

**BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION**

**IN THE MATTER OF PUBLIC SERVICE )  
COMPANY OF NEW MEXICO'S )  
ABANDONMENT OF SAN JUAN )  
GENERATING STATION UNITS 1 AND 4 )**

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**Case No. 19-00018-UT**

**ORDER PARTIALLY GRANTING  
NEW ENERGY ECONOMY'S MOTION TO EXPAND THE TIME FOR LEGAL  
BRIEFING AND EXPERT WITNESS TESTIMONY, TO COMPEL DISCOVERY  
FROM PNM, AND TO SHORTEN RESPONSE TIME GIVEN IMPENDING DEADLINES**

**THIS MATTER** comes before the Hearing Examiners upon the Motion to Expand the Time for Legal Briefing, Expert Witness Testimony and to Compel Discovery from PNM and to Shorten Response Time Given Impending Deadlines (Motion) filed by New Energy Economy (NEE) on October 8, 2019. Responses to the Motion were filed on October 15, 2019 by Sierra Club, Western Resource Advocates (WRA), Public Service Company of New Mexico (PNM) and the Commission's Utility Division Staff (Staff). The Coalition for Clean and Affordable Energy (CCAIE) filed a Joinder with the portion of the Sierra Club response opposing NEE's request to extend the deadline for legal briefing. PNM submitted with its response the affidavit of Thomas G. Fallgren. Being fully informed, the Hearing Examiners **FIND** and **CONCLUDE** as follows.

**1. Scope of Discovery**

The Commission's policy on discovery "favors prompt and complete disclosure and exchange of information." 1.2.2.25(A) NMAC. The scope of discovery in adjudications before the Commission is broad. The Commission's procedural rules state that discovery in Commission proceedings shall be governed by the New Mexico rules of civil procedure for district courts, except where inconsistent with Commission rules. 1.2.2.25(C) NMAC. The scope of discovery, as defined in the civil rules, includes information relevant to the subject matter of the action and information reasonably calculated to lead to the discovery of admissible evidence:

(1) In general. Parties may obtain discovery of any information, not privileged, which is relevant to the subject matter involved in the pending action. The information sought need not be admissible at the trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence. A party responding to discovery requests shall provide all non-privileged responsive information then known to the party, subject to the limitations in these rules or as ordered by the court.

Rule 1-026(B)(1) NMRA.

The following addresses the requests in NEE's Motion.

## **2. Findings and Conclusions**

### **a. Request for Entry and Inspection of SJGS and San Juan Coal Mine**

On September 27, 2019, NEE sent a formal request for entry upon land for inspection pursuant to 1.2.2.25(F) NMAC and NMRA 1-54 to access the San Juan Generating Station (SJGS) in Waterflow, New Mexico and the San Juan Coal Mine to conduct sampling at the sites related to coal combustion residuals (CCRs, a.k.a. "coal ash") and proceed to evaluate potential water and soil contamination and associated costs.

PNM objects to NEE's request for entry and inspection on several grounds, including: NEE is on a purported "fishing expedition" for alleged environmental impacts from CCRs produced by SJGS, which are not stored or disposed on site but are used instead for mine reclamation at the San Juan Coal Mine consistent with state-approved mine reclamation plans; NEE's discovery and requests to enter the SJGS are completely unrelated to issues in this case inasmuch as PNM claims it is in compliance with all legal requirements related to CCRs and is not seeking recovery for any alleged CCR environmental impacts in rates or in the requested financing order; the Commission does not have jurisdiction over compliance with applicable environmental regulations, and this proceeding is not the proper forum to adjudicate whether CCRs have any impacts on the environment; PNM does not own or operate the San Juan Coal Mine and has no authority to grant

access to NEE for invasive sampling and testing; NEE's Request for Entry fails to comply with applicable discovery rules because it does not include sufficient details about the nature and specific location of the proposed sampling and drilling; and, last but apparently not least, NEE's request for entry is unreasonably burdensome because SJGS is an operating power plant and safety and security are significant concerns, particularly when third-parties seek to undertake invasive activities by NEE representatives who will need a PNM escort at all times and PNM will need to conduct duplicate sampling and testing to ensure the integrity of any testing results.<sup>1</sup>

Sierra Club believes that NEE should be able to obtain requested information regarding contamination at the SJGS site. But, while Sierra Club supports NEE's efforts to obtain information concerning coal ash contamination caused by the operation of the SJGS, Sierra Club maintains that any coal ash contamination weighs in favor of abandoning San Juan Generating Station. Sierra Club reasons that abandoning the SJGS would reduce ratepayers' liabilities for cleaning up coal ash contamination because PNM would no longer be generating coal ash at San Juan after the plant is abandoned and therefore PNM would not be disposing of additional coal ash after abandonment. Thus, Sierra Club concludes that concerns about the human health and environmental risks from coal ash contamination, as well as the costs of remediating such contamination, weigh in favor of abandoning the San Juan Generating Station.

