

FOR IMMEDIATE RELEASE:

Contact: James Hallinan

April 15, 2015

(505) 660-2216

AG to PRC: Need Investigation into New Mexico's Energy System; All New Mexicans Deserve Energy Security & Affordable Clean Energy

Attorney General supports motion to dismiss PNM's attempt to charge solar energy producers fee to connect to the grid

Santa Fe, NM – Yesterday, Attorney General Hector Balderas filed a petition with the Public Regulation Commission (PRC) requesting that it investigate the impact of distributed generation (DG) on the utility system in New Mexico, including a full examination of its associated costs and benefits. DG refers primarily to solar or wind power generated by a customer and connected to the utility system or grid. Examples include solar panels on homes and businesses and small wind turbines. With the petition, Attorney General Balderas filed a pleading supporting a joint motion to dismiss PNM's proposal to charge households and businesses a monthly fee for having solar or wind DG.

“New Mexico needs an accountable plan that guarantees energy security and affordable clean energy for all New Mexicans, and that's why I am asking the Public Regulation Commission to initiate this investigation into New Mexico's utility system,” Attorney General Balderas said. “New Mexicans deserve affordable clean energy in places like Mora and Hidalgo County, not just in Las Cruces and Santa Fe. I am committed to working with stakeholders, the PRC and PNM to ensure New Mexico gives solar and wind energy the credit it deserves.”

Please see attached for the letter Attorney General Balderas sent to the PRC, the petition and the supportive pleading his office filed yesterday.

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Attorney General of New Mexico

HECTOR H. BALDERAS
Attorney General

ELIZABETH A. GLENN
Chief Deputy Attorney General

April 14, 2015

HAND-DELIVERED TO:

Commissioner Lynda Lovejoy
NM Public Regulation Commission
1120 Paseo de Peralta
Santa Fe, NM 87501

HAND-DELIVERED TO:

Commissioner Sandy Jones
NM Public Regulation Commission
1120 Paseo de Peralta
Santa Fe, NM 87501

HAND-DELIVERED TO:

Commissioner Valerie Espinoza
NM Public Regulation Commission
1120 Paseo de Peralta
Santa Fe, NM 87501

HAND-DELIVERED TO:

Commissioner Karen L. Montoya
NM Public Regulation Commission
1120 Paseo de Peralta
Santa Fe, NM 87501

HAND-DELIVERED TO:

Commissioner Patrick Lyons
NMPRC – General Counsel
1120 Paseo de Peralta
Santa Fe, NM 87501

Dear Commissioners,

Distributed Generation, or DG, has become an increasingly important issue in the State of New Mexico. DG has the potential to greatly impact not only the systems that supply energy to New Mexicans and the cost of that energy but to impact our entire economy as well.

I am filing the attached Petition to Initiate an Investigation into the Impact of Distributed Generation and Interconnected Customers on New Mexico Utility Systems in order to make more informed decisions regarding the future of DG in our state.

I urge you to act in the interest of citizens, ratepayers and utilities alike and open an investigation in this matter so we can fully explore this developing technology and quantify not only the costs but the benefits to New Mexico and its residents.

Thank you for your attention to this important matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "HB", with a long horizontal flourish extending to the right.

HECTOR H. BALDERAS
Attorney General of New Mexico

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

**IN THE MATTER OF THE NEW MEXICO)
ATTORNEY GENERAL’S PETITION TO)
INITIATE AN INVESTIGATION INTO)
THE IMPACT OF DISTRIBUTED)
GENERATION AND INTERCONNECTED)
CUSTOMERS ON NEW MEXICO UTILITY)
SYSTEMS)
)
NEW MEXICO ATTORNEY GENERAL,)
)
)
Petitioner.)
_____)**

Case No. 15-_____-UT

**NEW MEXICO ATTORNEY GENERAL’S PETITION TO INITIATE AN
INVESTIGATION INTO THE IMPACT OF DISTRIBUTED GENERATION AND
INTERCONNECTED CUSTOMERS ON NEW MEXICO UTILITY SYSTEMS**

