

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

IN THE MATTER OF PUBLIC SERVICE)
COMPANY OF NEW MEXICO'S APPLICATION)
FOR APPROVAL PURSUANT TO 17.9.551 NMAC)
OF THREE PURCHASED POWER AGREEMENTS)
IN ACCORDANCE WITH SPECIAL SERVICE)
CONTRACT WITH FACEBOOK INC.,)

) Case No. 18-00009-UT
)

PUBLIC SERVICE COMPANY OF NEW MEXICO,)
)

Applicant.)

)

DIRECT TESTIMONY

OF

GERARD T. ORTIZ

January 17, 2018

NMPRC CASE NO. 18-00__-UT
INDEX TO THE DIRECT TESTIMONY OF GERARD T. ORTIZ
WITNESS FOR
PUBLIC SERVICE COMPANY OF NEW MEXICO

I.	INTRODUCTION OF WITNESSES	3
II.	SUMMARY OF THE APPLICATION.....	4
III.	BACKGROUND AND PURPOSE OF THE AGREEMENTS	13
IV.	SPECIFIC REQUIREMENTS OF RULE 551	15
V.	CONCLUSION.....	19

PNM EXHIBIT GTO-1

Résumé of Gerard T. Ortiz

AFFIDAVIT

**DIRECT TESTIMONY OF
GERARD T. ORTIZ
NMPRC CASE NO. 18-00 ____-UT**

1 **Q. PLEASE STATE YOUR NAME, TITLE, AND BUSINESS ADDRESS.**

2 **A.** My name is Gerard T. Ortiz. I am the Vice President of Regulatory Affairs & Economic
3 Development for Public Service Company of New Mexico ("PNM" or "Company"). My
4 business address is Public Service Company of New Mexico, Main Offices, MS-1105,
5 Albuquerque, New Mexico 87158.

6
7 **Q. PLEASE SUMMARIZE YOUR EDUCATIONAL BACKGROUND AND**
8 **PROFESSIONAL QUALIFICATIONS.**

9 **A.** I graduated from New Mexico State University in 1981 with a Bachelor of Science
10 degree in Electrical Engineering. I obtained a Master of Business Administration degree,
11 with a concentration in Finance, from the Robert O. Anderson Graduate School of
12 Management at the University of New Mexico in 1988. I am a Registered Professional
13 Engineer in the State of New Mexico (Registration No. 9687). Since 1981, I have been
14 employed by PNM, and have held a variety of engineering, supervisory, and managerial
15 positions in Distribution Engineering, Electric Marketing, Business Planning, and Market
16 Services in addition to my current assignment. I was promoted to the Vice President of
17 PNM Regulatory Affairs in August, 2012. In 2017, the responsibilities associated with
18 Economic Development were added to my current position of Vice President, PNM
19 Regulatory & Economic Development. A statement of my experience and qualifications,
20 including a list of the New Mexico Public Regulation Commission ("NMPRC" or
21 "Commission") proceedings in which I have either testified or filed testimony, is attached
22 as PNM Exhibit GTO-1.

**DIRECT TESTIMONY OF
GERARD T. ORTIZ
NMPRC CASE NO. 18-00___-UT**

1 **Q. WHAT IS THE PURPOSE OF YOUR DIRECT TESTIMONY?**

2 **A.** PNM's Application in this case requests approval, pursuant to 17.9.551 NMAC ("Rule
3 551"), of Purchased Power Agreements ("PPAs" or "Agreements") PNM intends to enter
4 into for Additional Renewable Energy Procurements to meet the expanded energy
5 requirements of Facebook Inc.'s Data Center ("Customer" or "Data Center") as required
6 by the Special Service Contract ("SSC")¹ approved by the Commission in NMPRC Case
7 No. 16-00191-UT. My testimony:

- 8 1. introduces PNM's other witnesses who are presenting direct testimony in this
9 case;
- 10 2. summarizes PNM's Application and the approvals requested therein;
- 11 3. provides background information on service to Customer and explains the
12 purpose of the PPAs;
- 13 4. addresses certain requirements of Rule 551 not addressed by other PNM
14 witnesses, including the process used to choose the PPA suppliers and the method
15 of cost recovery; and
- 16 5. demonstrates that the PPAs meet Commission criteria for approval, are in the
17 public interest, and should be approved as requested.
- 18

¹ Effective December 5, 2017, Facebook assigned its interest in the SSC to its wholly-owned subsidiary Greater Kudu LLC and executed an unconditional and irrevocable parental guaranty to guarantee Greater Kudu's prompt payment of all sums due under the SSC.

**DIRECT TESTIMONY OF
GERARD T. ORTIZ
NMPRC CASE NO. 18-00___-UT**

**Q. HOW DOES THIS APPLICATION RELATE TO APPROVALS GRANTED IN
CASE NO. 16-00191-UT?**

A. This Application is in furtherance of the approvals granted in Case No. 16-00191-UT. In that case, the Commission approved the SSC between PNM and Customer, PNM Rate 36B - Special Service Rate and PNM Rider No. 47- Green Energy Rider. The Commission also approved PNM's acquisition of three solar PPAs totaling 30 MW as the initial step in complying with the SSC's requirement that PNM acquire sufficient renewable resources to match the electric service needs of Customer as the needs expand over time. The SSC further provides that PNM shall recover from Customer the cost of serving Customer, including the cost of renewable resources acquired at Customer's direction, and other incremental costs to serve Customer, so that there is No Net Adverse Impact (as defined in the SSC) on other retail customers. Rate No. 36B and Rider No. 47 are the rate schedules under which full cost recovery from Customer is accomplished. These same contract terms and service rates approved in Case No. 16-00191-UT will apply to the PPAs proposed for approval in this case, so that the costs will be borne by Customer and there will be No Net Adverse Impact on PNM's other retail customers.

