

EXHIBIT A

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

IN THE MATTER OF THE APPLICATION OF)	
PUBLIC SERVICE COMPANY OF NEW MEXICO)	
FOR EXPEDITED APPROVAL OF POWER)	
PURCHASE AGREEMENTS, SPECIAL SERVICE)	
RATE AND SPECIAL SERVICE CONTRACT,)	
NEW GREEN ENERGY RIDER, EXEMPTION)	Case No. 16-00191-UT
FROM ENERGY EFFICIENCY RIDER,)	
VARIANCES FROM 17.1.210.12(B) AND PNM)	
RULE NO. 4, ¶ C AND FOR OTHER RELATED)	
REGULATORY APPROVALS)	
)	
PUBLIC SERVICE COMPANY OF NEW MEXICO,)	
Applicant.)	
)	

NOTICE

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”):

On July 8, 2016, Public Service Company of New Mexico (“PNM” or “Company”) filed its Application with the Commission for expedited approval of:

(1) a Special Service Contract (“Contract”) between PNM and a potential new customer, Facebook, Inc. (“Customer”) that, subject to certain conditions set forth in section 2 of the Contract, intends to develop, construct, own and operate a data center, employing the best available energy efficiency technology and equipment, on a phased basis, consisting of one or more facilities at a site within PNM’s service territory;

(2) an associated new Special Service Rate (“SSR”) No. 36B, which includes an initial rate effective for the first ten (10) years of the Contract and a formula for

calculating the costs allocated to the SSR for the remaining term of the Contract after ten years;

(3) associated Power Purchase Agreements (“PPAs”) between PNM and a PNM Affiliate addressing an Initial Solar Procurement by PNM (“Initial Solar Facilities PPAs”) in accordance with Section 3.1.1 of the Contract, pursuant to 17.9.551 NMAC (“Rule 551”)¹;

(4) an associated new Green Energy Rider, Rider No. 47, that, in accordance with section 5.1 of the Contract, will allow PNM to procure renewable energy resources equivalent to up to one hundred percent (100%) of Customer’s electric energy, as its data center’s electrical load and consumption grows over time, and recover all of the reasonable costs of procuring those resources;

(5) associated variances from the requirements of 17.1.210.12(B) NMAC and PNM’s 2nd Revised Rule No. 4, ¶ C;

(6) an associated amendment to PNM’s Energy Efficiency Rider, Rider No. 16, to add Customer and the proposed SSR to the PNM rates to which Rider No. 16 does not apply or, in the alternative, a waiver of the applicability of Rider No. 16 to the proposed SSR; and

(7) variances from 17.1.210(B)(2)(c) NMAC (which requires a statement comparing proposed new rates with present rates) and from 17.9.530 (“Rule 530”) (which prescribes minimum data requirements to be filed in support of a tendered new rate schedule) (collectively referred to as “Rate Filing Requirements”).

PNM seeks expedited approval in order to attract Facebook, Inc. (“Customer”) with unique service requirements to its service territory in New Mexico and to meet the

¹ See also, NMPUC Case No. 3137 Order, ¶ A(5) (Dec. 18, 2001) (“Case 3137 Order”)

special requirements associated with service to the Customer. In order for the Customer to locate to New Mexico, the Customer requires that PNM add a sufficient amount of renewable energy resources to match the Customer's capacity and energy requirements as they are projected to increase over time. The Customer is also considering locating its new facility in another state. The state which is best able to meet its requirements will be the state chosen by the Customer for building the new facility. If approved, the Contract will be in effect for twenty-five years.

PNM is a public utility subject to the jurisdiction of the Commission under the PUA. Customer has several specific and atypical requirements for the electric service it expects to need for its data center. Customer's load is expected to come on-line in phases over time. The initial phase is projected to reach approximately 60 MW. Depending on future expansions of its data center facilities, Customer projects that its data center load could reach over 100 MW in the future.

The most atypical of Customer's service requirements for its data center is that, to satisfy its corporate sustainability objective described by PNM witness Ronald Darnell, Customer requires that the electric service for the data center be provided, to the greatest extent practicable, by new renewable energy resources, i.e., in addition to whatever renewable energy resources that are used to serve other customers, such that the production of additional renewable energy over the course of a year will equal the data center's energy demand and consumption. To satisfy this last service requirement, Customer is willing to pay the full cost of procuring the new renewable energy resources needed to serve its data center.

