price and non-price factors, therefore, the lowest price submittal may not be selected.

Disclaimers

PNM may determine at its sole discretion the value to PNM customers of any and/or all Proposals. PNM reserves the right to negotiate with a Respondent or Respondents after submission of a Proposal. In the event negotiations with a Respondent or Respondents do not produce a final and fully executed contract satisfactory to PNM and approved by the Commission for inclusion in PNM's renewable supply portfolio, PNM reserves the right to pursue any and all other resource options available to it.

PNM may reject any Proposal that, in PNM's sole discretion:

- Does not meet the minimum requirements set forth in the RFP;
- Does not include all required data items;
- Is not economically competitive with other Proposals; or
- Is submitted by Respondents who are determined by PNM, in its sole discretion, to have insufficient creditworthiness, insufficient financial resources, and/or insufficient technical qualifications to provide dependable or reliable service.

PNM reserves the right, without qualification and in its sole discretion, to accept or reject any or all Proposals for any reason at any time after submittal without explanation to the Respondent, or to enter into an agreement at any time with a Respondent who, in the opinion of PNM, will provide the most value to PNM customers. PNM also reserves the right to contract with other than the lowest price Respondent or with other than the Respondent evidencing the greatest technical ability, if PNM, in its sole discretion, determines that to do so would result in the greatest value to PNM customers.

PNM, in its sole discretion, may decline to enter into an agreement with any Respondent, may terminate negotiations with any Respondent, at any time during the process.

Those Respondents who submit Proposals do so without legal recourse against PNM, or PNM's directors, management, employees, agents or contractors, due to PNM's rejection, in whole or in part, of their Proposal or for failure to execute any agreement with PNM. PNM shall not be

liable to any Respondent or to any other party, in law or equity, for any reason whatsoever relating to PNM's acts or omissions arising out of or in connection with the RFP process.

Respondent shall be liable for all of its costs, and PNM shall not be responsible for any of Respondent's costs, incurred to prepare, submit, or negotiate its Proposal, a contract or any other activity related thereto.

PNM reserves the right, at any time, to establish a minimum and/or maximum of REC supply or energy or capacity to be acquired from any one Respondent.

Selection and elimination of Proposals and subsequent notification of Respondents at all stages of the evaluation will remain entirely at PNM's discretion. PNM's intent is to notify Respondents of those Proposals that are eliminated from further consideration under this RFP within a reasonable period of time.

*Definitive Agreement*

As soon as practicable after PNM completes its analysis of Proposals and completes negotiations as appropriate, it expects the successful Respondent(s) to execute a definitive purchase agreement. Failure of a Respondent to promptly execute such a definitive written agreement will, in PNM's sole discretion, result in PNM electing to contract with another Respondent. The definitive agreement shall not bind PNM until both Parties execute it, and, the agreement is approved or otherwise authorized by the NMPRC and any other applicable regulatory authority.

**Attachment 1 – NMPRC Rule 572**

**TITLE 17 PUBLIC UTILITIES AND UTILITY SERVICES**  
**CHAPTER 9 ELECTRIC SERVICES**  
**PART 572 RENEWABLE ENERGY FOR ELECTRIC UTILITIES**

**17.9.572.1 ISSUING AGENCY:** New Mexico Public Regulation Commission.  
[17.9.572.1 NMAC - Rp, 17.9.572.1 NMAC, 8-30-07]

**17.9.572.2 SCOPE:**

**A.** All electric public utilities are subject to 17.9.572.1 through 17.9.572.19 NMAC.  
**B.** Rural electric distribution cooperatives are subject to 17.9.572.1 through 17.9.572.6, 17.9.572.13, 17.9.572.20 and 17.9.572.21 NMAC.  
[17.9.572.2 NMAC - Rp, 17.9.572.1 NMAC, 8-30-07]

**17.9.572.3 STATUTORY AUTHORITY:** NMSA 1978 Sections 62-16-7 and 62-16-9.  
[17.9.572.3 NMAC - Rp, 17.9.572.3 NMAC, 8-30-07]

**17.9.572.4 DURATION:** Permanent.  
[17.9.572.4 NMAC - Rp, 17.9.572.4 NMAC, 8-30-07]

**17.9.572.5 EFFECTIVE DATE:** August 30, 2007, unless a later date is cited at the end of a section.  
[17.9.572.5 NMAC - Rp, 17.9.572.5 NMAC, 8-30-07]