I. INTRODUCTION OF WITNESSES

**Q. PLEASE IDENTIFY PNM'S OTHER WITNESSES WHO ARE PROVIDING
DIRECT TESTIMONY IN THIS CASE**

A. Mr. Gary Barnard, Director of Strategic Energy Planning and Development for PNMR Services Company, will address certain requirements of Rule 551 not addressed in my

**DIRECT TESTIMONY OF
GERARD T. ORTIZ
NMPRC CASE NO. 18-00___-UT**

1 testimony to provide specific information regarding the PPAs which are the subject of
2 this Application, and support the reasonableness of the terms and conditions of these
3 PPAs.

4
5 Mr. Patrick J. O'Connell, Director of Planning and Resources for PNM, will address
6 resource planning-related matters associated with Customer's expanded retail load and
7 the additional renewable energy resources that will be procured by PNM and paid for by
8 Customer.

9
10 Mr. Jeff R. Mechenbier, Director of Transmission/Distribution Planning and Contracts
11 for PNM, will address interconnection and transmission matters related to the PPAs.

12
13 Mr. Henry Monroy, Director of Budget, Cost of Service and General Accounting for
14 PNMR Services Company, will address revenue requirement and cost of service matters
15 related to this Application.

16
17 **II. SUMMARY OF THE APPLICATION**

18 **Q. PLEASE SUMMARIZE PNM'S APPLICATION IN THIS CASE.**

19 **A.** PNM's Application seeks expedited approval pursuant to Rule 551 for the following
20 PPAs:

- 21 1. Casa Mesa PPA – Casa Mesa Wind, LLC, a subsidiary of NextEra Energy, will
22 provide 50 MW of rated capacity and associated energy from the Casa Mesa

**DIRECT TESTIMONY OF
GERARD T. ORTIZ
NMPRC CASE NO. 18-00____-UT**

1 Wind Energy Center, a wind farm to be constructed in Quay and De Baca
2 Counties in New Mexico. Pricing under this PPA is on a fixed cost per unit basis
3 for the entire 25 year term of the Agreement. Commercial operation is expected to
4 begin on or about December 31, 2018.

5 2. La Joya PPA – The La Joya wind farm, to be constructed approximately 18 miles
6 east of Estancia, New Mexico, will be owned and operated by Avangrid
7 Renewables, LLC. Pursuant to the La Joya PPA PNM will acquire 166 MW of
8 rated capacity and associated energy on a fixed cost per unit basis. The PPA is for
9 a term of 20 years beginning on the date of initial commercial operation, which is
10 expected to be on or about November 1, 2020.

11 3. Route 66 PPA – The Route 66 solar facility, to be constructed west of
12 Albuquerque in Cibola County, New Mexico, will be owned and operated by
13 Route 66 Solar Energy Center, LLC, a subsidiary of NextEra Energy. Pursuant to
14 the Route 66 PPA, PNM will acquire 50 MW of rated capacity and associated
15 energy on a fixed cost per unit basis for a term of 25 years from the date the
16 facility begins commercial operation, on or about December 1, 2021.

17
18 **Q. PLEASE DESCRIBE PNM'S REQUEST FOR EXPEDITED APPROVAL OF THE**
19 **PPAS.**

20 **A.** Consistent with Rule 551.10, PNM is asking the Commission to review and approve this
21 Application without a hearing, if no protest is filed, and further requests that the protest
22 period be shortened from 60 days to 20 days through the grant of a variance from
23 17.9.551.10 NMAC. In addition, whether or not the Application is protested, PNM

**DIRECT TESTIMONY OF
GERARD T. ORTIZ
NMPRC CASE NO. 18-00____-UT**

1 requests approval by no later than April 4, 2018. The 20-day notice period should allow
2 the Commission to issue a final order by that date and not unduly infringe on a
3 prospective party's ability to intervene and participate in the proceeding. To further
4 facilitate resolution of this Application by April 4, 2018, PNM respectfully requests that
5 any formal hearing, if deemed necessary, be conducted before the Commission itself.
6

7 **Q. PLEASE EXPLAIN THE NEED FOR A COMMISSION DECISION BY APRIL 4,**
8 **2018.**

9 **A.** PNM is requesting a decision by that date for several reasons. First, as stated by PNM in
10 its Application in Case No. 16-00191-UT and reflected in the SSC with Customer
11 approved by the Commission in that case, Customer is committed to relying on PNM's
12 procurement of new renewable energy resources located in New Mexico to satisfy all of
13 the electric service requirements of its Data Center. To accomplish this, as provided in
14 Section 3 of the SSC, PNM is obligated to secure "Additional Renewable Energy
15 Procurements at reasonable cost and on terms mutually acceptable to both PNM and
16 Customer, the costs of which shall be directly assigned to serve Customer's load, subject
17 to NMPRC approval." The SSC addressed how PNM and Customer would work
18 collaboratively, expeditiously and in good faith to: (1) determine when PNM should
19 bring new renewable resources into service to match the Data Center's projected load; (2)
20 identify and evaluate the costs and benefits of new renewable resources available to meet
21 that growth; and (3) determine the location(s) of those Additional Renewable Energy