In order to meet Customer's requirements, PNM proposes to procure the capacity and energy necessary to match Customer's peak demand and its energy requirements from additional renewable energy resources. The initial procurement will be Solar Facilities developed and owned by PNMR Development and Management Company ("PNMR-D"), a non-regulated affiliate of PNM. The procurement will be accomplished by entering into twenty-five (25) year PPAs with PNMR-D. The Initial Solar Facilities PPAs are subject to Commission approval pursuant to Rule 551. In addition, because the Initial Solar Facilities PPAs are Class I transactions pursuant to NMSA 1978, Section 62-3-3(K) (2009), PNM will be required to file written notification to the Commission within five (5) days of entering into the Initial Solar Facilities PPAs, pursuant to 17.6.450.11 NMAC. PNM and the Customer will work collaboratively, expeditiously and in good faith to: (i) determine when it makes the most sense to bring new renewable resources into service to match the data center's projected load; (ii) identify and evaluate the costs and benefits of new renewable energy resources available to satisfy that growth; and (iii) determine the site(s) of those Additional Renewable Energy Procurements at locations that will avoid constraints on PNM's transmission system. It is important to the Customer that these new renewable energy resources be above and beyond the state's Renewable Portfolio Standard ("RPS") requirements. Given that operating a data center is very energy-intensive, price is a significant consideration. Related to this, the Customer needs a degree of price stability for a pre-determined period of time. On the other hand, the Customer does not wish to be subsidized by other customers. Accordingly, the Customer will pay for its allocated share of transmission costs, even though its load, at least initially, would not require connection to the transmission system.

The Customer is also paying a fixed amount for ten years for an allocation of production costs for the time it is served from PNM's traditional supply portfolio. Thus, the Customer will pay a contribution for fixed costs over and above the incremental costs of serving the Customer. The Customer expects to have its data center in commercial operation in the second half of 2017, so expedited regulatory review is also a critical consideration. Finally, while PNM and the Customer have agreed to terms of service for the data center, subject to regulatory approval, the Customer has not yet made a final decision on the location of the new data center, although the Customer has narrowed the competition for the data center down to two states, New Mexico being one of them. Rocky Mountain Power Company has filed in the state of Utah to provide service to this Customer if the Customer locates its data center in that state. Prompt regulatory review and approval of the proposed service will keep New Mexico in contention for this significant new investment in our state.

The only incremental capital cost associated with serving the Customer is the extension of the 115 kV system to the Customer's site. The Customer has elected to pay the full cost for this extension up-front. Electric revenues resulting from the allocated transmission and production costs collected through the demand charge and the SSR energy rate billed to the Customer will therefore reduce the recovery of PNM's fixed costs from other customers. In addition, because of the Customer's intention to have its load matched by new additional renewable energy resources, the Customer's presence in New Mexico will result in the addition of new renewable energy resources in PNM's resource portfolio beyond what is required by the RPS. This promotes the state policy articulated in the Renewable Energy Act.

Charges under the SSR during the initial ten-year period of this Contract will include a Customer Charge, Customer's allocated share of transmission costs, Energy Charge for System Supplied Energy, Energy Related Non-Fuel Charge for System Supplied Energy, and a fixed charge for ten (10) years of \$.0231074 per system supplied kWh to provide Customer's contribution to PNM's production costs for capacity supplied to Customer, taking into account the additional capacity provided by the Initial Solar PPA, and related operation and maintenance costs, including fuel, accounting for any credit to Customer's account pursuant to Section 5.1.1.2 of the Contract. Although PNM's Rider No. 23 is not applicable to the Customer, the Contract provides that Customer will pay for fuel at the same rate and on the same schedule as PNM's Fuel and Purchased Power Cost Adjustment Clause ("FPPCAC") Factor established pursuant to PNM's Rider No. 23 for Transmission Voltage served customers, to compensate for the times when Customer must be served by PNM's traditional supply resources. The SSR will go into effect on the commercial operation date of the data center and will continue for an initial period of ten (10) years, subject to adjustments as set forth in Section 5 of the Contract. The Contract also provides a formula for determining the SSR after the first ten (10) years to take into account the capacity added by any Additional Renewable Energy Procurements, as described in the Contract. The SSR energy rate and the fuel rate will be applied to the energy consumption by the Customer in those hours of the month when the Customer's consumption exceeds the production of renewable resources that are being directly charged to the Customer. The SSR's demand charge will be applied to the Customer's metered on-peak demand. Under the Green Energy Rider the entire cost of the Initial Solar Facilities PPAs will be passed through to the Customer

