

Litigation Involving the PRC and the Energy Transition Act (ETA)

Cydney Beadles
NMFA Oversight Committee
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Enactment of Energy Transition Act (ETA):

- March 12, 2019 - New Mexico Legislature passes the Energy Transition Act (Senate Bill 489) by a wide margin (32-9 in the Senate and 43-22 in the House)
- March 22, 2019 – Governor Signs SB 489, the ETA
- June 14, 2019 – the ETA becomes law

Early PRC action on SJGS abandonment:

- January 30, 2019 – PRC issues Order, opening docket no. 19-00018, requiring Public Service Company of New Mexico (PNM) to file San Juan coal plant abandonment application by March 1, 2019
- February 27, 2019 – PNM files Petition for Writ of Mandamus and Emergency Stay (No. S-1-SC-37552)
- March 1, 2019 – Supreme Court grants stay
- June 26, 2019 – Supreme Court lifts stay and denies Petition



What Came Next?

- July 1, 2019 – PNM files application for abandonment, financing and replacement power in docket no. 19-00195-UT
- July 10, 2019 - PRC issues order bifurcating case
 - 19-00018-UT (abandonment/financing – 9 months)
 - 19-00195-UT (replacement – 15 months)
- July 25, 2019 – PRC issues Procedural Orders
 - PNM brief on ETA applicability - 8/23; responses - 10/18
 - Testimony on merits if ETA determined not to apply
- August 26, 2019 – New Energy Economy (NEE) files Petition to Declare ETA Provisions Unconstitutional (S-1-SC-37875)
- August 29, 2019 – PNM files Motion for Clarification/Supplement (S-1-SC-37552)
- October 1, 2019 – Supreme Court denies NEE Petition (S-1-SC-37875)
- October 3, 2019 – Supreme Court denies PNM Motion (S-1-SC-37552)



State ex rel. Egolf v. PRC (S-1-SC-38041):

- December 9, 2019 – Governor, Navajo Nation and Legislators file Emergency Petition for Writ of Mandamus (S-1-SC-38041)
- January 29, 2020 – oral argument immediately after which Supreme Court issued Order Granting Petition
- February 21, 2020 – PRC Hearing Examiners issued Recommended Decisions approving abandonment & financing
- April 1, 2020 – PRC Commissioners issued Final Orders adopting the Recommended Decisions
- July 23, 2020 – Supreme Court issued written opinion explaining its Order Granting Petition
- August 7, 2020 – PRC files Motion for Rehearing to Supreme Court
- September 4, 2020 – Supreme Court issues Order Denying PRC Motion



Current Appeal (S-1-SC-38247):

- April 10, 2019 – CFRE & New Energy Economy appeal PRC Financing Order
- August 17, 2020 – CFRE & NEE filed Joint Brief-in-Chief
- October 5, 2020 – Response briefs due from intervenors

ETA § 62-18-8 states: “The supreme court shall proceed to hear and determine the appeal as expeditiously as possible.”



Impact on Pre-Funding of Just Transition Assistance:

- \$20 m in severance & job training for coal plant and mine workers
- Section 16 Payments: \$1.8 m to Indian Affairs Dept. for Energy Transition Indian Affairs Fund; \$5.9 m to Economic Development Dept. for Energy Transition Economic Development Assistance Fund; & \$12.1 m to Workforce Solutions Dept. for Energy Transition Displaced Worker Assistance Fund

Thanks for listening!

Cydney Beadles

Clean Energy Program, Senior Staff Attorney

505-501-7708, cydney.beadles@westernresources.org