**DIRECT TESTIMONY OF
GERARD T. ORTIZ
NMPRC CASE NO. 18-00___-UT**

1 Procurements to avoid constraints on PNM's transmission system.² In accordance with
2 those SSC terms, PNM and the Customer have determined that additional renewable
3 resources need to be procured by PNM to meet the Customer's projected load.
4

5 On November 14, 2017, Facebook announced that it will be expanding its Data Center
6 from two to six buildings.³ Customer is substantially investing to buildout its Data
7 Center and requires certainty that PNM will be able to provide the renewable energy,
8 pursuant to the SSC, to meet the Data Center's expanding energy requirements in a
9 timely manner. PNM projects that, in order to accommodate the Data Center's increased
10 energy consumption with renewable energy, it will need the additional solar and wind
11 facilities addressed in the Application to be operational by the dates previously identified
12 in my testimony. PNM and Customer believe that expeditious Commission review of the
13 Application and Commission approval of the proposed Agreements by April 4, 2018 is
14 necessary to help ensure that Casa Mesa wind facility, the initial facility to be built, is
15 completed and operational in time to accommodate the projected growing energy
16 demands of the Data Center.
17

18 In addition, Customer has informed PNM that the expeditious Commission review and
19 approval of PNM's Application by April 4, 2018 is necessary to help ensure that each of
20 these renewable energy projects will qualify for the highest level of tax credits currently
21 available and, thus, that their costs will be as low as reasonably possible and acceptable

² SSC Sections 3.1.2 through 3.1.4 as noted in Case No. 16-00191-UT Final Order ¶ 69.

³ <https://www.facebook.com/notes/los-lunas-data-center/los-lunas-to-triple-its-size-with-four-new-buildings/2043489562590924/>.

**DIRECT TESTIMONY OF
GERARD T. ORTIZ
NMPRC CASE NO. 18-00 ____-UT**

1 to Customer as provided in Section 3 of the SSC. Those credits include Production Tax
2 Credits available for wind projects and the federal Investment Tax Credit which currently
3 is scheduled to begin decreasing in 2020. These credits were subject to significant debate
4 before the passage of the Tax Cuts and Jobs Act. Customer prefers to lock in these
5 projects to mitigate the potential impact of future tax law changes. If the Commission is
6 not able to approve the proposed Agreements by April 4, 2018, there is greater risk that
7 one or more of these renewable energy projects will not qualify for the highest level of
8 applicable tax credits, resulting in higher renewable energy costs to Customer.

9
10 Expeditious Commission review and approval of the Application is also reasonable
11 because the provisions of the SSC between PNM and Customer under which the PPAs
12 will be acquired and the rate and rate rider under which Customer will pay the PPA costs
13 have already been reviewed by the Commission and interested parties and approved by
14 the Commission in Case No. 16-00191-UT. These prior actions assure that approval of
15 PNM's procurement of the additional renewable resources described in the proposed
16 PPAs will result in No Net Adverse Impact to any of PNM's other retail electric service
17 customers. PNM's Application in this case does not propose to change any of the
18 governing terms of service previously approved by the Commission and, therefore, the
19 interests of PNM's other retail service customers will continue to be protected. In sum,
20 the current Application is in the nature of a compliance filing to implement the terms of
21 service approved by Commission order in Case No. 16-00191-UT.

**DIRECT TESTIMONY OF
GERARD T. ORTIZ
NMPRC CASE NO. 18-00___-UT**

1 **Q. WILL COMMISSION APPROVAL OF THE THREE AGREEMENTS**
2 **PROPOSED IN PNM'S APPLICATION PROVIDE ALL OF THE ADDITIONAL**
3 **RENEWABLE ENERGY RESOURCES NECESSARY TO ENSURE THAT PNM**
4 **WILL BE ABLE TO SATISFY THE PROJECTED ENERGY DEMANDS OF**
5 **CUSTOMER'S DATA CENTER AS IT EXPANDS?**

6 **A.** No. PNM will likely seek future Commission approvals for additional renewable
7 resources to satisfy the energy demands of the Data Center as it continues to grow,
8 consistent with PNM's obligations under the SSC. In collaboration with Customer,
9 however, PNM has determined that, at this time, it is necessary and appropriate for PNM
10 to request and obtain Commission approval of the three Agreements proposed in its
11 Application.

12
13 **Q. WHAT APPROVALS ARE NECESSARY UNDER RULE 551?**

14 **A.** Rule 551 provides that no electric utility shall become irrevocably obligated as a
15 purchaser under a Long Term Purchased Power Agreement ("LTPPA") without first
16 obtaining Commission written approval of the agreement. As defined in Rule 551, a
17 LTPPA is a purchased power agreement with a term of five years or more, inclusive of
18 the base term and any extensions, for which the utility intends to seek rate recovery from
19 New Mexico retail customers, except for LTPPAs with Qualifying Facilities or LTPPAs
20 required to be approved under the Renewable Energy Act ("REA"). Since PNM is
21 proposing to enter into Agreements with initial terms of 20 to 25 years, which are not
22 subject to the REA, Commission approval is required. Under Rule 551.10, the
23 Commission may approve the Application without hearing if no protests are filed within

**DIRECT TESTIMONY OF
GERARD T. ORTIZ
NMPRC CASE NO. 18-00___-UT**

1 60 days after notice of the application is given. Rule 551.10 also provides that, in any
2 event, the Commission is obligated to issue a final order no later than six months from
3 the date a utility files its application. Such application for Commission approval must be
4 filed within thirty (30) days after the execution of the LTPPA.