WRA, for its part, states that NEE's discovery appears focused on the magnitude and responsibility for environmental remediation costs at the plant and mine site. WRA notes that cost recovery amounts and responsibility are issues typically addressed in rate cases. In WRA's view, this case involves PNM's application to abandon SJGS and to approve securitized financing for,

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<sup>1</sup> See PNM Resp. at 7-13.

among other things, “only a limited amount of decommissioning and reclamation costs.”<sup>2</sup> Nevertheless, WRA recognizes that inquiries related to decommissioning and reclamation liabilities and costs could lead to the discovery of admissible evidence in this proceeding and, therefore, takes no position on the merits of requiring responses to NEE’s discovery.

Staff states that information about the condition of SJGS and the property upon which it stands should be discoverable and states further that the inspections are important to developing Staff’s and NEE’s direct testimony.<sup>3</sup>

Having considered the Motion and the parties’ responses, the Hearing Examiners find that NEE has articulated valid reasons to enter the SJGS for inspection and PNM’s objections to such entry and inspection are overstated in some respects, generally unpersuasive, and ultimately without merit. Of particular significance, the burdens PNM alleges it will have to bear in granting NEE access to the power plant site are substantially outweighed by the policies favoring broad and fairly delineated discovery reasonably calculated to lead to the discovery of admissible evidence in adjudicative proceedings before the Commission. Accordingly, the Hearing Examiners find that PNM should allow NEE to access the SJGS for inspection no later than October 22, 2019. Given that PNM does not own or operate the San Juan Coal Mine and has no authority to grant third-parties access to the coal mine property,<sup>4</sup> this Order shall apply only to entry upon and inspection of the SJGS.<sup>5</sup>

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<sup>2</sup> WRA Resp. at 1.

<sup>3</sup> Staff Resp., at 2.

<sup>4</sup> PNM Resp., Exh. A (Fallgren Aff.) at 1, ¶ 3.

<sup>5</sup> See 1.2.2.25(F) NMAC (Requests for entry upon, designated land or other property upon whom the request is served must be directed to the party in the possession or control of such land or property).

**b. Motion to compel PNM responses to discovery requests regarding CCRs and related matters**

The Motion asks the Commission to compel responses to NEE Interrogatories 1-34, 1-36, 1-42, 1-43, 1-44 and 1-101[1] and 1-101[2]. NEE states that the information sought relates to potential environmental contamination resulting from the operation of the San Juan Generating Station and that the information is relevant to PNM's entitlement to cost recoveries. NEE asserts that CCRs will be part of the cleanup costs PNM must incur to properly abandon the Station and that such costs cannot be properly evaluated without an awareness of the full scope of CCRs present onsite. (NEE Motion, ¶ 28.)

In its response, PNM asserts that it fully supplemented its responses to the six interrogatories consistent with the parties' agreement to resolve the discovery dispute. To that end, PNM provides the following summation and statements of position:<sup>6</sup>

**NEE INTERROGATORY 1-34:**

**PLEASE PROVIDE ALL COMMUNICATIONS (EMAILS, LETTERS, DOCUMENTS, AND THE LIKE) AMONGST PNM/PNMR EMPLOYEES CONCERNING COAL COMBUSTION RESIDUALS (ALSO KNOWN AS "COAL ASH") AT SJGS IN THE LAST TWO YEARS. PLEASE PROVIDE ALL COMMUNICATIONS (EMAILS, LETTERS, DOCUMENTS, AND THE LIKE) BETWEEN PNM/PNMR EMPLOYEES AND EXTERNAL PARTIES CONCERNING COAL ASH AT SJGS IN THE LAST TWO YEARS.**

**PNM'S ORIGINAL OBJECTION:**

PNM objects to NEE's Interrogatory 1-34 on grounds that it is overly broad and seeks information which is not relevant to the subject matter involved in the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. Rule 1-026(B)(1) NMRA; 1.2.2.25 NMAC.

