

Relevant Timeline

In “Phase 1” of the San Juan case PNM agreed in a Modified Stipulation to make a filing, dubbed a 2018 Review Hearing, to determine if San Juan Generating Station (“SJGS”) would continue post 2022. In that hearing stakeholders and parties in two cases (13-00390-UT and 17-00174-UT) were to be given access to economic modeling, alternative replacement power scenarios compared, and more. In the NM Supreme Court's review of 13-00390-UT, the “Phase 1” case, the Court held that the 2018 Review Hearing was a net public benefit. The 2018 Review Hearing was to take place between 7/1/2018 and 12/31/2018. The Review Hearing never happened.

12/31/2018: PNM made a “compliance filing” without ANY of the required hearing accoutrements and called it done. *Public Service Company of New Mexico’s Verified Compliance Filing Pursuant to Paragraph 19 of the Modified Stipulation*, (“PNM’s Compliance Filing”), 12/31/2018.

The Federal register reports that PNM abandoned San Juan on **12/31/2018**, 84 FR 18574-6, §II., <https://www.federalregister.gov/documents/2019/05/01/2019-08869/notice-of-record-of-decision-for-the-san-juan-mine-deep-lease-extension-mining-plan-modification>.

January 10, 2019: in Case No. 13-000390-UT (Phase 1”) and 19-000018-UT PRC asked parties in the “Phase 1” case and PNM’s IRP case two answer 2 questions: 1) did PNM’s compliance filing comport with the Modified Stipulation’s requirement to have a 2018 Review Hearing? And 2) should PRC open a docket to address “already pending abandonment of SJGS”? See, Exhibit C, p.4, ¶11.

A dozen parties responded in various forms. NEE was one of them. See, Exhibit B.

January 30, 2019: NMPRC issues its *Order Initiating Proceeding On PNM’s December 31, 2018 Verified Compliance Filing Concerning Continue Use of And Abandonment of San Juan Generating Station*, 19-00018-UT, initiated “an abandonment proceeding under NMSA 1978 §62-9-5 of the Public Utility Act ... to address the abandonment of PNM’s interest in SJGS Units 1 and 4. The scope of the proceeding shall include all issues relevant to an abandonment proceeding under NMSA 1978 §62-9-5 and any

other applicable statutes and NMPRC rules, including §62-6-12.” *Id.*, ¶A. Then in the following paragraph B and its sub parts 1-13 PNM was ordered to file testimony relating to the abandonment of San Juan Generating Station, including “the proper treatment and financing of undepreciated investments, decommissioning costs and reclamation costs,” *Id.*, at ¶B5 and replacement resources. *Id.*, at ¶¶B11-13. The Commission orders PNM to file its abandonment application by March 1, 2019.

February 7, 2019: PNM files a motion for rehearing of the *Order Initiating Proceeding*.

February 7, 2019: SB 489, also known as the ETA was introduced in the Senate.

February 27, 2019: NMPRC deems the rehearing request denied by lapse of time, and PNM files its *Emergency Verified Petition of Public Service Company of New Mexico for Writ of Mandamus, Request for Emergency Stay, and Request for Oral Argument* (“PNM Writ”), in this Court, claiming that 1) “No compelling or exigent circumstances require PNM to immediately apply for abandonment”¹; “no ‘irrevocable’ steps have been taken to abandon SJGS²”; the Commission “exceed[ed its] authority”;³ and PNM had a First Amendment right to remain silent.⁴ (Docket No. S-1-SC-37552).

March 1, 2019: This Court issues a stay preventing NMPRC from taking further action in Commission Case 19-00018-UT, and orders responses to PNM Writ.

March 19, 2019: NM Attorney General, PRC and NEE file its responses to PNM’s Emergency Petition.

March 22, 2019: The Governor signs SB 489, the ETA.

June 14, 2019: The ETA becomes law.

¹ PNM Writ, p. 4.

² PNM Writ, pp. 7-8.

³ PNM Writ, p. 2

⁴ PNM Writ, pp. 11-15.

June 25, 2019: NEE files a Motion to supplement it's filing in Docket No. S-1-SC-37552 stating that PNM has already decided to abandon and it is documented in the Federal Register and that PNM has announced its plan to file its abandonment application at the PRC (both documents stating the facts were attached).

June 26, 2019: NM Supreme Court lifts the stay and denies PNM's writ of mandamus, and denies NEE's motion because it has become moot.

July 1, 2019: PNM files its Consolidated Application in a new NM PRC docket, NM PRC Case No. 19-00195-UT, not the docket previously established by the PRC Case 19-00018-UT.

July 10, 2019: The PRC issued a *Corrected Order on Consolidated Application* ("Bifurcation Order"), providing for two separate proceedings regarding the issues raised in PNM's Application. Those portions of PNM's Application seeking approval of the abandonment of SJGS and a financing order, were ordered to be considered in the original PRC-initiated case, 19-00018-UT, and the aspects of the Application related to replacement power would be considered in a new case, No. 19-00195-UT.

July 25, 2019: *Procedural Order* issued by the Hearing Examiners, PNM Attachment I, requires briefing "regarding the issue of the extent to which N.M. Const. Article IV, § 34 prevents the application of the Energy Transition Act, NMSA 1978, §§ 62-18-1 to -23 (2019), to the issues in this case." pp. 4-5, ¶¶3 & 8.

August 23, 2019: PNM's files its brief about why the ETA should apply to cases 19-00018-UT and 19-00195-UT.

August 26, 2019: NEE and co-Petitioners file a Writ of Mandamus challenging the ETA, Docket No. S-1-SC-37875.

August 29, 2019: PNM files its "Motion for Clarification" or in the Alternative a Supplemental Verified Writ in Docket No. S-1-SC-37552 with parties that have never been involved in Docket No. S-1-SC-37552 or intervened in "Phase 1" case or PNM's IRP case.