**17.9.572.6 OBJECTIVE:** The purpose of this rule is to implement the Renewable Energy Act, NMSA 1978 Section 62-16-1, et seq., and to bring significant economic development and environmental benefits to New Mexico.  
[17.9.572.6 NMAC - Rp, 17.9.572.6 NMAC, 8-30-07]

**17.9.572.7 DEFINITIONS:** Unless otherwise specified, as used in this rule:

**A. procure** means to generate or purchase renewable energy and/or renewable energy certificates or to commit to generate or purchase renewable energy and/or renewable energy certificates;

**B. public utility** means an entity certified by the commission to provide retail electric service in New Mexico pursuant to the Public Utility Act but does not include rural electric cooperatives;

**C. reasonable cost threshold** means the cost established by the commission above which a public utility shall not be required to add renewable energy to its electric energy supply portfolio pursuant to the renewable portfolio standard;

**D. renewable energy** means electrical energy generated by means of a low or zero emissions generation technology with substantial long-term production potential and generated by use of renewable energy resources that may include solar, wind, hydropower resources brought into service after July 1, 2007, geothermal, fuel cells that are not fossil fueled and biomass resources; biomass resources are fuels, such as agriculture or animal waste, small

diameter timber, salt cedar and other phreatophyte or woody vegetation removed from river basins or watersheds in New Mexico, landfill gas and anaerobically digested waste biomass; renewable energy does not include fossil fuel or nuclear energy;

**E. renewable energy certificate** means a document evidencing that the enumerated renewable energy kilowatt-hours have been generated from a renewable energy generating facility, and shall represent all of the environmental attributes associated with the generation of renewable energy;

**F. renewable portfolio standard** means the percentage of retail sales by a public utility to electric consumers in New Mexico that is required to be supplied by renewable energy;

**G. fully diversified renewable energy portfolio** is one in which no less than twenty percent of the renewable portfolio standard requirement is met using wind energy, no less than twenty percent is met using solar energy, no less than ten percent is met using one or more of the other renewable energy technologies, as defined by this section, and no less than the following percentages are met through distributed generation:

(1) no less than one and one-half percent for calendar years 2011 through 2014; and

(2) no less than three percent beginning in calendar year 2015;

**H. emissions** means all emissions regulated by state or federal authorities, including but not limited to all criteria pollutants and hazardous air pollutants, plus mercury and carbon dioxide (CO<sub>2</sub>);

**I. distributed generation** means electric generation sited at a customer's premises, providing electric energy to the customer load at that site and/or providing electric energy to a public utility or a rural electric distribution cooperative for use by multiple customers in one or more contiguous distribution substation service areas.

[17.9.572.7 NMAC - Rp, 17.9.572.7 NMAC, 8-30-07]

**17.9.572.8 LIBERAL CONSTRUCTION:** This rule shall be liberally construed to carry out its intended purposes. If any provision of this rule, or the application thereof to any person or circumstance, is held invalid, the remainder of the rule, or the application of such provision to other persons or circumstances, shall not be affected thereby.

[17.9.572.8 NMAC - Rp, 17.9.572.8 NMAC, 8-30-07]

**17.9.572.9 RELATIONSHIP TO OTHER COMMISSION RULES:** Unless otherwise specified, this rule does not supersede any other rule of the commission but supplements rules applying to public utilities.

[17.9.572.9 NMAC - Rp, 17.9.572.9 NMAC, 8-30-07]

**17.9.572.10 RENEWABLE PORTFOLIO STANDARD:**

**A.** Each public utility must develop a reasonable cost renewable energy portfolio. In developing its renewable energy portfolio, a public utility shall take into consideration the potential for environmental and economic benefits to New Mexico. Renewable energy resources that are in a public utility's electric energy supply portfolio on July 1, 2004 shall be counted in determining compliance with this rule. However, renewable energy sold to customers through a premium-priced renewable energy tariff shall not be counted in determining compliance with this rule. Other factors being equal, preference shall be given to renewable energy generated in New Mexico.