5
6 **Q. IS PNM'S APPLICATION BEING FILED WITHIN THIRTY DAYS OF THE**
7 **EXECUTION OF THE LTPPAS?**

8 **A.** Yes. The parties executed the La Joya PPA, the first of the three PPAs that are the
9 subject of this application, on December 20, 2017. The Casa Mesa PPA and Route 66
10 PPA were executed on December 21, 2017 and January 5, 2018, respectively. This
11 Application is being filed January 17, 2018, therefore meeting the deadline established by
12 Rule 551.

13
14 **Q. WHAT APPROVAL STANDARD HAS THE COMMISSION APPLIED TO**
15 **APPLICATIONS UNDER RULE 551?**

16 **A.** Rule 551 does not explicitly state a standard which applicants must meet to obtain
17 approval of a LTPPA. However, in NMPRC Case No. 15-00083-UT, an application by
18 Southwestern Public Service Co., the Commission held that the standard was a "modified
19 version of the 'public convenience and necessity' standard for CCNs". Accordingly, in
20 addition to having to meet the informational requirements of Rule 551.8, a utility must
21 show that the LTPPA is needed, reasonable, and in the public interest.⁴ The Commission

⁴ Case No. 15-00083-UT Recommended Decision, September 21, 2015 at 24.

**DIRECT TESTIMONY OF
GERARD T. ORTIZ
NMPRC CASE NO. 18-00___-UT**

1 has equated “public convenience and necessity” with “public interest”, and “public
2 interest” with “a net public benefit”.⁵

3
4 **Q. IS THIS STANDARD MET BY THE APPLICATION IN THIS CASE?**

5 **A.** Yes. PNM’s Application, testimony and exhibits satisfy all informational and filing
6 requirements of Rule 551.8. Further, because the PPAs are consistent with the SSC and
7 the Commission’s approvals in Case No. 16-00191-UT, they are in the public interest.

8
9 **Q. PLEASE EXPLAIN HOW THE PUBLIC INTEREST DETERMINATION MADE**
10 **IN CASE NO. 16-00191-UT RELATES TO PNM’S APPLICATION IN THIS**
11 **CASE.**

12 **A.** As I described earlier, PNM applied to the Commission in Case No. 16-00191-UT for
13 approval of tariffs, terms and conditions by which PNM would provide retail electric
14 service to Customer for its new Data Center project, as well as the approval of three solar
15 PPAs to meet Customer’s initial Data Center requirements. As explained in testimony in
16 that case, PNM and Customer foresaw the need for PNM to procure additional renewable
17 resources beyond the initial PPAs as the Data Center load expanded, and set out in the
18 SSC a collaborative process for acquiring additional resources. In its Final Order in Case
19 No. 16-00191-UT, the Commission found that, viewing the transaction as a whole,
20 PNM’s application provided a number of net benefits to PNM’s customers and the New
21 Mexico economy, was in the public interest, and should be approved.⁶ PNM’s

⁵ *Id.*

⁶ Case No. 16-00191-UT Final Order ¶ 98.

**DIRECT TESTIMONY OF
GERARD T. ORTIZ
NMPRC CASE NO. 18-00___-UT**

1 Application in this case for additional renewable energy resources to meet projected Data
2 Center load growth accords with the terms and conditions of service to Customer
3 approved in Case No. 16-00191-UT. Therefore, PNM's procurement of the additional
4 renewable energy resources under the PPAs in accordance with the service terms
5 previously approved is also in the public interest.

6
7 **Q. ARE THERE ADDITIONAL BENEFITS TO NEW MEXICO FROM THE**
8 **RENEWABLE ENERGY PROJECTS THAT WILL PROVIDE POWER FOR**
9 **THE PPAS?**

10 **A.** Yes. There are substantial economic benefits in terms of investment, tax revenues and
11 employment, as well as environmental benefits. NextEra has informed PNM that, if
12 approved by the Commission, the Casa Mesa Wind Energy Center will result in
13 approximately \$72 million in investment, provide an expected \$3.5 million in payment in
14 lieu of property tax and \$4.8 million in landowner payments during the 25 year term of
15 the PPA, and create approximately 198 construction and 2 permanent jobs in Quay and
16 De Baca Counties. According to NextEra, the Route 66 solar facility will create up to 250
17 construction jobs and two or three permanent jobs in Cibola County, will result in
18 approximately \$75 million in investment in New Mexico, and will provide approximately
19 \$6.2 million in payments in lieu of property taxes to Cibola County and the Grants/Cibola
20 County School District during its 25 year term. Avangrid has informed PNM that, while
21 it has not estimated the specific economic impact of the La Joya project, it expects the
22 economic impact to be comparable to the economic impact of its 298 MW El Cabo wind
23 project, also in Torrance County, which will have a total project investment of \$500

**DIRECT TESTIMONY OF
GERARD T. ORTIZ
NMPRC CASE NO. 18-00___-UT**

1 million; create approximately 400 construction jobs and 17 permanent jobs; and is
2 expected to provide approximately \$1 million per year in payment in lieu of taxes to
3 Torrance County and over \$1 million per year in landowner payments. These economic
4 benefits are in addition to those generated by the expansion of the Data Center.

5
6 Another benefit of the renewable energy projects, as provided in Section 3.2 of the SSC,
7 is that all of the renewable energy certificates ("RECs") associated with energy provided
8 under the PPAs will be immediately retired so that none may be used by PNM or any
9 other utility for compliance with New Mexico's or any other state's renewable portfolio
10 standard ("RPS"). This assures that the new renewable energy resources developed as a
11 result of the PPAs will be in addition to the renewable energy resources acquired by
12 PNM and other electric utilities to satisfy their RPS obligations.