**PNM'S SUPPLEMENTAL OBJECTION / RESPONSE (OCTOBER 4, 2019):  
THOMAS FALLGREN / MAUREEN GANNON**

Subject to and without waiving the objections provided with PNM's original response to this interrogatory, PNM responds as follows: There are no documents responsive to this request.

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<sup>6</sup> See PNM Resp. at 14-20.

Notwithstanding the objection, PNM fully responded to this interrogatory on October 4, 2019, by stating that there are no documents responsive to the request. Such communications do not exist for the simple reason that CCRs are not stored at SJGS; they are transported to the San Juan Coal Mine for disposal. Because PNM has fully responded, NEE's motion to compel a further response NEE 1-34 should be denied.

**NEE INTERROGATORIES 1-42 AND 1-43:**

**NEE 1-42**

**PLEASE PROVIDE THE WATER DISCHARGE FOR SJGS, IN MILLION OF GALLONS FOR 2015-2019.**

**PNM'S ORIGINAL OBJECTION:**

PNM objects to NEE's Interrogatory 1-42 on grounds that it seeks information which is not relevant to the subject matter involved in the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. Rule 1-026(B)(1) NMRA; 1.2.2.25 NMAC.

**SUPPLEMENTAL OBJECTION / RESPONSE (OCTOBER 4, 2019):**

**THOMAS FA LLC REN / MAUREEN GANNON**

Subject to and without waiving the objections provided with PNM's original response to this interrogatory, PNM responds as follows: Please see PNM's response to NEE Interrogatory 1-43(10-4-19 Supplemental).

**NEE 1-43:**

**DOES SJGS HAVE A ZERO DISCHARGE PERMIT?**

**OBJECTION:**

PNM objects to NEE's Interrogatory 1-43 on grounds that it seeks information which is not Relevant to the subject matter involved in the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. Rule 1-026(B)(1) NMRA; 1.2.2.25 NMAC.

**SUPPLEMENTAL OBJECTION / RESPONSE (OCTOBER 4, 2019):**

**THOMAS FALLGREN / MAUREEN GANNON**

Subject to and without waiving the objections provided with PNM's original response to this interrogatory, PNM responds as follows: Yes.

**CORRECTED OBJECTION / RESPONSE (OCTOBER 11, 2019):**

**THOMAS FALLGREN / MAUREEN GANNON**

Subject to and without waiving the objections provided with PNM's original response to this interrogatory, PNM responds as follows: PNM terminated the zero discharge permit with EPA's approval. San Juan Generating Station does not discharge process wastewater offsite.

PNM fully responded to these interrogatories to provide that there is no water discharge at SJGS. Plant process water is retained on site, where it is disposed of in evaporation ponds. NEE's motion to compel a different response to NEE 1-42 and 1-43 is based on its mistaken belief that PNM reports offsite water discharge to the Energy

Information Agency ("IEA"). NEE attaches a table to its motion that provides water "withdrawal volume" and water "consumption volume" at SJGS. The difference between the two columns is displayed in a column labeled "discharge volume." However, NEE omitted a portion of the table from the IEA website that confirms water is not discharged offsite. The table contains a tab labeled "Source & Discharge Name" that specifies the "Water Source", "Water Type", "Source Name", and "Discharge Name" for water consumed at SJGS. Under "Discharge Name", the table provides that SJGS is "NA Zero Discharge".

Because PNM has fully responded to NEE 1-42 and 1-43, NEE's motion to compel further responses to these interrogatories should be denied.

**NEE INTERROGATORY 1-44:**

**HAS COAL ASH SLUDGE OR ANY OTHER CONTAMINANTS, FROM SCRUBBERS OR ELSEWHERE EVER BEEN RELEASED INTO THE WESTWATER/SHUMWAY ARROYO? PLEASE PROVIDE ANY AND ALL DOCUMENTATION OF CONTAMINATION. IF THERE HAS BEEN ANY CONTAMINATION INTO THE WESTWATER/SHUMWAY ARROYO:**

**A. FOR WHAT PERIOD OF TIME?**

**B. WHEN WAS IT CLEANED UP?**

**C. HOW WAS IT CLEANED UP?**

**D. DID IT MIGRATE INTO THE SAN JUAN RIVER?**

**OBJECTION:**

PNM objects to NEE's Interrogatory 1-44 on grounds that it seeks information which is not relevant to the subject matter involved in the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. Rule 1-026(B)(1) NMRA; 1.2.2.25 NMAC.