**B.** The renewable portfolio standard shall be no less than five percent (5%) of annual retail jurisdictional energy sales for calendar year 2006 and six percent (6%) for calendar years 2007 through 2010, except as modified by Subsection C of this section. The renewable portfolio standard shall be no less than ten percent (10%) for calendar years 2011 through 2014. The renewable portfolio standard shall be no less than fifteen percent (15%) for calendar years 2015 through 2019. The renewable portfolio standard shall be no less than twenty percent (20%) for calendar year 2020 and subsequent years.

**C.** The renewable portfolio standard will be reduced, as necessary, to limit the kilowatt-hours of renewable energy procured by a public utility for nongovernmental customers at a single location or facility, regardless of the number of meters, with consumption exceeding ten million kilowatt-hours per year. A public utility shall limit the amount of its renewable portfolio standard so that the additional cost of the standard, inclusive of all interconnection and transmission costs, to each customer on and after January 1, 2006, does not exceed the lower of one percent of that customer's annual electric charges or forty-nine thousand dollars (\$49,000). This procurement limit will increase by one-fifth percent or ten thousand dollars (\$10,000) per year until January 1, 2011, when the procurement limit will remain fixed at the lower of two percent of that customer's annual electric charges or ninety-nine thousand dollars (\$99,000). After January 1, 2012, the ninety-nine thousand dollar (\$99,000) limit is adjusted for inflation by the amount of the cumulative increase change in the *consumer price index, urban (CPI-U)* published by the bureau of labor statistics between January 1, 2011 and January 1 of the procurement plan year.

**D.** In determining the amount of the reduction specified in Subsection C of this section, a public utility shall assume that electric rates in effect on the day of the procurement plan filing will be in effect for the year during which the procurement reduction will apply. A public utility with a fuel and purchased power cost adjustment clause (FPPCAC) shall also assume that FPPCAC charges to the customer during the year immediately preceding its procurement plan filing will be in effect, in identical amounts, during the year for which the procurement reduction will apply.

**E.** A public utility that, as of July 1, 2004, has an all-requirements contract which would not reasonably permit it to procure renewable energy for purposes of meeting the renewable portfolio standard, may apply to be exempted from the renewable portfolio standard until the earlier of the date of their next contract forward or the first date on which the all-requirements contract is amended or renegotiated, at which time such public utility shall be subject to the renewable portfolio standard. A public utility seeking such exemption shall file with the commission a petition for exemption no later than January 31, 2005. The petition shall include a copy of the public utility's all-requirements contract as well as testimony and exhibits demonstrating that the public utility is unable, with due diligence, to procure renewable resources needed to meet the renewable portfolio standard. The public utility shall serve a copy of the petition on staff, the attorney general, and all parties to the public utility's last general rate case.

[17.9.572.10 NMAC - Rp, 17.9.572.10 NMAC, 8-30-07]

**17.9.572.11 REASONABLE COST THRESHOLD:**

**A.** A public utility shall not be required to add renewable energy to its electric energy supply portfolio, pursuant to the renewable portfolio standard, above the reasonable cost threshold established by the commission.

**B.** The reasonable cost threshold for 2006 is one percent of all customers' aggregated overall annual electric charges, increasing by one-fifth percent per year until January 1, 2011, at which time it will be two percent. The reasonable cost threshold shall then be increased by 0.25 percent per year until January 1, 2015, at which time it will be three percent. As changing circumstances warrant, and after notice and hearing, the commission may prospectively modify the reasonable cost threshold applicable to new contracts, but not the threshold applicable to existing contracts which have been previously approved by the commission as part of a procurement plan to meet a public utility's renewable portfolio standard. In modifying the reasonable cost threshold, the commission will take into account:

- (1) the price of renewable energy at the point of sale to the public utility;
- (2) transmission and interconnection costs required for the delivery of renewable energy to retail customers;
- (3) the impact of the cost for renewable energy on retail customer rates;
- (4) overall diversity, reliability, availability, dispatch flexibility, cost per kilowatt-hour and life cycle cost on a net present value basis of renewable energy resources available from suppliers; and
- (5) other factors, including public benefits, the commission deems relevant.

**C.** In any given year, if the cost to procure renewable energy is greater than the reasonable cost threshold, a public utility will not be required to incur that cost or to procure that resource, provided that the condition excusing performance under the renewable portfolio standard in any given year will not operate to delay the annual increases in the renewable portfolio standard in subsequent years. A public utility that believes its procurement will exceed the reasonable cost threshold shall file with the commission a request for waiver of the renewable portfolio standard for the applicable calendar year. The request shall explain in detail why the public utility cannot procure resources at a cost less than the reasonable cost threshold and shall include an explanation and evidence of all efforts the public utility undertook to procure resources at a cost within the reasonable cost threshold. Waiver requests shall be deemed granted if not acted upon within sixty (60) days.