The New Mexico Attorney General (“Attorney General”), pursuant to NMSA 1978 Sections 8-5-2 and 8-5-17 and Sections 62-6-4; 62-8-1; 62-10-2; and 62-13-13.2 and NMPRC Rule 1.2.2.22 NMAC, petitions the New Mexico Public Regulation Commission (“Commission”) to initiate an investigation into the impact on the utility system in New Mexico of distributed generation (DG) and interconnected customers, as defined in NMSA 1978 § 62-13-13.2(D). As further grounds for this motion, the Attorney General states as follows:

1. The Commission may “at any time investigate any matter within its jurisdiction.” Rule 1.2.2.22(B)
2. NMSA 1978 § 62-6-4(A) provides, in relevant part, that “[t]he commission shall have general and exclusive power and jurisdiction to regulate and supervise every public utility in respect to its rates and service regulations....”
3. In New Mexico, every rate charged by a utility must be just and reasonable. NMSA 1978 § 62-8-1.

4. In any general rate case, utilities are permitted to seek approval of new interconnected customer rate riders to recover the costs of “ancillary and standby services”. However, when granting such approval, the Commission must give “due consideration” not only to the costs to serve these new interconnected customer, but also to the benefits to the utility system provided by new interconnected customers. NMSA 1978 § 62-13-13.2(A).

5. Thus, utility rates and new interconnected customer rate riders are clearly within the jurisdiction of the Commission.

6. At least one utility, in its general rate case, has requested an interconnected customer rate rider. (See PRC Case No. 14-00332-UT). It is foreseeable that other utilities may request such a rider in future cases.

7. In Public Service Company of New Mexico’s (“PNM”) most recent rate case, at least seven (7) parties have intervened who have a direct interest in the Commission’s decision regarding distributed generation and PNM’s interconnection fee.

8. PNM witness Gerard Ortiz states in his direct testimony in Case No. 14-00332-UT that “[i]t is important, however, for the State and the Commission to begin discussions to develop a better mechanism than net metering as currently structured for integration of the DG systems into the overall PNM system that is sustainable over the long term.” Direct Testimony of Gerard Ortiz at 43.

9. Whether net metering is currently a detriment or benefit to the system remains undetermined. However, PNM witness Ortiz is correct that the State and Commission must begin discussions of integration of DG onto the system for sustainability over the long term.

10. Because DG’s actual impact of the utility system in New Mexico is not known, there is simply not enough information for the Commission, utilities or interested parties to make

informed decisions with regard to this subject in any pending or future case. Unless and until such a study is conducted the Commission, utilities and interested parties will be unable to fully evaluate any claims regarding either the costs or the benefits of DG.

11. Given the recent growth of the industry, the widespread interest in DG and its potential impact on New Mexico's energy and economic future, it would be prudent and in the public interest for the Commission to initiate an investigation into the general costs and benefits of DG to the New Mexico utility system.

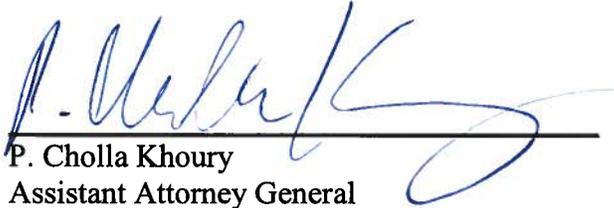
12. A Commission investigation into this matter would allow the Commission and interested parties to gain an understanding of the impact DG has on New Mexico and provide utilities with information for future filings and applications. To this end, the investigation should encompass a comprehensive state-wide, examination of costs to serve interconnected customers as well as a full study of the benefits identified in NMSA 1978 § 62-13-13.2. If the Commission determines a general, state-wide, analysis is not desirable or workable; the Commission should require each various electric utility serving New Mexico to undertake a study of, and report to the Commission, the impact of DG on each respective utility's system.