13
14 **III. BACKGROUND AND PURPOSE OF THE AGREEMENTS**

15 **Q. PLEASE PROVIDE ADDITIONAL BACKGROUND FOR PNM'S**
16 **APPLICATION IN THIS CASE.**

17 **A.** In July 2016, PNM filed with the Commission an application in Case No. 16-00191-UT
18 for approvals necessary for PNM to provide service as required by Customer, for a new
19 data center that Customer was considering locating in New Mexico or an adjoining state.
20 One of Customer's service requirements was the addition of a sufficient amount of
21 renewable energy (with associated RECs) to match the annual energy requirements of the
22 Data Center. In order to provide the requested service, PNM sought Commission

**DIRECT TESTIMONY OF
GERARD T. ORTIZ
NMPRC CASE NO. 18-00___-UT**

1 approval of Initial Solar Facilities PPAs, totaling 30 MW, to meet Customer's initial
2 projected energy requirements. PNM also sought Commission approval of the SSC that
3 included the Special Service Rate (Original Rate No. 36B), the Green Energy Rider
4 (Original Rider No. 47), and other provisions and variances necessary to provide the
5 requested service under the terms required by Customer, while also ensuring that serving
6 Customer would have No Net Adverse Impact on PNM's other retail customers. The
7 Commission approved PNM's application in Case No. 16-00191-UT on August 17, 2017,
8 and shortly thereafter Customer announced that it had chosen New Mexico for its Data
9 Center location.

10
11 **Q. WHAT IS THE CURRENT STATUS OF THE DATA CENTER PROJECT?**

12 **A.** PNM is beginning to provide test service to the first phase of the Data Center, and
13 expects to provide full service later in 2018. Construction of the Data Center first phase
14 began in October 2016 and consists of two buildings and an administrative space totaling
15 970,000 square feet.

16
17 **Q. IS THE DATA CENTER PROJECT EXPANDING MORE RAPIDLY THAN PNM**
18 **EXPECTED WHEN IT FILED ITS APPLICATION IN CASE NO. 16-00191-UT?**

19 **A.** Yes. Customer's load is growing faster than the illustrative forecast PNM provided in
20 Case No. 16-00191-UT, but as noted in PNM witness Patrick J. O'Connell's testimony,
21 PNM's current load projections for Customer are consistent with those used in PNM's
22 2017 IRP.

**DIRECT TESTIMONY OF
GERARD T. ORTIZ
NMPRC CASE NO. 18-00___-UT**

**Q. WILL EXPANSION OF THE DATA CENTER BRING ADDITIONAL
FINANCIAL BENEFITS TO THE COMMUNITY?**

A. Yes. In Case No. 16-00191-UT, PNM testified that phase one of the Data Center would provide economic benefits to New Mexico, including through the creation of construction jobs, permanent jobs at the Data Center, and jobs at the initial solar facilities needed to serve the Data Center, and through a “multiplier spending effect”, benefits to other sectors of the local and regional economy.⁷ As a result of the ongoing construction of the Data Center and the initial solar facilities, New Mexico has already begun to realize economic benefits. With the Data Center expansion, Customer will add nearly 2 million square feet to the Data Center and is directly investing more than \$1 billion into the site. Customer already has nearly 800 workers on site, with 80% from New Mexico, and anticipates that the expansion will keep construction crews busy well into 2023 and will create additional full-time positions.

IV. SPECIFIC REQUIREMENTS OF RULE 551

**Q. HOW WILL PNM RECOVER THE COSTS INCURRED UNDER THESE
AGREEMENTS (RULE 551.9 AND 551.8(D)(4))?**

A. Rule 551.9 specifies the ratemaking treatment that will apply to all PPAs unless otherwise authorized by Commission order. Also, pursuant to Rule 551.8 D(4), PNM

⁷ Final Order ¶¶ 77-78 (“Based on economic impact studies performed on construction spending, Dr. Popp estimated that phase one data center construction spending would generate over a million dollars in positive economic impact beyond the amount directly spent (\$250 million) by the data center and could support about 2,000 direct jobs and 1,000 indirect and induced jobs over a number of years (i.e., for every two dollars spent on construction, an additional one dollar of activity will be generated and for every eight direct jobs in construction, four indirect and induced jobs will be generated).”).

**DIRECT TESTIMONY OF
GERARD T. ORTIZ
NMPRC CASE NO. 18-00 ____-UT**

1 must provide “an explanation of how the electric utility proposes to recover from
2 ratepayers the costs incurred and an estimate of the effect on rates to customers”. As
3 previously described in my testimony, the PPAs proposed in the Application are
4 necessary for, and will be utilized by PNM to provide service to Customer pursuant to the
5 terms and conditions of the SSC, and the Commission in Case No. 16-00191-UT, has
6 approved the SSC and tariffs under which PNM will recover the costs associated with
7 providing service to Customer. Therefore, the Commission has already approved the
8 ratemaking treatment of the PPA costs.

9
10 **Q. WILL APPROVAL OF THE PPAS ADVERSELY IMPACT PNM’S OTHER**
11 **RETAIL CUSTOMERS?**

12 **A.** No. It is PNM’s and Customer’s express intent under the SSC that, “on balance, [the]
13 Contract and the PNM tariffs described [therein] result in a neutral or positive impact on
14 rates and service for PNM’s other retail electric service customers considering all
15 relevant benefits generated and burdens created by [the] Contract and those PNM tariffs.”
16 The SSC accomplishes this intent by providing for PNM’s recovery of the reasonable
17 costs of providing electric service to Customer in a manner that results in No Net
18 Adverse Impact (as defined in the SSC) to other PNM retail service customers, as stated
19 in paragraph G of the Recitals in the SSC approved by the Commission.⁸ This means that
20 in accordance with the SSC, PNM Rate No. 36B and PNM Rider No. 47, Commission
21 approval of the PPAs described in this Application will result in a neutral or positive
22 impact on rates to PNM’s other retail service customers.