[17.9.572.11 NMAC - Rp, 17.9.572.11 NMAC, 8-30-07; A, 6-30-08]

**17.9.572.12 COST RECOVERY FOR RENEWABLE ENERGY:** A public utility shall recover the reasonable costs of complying with the renewable portfolio standard through the rate making process. A public utility shall also recover its reasonable interconnection and transmission costs to deliver renewable energy to retail New Mexico customers. Costs that are consistent with commission-approved procurement plans or transitional procurement plans are deemed to be reasonable. A public utility that is permitted to defer the recovery of renewable energy costs pursuant to commission order may, through the ratemaking process, recover from customers that are not subject to the rate impact limitations of Subsection C of 17.9.572.10 NMAC the cumulative sum of those deferred amounts, plus a carrying charge on those amounts. For customers that are subject to the rate impact limitations of Subsection C of 17.9.572.10 NMAC, a public utility may, through the ratemaking process, recover from those customers the cumulative sum of those Subsection C of 17.9.572.10 NMAC limited deferred amounts, plus carrying charges on those amounts.

[17.9.572.12 NMAC - Rp, 17.9.572.12 NMAC, 8-30-07]

**17.9.572.13 RENEWABLE ENERGY CERTIFICATES:**

**A.** Each public utility shall annually establish its compliance with the renewable portfolio standard through the filing of an annual report, as provided in 17.9.572.17 NMAC, documenting the retirement of renewable energy certificates. Effective for services provided on and after January 1, 2015, each rural electric distribution cooperative shall annually establish its compliance with the renewable portfolio standard through the filing of an annual report, as provided in 17.9.572.21 NMAC, documenting the retirement of renewable energy certificates.

**B.** Renewable energy certificates shall contain the following information:

(1) the name and contact information of the renewable energy generating facility owner and/or operator;

(2) the name and contact information of the public utility or rural electric distribution cooperative purchasing the renewable energy certificate;

(3) the type of generator technology and fuel type;

(4) the generating facility's physical location, nameplate capacity in MW, location and ID number of revenue meter, and date of commencement of commercial generation;

(5) the public utility or rural electric distribution cooperative to which the generating facility is interconnected;

(6) the control area operator for the generating facility; and

(7) the quantity in kWh and the date of the renewable energy certificate creation.

**C.** Renewable energy certificates:

(1) are owned by the generator of the renewable energy unless:

(a) the renewable energy certificates are transferred to the purchaser of the energy through specific agreement with the generator;

(b) the generator is a qualifying facility, as defined by the federal Public Utility Regulatory Policies Act of 1978, in which case the renewable energy certificates are owned by the public utility or rural electric distribution cooperative, purchaser of the renewable energy unless retained by the generator through specific agreement with the public utility or rural electric distribution cooperative purchaser of the energy; or

(c) a contract for the purchase of renewable energy is in effect prior to January 1, 2004, in which case the purchaser of the energy owns the renewable energy certificates for the term of such contract;

(2) may be traded, sold or otherwise transferred by their owner to any other party; such transfers and use of the certificate by a public utility or rural electric distribution cooperative for compliance with the renewable energy portfolio standard do not require physical delivery of the electric energy represented by the certificate to a public utility or rural electric distribution cooperative, so long as the electric energy represented by the certificate was contracted for delivery in New Mexico, or consumed or generated by an end-use customer of the public utility or rural electric distribution cooperative in New Mexico, unless the commission determines that there is an active regional market for trading renewable energy and renewable energy certificates in any region in which the public utility or rural electric distribution cooperative is located;

(3) that are used once by a public utility or rural electric distribution cooperative to satisfy the renewable portfolio standard and are retired, or that are traded, sold or otherwise transferred by the public utility or rural electric distribution cooperative shall not be further used by the public utility or rural electric distribution cooperative; and

(4) that are not used by a public utility or rural electric distribution cooperative to satisfy the renewable portfolio standard and that are not traded, sold or otherwise transferred by

the public utility or rural electric distribution cooperative may be carried forward for up to four (4) years from the date of creation and, if not used by that time, shall be retired by the public utility or rural electric distribution cooperative.