WHEREFORE, the Attorney General respectfully requests the Commission issue an order initiating an investigation into the impact on the utility system in New Mexico of DG and interconnected customers; including a full examination of its associated costs and a comprehensive study as to its benefits.

Respectfully Submitted,

OFFICE OF THE NEW MEXICO ATTORNEY GENERAL

HECTOR H. BALDERAS
Attorney General



P. Cholla Khoury
Assistant Attorney General
Post Office Drawer 1508
Santa Fe, New Mexico 87504-1508
(505) 827-7484
ckhoury@nmag.gov
lmartinez@nmag.gov

DATED this 14th day of April, 2015.

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

**IN THE MATTER OF THE NEW MEXICO)
ATTORNEY GENERAL’S PETITION TO)
INITIATE AN INVESTIGATION INTO)
THE IMPACT OF DISTRIBUTED)
GENERATION AND INTERCONNECTED)
CUSTOMERS ON NEW MEXICO UTILITY)
SYSTEMS)
)
NEW MEXICO ATTORNEY GENERAL,)
)
)
Petitioner.)
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_____)**

Case No. 15-_____-UT

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the **New Mexico Attorney General’s Petition to Initiate an Investigation into the Impact of Distributed Generation and Interconnected Customers on New Mexico Utility Systems**, filed on the 14th day of April, 2015, was electronically served on the following parties:

Benjamin Phillips
PNM Resources, Inc.
Albuquerque, NM 87158-0805
Ben.Phillips@pnmresources.com

Jeffrey H. Albright, Esq.
201 Third Street, NW, Suite 1950
Albuquerque, NM 87102
jalbright@lrrlaw.com

Peter J. Gould, Esq.
Post Office Box 34127
Santa Fe, NM 87594-4127
pgouldlaw@gmail.com

Mark Fenton, Director
PNM Resources, Inc.
Albuquerque, NM 87158-1105
Mark.Fenton@pnmresources.com

Andrea Crane
The Columbia Group
Post Office Box 810
Georgetown, CT 06829
ctcolumbia@aol.com

Patrick T. Ortiz, Esq.
Post Office Box 4160
Santa Fe, NM 87502-4160
portiz@cuddymccarthy.com

Nann M. Winter, Esq.
Post Office Box 528
Albuquerque, NM 87103-0528
nwinter@stelznerlaw.com

Charles F. Noble, Esq.
409 East Palace Ave., Unit 2
Santa Fe, NM 87501
noble.ccae@gmail.com

Steven S. Michel, Esq.
Western Resource Advocates
409 East Palace Ave., Unit 2
Santa Fe, NM 87501
smichel@westernresources.org

Bruce Throne, Esq.
1440-B South St. Francis Drive
Santa Fe, NM 87505
bthroneatty@newmexico.com

Randall W. Childress, Esq.
300 Galisteo St., Ste. 205
Santa Fe, NM 87501
randy@childresslaw.com

Jeffrey Fornaciari, Esq.
The Hinkle Law Firm
Post Office Box 2068
Santa Fe, NM 87504-2068
jfornaciari@hinklelawfirm.com

HAND-DELIVERED TO:

Michael C. Smith, Esq.
NMPRC – Utility Division
1120 Paseo de Peralta
Santa Fe, NM 87501
Michael.smith@state.nm.us

HAND-DELIVERED TO:

Commissioner Lynda Lovejoy
NM Public Regulation Commission
1120 Paseo de Peralta
Santa Fe, NM 87501
lynda.lovejoy@state.nm.us

Dahl Harris, Esq.
2753 Herradura Road
Santa Fe, NM 87505
dahlharris@hotmail.com

HAND-DELIVERED TO:

Commissioner Karen L. Montoya
NM Public Regulation Commission
1120 Paseo de Peralta
Santa Fe, NM 87501
karenl.montoya@state.nm.us

HAND-DELIVERED TO:

