

Constitutional Challenge to the Energy Transition Act:

Protecting Our Regulatory Shields For a Just Energy Transition

Co-Petitioner Statements

Daniel Tso

Navajo Nation Council Delegate

“Our communities deserve a thorough review of and oversight over all proposals for decommissioning and reclamation, transition funding, and replacement power that PNM is proposing. Our vehicle for that review is the New Mexico Public Regulation Commission. We have gained jobs and economic investment from the presence of San Juan Generating Station in our community but we have also experienced real sacrifices – of our health, of our land, water, air, and alternative economic potential. While many of our community members have benefitted from jobs, many of our community members have also lost loved ones early to cancer, lung disease, asthma, and heart disease. We support the transition to renewable energy. This transition necessitates a thorough assessment of the environmental damage and public health threats left behind by this plant’s abandonment and a thoughtful and fair assignment of responsibility for cleanup. It also necessitates deep investment in transition planning for impacted communities and local workers. We believe all of these things can be accomplished while maintaining our Commission’s authority and the public’s right to due process, said Daniel Tso, Navajo Nation Council delegate.”

Daniel Earnest Tso is a Navajo Nation Council Delegate who represents thousands of Navajo Nation members, including thousands of PNM ratepayers who will be impacted by the ETA’s provisions.

Food and Water Watch

Adam Carlesco, Climate & Energy Staff Attorney

"A private for-profit utility company operating in a state-sanctioned regional monopoly must not be allowed to self-regulate in contravention of the New Mexico Constitution. The Public Regulation Commission (PRC) is tasked with regulating industries to ensure fair and reasonable rates, and to assure reasonable and adequate services to the public; yet a portion of the Energy Transition Act (ETA) has removed this constitutional mandate. Although we are supportive of the clean energy transition initiatives in the ETA, we must maintain the power of the PRC to do their job. If these issues are not addressed now, ratepayers will be left to foot the bill to decommission fossil fuel and nuclear facilities, foisting the cost of the state’s energy transition upon the general public instead of the corporations that have profited for decades. The only real way to avoid a perilous future of continued dependence on fossil fuels is to transition immediately to a truly clean, renewable energy economy while ensuring equity for the populace. Food & Water Watch supports this petition as part of an ongoing campaign to transition to the clean energy future necessary to avert the worst effect of climate change," stated Adam Carlesco, Climate & Energy Staff Attorney at Food & Water Watch.

Food & Water Watch: is a non-governmental organization which focuses on corporate and government accountability relating to food, water, and corporate overreach.

Tewa Women United

Dr. Corrine Sanchez, Executive Director

“Tewa Women United has joined this Petition in defense of the regulatory and democratic safeguards that allow our families and communities to protect our water, land, and health. While we support the increase in the Renewable Portfolio Standard as well as the investment in the transition needs of impacted communities, we are challenging the aspects of the ETA that strip away the review process for the costs associated with abandoning coal and nuclear facilities, cleanup costs, and more. We must close these plants YES. We must transition immediately to renewables YES. We must support those directly impacted YES. And we must do so in a way that retains our communities' rights to challenge the proposals of the electric utilities who continue to invest in dangerous and expensive nuclear and gas and who have a vested interest in passing off the costs of cleanup and abandonment to New Mexicans. We must protect meaningful regulation and due process as we work together to transition our state's electricity sector.”

Tewa Women United: is a collective of tribal women, some of whom are ratepayers, in the Tewa homelands of Northern New Mexico and is dedicated to the promotion of educational, social and benevolent purposes, especially for ending violence against the Earth.

Rio Arriba Concerned Citizens

Bill Clark, President

“Rio Arriba Concerned Citizens believes that due process for PRC oversight is required to assure plant closures and replacement power purchases are prudently planned in the best interests of ratepayers. Utility plans and costs need review and concurrence by the PRC before costs are incurred. Oversight is needed to assure facility closure planning and purchase of other energy sources follows PRC due process. This oversight must include assurance of competitive bidding; review of the utility's accurate financial analysis and cost estimates; environmental justice and planning; ratepayer and employment impacts; and accurate utility cleanup and liability estimates consistent with timely scheduling,” stated President Bill Clark with Co-Petitioner RACC.

Rio Arriba Concerned Citizens: is a grassroots volunteer organization whose mission is to protect the public health, land, air, and water of the Rio Chama Watershed, Rio Arriba County, and the State of New Mexico. RACC joins this Petition because ratepayers will be inequitably put at risk for significant debt for undepreciated investments and decommissioning.

Physicians for Social Responsibility

Dr. Robert M. Bernstein, MD, NM Chapter President

“The ETA requires ratepayers to pay for all clean-up costs without *any* review. This is highly unfair, and an affront to the public interest. Coal ash is the waste that is left after coal is burned. Medical science and the Environmental Protection Agency agree that coal ash is dangerously toxic and poses a threat to human health, causing cancer, heart damage, lung disease, birth defects, and more. Unfortunately, many tons of coal ash have been produced by PNM’s San Juan Generating Station and have been buried without protective liners. Physicians for Social Responsibility, a national organization of 30,000 health care providers, of which I am the NM Chapter President, has long been alarmed at the public health risks of coal ash,” said Dr. Robert M. Bernstein, MD, with Physicians for Social Responsibility- New Mexico.

“For the health of New Mexicans, it is critical that this industrial waste stream of coal ash be investigated to determine the extent of the threat to our health. If coal ash has been leaking and/or leaching, it must be cleaned up to avoid a public health disaster. The clean-up must be monitored to eliminate contamination, and the company must be held responsible for the costs, not ratepayers.” continued Dr. Bernstein.

Physicians for Social Responsibility-NM: is a chapter of the largest physician-led organization (50,000 members nationwide) working to protect the public from threats of nuclear proliferation, climate change, environmental toxins, and other threats to global survival.

Citizens for Fair Rates & The Environment

Tom Manning, Lead Advocate

“We embrace legislation that moves us urgently on a path to a renewable energy future. However, we need the law to do so in a manner that maintains the regulatory authority of the PRC, ratepayer protections, and ratepayers’ due process of law. The sections of this law that undermine these protections are unconstitutional and unnecessary. We can achieve the renewable portfolio standard, transition support for impacted communities, and securitization while maintaining consumer protections,” said Tom Manning, lead advocate with Citizens for Fair Rates & the Environment. “PNM has been dragging its feet for years, reinvesting in coal power when other utilities determined that renewables were the prudent path forward; now they want to get rewarded for their malfeasance and claim that others are delaying the needed transition.”

Citizens for Fair Rates and the Environment: is a Silver City-based association of PNM residential ratepayers is an intervenor in Case 19-00018-UT.