**D.** Public utilities and rural electric distribution cooperatives are responsible for demonstrating that a renewable energy certificate used for compliance with the renewable portfolio standard is derived from eligible renewable energy resources and has not been retired, traded, sold or otherwise transferred to another party. Public utilities and rural electric distribution cooperatives shall maintain records sufficient to meet the demonstration requirement of this subsection.

**E.** The acquisition, sale or transfer, and retirement of any renewable energy certificates used to meet renewable portfolio standards on or after January 1, 2008 shall be registered with the western renewable energy generation information system (WREGIS) or its direct successor(s), except as provided in Subsection (F) of this section. Certificates whose retirement has been registered by the public utility or rural electric distribution cooperative with WREGIS shall be deemed to meet the requirements of Subsection (D) of this section.

**F.** Renewable energy certificates representing electricity delivered to New Mexico, but generated in a jurisdiction that requires certificates to be registered with a tracking system other than WREGIS, may be used to meet renewable portfolio standards so long as WREGIS lacks the capability to import certificates from that other tracking system.

**G.** The requirement for registration and trading of renewable energy certificates through WREGIS shall not constitute a finding by the commission that a regional renewable energy market is generally available.

**H.** Until such time as the commission has determined that there is a regional market for exchanging renewable energy and renewable energy certificates that is generally available for all public utilities and rural electric distribution cooperatives in the state, any public utility or rural electric distribution cooperative may seek approval from the commission to meet some or all of its renewable portfolio standard using individual renewable energy certificates that represent energy generated by a renewable energy resource within a regional renewable energy market or trading system in any region where the public utility or rural electric cooperative is located.

[17.9.572.13 NMAC - Rp, 17.9.572.13 NMAC, 8-30-07]

**17.9.572.14 DIVERSIFICATION REQUIREMENTS FOR PORTFOLIOS:** Each public utility must meet its renewable portfolio standard requirements using a diversified portfolio of resources, taking into consideration the overall reliability, availability, dispatch flexibility and cost of the various renewable resources as follows:

**A.** Except as provided in this section, public utility procurement plans shall be designed to achieve a fully diversified renewable energy portfolio no later than January 1, 2011.

**B.** Public utilities shall not be required to provide a fully diversified renewable portfolio when doing so would conflict with reasonable cost thresholds established by the commission or when full diversification is prevented by technical constraints or limitations. For the purposes of this section, technical constraints or limitations include, but are not limited to, transmission constraints, limitations on system integration, limited availability of particular renewable resources, and limitations on system reliability, but shall not include constraints or limitations that the public utility is capable of overcoming at reasonable cost or effort. Notwithstanding the provisions of this Subsection B excusing the failure by a public utility to

meet the requirement to provide a fully diversified renewable energy portfolio, each public utility must meet its overall renewable portfolio standard.

**C.** In any year for which a public utility's annual renewable energy procurement plan does not provide for a fully diversified portfolio, the public utility shall describe its plan for achieving a fully diversified portfolio in a timely manner.

**D.** Renewable energy certificates used to meet the distributed generation diversity requirement may not also be used to meet a resource-specific diversity requirement.  
[17.9.572.14 NMAC - Rp, 17.9.572.14 NMAC, 8-30-07]

**17.9.572.15 VOLUNTARY RENEWABLE TARIFFS:**

**A.** Each public utility shall offer a voluntary renewable energy tariff for those customers who want the option to purchase additional renewable energy.

**B.** The voluntary renewable tariff may also include provisions to enable consumers to purchase renewable energy within certain energy blocks and by source of renewable energy. Additionally, each public utility must develop an educational program on the benefits and availability of its voluntary renewable energy program. The tariff, along with the details of the consumer education program, shall be on file with the commission.  
[17.9.572.15 NMAC - Rp, 17.9.572.15 NMAC, 8-30-07]

**17.9.572.16 ANNUAL RENEWABLE ENERGY PORTFOLIO PROCUREMENT PLAN:**

**A.** On September 1, 2007, July 1, 2008 and July 1 of each year thereafter, each public utility must file with the commission an annual portfolio procurement plan. The portfolio procurement plan is to include:

(1) the cost of procurement in the next calendar year for any new renewable energy resource required to comply with the renewable portfolio standard;

