

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

**IN THE MATTER OF AN INVESTIGATION INTO THE)
VIABILITY OF PUBLIC SERVICE COMPANY OF)
NEW MEXICO’S SKY BLUE VOLUNTARY) Case No. 21-00158-UT
RENEWABLE ENERGY PROGRAM AND WHETHER)
IT SHOULD BE REPLACED OR DISCONTINUED)
_____)**

NOTICE OF PROCEEDING AND HEARING

NOTICE is hereby given of the following matters pertaining to the above-captioned case pending before the New Mexico Public Regulation Commission (“Commission” or NMPRC) related to Public Service Company of New Mexico’s (“PNM”) Sky Blue voluntary renewable energy purchase program (“Sky Blue”):

On June 23, 2021, the Commission opened the above captioned proceeding to investigate, according to its Initial Order, “whether the Sky Blue program should continue in its current form, be modified or replaced or be discontinued is initiated pursuant to the Commission’s investigative authority under [NMSA 1978, § 8-8-4(B)(7)].” The investigation was first contemplated by the Commission in its November 18, 2020 Final Order in Case 20-00124-UT (PNM’s 2020 Renewable Energy Act plan case), which found that an investigative proceeding should be initiated by the Commission on the subject of whether the Sky Blue program in its current form meets the objectives of Section 62-16-7 of the Renewable Energy Act and NMPRC Rule 17.9.572 NMAC and results in fair, just and reasonable rates. The Commission’s finding in Case No. 20-00124-UT was based, among other things, on the finding that since 2014, the monthly costs of the Sky Blue program have exceeded its monthly revenues by approximately \$18,000 per month due to lower than forecasted subscriptions.

On July 23, 2021, PNM filed a response to the order opening the investigation in which it stated that “it would not be in customers’ interests to attempt to design a new voluntary renewable

energy program or to set a termination date for the existing program at this time.” On August 24, a status conference was held to establish future steps in the proceeding. At the status conference, the Hearing Examiner directed the parties to the proceeding to develop a scope for the proceeding. After consultation, the parties agreed on the following scope:

- PNM is in a transition period with regard to voluntary renewable energy programs. The starting point of the transition period was May 4, 2021, when the Commission amended Rule 17.9.572 NMAC to no longer require that public utilities offer voluntary renewable energy programs, and the end point of the transition period, in PNM’s view, is November 1, 2024, the statutory end for the initial phase of the community solar program regulated by the Commission pursuant to sections 7(B)(1)-(2) of the Community Solar Act, NMSA 1978, §§ 62-16B-7(1)-(2) (2021). Furthermore, the community solar program, by statute, is not open to all PNM customers; therefore, termination of Sky Blue could result in certain customers not being able to participate in a voluntary renewable energy program or community solar program.
- During the transition period, PNM should develop a plan to either terminate, modify, or continue PNM Sky Blue in its current form effective on the date the annual statewide capacity for the community solar program takes effect.
- PNM should identify the factors that will determine whether PNM Sky Blue is terminated, modified, or continues in its current form.
- In the event PNM Sky Blue is terminated or is modified in such a way that the 1.5 MW solar facility that sources the program is no longer dedicated to the program, PNM should identify how it intends to recover costs of the 1.5 MW solar facility.

Further information regarding this case can be obtained by contacting PNM or the Commission, as indicated below. The Commission has assigned Case No. 21-00158-UT to this proceeding and all inquiries or written comments concerning this matter should refer to that case number.

The present procedural schedule for this case is as follows:

- a. Any person desiring to intervene to become a party (“intervenor”) to this case must file a motion for leave in conformity with NMPRC Rules of Procedure 1.2.2.23(A) and 1.2.2.23(B) NMAC on or before October 26, 2021. All motions for leave to intervene shall be served on all existing parties and other proposed intervenors of record.
- b. PNM shall file direct testimony by November 5, 2021.
- c. If a stipulation is reached among some or all parties to the proceeding, it shall be filed by November 5, 2021.
- d. Staff shall file, and any intervenor may file, direct testimony on or before December 3, 2021. Alternatively, if a stipulation is reached, any testimony in support of the stipulation shall be filed by December 3, 2021.
- e. Rebuttal testimony shall be filed by December 21, 2021.
- f. Any motions in limine, motions to strike testimony, and other prehearing motions shall be filed on or before January 3, 2022. Responses to such motions shall be filed on or before January 5, 2022.
- g. The public hearing of this matter will be held on January 11, 2022 beginning at 9:00 a.m. Mountain Time (MT) to hear and receive evidence, arguments, and any other appropriate matters relevant to this proceeding. The evidentiary hearing will