based on the application of the Green Energy Rider rate to the monthly production of the 30 MW of solar under the Initial Solar Facilities PPAs. The Customer will be credited the Palo Verde market price of energy in those hours of the month when energy production from the new renewable energy resources exceeds the Customer's consumption. PNM is proposing to recover any such credits in its FPPCAC.

The Contract also provides for a Green Energy Rider that allows PNM to recover the costs of procuring renewable energy and capacity pursuant to the Initial Solar Facilities PPAs, which costs will be directly assigned to serve Customer. The Green Energy Rider also provides for recovery of PNM's cost of procuring additional renewable energy and capacity, as needed to satisfy the energy and capacity demands of Customer's data center, pursuant to one or more Additional Renewable Energy Procurements, which costs also will be directly assigned to serve Customer. The cost of applicable rate riders, such as the renewable energy rate rider, tax adjustment clause, franchise fee rider and underground tariff riders will also be charged to Customer. However, PNM seeks an amendment to the energy efficiency rider to exclude Customer's rate schedules.

The Application states that the SSR is sufficient to recover the incremental cost of providing service to Customer, plus providing a contribution to fixed costs, thus lowering the amount of fixed costs that would be allocable to other customers if the new Customer does not locate in New Mexico. The SSR does not include charges for extension of facilities to serve the Customer because the Customer is paying upfront for the cost of extending lines necessary to deliver energy to the Customer's facility. Separate facilities agreements will be entered into as necessary for the delivery of Additional Renewable Energy Procurements.

To the extent that the overproduction occurs in a period of time when the market price is less than PNM's incremental fuel cost, PNM proposes to use this energy to serve its other retail customers. If the overproduction occurs in a period of time when the market price exceeds PNM's incremental fuel cost, PNM will make off-system sales at the market price. Off-system sale proceeds benefit retail customers as those revenues flow through PNM's FPPCAC.

PNM seeks variances from the requirements of 17.1.210.12(B) NMAC and its 2nd Revised Rule No. 4, ¶ C, such that modification of the rates contained in the Contract is covered by the specific terms of the Contract without inclusion of the general language required by 17.1.210.12(B) and 2nd Revised Rule No. 4, ¶ C. The Application states that the Customer will be making a commitment to locate substantial facilities and operations in New Mexico in reliance on the 25-year commitments on rates and other matters contained in the Contract and related tariffs. Customer is concerned that the standard language required for contracts by 17.1.210.12(B) and Rule No. 4 may, in the future, be used to deprive it of the benefits of the bargain it struck to locate in New Mexico. PNM believes that the terms of the Contract, including the SSR, adequately protect PNM's other customers such that the variances requested under the circumstances of this case is in the public interest. Because of the large investment of capital and other resources that Customer will bring to New Mexico and other positive benefits over a long period of time, Customer requires a larger degree of regulatory certainty than would exist for most other customers. Thus, in order to enter into the Contract and maintain New Mexico as a strong contender for the data center, Customer requires that the amount of production

cost allocable to it be guaranteed not to change for ten (10) years and, thereafter, that the SSR rate formula remain intact.

Pursuant to the Efficient Use of Energy Act, NMSA 1978, Section 62-17-6(A) (2013), PNM is required to fund energy efficiency programs in the amount of three percent of customer bills, or \$75,000 per customer per calendar year, whichever is less. The Application states that, if the Customer were to be given the opportunity to participate in PNM's energy efficiency programs, Customer's participation could be at such a substantial level, given its size and the amount of energy efficiency measures it uses, as to deprive other customers of the opportunity to participate, thus limiting the widespread availability of the programs that is in the public interest. Further, in all of its data centers, Customer employs state-of-the-art energy efficiency measures.

