

**BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION**

<b>IN THE MATTER OF THE APPLICATION OF</b>	)	
<b>PUBLIC SERVICE COMPANY OF NEW</b>	)	
<b>MEXICO FOR REVISION OF ITS RETAIL</b>	)	
<b>ELECTRIC RATES PURSUANT TO ADVICE</b>	)	
<b>NOTICE NO 533,</b>	)	
	)	<b>Case No. 16-00276-UT</b>
<b>PUBLIC SERVICE COMPANY OF</b>	)	
<b>NEW MEXICO,</b>	)	
<b>Applicant.</b>	)	
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**PROCEDURAL ORDER**

**THIS MATTER** comes before the Hearing Examiner pursuant to NMSA 1978, 8-8-14 and New Mexico Public Regulation Commission ("Commission" or "NMPRC") Rules of Procedure 1.2.2.24 and 1.2.2.29 of the New Mexico Administrative Code ("NMAC"). Being fully informed, the Hearing Examiner **FINDS** and **CONCLUDES** as follows:

1. On December 7, 2016, the Public Service Company of New Mexico ("PNM") filed an Application requesting Commission approval for revised retail electric rates under Advice Notice No. 533 and for other approvals and authorizations described in the Application. PNM requested that the Commission issue a Final Order in this case that approves the Application and the rates contained in Advice Notice No. 533 no later than December 14, 2017.
2. On December 14, 2016, the Commission issued an Order Suspending Rates, Setting Intervention Deadline, Settlement Conference Date and Appointing Hearing Examiner. In the Order, the Commission suspended the proposed rates filed by PNM in Advice Notice 533 for a period of nine months commencing on January 6, 2017. The Order also appointed the undersigned as Hearing Examiner and scheduled a prehearing conference for January 10, 2017. The Order further approved a form of public notice, required PNM to publish the notice by January 17, 2017, set an intervention deadline of February 17, 2017 and scheduled a settlement

conference for February 28, 2017. In addition, the Order directed the Hearing Examiner to issue a procedural order after the prehearing conference that includes a procedural schedule stating the date by which Utility Division Staff shall, and any Intervenors may, file direct testimony and rebuttal testimony.

3. A prehearing conference was held on January 10, 2017. The prehearing conference was attended by representatives of PNM, the New Mexico Attorney General, the New Mexico Industrial Energy Consumers, the Albuquerque Bernalillo County Water Utility Authority, Western Resource Advocates, Coalition for Clean Affordable Energy, Bernalillo County, City of Albuquerque, Kroger Co., Wal-Mart Stores East, LP and Sam's East, Inc. (collectively "Walmart") and the Utility Division Staff ("Staff") of the Commission. The schedule developed at the prehearing conference and additional matters discussed at the prehearing conference should be approved for this proceeding.

**IT IS THEREFORE ORDERED:**

A. On or before January 31, 2017, PNM shall file supplemental testimony that provides the following:

1. The number of kilowatt hours (kWh) consumed per month and (if applicable) demand (kW) metered per month, by an average-use customer within each of PNM's customer classes.

2. For (1) each class of service and separately for PNM South and PNM North customers (if applicable), (2) separately for the summer and non-summer months, and (3) for various levels of use<sup>1</sup>:

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<sup>1</sup> The usage levels shown shall vary by class as necessary to reflect the general range of use within a particular class. One such usage level shall equal the level consumed by an average-use customer within the class.

i. The monthly bill under *current rates*, separately stating the customer charge, usage charge, any demand charge, the FPPCAC charge, the renewable energy rider charge, the energy efficiency rider charge, the consolidation adjustment rider charge (for the Streetlighting 20 customer class), and the total bill.

ii. The monthly bill under *PNM's proposed rates*, as of January 1, 2018, separately stating the customer charge, usage charge, any demand charge, the expected FPPCAC charge, the expected renewable energy rider charge, the expected energy efficiency rider charge, the consolidation adjustment rider charge (for the Streetlighting 20 customer class), and the total bill.

3. PNM's support for its position on the proposed recovery of its rate case and litigation expenses, considering the issues identified for future review in the Commission's deliberations in Case No. 15-00261-UT (see Attachment A):

i. Should all or a portion of a utility's rate case and litigation expenses be approved for recovery (comparing the forms of recovery allowed in other states, including the states discussed in Attachment A)?

ii. Should expenses incurred with appeals of rate case decisions be approved for recovery?

iii. Should any portion of rate case expense be included in rate base?

If so, should a return be authorized on the expense and what return should be authorized?

Compare holdings in the recommended decisions and final orders in Cases Nos. 2262, 06-00210-UT, 07-00077-UT, 07-00319-UT, 15-00127-UT and 15-00261-UT.

iv. Should rate case expenses and litigation expenses be treated similarly or differently for ratemaking purposes? Provide support for your position.

4. PNM's position on whether it will agree to include a disclosure in its advertising materials (e.g., print, radio and television) informing the public of who is bearing the costs of the advertising (i.e., shareholders, ratepayers or a combination thereof) (See Attachment B). If yes, PNM should propose the disclosure it finds reasonable. If no, PNM should explain the basis for its position.