Commissioner Patrick Lyons
NMPRC – General Counsel
1120 Paseo de Peralta
Santa Fe, NM 87501
patrick.lyons@state.nm.us

HAND-DELIVERED TO:

Commissioner Sandy Jones
NM Public Regulation Commission
1120 Paseo de Peralta
Santa Fe, NM 87501
sandy.jones@state.nm.us

HAND-DELIVERED TO:

Cydney Beadles, Esq.
NMPRC – Legal Division
1120 Paseo de Peralta
Santa Fe, NM 87501
cydney.beadles@state.nm.us

HAND-DELIVERED TO:

Margaret Moquin, Esq.
NMPRC – General Counsel
1120 Paseo de Peralta
Santa Fe, NM 87501
margaret.moquin@state.nm.us

HAND-DELIVERED TO:

Commissioner Ben Hall
NM Public Regulation Commission
1120 Paseo de Peralta
Santa Fe, NM 87501
ben.hall@state.nm.us

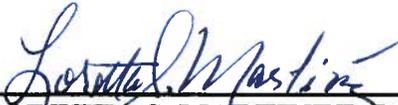
Email:

Thomas Wander – Thomas.Wander@pnmresources.com
Michael Dirmeier – mdirmeie@gmail.com
Charles Kolberg – ckolberg@abcwua.org
David Van Winkle – david@vw77.com
Noah Long – nlong@nrdc.org
Don Hancock – srcidon@earthlink.net
Mariel Nanasi – Mariel@seedsbeneaththesnow.com
Sarah Cottrell Propst – propst@interwest.org
Josh Ewing – je@fbdlaw.com
Marcos Martinez – mdmartinez@santafenm.gov
Nick Schiavo – naschiavo@santafenm.gov
Charles Gunter - Charles.Gunter@state.nm.us
Bruno Carrara - bruno.carrara@state.nm.us
Jay Kumar – jkumar@etcinc.biz
Doug Gegax – dgegax@nmsu.edu
Nellis Kennedy-Howard – nelliskhoward@sierraclub.org

Tom Singer – singer@westernlaw.org
Joseph A. Herz – jaherz@sawvel.com
Glenda Murphy – gmurphy@westernresources.org
John M. Stomp III – jstomp@abcwua.org
Rob Witwer – witwerr@southwestgen.com
David Rhodes – rhodesd@southwestgen.com
Susan Kery – sck@sheehansheehan.com
Robb Hirsch – rhirsch@edlconsulting.us
Maurice Brubaker – mbrubaker@consultbai.com
Jim Dauphinais – jdauphinais@consultbai.com
Adam Baker – abaker@bakerlawoffice.net
REIA of NM – prcaction@reia-nm.org
Vincent DeCesare – Vincent.decesare@state.nm.us
Anthony Sisneros – Anthony.sisneros@state.nm.us
Jack Sidler – jack.sidler@state.nm.us
Sandra Skogen – Sandra.skogen@state.nm.us

DATED this 14th day of April, 2015

NEW MEXICO ATTORNEY GENERAL'S OFFICE



LORETTA S. MARTINEZ, Paralegal

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. 507.)**

Case No. 14-00332-UT

**PUBLIC SERVICE COMPANY OF)
NEW MEXICO,)
Applicant.)**

**NEW MEXICO ATTORNEY GENERAL’S RESPONSE
IN SUPPORT OF JOINT MOTION TO DISMISS**

COMES NOW, the New Mexico Attorney General (“Attorney General”) and hereby responds in limited support for the Joint Motion to Dismiss PNM’s DG Interconnection Fee Rider Proposal (“Joint Motion to Dismiss”). The Attorney General supports the dismissal of PNM’s DG interconnection fee rider proposal because PNM has failed to make an initial showing, supported by substantial evidence, as to the impact of distributed generation (“DG”) on its system.

Preliminarily, there is little information specific to New Mexico as to the costs and benefits of DG to the New Mexico utility system. More information is needed prior to the Commission, utilities and intervening parties taking any further action in regard to distributed generation. Until further information, specific to New Mexico, is developed it would be premature for the Commission to act on any specific DG proposal.