PNM seeks variances from 17.1.210(B)(2)(c) NMAC (which requires a statement comparing new rates with present rates) and from 17.9.530 ("Rule 530") (which prescribes minimum data requirements to be filed in support of a tendered new rate schedule). The Application states that a statement comparing new rates with present rates is unnecessary since the new rates being requested do not replace or supercede any present rates so there is nothing to compare. The minimum data requirements established by Rule 530 are most appropriate for general rate cases, will provide no additional information useful for evaluation of the approvals sought by PNM's Application and the time necessary to develop the information for the limited rate approvals sought would frustrate PNM's ability to timely obtain the necessary regulatory approvals for PNM to be able to attract the Customer to New Mexico.

Any interested person may inspect PNM's Application filed in this case at PNM's offices, 414 Silver Avenue, SW, Albuquerque, New Mexico, telephone number 505-241-2700, or the Commission's offices, PERA Building, 1120 Paseo de Peralta, Santa Fe, New Mexico, telephone number 505-827-1269, 888-427-5772; or through the Commission's website, ww.nmprc.state.nm.us. This case has been docketed as Case No. 16-00191-UT and any inquiries should refer to that number.

The procedural schedule for this case is as follows:

A. A public hearing, if deemed necessary by the Commission, shall begin at 9:00 a.m. on August 9, 2016, and continue as necessary at the Ground Floor Hearing Room of the Commission, PERA Building, 1120 Paseo de Peralta, Santa Fe, New Mexico. Such hearing may be vacated if deemed not required at the discretion of the Commission.

B. Any person desiring to intervene in the proceeding must file a Motion to Intervene on or before July 27, 2016, pursuant to 17.1.2.23 NMAC.

C. Any protest to approval of the Solar PPA shall be filed on or before July 27, 2016, and shall state the grounds for protest in sufficient detail to allow the Commission to determine if the protest raises substantial doubt that the Solar PPA should be approved. Factual matters raised in the protests shall be supported by detailed affidavits.

D. The Commission's Utility Division Staff shall, and any intervenor may, file direct testimony on or before August 3, 2016.

E. The procedural dates and requirements provided herein are subject to further order of the Commission. The Commission's Utility Division Procedures, 1.2.2 NMAC, apply to this case except as modified by Order of the Commission. A copy of such rules

may be obtained from the offices of the Commission and are available at the official New Mexico Administrative Code website, www.nmprc.state.nm.us/nmac/.

F. Anyone filing pleadings, documents or testimony in this case shall serve copies on the Commissioners, Office of General Counsel, and all parties of record and the Commission Staff via first class mail and email in PDF and Word formats. All filings shall be emailed on the date they are filed with the Commission.

G. Any interested person may appear at the public hearing referred to above and give a written or oral comment, pursuant to the Commission's Utility Division Rules of Procedure, 1.2.2 NMAC, without becoming an intervenor. The comment will not be considered as evidence in this case.

H. Any person with a disability requiring special assistance in order to participate in this proceeding should contact the offices of the Commission, Kathleen Segura, 505-827-4501, at least 24 hours prior to the commencement of the hearing.

Interested persons may also send written comments, which shall reference NMPRC Case No. 16-00191-UT, to the Commission at the address set out below. All such comments shall not be considered as evidence in this case. New Mexico Public Regulation Commission; Attention: Melanie Sandoval, Records Division, P.E.R.A. Building, 1120 Paseo de Peralta, P.O. Box 1269, Santa Fe, NM 87504-1269, Telephone: 1.888.427.5772.

Any interested person may examine the Application and all other pleadings, testimony, exhibits and other documents filed in the public record for this case at the Commission's address set out above.

Anyone filing pleadings, testimony and other documents in this case may file either in person at the Commission's docketing office or by mail to the Commission's address set out above, and shall serve copies thereof on all parties of record and Staff via first class U.S. mail and e-mail.

Any such filings shall also be sent to William Herrmann via email at the following address: william.herrmann@state.nm.us. All filings shall be e-mailed on the date they are filed with the Commission. Whenever possible, all electronically transmitted documents shall be in Word or native format.