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Case Filed in New Mexico Supreme Court Challenges Unconstitutional Provisions of the Energy Transition Act

SANTA FE, N.M. — New Energy Economy (NEE), joined by other Co-Petitioners, has filed suit in the New Mexico Supreme Court challenging as unconstitutional sections of the Energy Transition Act (ETA) recently passed by the New Mexico legislature and signed into law by Governor Michelle Lujan Grisham.

The suit takes aim at the ETA's efforts to restrict the Public Regulation Commission's ability to regulate a public utility, and the law's attempt to establish a mechanism for securitization of utility debt in a way that avoids public oversight. NEE also charges that some sections of the deal struck by legislators in the ETA violate the right to due process guaranteed in the U.S. Constitution, as well as a variety of other provisions of the New Mexico Constitution and New Mexico law.

Mariel Nanasi, of New Energy Economy, said the organization had no choice but to file suit on behalf of New Mexico ratepayers.

“New Mexicans have only one shield against monopoly predation,” she said, “and that’s review and regulation by the PRC. That constitutional protection cannot be bargained away by legislators, no matter how noble their overall goals. The ETA exposes ratepayers to hundreds of millions of dollars in costs that would, under its provisions, escape regulatory oversight and be arbitrarily assigned to ratepayers rather than utility stockholders. This would be unconstitutional, costly and unfair.”

Nanasi made clear that she and other petitioners in the case are supportive of the Renewable Energy Standard (RPS) established by the ETA and is hopeful that it will remain in force.

“We deeply admire the governor’s commitment to a clean energy economy, and we appreciate the hard work that legislators and advocates put into the ETA. Our suit seeks to remedy specific constitutional and procedural problems that harm New Mexican ratepayers and jeopardize the regulatory process, while leaving the Renewable Portfolio Standard in place,” explained Nanasi. “We believe the RPS will remain a significant achievement for the Lujan Grisham administration and the people of our state.”

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