continue, as necessary, on January 12, 2022. Due to the ongoing COVID-19 pandemic, the evidentiary hearing shall be conducted via the Zoom videoconference platform. Access to and participation in the evidentiary hearing shall be limited to party-participants (i.e., counsel and witnesses), the Commissioners, and other essential Commission personnel. The Zoom hearing will be livestreamed through YouTube and will be displayed on the Commission's website at <https://www.nm-prc.org>. Persons not participating in the evidentiary hearing as an attorney or witness may view the hearing on the Commission's website and shall not join the hearing via Zoom except to provide oral comment as allowed below.

- h. Interested persons who are not affiliated with a party may make oral or written comment pursuant to Rule 1.2.2.23(F) NMAC. Oral comment shall be taken at the beginning of the public hearing in this matter on January 11, 2022 and shall be limited to 3 minutes per commenter. As part of the public hearing, public comment will be taken via the Zoom platform. Therefore, persons wishing to make an oral comment must register in advance, not later than 8:30 a.m. MT on January 11, 2022, by e-mailing Ana Kippenbrock at Ana.Kippenbrock@state.nm.us. Written comments may be submitted before the Commission takes final action by sending the comment, which shall reference NMPRC Case No. 21-00158-UT, to prc.records@state.nm.us. Public comments, whether oral or written, shall not be considered as evidence in this proceeding.

Additional details regarding this proceeding and its procedural requirements are set forth in the Hearing Examiner's September 20, 2021 Procedural Order.

The procedural dates and requirements currently set in this case are subject to further order of the Hearing Examiner. Interested persons should contact the Commission at 505-690-4191 for confirmation of the hearing date, time, and place, since hearings are occasionally rescheduled or canceled if deemed not required in the discretion of the Hearing Examiner.

The Commission's Rules of Procedure, at 1.2.2.1 NMAC et seq., shall apply in this case except as modified or varied by order of the Hearing Examiner or Commission. The Rules of Procedure and other NMPRC rules are available online at the New Mexico Commission of Public Records' State Records Center and Archives website at <http://www.srca.nm.gov/nmac-home/nmac-titles>.

Any interested person may examine the pleadings, testimony, exhibits, and other documents filed in the record for this case at the Commission's website at <https://edocket.nmprc.state.nm.us> or at the offices of PNM at the following address:

Public Service Company of New Mexico
414 Silver Ave. SW
Albuquerque, New Mexico 87102
Telephone: (505) 241-2700

Anyone filing pleadings, documents, or testimony in this case shall comply with the Commission's electronic filing policy, as amended from time to time. This includes filings in .pdf format, with electronic signatures, sent to the Records Bureau's e-mail address, as set out in the Commission's procedural rules at prc.records@state.nm.us or another Records Bureau address as set out on the Commission's webpage (*see* 1.2.2.7(R)(1) NMAC), within regular business hours of the due date in order to be considered timely filed. Documents received after regular business hours will be considered as being filed the next business day. Regular business hours are from 8:00 a.m. to 5:00 p.m. MT. Parties shall serve a copy on all parties of record and Staff. All filings shall be e-mailed by no later than 5:00 p.m. MT on the date they are filed with the Commission. Any such

filings shall also be e-mailed to the Hearing Examiner at anthony.medeiros@state.nm.us. All documents e-mailed to the Hearing Examiner shall include the Word or other native version of the filing (e.g., Excel or Power Point) if created in such format.

Individuals with a disability who are in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing, may contact the Commission at least 24 hours prior to the hearing. The Commission may be reached at 1-888-427-5772. Public documents associated with the hearing can be provided in various accessible forms for disabled individuals. Requests for summaries or other types of accessible forms also should be addressed to the NMPRC's Utility Division.

ISSUED at Santa Fe, New Mexico this **20th** day of **September 2021**.

NEW MEXICO PUBLIC REGULATION COMMISSION

[electronically signed]
Anthony F. Medeiros
Hearing Examiner