B. Staff and Intervenors shall file testimony on or before April 28, 2017.

C. If Staff recommends any changes to PNM's proposed revenue requirement, Staff shall include in its Direct Testimony:

1. Staff's proposed rates for each rate component (i.e., customer charge, volumetric rates, demand charge) for each class of service.

2. For (1) each class of service and separately for PNM South and PNM North customers (if applicable), (2) separately for the summer and non-summer months, and (3) for various levels of use<sup>2</sup>:

i. The monthly bill *under current rates*, separately stating the customer charge, usage charge, any demand charge, the FPPCAC charge, the renewable energy rider charge, the energy efficiency rider charge, the consolidation adjustment rider charge (for the Streetlighting 20 customer class), and the total bill.

ii. The monthly bill *under PNM's proposed rates*, as of January 1, 2018, separately stating the customer charge, usage charge, any demand charge, the expected FPPCAC charge, the expected renewable energy rider charge, the expected energy efficiency

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<sup>2</sup> The usage levels shown shall vary by class as necessary to reflect the general range of use within a particular class. One such usage level shall equal the level consumed by an average-use customer within the class.

rider charge, the consolidation adjustment rider charge (for the Streetlighting 20 customer class), and the total bill.

iii. The monthly bill *under Staff's proposed rates*, as of January 1, 2018, separately stating the customer charge, usage charge, any demand charge, the expected FPPCAC charge, the expected renewable energy rider charge, the expected energy efficiency rider charge, the consolidation adjustment rider charge (for the Streetlighting 20 customer class), and the total bill.

3. A proof of revenue showing, (1) under PNM's proposed rates and Staff's proposed rates, assuming an effective date of January 1, 2018, (2) separately by class of service and separately for PNM South and PNM North customers (if applicable), and (3) separately for the summer and non-summer months (if applicable):

i. For each class: the proposed customer charge, usage charge, any demand charge, the expected FPPCAC charge, the expected renewable energy rider charge, the expected energy efficiency rider charge, the consolidation adjustment rider charge (for the Streetlighting 20 customer class).

ii. The billing determinants associated with each charge.

iii. The anticipated revenue to be collected from each charge.

iv. The total anticipated revenue to be collected from the class.

D. If any Intervenor recommends a change or changes to PNM's proposed revenue requirement, the Intervenor is encouraged to include, in its Direct Testimony, the information required of Staff under Paragraph C, above (except substituting the Intervenor's proposed rates for Staff's proposed rates), to provide the Commission a sufficient record to adopt any proposed change, if desired.

E. Rebuttal testimony shall be filed on or before May 22, 2017.

F. The settlement conference initially scheduled for February 28, 2017 is hereby rescheduled to March 7, 2017 at 9:00 a.m. in the Ground Floor Hearing Room of the P.E.R.A. Building, unless the location is changed by mutual agreement of the parties. A motion may be filed as the parties deem advisable for the Hearing Examiner's appointment of a mediator.

G. A prehearing conference is tentatively scheduled for May 31, 2017 commencing at 9:30 p.m. in the Ground Floor Hearing Room of the Commission in the P.E.R.A. Building, 1120 Paseo de Peralta, Santa Fe, New Mexico for the purpose of addressing, among other things, the following matters:

1. The order of presentation of the parties and their respective witnesses.
2. Designation by each of the parties of the witnesses to be cross-examined and the requested length of time of cross-examination.
3. Any other matters that may expedite orderly conduct and disposition of this proceeding.

The prehearing conference may be vacated by the Hearing Examiner if the Hearing Examiner determines that the conference is not necessary.

H. A public hearing will be held beginning on June 5, 2017, and continuing on succeeding days through June 21, 2017, as determined to be necessary by the Hearing Examiner, in the Ground Floor Hearing Room of the Commission in the PERA Building, 1120 Paseo de Peralta, Santa Fe, New Mexico 87501 to hear and receive evidence, arguments and any other appropriate matters relevant to this proceeding. Oral in-person public comment will be taken starting at 9:00 a.m. on June 5, 2017, with comments limited to three minutes per person. The

evidentiary portion of the hearing will start at 1 p.m. on June 5, 2017 and will start at 9:00 a.m. on succeeding days.

I. The initial Certificate of Service for this case is attached to this Order. Subject to subsequent revision pursuant to 1.2.2.10(C)(4) NMAC, the attached service list shall be used for service of all pleadings, testimony and other documents by first class U.S. mail, hand-delivery and/or e-mail in the manner indicated to the individuals and addresses listed thereon.

J. No motion for admission pro hac vice will be granted unless the motion demonstrates that the nonadmitted attorney has filed a registration certificate with the State Bar of New Mexico and has paid the applicable fee, as required by Rule 24-106 NMRA.

K. The procedural dates and requirements provided herein are subject to further Order of the Commission or Hearing Examiner. Interested persons should contact the Commission for confirmation of the hearing date, time and place, since hearings are occasionally rescheduled.