**SUPPLEMENTAL OBJECTION / RESPONSE (OCTOBER 4, 2019):**

**THOMAS FALLGREN / MAUREEN GANNON**

Subject to and without waiving the objections provided with PNM's original response to this interrogatory, and to the agreement between PNM and NEE that the time period is limited to 2005- current. PNM responds as follows: No.

The interrogatory asks PNM to state whether "coal ash sludge or any other contaminants" have been released into Westwater/Shumway Arroyo. If the answer is "yes", the interrogatory then asks PNM to provide information about the release of contaminants. Because PNM stated that no contaminants have been released into the Westwater/Shumway Arroyo since 2005, it is not required to respond to the other portions of the interrogatory. PNM has responded in full. As a result, NEE's request to compel a further response to NEE 1-44 should be denied.

**NEE INTERROGATORY 1-101 [1]:**

**PLEASE IDENTIFY EACH AND EVERY COAL COMBUSTION RESIDUALS ("CCR") SITE. FOR EACH CCR SITE IDENTIFIED IN RESPONSE TO THIS REQUEST, PLEASE IDENTIFY:**

- A. THE CCR SITE'S LOCATION, CURRENT STATUS (ACTIVE OR INACTIVE), AND OWNERSHIP (I.E., THE SPECIFIC OWNER(S) OF THE SITE). IF A CCR SITE IS INACTIVE, PLEASE IDENTIFY THE DATE WHEN THE SITE CEASED OPERATING.**
- B. ANY AND ALL CURRENT STATE OR FEDERAL PERMITS OR LICENSES RELATING TO THE CCR SITE. FOR EACH SUCH LICENSE OR PERMIT IDENTIFIED, PLEASE IDENTIFY THE ISSUING AGENCY, ISSUANCE DATE, EXPIRATION, AND PERMIT NUMBER.**
- C. ANY PENDING LITIGATION RELATED TO THE CCR SITE. THIS INCLUDES ANY PENDING STATE OR FEDERAL LAWSUITS, ANY LETTERS PROVIDING NOTICE OF INTENT TO BRING ANY STATE OR FEDERAL LAWSUITS, ANY CLAIMS BEING LITIGATED BEFORE AN ADMINISTRATIVE TRIBUNAL OR ARBITRATION BODY, OR ANY OTHER ADMINISTRATIVE CLAIMS ASSERTED BY A STATE, FEDERAL, OR NON- GOVERNMENT ENTITY.**
- I. FOR ANY PROCEEDING IDENTIFIED IN RESPONSE TO THIS SUBPART, PLEASE STATE THE TRIBUNAL IN WHICH THE MATTER IS PENDING, THE CASE OR DOCKET NUMBER, AND THE CURRENT STATUS OF THE MATTER.**
- D. THE TOTAL ANNUAL COST OF OPERATING AND MAINTAINING ANY CCR SITE FOR 2015- 2018, PLUS ANY PROJECTIONS OF OPERATION AND MAINTENANCE COSTS FOR 2019 AND BEYOND. IF YOU DO NOT HAVE SOME OR ALL OF THIS INFORMATION FOR A PARTICULAR CCR SITE, PLEASE STATE THAT IN YOUR RESPONSE.**
- E. ANY ESTIMATES OF CLOSURE COSTS. IF YOU DO NOT HAVE A CLOSURE COST ESTIMATE FOR A PARTICULAR CCR SITE, PLEASE STATE THAT IN YOUR RESPONSE.**
- F. ANY SURETY BONDS, INSURANCE POLICIES, ALL BUDGETS, FINANCIAL REPORTS, ESTIMATES, PROJECTIONS, OR OTHER FINANCIAL INSTRUMENTS INTENDED TO COVER THE COST FOR A THIRD PARTY TO MEET ANY REMAINING REMEDIATION, CLOSURE, OR MONITORING OBLIGATIONS.**

#### **OBJECTION**

PNM objects to NEE's Interrogatory 1-101 [1] on grounds that it is overly broad and seeks information which is not relevant to the subject matter involved in the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. Rule 1-026(B)(1) NMRA; 1.2.2.25 NMAC.

#### **SUPPLEMENTAL OBJECTION / RESPONSE (OCTOBER 4, 2019): THOMAS FALLGREN / MAUREEN GANNON**

Subject to and without waiving the objections provided with PNM's original response to this interrogatory, PNM responds as follows: CCRs consisting of fly ash, bottom ash, and gypsum generated from coal combustion and emission control equipment at SJGS are currently disposed of in the surface mine pits adjacent to the plant. SJGS does not operate any CCR impoundments or landfills. The NMMMD currently regulates mine reclamation activities at



the San Juan mine, including placement of CCRs in the surface mine pit, with federal oversight by the OSM.