In the Joint Motion to Dismiss, the Joint Movants (the Alliance for Solar Choice, the Coalition for Clean Affordable Energy, the Albuquerque Bernalillo County Water Utility Authority, New Energy Economy, Sierra Club and the Renewable Energy Industries Association of New Mexico) state that PNM has “failed to include any substantial evidence showing PNM

reasonably determined or addressed any of the ‘reasonably determinable benefits to the utility system provided by new interconnected customers’” and that PNM failed to make a showing that it “made a good faith effort to reasonably determine those benefits or show that no such benefits are applicable”. Joint Motion at 3-4. Further, the Joint Movants state that PNM has not provided sufficient evidence upon which the Commission may lawfully approve the proposal. The Attorney General agrees.

NMSA 1978 § 62-13-13.2(A) provides:

“Upon request of an investor-owned utility in any general rate case, the commission shall approve interconnected customer rate riders to recover the costs of ancillary and standby services pursuant to this section only for new interconnected customers, except that a utility may seek approval of interconnected customer rate riders in the utility's renewable energy procurement plan filing before January 1, 2011, to be in effect until the conclusion of the utility's next general rate case. In establishing interconnected customer rate riders, the commission shall assure that costs to be recovered through the rate riders are not duplicative of costs to be recovered in underlying rates and shall give due consideration to the *reasonably determinable* embedded and incremental costs of the utility to serve new interconnected customers and the *reasonably determinable benefits* to the utility system provided by new interconnected customers during each three-year period after which new interconnected customer rate riders go into effect. The benefits to the utility system, as applicable, include avoided renewable energy certificate procurement costs, reduced capital investment costs resulting from the avoidance or deferral of capital expenditures, reduced energy and capacity costs and line loss reductions.” (Emphasis Added)

PNM witness Stella Chan, in the instant case, relies on testimony from Mr. Ortiz in a prior case (14-00158-UT) to provide proof in this case that “avoided fuel is not realized under a net metering construct.” Direct Testimony of Stella Chan at 66. PNM cannot use testimony provided in a prior case for a proposition included in the present case. Without the ability to cross examine the witness and question the evidence during and in the context of this case, the parties would be denied due process. PNM fails to provide testimony *in this case* to support its

propositions and, as such, those propositions lack sufficient evidence to overcome its initial burden of proof in the instant case.

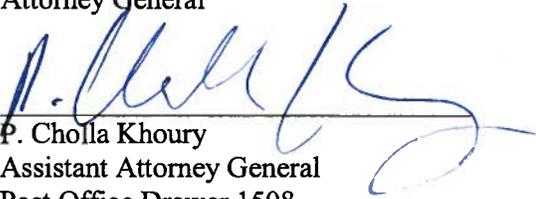
Similarly, the Joint Movant's reliance on testimony from prior cases to allegedly disprove statements made in support of the application in this case is not necessary and the Attorney General does not support the Joint Motion paragraph 9, or any reliance on testimony from Case No. 10-00086-UT.

Other than the conclusory statement that "PNM has determined that there are no specific quantifiable benefits from net metering in addition to avoided fuel costs," there is no evidence for the Commission to determine what potential specific quantifiable benefits were explored and how PNM determined that there was no benefit. PNM has generally failed to provide any evidence of a benefit which the Commission can consider when establishing an interconnected customer rate rider. Thus, the Commission has no lawful basis to grant a DG Fee because it cannot properly give due consideration to the costs and benefits of interconnected customers.

WHEREFORE the Attorney General respectfully requests the Commission dismiss the DG Fee Rider proposal from PNM's application.

Respectfully submitted,

OFFICE OF THE NEW MEXICO ATTORNEY GENERAL
HECTOR H. BALDERAS
Attorney General



P. Cholla Khoury
Assistant Attorney General
Post Office Drawer 1508
Santa Fe, NM 87504
(505) 827-7484
ckhoury@nmag.gov
lmartinez@nmag.gov

DATED this 14th day of April, 2015.