L. The Commission's Rules of Procedure, §§1.2.2.1 NMAC, et seq., shall apply to this case except as modified by order of the Commission or Hearing Examiner. A copy of the Rules may be obtained from the offices of the Commission or at [http://164.64.110.239/nmac/\\_title01/T01C002.htm](http://164.64.110.239/nmac/_title01/T01C002.htm) .

M. Discovery matters and any discovery disputes shall be governed by the Commission's discovery rules. 1.2.2.25 NMAC. The parties are advised to raise any questions or concerns regarding discovery with the Hearing Examiner in a timely manner so that they may be considered well in advance of the hearing.

N. A Commission order is not required for agreements between or among any of the participants regarding discovery matters. All other participants shall be notified of such agreements.

O. No motion regarding any discovery dispute shall be considered unless accompanied by a statement that the participants have made a good faith effort to resolve the dispute and were unable to do so.

P. Anyone filing pleadings, documents or testimony in this case may file either in person at the Commission's Records Bureau or by mail to the Commission's address noted below, and shall serve a copy on all parties of record and Staff. All filings shall be e-mailed on the date they are filed with the Commission. **Any such filings shall also be e-mailed to the Hearing Examiner at ashley.schannauer@state.nm.us. All documents e-mailed to the Hearing Examiner shall include Word files if created in that format.**

Q. Service of pleadings, discovery requests and discovery responses shall be via e-mail, unless otherwise ordered. Exhibits to discovery responses prepared by PNM may be posted and accessed by the parties on PNM's "Collaboration" website. Parties shall make a good faith effort to answer and serve responses to discovery directed at Staff and Intervenor testimony and rebuttal testimony within ten days after service of the discovery request. Parties shall also make a good faith effort to review previously-answered discovery responses before serving potentially duplicative discovery requests. Copies of pre-filed testimony shall be served both in hard copies and electronically, unless a party agrees or opts otherwise.

R. Any person filing prepared testimony under §1.2.2.35.I NMAC on behalf of a party shall attend the hearing and submit to examination under oath. Unless otherwise ordered or approved by the Commission or Hearing Examiner, at the public hearing in this case only pre-

filed prepared written testimony, in question and answer form and verified by the witness, and examination of witnesses on such pre-filed testimony shall be accepted, considered and received in evidence along with other relevant and otherwise admissible exhibits. Further, the questioning of a party sponsoring a witness shall be limited on direct examination to the authentication and verification of the witness' pre-filed written testimony and later to permissible redirect examination.

S. The Hearing Examiner may, at his discretion, "limit the time for providing direct testimony or cross-examination at any public hearing if necessary to promote the proper and orderly management of such public hearing." 1.2.2.32(G)(3) NMAC.

T. Friendly cross-examination at the hearing is generally prohibited. A party or Staff may make an offer of proof for an exemption from this prohibition.

U. Any interested person may examine PNM's Application and all other pleadings, testimony, exhibits and other documents filed in the public record for this case 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, at the offices of the Commission, 1120 Paseo de Peralta, Santa Fe, New Mexico 87501, telephone (888) 427-5772 or at "Case Lookup EdoCKET" on the Commission's website at [www.nmprc.state.nm.us](http://www.nmprc.state.nm.us) .

V. Any interested person may appear at the time and place of hearing and make a written or oral comment pursuant to 1.2.2.23(F) NMAC without becoming an Intervenor.

Interested persons may also send written comments, which shall reference NMPRC Case No. 16-00276-UT, to the Commission at the address set out below. However, pursuant to Rule 1.2.2.23(F) NMAC, comments shall not be considered as evidence in this case.

W. All documents filed with the Commission by mail shall be sent to: Records Bureau, New Mexico Public Regulation Commission, Fourth Floor, P.E.R.A. Building, P.O. Box 1269, Santa Fe, New Mexico, 87504-1269. The following physical address of the Commission shall be used only for special or hand deliveries: Records Bureau, Fourth Floor, P.E.R.A. Building, 1120 Paseo de Peralta, Santa Fe, NM 87501.

X. Any person with a disability requiring special assistance in order to participate in this proceeding should contact the Commission at least 24 hours prior to the commencement of the hearing.

**ISSUED** at Santa Fe, New Mexico, this **January 11, 2017**.

**NEW MEXICO PUBLIC REGULATION COMMISSION**



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**Ashley C. Schannauer**  
**Hearing Examiner**

**BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION**

IN THE MATTER OF THE APPLICATION OF )  
PUBLIC SERVICE COMPANY OF NEW )  
MEXICO FOR REVISION OF ITS RETAIL )  
ELECTRIC RATES PURSUANT TO ADVICE )  
NOTICE No. 533. ) **Case No. 16-00276-UT**  
)  
PUBLIC SERVICE COMPANY OF NEW )  
MEXICO, APPLICANT )

**CERTIFICATE OF SERVICE**

I CERTIFY that on this day I sent to the parties listed below, via email only, a true and correct copy of the of the **Procedural Order** issued January 11, 2017.

**Via Email**

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**DATED** this 11th day of January 2017.

**NEW MEXICO PUBLIC REGULATION COMMISSION**

  
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Ana C. Kippenbrock, Law Clerk

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