⁸ Case No. 16-00191-UT Final Order ¶ 30.

**DIRECT TESTIMONY OF
GERARD T. ORTIZ
NMPRC CASE NO. 18-00 ____-UT**

**Q. WHAT METHODOLOGY AND CRITERIA DID PNM USE TO SELECT THESE
PPAS (RULE 551.8(D)(10))?**

A. PNM utilized the methodology and criteria set forth in the SSC. As noted above, Section 3 of the SSC provides that PNM and Customer will collaborate on determining when to bring on additional renewable resources, will identify and evaluate the costs and benefits of proposed renewable resources, and determine sites for resources to avoid constraints on PNM's transmission system. Customer had existing relationships with Avangrid and NextEra and other potential suppliers, and therefore took the lead in identifying the projects that will best serve their needs. PNM, for its part, participated in the selection of the resources to assure that they could be added to PNM's system without affecting reliability or causing PNM to have to add other generation. PNM and Customer then negotiated with Avangrid and NextEra to reach an agreement that was acceptable to PNM and Customer, which will be responsible for paying the cost of the renewable energy capacity and energy provided. In this manner, PNM has complied with the terms of the SSC to "work collaboratively, expeditiously and in good faith to ensure that PNM engages in a timely way to 'complete [an] ... appropriate process for selecting the provider of the additional Renewable Energy resource'."⁹

**Q. COULD PNM-OWNED GENERATION RESOURCES HAVE BEEN
CONSTRUCTED AS AN ALTERNATIVE THAT WOULD HAVE PROVIDED
GREATER BENEFIT TO RATEPAYERS (RULE 551.8(D)(9))?**

⁹ Case No. 16-00191-UT Final Order ¶ 72.

**DIRECT TESTIMONY OF
GERARD T. ORTIZ
NMPRC CASE NO. 18-00 ____-UT**

1 **A.** PNM has not evaluated PNM ownership of comparable resources and does not know how
2 PNM ownership would impact PNM's customers as a whole. Customer was involved in
3 the process of choosing the providers and approved the costs of renewable energy in each
4 of the PPAs. The PPAs described in this Application better met the current needs of
5 Customer, as defined by Customer, than PNM-owned generation resources. Therefore,
6 the resources provided a greater benefit to Customer as a ratepayer. In addition, in
7 accordance with the terms of the SSC and rates approved by the Commission in NMPRC
8 Case No. 16-00191-UT, Customer is covering the reasonable costs of providing the
9 renewable energy such that there is No Net Adverse Impact to PNM's other retail service
10 customers.

11
12 **Q.** **WILL THERE BE ANY IMPACT FROM ANY OF THE PPAS ON PNM'S**
13 **FINANCIAL CONDITION OR FINANCIAL METRICS (RULE 551.8 D(7))?**

14 **A.** No. None of the PPAs should impact PNM's financial condition because PNM will
15 recover the costs of the PPAs from Customer. The PPAs should not impact PNM's
16 financial metrics because (1) one hundred percent (100%) of the costs are recovered and
17 (2) Customer is contractually obligated for the PPA costs in the event the Special Service
18 Contract is terminated.

**DIRECT TESTIMONY OF
GERARD T. ORTIZ
NMPRC CASE NO. 18-00__-UT**

V. CONCLUSION

Q. PLEASE SUMMARIZE WHY THESE AGREEMENTS ARE IN THE PUBLIC INTEREST AND SHOULD BE APPROVED.

A. Consistent with terms of the SSC between PNM and Customer that was approved by the Commission in Case No. 16-00191-UT, PNM has collaborated in determining a cost-effective solution to Customer's needs that is satisfactory to Customer and PNM. PNM's Application in this case likewise meets all requirements of Rule 551 with regard to the approval of the Casa Mesa PPA, La Joya PPA, and Route 66 PPA, and is in the public interest. Commission approval of the three PPAs described in PNM's Application will not adversely affect the rates of any of PNM's other retail customers and will result in the additional economic development benefits in New Mexico as described earlier. Expeditious Commission approval of the PPAs described in PNM's Application should be granted as requested.

Q. DOES THIS CONCLUDE YOUR TESTIMONY?

A. Yes, it does.

GCG#524180

PNM EXHIBIT GTO-1

Consisting of 8 pages

GERARD T. ORTIZ EXPERIENCE AND QUALIFICATIONS

Name: Gerard T. Ortiz

Address: Public Service Company of New Mexico
414 Silver Ave. SW
Albuquerque, NM 87102

Position: Vice President, PNM Regulatory and Economic Development

Professional Engineer Registration: State of New Mexico - #9687

Education: B.S., Electrical Engineering, New Mexico State University, 1981
M.B.A., Finance Concentration, University of New Mexico, 1988

Employment: Employed by Public Service Company of New Mexico since 1981
Positions held within the Company include:

Executive Director, New Mexico Retail Regulatory Services
Director, Regulatory Policy and Case Management
Director, Market Services
Director, Business Resource Planning
Marketing Manager, Healthcare/Communications Segment
Engineering Supervisor
Distribution Engineer

Testimony Filed:

