



new energy economy

Addressing the Climate Challenge  
With Bold Solutions

## HIGHLIGHTS FROM MR. SANDBERG'S EXPERT TESTIMONY

### 1. The Adjustment Mechanism is not justified.

PNM's Mr. Fenton testified, "Time is of the essence to institute decoupling to address the goals of removing disincentives and addressing lost fixed cost revenue contributions from declining volumes...Decoupling is important because it represents a means to adjust and account for the declining use per customer as well as the tremendous shift in demand that the COVID-19 pandemic has caused."

### HOWEVER...

On May 1, 2020, PNM told the SEC that it had not experienced any significant impacts in customer usage in the first quarter of 2020 due to COVID-19, and it expected to see "increased residential customer usage...compared to 2019." (2nd quarter 2020 10-Q filing, Exhibit CKS – 15). Twenty-seven days later, PNM witness Fenton asserted in his testimony that, "Decoupling addresses the phenomenon of declining usage per customer..."

**In fact, PNM's analysis presented to the Securities and Exchange Commission was the accurate one, as residential sales and revenue increased dramatically in the second quarter of 2020.** In the second quarter of 2020, average use per PNM customer as reported to the SEC was 5.18 megawatt hours, which was 7% higher than the 4.84 megawatt hours in the first quarter of 2019. **PNM's formal statements to the SEC do make the critical distinction about where declines and increases were taking place in the first half of 2020, perhaps because there are potential criminal penalties for falsifying documents to the SEC under 18 U.S.C. § 1350.**

### 2. Under PNM's proposal, it does not matter why its computed "fixed revenues per customer" decline; an adjustment must be imposed regardless of the cause.

The proposal does not narrowly focus on the regulatory disincentives to which the decoupling statute limits "rate adjustment mechanisms", and if adopted would compensate PNM for all load declines in the Residential and Small Business Classes, regardless of the reason(s) for those declines. **This could include anything from customer reaction to increased per-KWh charges, declining average family sizes, external economic effects, weather changes, the installation of decentralized solar generation, improved energy efficient standards for appliances, or changes in lighting technology.** None of those changes (other than higher energy prices) are energy efficiency or load management measures made by PNM, or indeed changes with which PNM had anything to do.

### 3. PNM's petition relies on stale data from 2015 when the PRC has repeatedly rejected the use of data that does not reflect current realities.

The Commission warned PNM earlier this year—four and a half months before this case was filed—about the need for contemporaneous data in adversarial proceedings, explaining "PNM [is] on notice of its obligation to perform continuing and timely updates of any analyses it may have performed that provide the basis for any decision it may reach." (19-00102-UT, Order on Petition for Investigation, Jan. 8, 2020 at ¶17). **PNM cannot seriously contend that it thought data from 2015 could form the basis for a Commission decision that would take effect in 2021!**

### 4. PNM's proposal would result in discriminatory rates and practical discrimination in reality.

Two rate classes, the Residential Class and the Small Business Class, would be placed under a new rate design that is fundamentally designed to increase their rates, while all other classes would escape that rate design. New Mexico law specifically states that “No public utility shall establish and maintain any unreasonable differences as to rates of service either as between localities or as between classes of service.” (Section 82-8-6).

Further, **there is empirical evidence that the likely result of PNM’s decoupling proposal will be an overall increase in customer payments from the two targeted classes. The U.S. utility data in 2000-2012 reveals that RD [Revenue Decoupling] is associated with more than 10% higher electricity prices and revenues in two years after RD is implemented relative to similar non-decoupled utilities.** PNM has already declared its intention to file a rate case in 2021 and expects an increase in revenue requirement as a result of its decoupling request.