David Van Winkle david@vw77.com;
Tom Solomon tasolomon@gmail.com;
Bruce Throne bthroneatty@newmexico.com;
Sylvia Harrison sharrison@mcdonaldcarano.com;
Jason Marks lawoffice@jasonmarks.com;
Rick Gilliam rick@votesolar.org;
Ralph Cavanaugh rcavanagh@nrdc.org

Noah Long nlong@nrdc.org;
Kathleen M. Drakulich kdrakulich@mcdonaldcarano.com;
Jill Tauber jtauber@earthjustice.org;
Sara Gersen sgersen@earthjustice.org;
William Dunkle williamdunkel@consultant.com;
Gracie Walovich gracie@allianceforsolarchoice.com;
Sevasti Travlos sevasti@allianceforsolarchoice.com;

For PRC:

Anthony Sisneros Anthony.Sisneros@state.nm.us;
Charles Gunter Charles.Gunter@state.nm.us;
Sandra Skogen Sandra.Skogen@state.nm.us;
Cydney Beadles Cydney.beadles@state.nm.us;
Julie Park Julie.park@state.nm.us;
Dwight Lamberson Dwight.lamberson@state.nm.us;
Bruno Carrara Bruno.carrara@state.nm.us;

For PRC:

Jack Sidler Jack.sidler@state.nm.us;
Vincent deCesare Vincent.decesare@state.nm.us;
David Ault David.ault@state.nm.us;
Heidi Pitts Heidi.pitts@state.nm.us;
Carolyn Glick carolyn.glick@state.nm.us;

Via Regular Mail:

Evan Evans
S.W. Public Service Company
Post Office Box 1261
Amarillo, TX 79170

Benjamin Phillips, Esq.
Associate General Counsel - PNM
414 Silver Avenue, SW
Albuquerque, NM 87158

Bruce C. Throne, Esq.
1440-B South St. Francis Drive
Santa Fe, NM 87505

Jeffrey H. Albright, Esq.
Lewis Roca Rothgerber, LLP
201 Third Street, NW – Suite 1950
Albuquerque, NM 87102

Steven Michel, Esq.
Western Resource Advocates
409 E. Palace Avenue – Unit 2
Santa Fe, NM 87501

Daniel A. Najjar, Esq.
Post Office Box 22249
Santa Fe, NM 87502-2249

Peter J. Gould, Esq.
Post Office Box 34127
Santa Fe, NM 87594-4127

Charles F. Noble, Esq.
Attorney for CCAE
409 E. Palace Avenue – Unit 2
Santa Fe, NM 87501

Mark Fenton
414 Silver Avenue, SW
Albuquerque, NM 87158

Shannon A. Parden, Esq.
Ray, McChristian & Jeans, PC
6000 Uptown Blvd, NE – Suite 307
Albuquerque, NM 87110

Kurt J. Boehm, Esq.
BOEHM, KURTZ & LOWRY
36 East Seventh Street – Suite 1510
Cincinnati, OH 45202

Andrea Crane
The Columbia Group
Post Office Box 810
Georgetown, CT 06829

Doug Gegax
Doug Gegax Consulting
4805 Sage Road
Las Cruces, NM 88011

HAND DELIVERED TO:
Charles Gunter
NMPRC – Utility Division
1120 Paseo de Peralta
Santa Fe, NM 87501

HAND DELIVERED TO:
Cydney Beadles
NMPRC – Legal Division
1120 Paseo de Peralta
Santa Fe, NM 87501

HAND-DELIVERED TO:

Anthony Sisneros
NMPRC – Utility Division
1120 Paseo de Peralta
Santa Fe, NM 87501

DATED this 14th day of April, 2015.

NEW MEXICO ATTORNEY GENERAL'S OFFICE



LORETTA S. MARTINEZ, Paralegal