(2) the amount of renewable energy the public utility plans to provide in the calendar year commencing sixteen (16) months later, to satisfy the percentages specified in this rule, less any reductions authorized by this rule or by law;

(3) an explanation and exhibits demonstrating how the amount specified in Paragraph (2) of this subsection was determined;

(4) the reductions, if any, to the renewable portfolio standard for procurements for nongovernmental customers with consumption exceeding ten (10) million kilowatt hours per year and/or due to the reasonable cost threshold, including an explanation and exhibits demonstrating how the reduction was determined;

(5) testimony and exhibits that demonstrate that the proposed procurement is reasonable as to its terms and conditions considering price, costs of interconnection and transmission, availability, dispatchability, renewable energy certificate values and portfolio diversification requirements; or

(6) demonstration that the plan is otherwise in the public interest.

**B.** A public utility may file a transitional procurement plan requesting that the commission determine that the costs of renewable energy resources that the public utility has committed to or may commit to, prior to the establishment of a reasonable cost threshold, are reasonable and recoverable. A transitional procurement plan is subject to the same filing requirements as an annual portfolio procurement plan.

**C.** A public utility shall serve notice and a copy of its annual portfolio procurement plan filing by first class mail on renewable resource providers requesting such notice from the commission, the New Mexico attorney general, and the intervenors in the public utility's most recent rate case. A public utility shall also post on its website the most recent and the pending renewable energy portfolio procurement plans.

[17.9.572.16 NMAC - Rp, 17.9.572.16 NMAC, 8-30-07]

**17.9.572.17 ANNUAL RENEWABLE ENERGY PORTFOLIO REPORT:** On September 1, 2007, July 1, 2008 and July 1 of each year thereafter, each public utility must file with the commission a report on its renewable energy generation or purchases of renewable energy during the prior calendar year. This report shall:

**A.** itemize all renewable energy generation and/or renewable energy certificate purchases and sales;

**B.** list, and include copies of, all renewable energy certificates, including acquired, issued or retired certificates;

**C.** state, for each purchase or sale of a renewable energy certificate, including those to be applied in future years:

(1) the seller's name, address, telephone number, and electronic mail address;

(2) the purchaser's name, address, telephone number, and electronic mail address;

(3) the dates and terms of each transaction involving renewable energy certificates;

(4) the quantity of renewable energy certificates purchased or sold;

(5) the purchase price;

(6) the type of renewable energy resource used to generate the renewable energy and its valuation pursuant to 17.9.572.14 NMAC; and

(7) other data useful to the commission in evaluating the public utility's efforts to acquire renewable energy in accordance with its portfolio procurement plan; if the acquired renewable energy was not acquired in accordance with a public utility's portfolio procurement plan, the public utility must demonstrate that the renewable energy was acquired at the lowest reasonable price consistent with reliability, availability, and portfolio requirements, including renewable resource diversity; and

**D.** describe and quantify the implementation of the voluntary renewable tariff requirements in 17.9.572.15 NMAC.

[17.9.572.17 NMAC - Rp, 17.9.572.17 NMAC, 8-30-07]

**17.9.572.18 REVIEW BY COMMISSION:** The commission shall approve or modify annual portfolio procurement plans and transitional procurement plans within ninety (90) days and may approve such plans without a hearing, unless a protest is filed that demonstrates to the commission's reasonable satisfaction that a hearing is necessary. The commission may modify a plan after notice and hearing, and may, for good cause, extend the time to approve a procurement plan for an additional ninety (90) days. If the commission has not acted within the ninety -day period, a procurement plan or transitional plan is deemed approved. The commission may reject a procurement plan or transitional plan if the commission finds that the plan does not contain the required information; upon such rejection the public utility's obligation to procure additional resources will be suspended for the time necessary to file a revised plan. In such instances, the total amount of renewable energy to be procured by the public utility will not change.

[17.9.572.18 NMAC - Rp, 17.9.572.18 NMAC, 8-30-07]

**17.9.572.19 EXEMPTION AND VARIANCE:** Any interested person may file an application for an exemption or a variance from the requirements of this rule. Such application shall:

- A. identify the section of this rule for which the exemption or variance is requested;
- B. describe the situation that necessitates the exemption or variance;
- C. set out the effect of complying with this rule on the public utility and its customers if the exemption or variance is not granted;
- D. define the result the request will have if granted;
- E. state how the exemption or variance will be consistent with the purposes of this rule;
- F. state why no other reasonable alternative is preferable; and
- G. state why the proposed alternative is in the public interest.