Similar to NEE 1-44, NEE interrogatory 1-101[1] asks PNM to identify each “CCR site” and, if there are CCR sites at SJGS, to provide additional information on the sites. This interrogatory is apparently based on NEE’s mistaken belief that PNM maintains CCR impoundment or landfill sites at SJGS. PNM fully responded to the interrogatory by stating that CCRs are disposed of at the San Juan Mine, and not at SJGS. Because PNM has fully responded to the interrogatory, NEE’s motion to compel a further response should be denied.

**NEE INTERROGATORY 1-101 [2]:**

**HAS THERE BEEN ANY CCR GROUNDWATER MONITORING REPORTS? IF SO, PLEASE PROVIDE ANY AND ALL THE REPORTS SINCE 2005.**

**OBJECTION:**

PNM objects to NEE's Interrogatory 1-101 [2] on grounds that it is overly broad and seeks information which is not relevant to the subject matter involved in the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. Rule 1-026(B)(1) NMRA; 1.2.2.25 NMAC.

**SUPPLEMENTAL OBJECTION / RESPONSE (OCTOBER 4, 2019):  
THOMAS FALLGREN / MAUREEN GANNON**

Subject to and without waiving the objections provided with PNM's original response to this interrogatory, PNM responds as follows: SJGS is not required to monitor groundwater for CCR. Please see PNM's response to NEE 1-101 [1] (10-4-19 Supplemental).

NEE seeks to compel a further response to NEE interrogatory 1-101[2] based on its mistaken belief that PNM is required to monitor groundwater at SJGS for CCR. Because PNM does not dispose of CCRs at SJGS, it is not subject to the CCR Rule. Because PNM has fully responded to this interrogatory, NEE’s request to compel a further response should be denied.

The Hearing Examiners find upon close inspection that it appears through its supplemental responses PNM has provided final answers to the NEE Interrogatories 1-34, 1-36, 1-42, 1-43, 1-44 and 1-101[1] and 1-101[2]. However, to the extent that NEE may still find PNM’s responses inaccurate, incomplete, or otherwise wanting, NEE may propound additional and more refined interrogatories regarding any legitimately outstanding issues and concerns. Should NEE elect to do so, PNM shall file its responses to such interrogatories within five business days of service.

**c. Motion to compel PNM responses to discovery requests regarding cost recovery comparisons under the Energy Transition Act (ETA) and pre-ETA traditional ratemaking**

The Motion asks the Commission to compel further responses to NEE Interrogatories 2-33, 2-34, and 2-35. NEE explains that the information sought in those interrogatories relates to PNM's calculations of potential cost recovery for the SJGS absent the ETA. NEE maintains that the information is relevant to the ultimate issue of PNM's cost recovery in the event the ETA is determined not to apply to PNM's abandonment application.

PNM states that it responded to NEE's second set of discovery on October 1, 2019 and represents that it resolved the discovery disputes with NEE concerning Interrogatories 2-33, 2-34, and 2-35.<sup>7</sup> Further down in its response, PNM explains that subsequent to filing the NEE Motion, NEE clarified the scope of its requests in 2-33 and 2-34 and PNM agreed to supplement its response. In addition, PNM says it has reviewed its response to 2-32 and identified responsive, privileged, and non-privileged information. PNM has committed to providing a privilege log and the non-responsive document in response to 2-32. On the grounds that the parties have subsequently reached a resolution regarding 2-32, 2-33, and 2-34, PNM argues that NEE's motion to compel a response to these interrogatories should be denied.<sup>8</sup> Assuming PNM's representations are true, the Hearing Examiners will deem NEE's request to compel further responses to these interrogatories moot.

**d. Request to extend deadline for intervenor and Staff direct testimony**

NEE requests that October 18, 2019 deadline for filing its direct testimony be extended until one month after NEE's expert witness is allowed to inspect the SJGS and San Juan Coal Mine. Staff

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<sup>7</sup> PNM Resp. at 5

<sup>8</sup> *Id.* at 20.

supports NEE's request, stating that PNM should not be rewarded for its intransigence regarding discovery.<sup>9</sup>