<u>Proceeding</u>	<u>Regulatory Body</u>	<u>Docket Number</u>
In the Matter of the City of Albuquerque To Institute Retail Pilot Load Aggregation Program and Its Request for Related	NMPUC	2782
In the Matter of PNM's transition plan Pursuant to the Electric Utility Industry Restructuring Act of 1999 – Part II Testimony in Support of Merchant Plant	NMPRC	3137
In the Matter of the application of PNM For Approval of Voluntary Renewable Energy Rider	NMPRC	03-00101-UT

<u>Proceeding</u>	<u>Regulatory Body</u>	<u>Docket Number</u>
In the Matter of the application of PNM For Approval of Rio Rancho 2003 Underground Projects Rider Pursuant to Advice Notice No. 299	NMPRC	03-00352-UT
In the Matter of the application of PNM For Approval of Gas Energy Efficiency Programs and Program Cost Rider Pursuant To the New Mexico Public Utility and Efficient Use of Energy Acts	NMPRC	05-00261-UT
In the Matter of the application of PNM For a Certificate of Public Convenience And Necessity for the Afton Generation Station	NMPRC	05-00275-UT
In the Matter of the application of PNM For Approval of Rio Rancho 2005 Underground Projects Rider Pursuant to Advice Notice No. 319	NMPRC	05-00418-UT
In the Matter of Staff's Petition for the Docketing of a Case to Address Issues Arising from PNM's Fiber Optic Network Pilot Program	NMPRC	05-00443-UT
In the Matter of the application of PNM For Approval of Rio Rancho Unser Boulevard Road Widening Project Underground Rider Pursuant to Advice Notice No. 323	NMPRC	06-00095-UT
In the Matter of the application of PNM For Approval of Rio Rancho 2006 Underground Project Rider Pursuant to Advice Notice No. 326	NMPRC	06-00302-UT
In the Matter of the application of PNM For Approval of the ML Tap Underground Project Rider Pursuant to Advice Notice No. 328	NMPRC	06-00354-UT

<u>Proceeding</u>	<u>Regulatory Body</u>	<u>Docket Number</u>
In the Matter of the application of PNM For Approval of Electric Energy Efficiency Programs and Load Management Programs Program Cost Tariff Riders Pursuant to the New Mexico Public Utility and Efficient Use of Energy Acts	NMPRC	07-00053-UT
In the Matter of the Investigation of the Continuation of PNM's Gas Energy Efficiency Programs and Program Cost Tariff Rider	NMPRC	07-00151-UT
In the Matter of the application of PNM For Approval of the City of Santa Fe 2007 Underground Projects Rider Pursuant to Advice Notice No. 335	NMPRC	07-00170-UT
In the Matter of the application of PNM For Approval of the Santa Fe County 2007 Underground Projects Rider Pursuant to Advice Notice No. 339	NMPRC	07-00373-UT
In the Matter of the application of PNM For Approval of the City of Albuquerque Unser 12 2007 Underground Project Rider Pursuant to Advice Notice No. 344	NMPRC	07-00463-UT
In the Matter of the application of PNM For Approval of the City of Rio Rancho 2008 Underground Projects Rider Pursuant to Advice Notice No. 346	NMPRC	08-00100-UT
Inquiry into Charges to Customers Of Public Service Company of New Mexico's Voluntary Renewable Energy Program Under Rider 11 and the Emergency Fuel Adjustment Clause	NMPRC	08-00229-UT
In the Matter of the application of PNM For Approval of the County of Santa Fe 2009 Underground Projects Rider Pursuant to Advice Notice No. 367	NMPRC	09-00056-UT

<u>Proceeding</u>	<u>Regulatory Body</u>	<u>Docket Number</u>
In the Matter of the application of PNM For Approval of the City of Rio Rancho 2009 Underground Projects Rider Pursuant to Advice Notice No. 369	NMPRC	09-00091-UT
In the Matter of the Application of Public Service Company of New Mexico For Approval of a Plan to Manage Fuel and Purchased Power Costs By Entering into Certain Forward Market Transactions	NMPRC	09-00321-UT
In the Matter of the Application of Public Service Company of New Mexico For Approval of a New Voluntary Renewable Energy Program to Replace The Company's Existing Sky Blue Program and for Approval to Terminate The Sky Blue Program	NMPRC	10-00018-UT
In the Matter of an Investigation by the Pipeline Safety Bureau of the New Mexico Public Regulation Commission Concerning A Complaint Filed by the International Brotherhood of Electrical Workers	NMPRC	10-00042-PL
In the Matter of the Application of Public Service Company of New Mexico For Approval of the City of Rio Rancho 2010 Underground Projects Rider Pursuant to Advice Notice No. 388	NMPRC	10-00073-UT
In the Matter of the Application of Public Service Company of New Mexico For Approval of the City of Albuquerque 2010 Underground Projects Rider Pursuant to Advice Notice No. 391	NMPRC	10-00100-UT