[17.9.572.19 NMAC - Rp, 17.9.572.19 NMAC, 8-30-07]

**17.9.572.20 RURAL ELECTRIC DISTRIBUTION COOPERATIVES VOLUNTARY RENEWABLE TARIFFS:** Rural electric distribution cooperatives must offer their retail customers a voluntary renewable energy tariff to the extent that their suppliers under their all-requirements contracts make such renewable resources available. Rural electric distribution cooperatives must report to the commission by April 30 of each year concerning the availability to them of renewable energy and the annual demand for renewable energy pursuant to their voluntary tariff.

[17.9.572.20 NMAC - Rp, 17.9.572.20 NMAC, 8-30-07]

**17.9.572.21 RURAL ELECTRIC DISTRIBUTION COOPERATIVES RENEWABLE PORTFOLIO STANDARD:** Each rural electric distribution cooperative organized under the Rural Electric Cooperative Act shall meet a renewable portfolio standard as follows:

- A. "renewable energy," "renewable energy certificate" shall have the same definitions as provided in Subsections D and E of 17.9.572.7 NMAC.
- B. no later than January 1, 2015, renewable energy shall comprise no less than five percent of each distribution cooperative's total retail sales to New Mexico customers; the renewable portfolio standard shall increase by one percent per year thereafter until January 1, 2020, at which time the renewable portfolio standard shall be ten percent.
- C. the renewable portfolio standard of each distribution cooperative shall be diversified as to the type of renewable energy resource, taking into consideration the overall reliability, availability, dispatch flexibility and the cost of the various renewable energy resources made available to the distribution cooperative by its suppliers of electric power;
- D. renewable energy resources that are in a distribution cooperative's energy supply portfolio on January 1, 2008 shall be counted in determining compliance with this rule;
- E. if a distribution cooperative determines that, in any given year, the cost of renewable energy that would need to be procured or generated for purposes of compliance with the renewable portfolio standard would be greater than the reasonable cost threshold, the distribution cooperative shall not be required to incur that cost; provided that the existence of this condition excusing performance in any given year shall not operate to delay any renewable portfolio standard in subsequent years; for purposes of the Rural Electric Cooperative Act,

"reasonable cost threshold" means an amount that shall be no greater than one percent of the distribution cooperative's gross receipts from business;

**F.** by March 1 of each year, a distribution cooperative shall file with the public regulation commission a report on its purchases and generation of renewable energy during the preceding calendar year; the report shall include the cost of the renewable energy resources purchased and generated by the distribution cooperative to meet the renewable portfolio standard; the report shall provide the information required below:

(1) a summary of the distribution cooperative's purchases and generation of renewable energy and purchases of renewable energy certificates that occurred during the preceding calendar year;

(2) the total amount of monies collected by the distribution cooperative from its customers during the preceding calendar year through the assessment of a renewable energy and conservation fee and the balance of funds in the distribution cooperative's renewable energy and conservation fund, as of January 1 and December 31 of the preceding calendar year;

(3) the amount of monies withheld by the distribution cooperative from the inspection and supervision fees due to the state that were placed in the renewable energy and conservation fund as a partial match of the renewable energy and conservation fees collected during the preceding calendar year;

(4) the amount of monies received by the distribution cooperative from any third party that were placed in the renewable energy and conservation fund;

(5) whether and to what extent the distribution cooperative will assess its customers for a renewable energy and conservation fee in the succeeding calendar year; and,

(6) a summary of each renewable energy project, energy efficiency or load management program upon which monies from the renewable energy and conservation fund were expended during the preceding calendar year, which includes:

(a) a description of the anticipated benefits to the distribution cooperative's members from each project or program;

(b) the amount of monies spent on each project or program; and,

(c) the current status of each project or program;

**G.** A distribution cooperative shall report to its membership a summary of its purchases and generation of renewable energy during the preceding calendar year.