PNM argues the request for extension is groundless and should be rejected outright. Sierra Club also opposes the request but suggests that the Hearing Examiners may wish to allow NEE to file supplemental testimony provided that the "delicately balanced schedules" for this case and Case No. 19-00195-UT are not disrupted.<sup>10</sup> Similarly, while WRA would not oppose a limited extension to the time allowed for staff and intervenor testimony, WRA would oppose a change to the hearing dates and any significant change to the time allotted for rebuttal testimony. Alternatively, and preferably from WRA's point of view, if NEE's motion to compel is granted, WRA requests that the existing schedule should be preserved, but NEE and the parties should be provided an opportunity to submit supplemental testimony if the compelled discovery responses provide relevant information that would cause a change to the testimony submitted under the current schedule. WRA notes that was the relief afforded in Case 13-00390-UT in response to a WRA-PNM discovery dispute, and provided a reasonable remedy for improperly withheld information, in a manner that did not disrupt the orderly disposition of the case.

The Hearing Examiners find that NEE's request to extend the October 18, 2019 deadline for filing its direct testimony is not warranted. The prepared testimony of NEE, Staff, and other intervenors will likely address many issues other than those involved in NEE's disputed discovery requests. That testimony is likely to be voluminous and a delay in its filing could well result in a delay of the December 2019 hearing dates. Such an unacceptable delay in the December hearing dates could then jeopardize the Commission's ability to issue a decision within the nine-month

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<sup>9</sup> Staff Resp. at 2.

<sup>10</sup> Sierra Club Resp. at 3-4.

period required for a final decision. For those reasons, NEE's request to extend the briefing deadline should be denied.

That said, the Hearing Examiner's nevertheless find NEE and perhaps other parties so motivated should be permitted to prepare and file supplemental testimony by November 6, 2019 related to the information NEE obtains pursuant to the discovery permitted in this Order. PNM may respond the supplemental testimony in the rebuttal testimony it is permitted to file by November 15, 2019.

**e. Request to extend briefing schedule**

NEE requests that the legal briefing due October 19, 2019 be extended until one week after PNM's "withholding of evidence is cured."<sup>11</sup> Staff supports NEE's request citing PNM's intransigence during discovery.<sup>12</sup> PNM, Sierra Club, CCAE and WRA all oppose the request. The Hearing Examiners find that NEE's request to extend the briefing schedule should be denied. NEE has not provided sufficient reasons to justify why the issues to be addressed in the briefs provided for in the Hearing Examiners' July 25, 2019 Procedural Order should be delayed until the factual information developed in its discovery responses ordered herein is obtained.

**f. Motion to supplement**

NEE's motion to supplement is unnecessary to resolving the underlying controversies. Moreover, providing reasonable time to file responses to the motion to supplement would only delay rulings on the urgent relief NEE has requested and engender further unwarranted procedural disruptions. NEE's motion to supplement therefore should be rejected.

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<sup>11</sup> Motion at 1, 27-28.

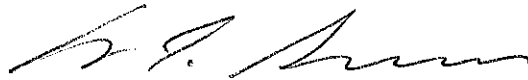
<sup>12</sup> Staff Resp. at 2.

**IT IS THEREFORE ORDERED:**

1. NEE's Motion is GRANTED in part and DENIED in part as provided above.
2. PNM shall permit NEE's appointed representatives to enter the SJGS for inspection of said site on or before October 22, 2019.
3. NEE and other parties may file limited supplemental testimony pertaining to information NEE obtains by virtue of the discovery permitted in this Order by November 6, 2019.
4. PNM may respond to such supplemental testimony in the rebuttal testimony it is permitted to file by November 15, 2019.

**ISSUED** at Santa Fe, New Mexico this 16<sup>th</sup> day of **October 2019**.

**NEW MEXICO PUBLIC REGULATION COMMISSION**



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**Ashley C. Schannauer**  
**Anthony F. Medeiros**  
**Hearing Examiners**

**BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION**

**IN THE MATTER OF PUBLIC SERVICE )  
COMPANY OF NEW MEXICO'S ) Case No. 19-00018-UT  
ABANDONMENT OF SAN JUAN )  
GENERATION STATION UNITS 1 AND 4 )**

**CERTIFICATE OF SERVICE**

**I CERTIFY that on this date I sent to the parties listed here, via email only, a true and correct copy of the Order Partially Granting NEE's Motion to Expand the Time for Legal Briefing and Expert Witness Testimony, to Compel Discovery from PNM, and to Shorten Response Time Given Impending Deadlines.**

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**DATED** this October 16, 2019.

**NEW MEXICO PUBLIC REGULATION COMMISSION**

  
Ana C. Kippenbrock, Law Clerk