<u>Proceeding</u>	<u>Regulatory Body</u>	<u>Docket Number</u>
In the Matter of the Application of Public Service Company of New Mexico For Approval of 2010 Electric Energy Efficiency And Load Management Programs and Revisions to Program Cost Tariff Riders Pursuant to the New Mexico Public Utility and Efficient Use of Energy Act	NMPRC	10-00280-UT
In the Matter of the Application of Public Service Company of New Mexico for Approval of the County of Santa Fe Underground Project Rider Pursuant to Advice Notice No. 401	NMPRC	10-00286-UT
In the Matter of the Proposed Revisions to The State Implementation Plan for Regional Haze	EIB	EIB-01(R)
In the Matter of the Public Service Company of New Mexico's Renewable Energy Portfolio Procurement Plan for 2012	NMPRC	11-00265-UT
In the Matter of the Application Of Public Service Company of New Mexico For Approval of Renewable Energy Rider No. 36 Pursuant to Advice Notice No. 439 and for Variances From Certain Filing Requirements	NMPRC	12-00007-UT
In the Matter of Public Service Company of New Mexico's Renewable Energy Portfolio Procurement Plan for 2013	NMPRC	12-00131-UT
In The Matter of The Application of Public Service Company of New Mexico for Approval of Electric Energy Efficiency Programs and Program Cost Tariff Rider Pursuant to The New Mexico Public Utility and Efficient Use of Energy Acts	NMPRC	12-00317-UT

	Regulatory Body	Docket Number
<u>Proceeding</u>		
In the Matter of Public Service Company of New Mexico's Application For a Certificate of Public Convenience And Necessity and Related Approvals For the La Luz Energy Center	NMPRC	13-00175-UT
In the Matter of Public Service Company of New Mexico's Renewable Energy Portfolio Procurement Plan for 2014 and Proposed 2014 Rider Rate under Rate Rider No. 36	NMPRC	13-00183-UT
In the Matter of the Application of Public Service Company of New Mexico For Continued Use of Fuel and Purchased Power Cost Adjustment Clause	NMPRC	13-00187-UT
In the Matter of the Application of Public Service Company of New Mexico for Approval To Abandon San Juan Generating Station Units 2 and 3, Issuance of Certificates of Public Convenience and Necessity for Replacement Power Resources, Issuance of Accounting Orders And Determination of Related Ratemaking Principles and Treatment	NMPRC	13-00390-UT
In the Matter of Public Service Company of New Mexico's Petition for Declaratory Order Regarding the Applicability of Rate 3C To Service Provided to Valencia Power, LLC	NMPRC	14-00102-UT
In the Matter of Public Service Company of New Mexico's Renewable Energy Portfolio Procurement Plan for 2015 and Proposed 2015 Rider Rate under Rate Rider No. 36	NMPRC	14-00158-UT
In The Matter of Public Service Company of New Mexico's Application for Continuation of A Plan To Manage Fuel and Purchased Power Costs by Entering Into Certain Forward Market Transactions	NMPRC	14-00190-UT

<u>Proceeding</u>	<u>Regulatory Body</u>	<u>Docket Number</u>
In the Matter of the Application of Public Service Company of New Mexico for Approval of Electric Energy Efficiency Programs and Program Cost Tariff Rider Pursuant to the New Mexico Public Utility And Efficient Use of Energy Acts	NMPRC	14-00310-UT
In the Matter of the Application of Public Service Company of New Mexico for Revision of its Retail Electric Rates Pursuant To Advice Notice 507	NMPRC	14-00332-UT
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. 513	NMPRC	15-00261-UT
In the Matter of the Application of Public Service Company of New Mexico for Prior Approval of the Advanced Metering Infrastructure Project, Determination of Ratemaking Principles and Treatment, and Issuance of Related Accounting Orders	NMPRC	15-00312-UT
In the Matter of the Application of Public Service Company of New Mexico for Approval of Its 2017 Electric Energy Efficiency Program Plan, Profit Incentive And Revised Rider No. 16 Pursuant to The New Mexico Public Utility Act, Efficiency Use of Energy Act and Energy Efficiency Rule	NMPRC	16-00096-UT
In the Matter of Public Service Company Of New Mexico's Renewable Energy Act Plan for 2017 and Proposed 2017 Rider Rate under Rate Rider No. 36	NMPRC	16-00148-UT

<u>Proceeding</u>	<u>Regulatory Body</u>	<u>Docket Number</u>
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 from Energy Efficiency Rider, Variances from 17.1.210.12(B) and PNM Rule No. 4, ¶ C and for Other Related Regulatory Approvals	NMPRC	16-00191-UT
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	NMPRC	16-00276-UT
In the Matter of the Application of Public Service Company of New Mexico for the Approval of Its 2018 Electric Energy Efficiency Program Plan, Profit Incentive and Revised Rider No 16 Pursuant to the New Mexico Public Utility Act, Efficient Use of Energy Act and Energy Efficiency Rule	NMPRC	17-00076-UT

GCG#521970

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

IN THE MATTER OF PUBLIC SERVICE	)	
COMPANY OF NEW MEXICO'S APPLICATION	)	
FOR APPROVAL PURSUANT TO 17.9.551 NMAC	)	
OF THREE PURCHASED POWER AGREEMENTS	)	
IN ACCORDANCE WITH SPECIAL SERVICE	)	
CONTRACT WITH FACEBOOK INC.,	)	
	)	Case No. 18-00____-UT
PUBLIC SERVICE COMPANY OF NEW MEXICO,	)	
	)	
Applicant.	)	

AFFIDAVIT

STATE OF NEW MEXICO	)	
	)	ss
COUNTY OF BERNALILLO	)	

GERARD T. ORTIZ, Vice President of PNM Regulatory and Economic Development for Public Service Company of New Mexico, upon being duly sworn according to law, under oath, deposes and states: I have read the foregoing **Direct Testimony of Gerard T. Ortiz** and it is true and accurate based on my own personal knowledge and belief.

SIGNED this 16th day of January, 2018.


GERARD T. ORTIZ

SUBSCRIBED AND SWORN to before me this 16th day of January, 2018.


NOTARY PUBLIC IN AND FOR
THE STATE OF NEW MEXICO

My Commission Expires:

1.21.2020