

DISCUSSION DRAFT
Energy Transition Act

TO: Members of the Water and Natural Resources Interim Committee
FROM: Senators Candelaria and Ortiz y Pino

Thank you for allowing us to provide you with an update on a discussion draft of the Energy Transition Act regarding how to best address PNM abandonment of the San Juan Generating Station.

This discussion draft begins with PNM's announcement that it will no longer utilize the San Juan Generating Station (SJGS) after 2022. They have formally indicated to their SJGS partners that they will not extend the partnership agreement after 2022 and will not seek to extend the contract for coal purchase. As the majority owner and operator of the plant, this action has major consequences and will almost certainly mean the retirement of the plant by the end of 2022. Senator Neville, Representative Montoya and I (Senator Candelaria) sponsored legislation (SB47) last year to begin to address the transition of PNM out of coal generation at the SJGS. PNM's decision will have a major impact on energy generation in New Mexico, the economy and tax base in the Four Corners area and will affect PNM customers.

It is important to note that this bill does **NOT** require the plant to close. Its provisions become effective if, and only if, an application for abandonment and financing is filed by PNM at the PRC. The legislation seeks to react in a reasoned and balanced manner to PNM's decision to abandon coal generation at SJGS. We are working to move the state forward in energy generation, allow PNM to utilize a cost-saving funding mechanism, and address economic losses in the Four Corners area.

The discussion draft attached starts a conversation about a bill that we intend to introduce, along with other legislators, next session. It attempts to incorporate many comments provided on the 2018 legislation. It has **NEITHER** been finalized **NOR** endorsed by any interested party. Following the Water and Natural Resource Committee's hearing today, we will work with the Speaker's office to continue to seek input from many interested parties. We are certain that this draft will change.

The draft presently contains 4 major component parts as generally described below.

- 1. Transition away from energy produced by coal at the San Juan Generating Station.** In its most recent Integrated Resource Plan (IRP) filed with the PRC, PNM stated "The most significant finding of the IRP is that retiring PNM's 497MW share of SJGS in 2022 would provide long-term cost savings for PNM's customers." In this discussion draft, further savings are possible using AAA bonds. *To achieve these savings, through this legislation, PNM may finance the closure of the plant through low-interest customer-backed bonds that would be sold on the public bond market.* To utilize customer backed bonds for all the undepreciated capital, PNM must show at least 40% cost savings for customers compared to traditional recovery on the amounts already authorized for ongoing collection. PNM may recoup stranded undepreciated costs at the plant and other itemized costs (calculated based on previous PRC decisions). The bond charges become a surcharge on customer bills, and payments are securitized by the surcharge. This secure repayment method allows for the bond to be AAA rated. The low interest on the bond provides tens of millions of dollars of savings per year over traditional rate-based financing options authorized by the PRC.

- a. Items that *are authorized to be in the bond* generally are:
 - i. \$320M in stranded costs (100% of the stranded costs) for expenses spent on the facility and previously approved by the PRC to be recouped from customers;
 - ii. A percentage of the bond will go to community economic diversification;¹
 - iii. Financing costs (including \$300,000 for expert consultants for the PRC); and
 - iv. Up to \$30M for reclamation, decommissioning and other plant closure costs.
2. **Relief for the affected community.** The bill seeks to support economic development and diversification as well as maintain the tax base in the area.
 - a. PNM would build new replacement energy sources in the school district where the plant is now located, and property tax will be paid on the new replacement energy sources;
 - b. A percentage of the bond will go to community economic diversification;² and
 - c. The plant can reopen or be repurposed for any use emitting no more CO2 than a clean energy source.³ The discussion draft prioritizes energy replacement options that utilize the impacted mine and generation sites.
3. **Move towards clean energy.**
 - a. PNM's renewable portfolio is required to be 40% (2025) and 50% (2030); and
 - b. Emissions are capped at no more than four-hundred pounds of carbon-dioxide per megawatt-hour (<400 lbs/MWh) by January 1, 2023, and not more than two-hundred pounds of carbon-dioxide per megawatt-hour (<200 lbs/MWh) by January 1, 2032). PNM can meet these standards by meeting the RPS and maintaining current levels of other zero-emitting resources.
4. **Consumer protections and PRC oversight.**
 - a. As mentioned above, PNM must show in PRC filings that the bond provides a 40% savings as compared to the full cost of recovery of stranded costs;
 - b. PNM actions must be proven to be reasonable in many areas as shown in PRC filings;
 - c. Ownership of replacement and future resources needed to comply with the renewable energy standard are open to any entity. A competitive solicitation process is required. Nothing precludes PNM, or any other party, from being the owner of replacement resources;
 - d. Allows only up to \$30M in reasonable and prudent reclamation and decommissioning costs to be included in the bonds paid by PNM customers;
 - e. PNM must use the lowest cost alternative in marketing bonds, and prove that in PRC filings;
 - f. There is a cap on cost of renewables (0.6 cents per kilowatt hour) and, since many renewable sources may be available at an even lower cost, PNM must also prove to the PRC that the renewable energy selected is at reasonable cost as compared to other renewables in the region;
 - g. \$300,000 is provided for expenses for PRC to hire experts to review filings related to securitization and abandonment; however,
 - h. PRC authority is limited in some decisions regarding the bonding, and the PRC cannot modify the decision to allow recoupment of full stranded costs.

We look forward to bringing you a more final draft at a later meeting of your committee.

¹ In last year's legislation this was approximately 5% of the bond, calculated at approximately \$19M

² See footnote 1

³ <845 lbs/MWh emission limit equals a clean gas plant emission or coal plant with carbon capture and sequestration/ conversion technologies. See Wyoming Integrated Test Center, www.wyomingitc.org/ and Petra Nova Parish Holdings near Houston, Texas, <https://www.nrg.com/case-studies/petra-nova.html>. PNM is held to <200 lbs/MWh on average by 2032 in this discussion draft or 4 times less emissions on average.