[17.9.572.21 NMAC - N, 8-30-07]

**HISTORY OF 17.9.572 NMAC:**

**Pre-NMAC History: None.**

**History of Repealed Material:**

17 NMAC 10.572, Renewable Energy Development Program (filed 11-30-98) repealed 7-1-03.

17.9.572 NMAC, Renewable Energy as a Source of Electricity (filed 6-16-03) repealed 1-14-05.

17.9.572 NMAC, Renewable Energy For Electric Utilities (filed 12-29-04) repealed 8-30-07.

**Other History:**

17 NMAC 10.572, Renewable Energy Development Program (filed 11-30-98) replaced by

17.9.572 NMAC, Renewable Energy as a Source of Electricity, effective 7-1-03, 17.9.572

NMAC, Renewable Energy as a Source of Electricity (filed 6-16-03) replaced by 17.9.572,

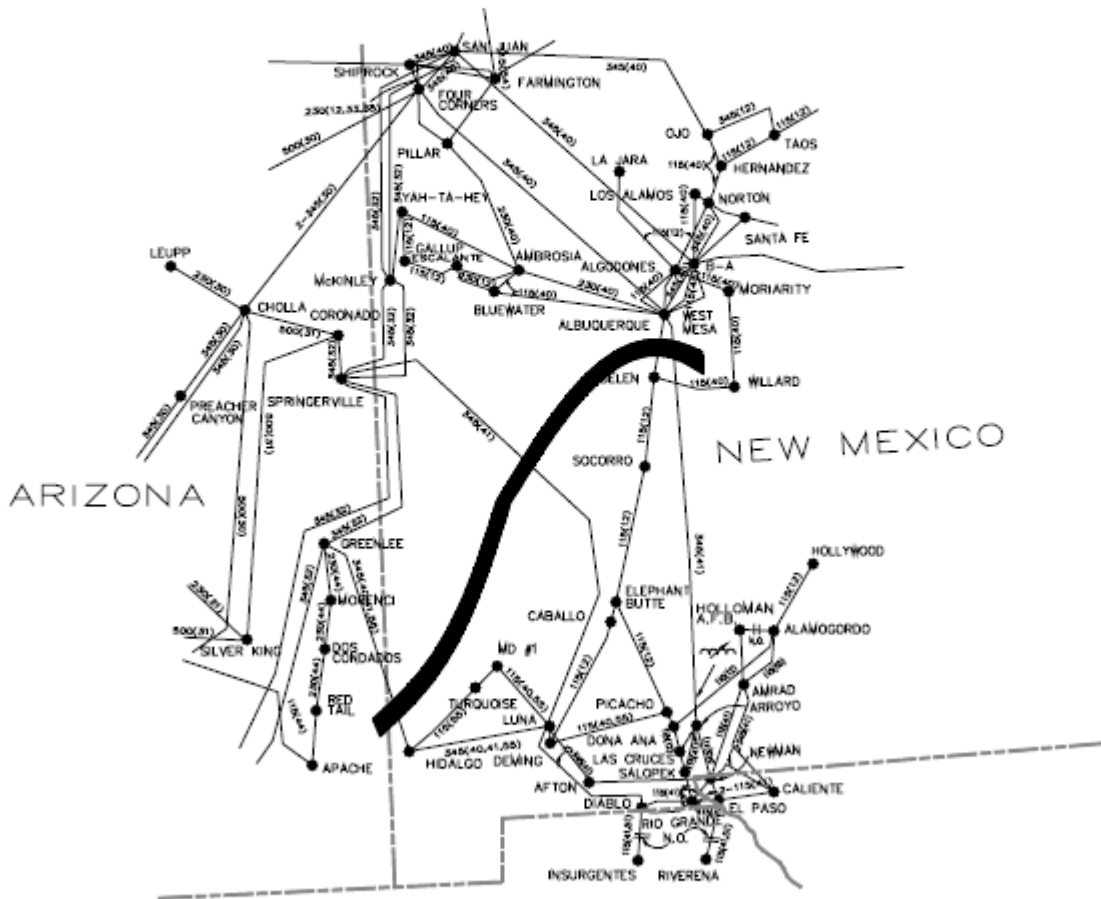
Renewable Energy for Electric Utilities, effective 1-14-05. 17.9.572 NMAC, Renewable Energy

for Electric Utilities (filed 12-29-04) replaced by 17.9.572 NMAC, Renewable Energy For

Electric Utilities, effective 8-30-07.

Attachment 2- SNM Path 47

# 47. Southern New Mexico (NM1)



Attachment 3 – NNM Path 48

# 48. Northern New Mexico (NM2)

