

March 2, 2019

To: Concerned New Mexico Legislators  
From: David Van Winkle  
Re: SB489 – Energy Transition Act

I am a utility energy expert witness who has testified in all of PNM's major resource and rate cases since 2013. I have also testified in two NM PRC cases concerning El Paso Electric and Southwestern Public Service. I am writing to you today to highlight several major issues that exist with the current version of SB489.

SB489 is concerned with energy transition from coal to renewable energy sources and has the potential for great benefits to the State of New Mexico and its constituents. Specifically, the bill would provide a structure to finance the retirement of the San Juan Generating Station (SJGS) and the Four Corners Power Plant (FCPP), it would increase the renewable energy portfolio of utilities to 40% by 2025, 50% by 2030, and to 80% by 2040, and would provide funding for job training for coal employees as they transition to other employment.

Unfortunately, SB489 may also allow for runaway costs to PNM ratepayers to finance the closing of the two remaining PNM coal power plants, and may constrain healthy competition for new generation resources. This memo will outline four issues with SB489 that would make it a cost-effective bill, if addressed with amendments.

The following table illustrates itemized ratepayer costs associated with SB489 and comparison with NM PRC precedent:

		<b>SB489</b>	<b>SB489</b>	<b>SB489</b>	
Section		<b>\$M</b>	<b>\$M</b>	<b>\$M</b>	<b>\$M</b>
		<b>SJGS</b>	<b>FCPP</b>	<b>Total</b>	<b>PRC precedent</b>
2 H (2)	Undepreciated assets	375	250		
2 H (2) (a)	Decommissioning & Mine reclamation	30	30		
2 H (2) (b)	Job Training	20	20		
2 H (2) (c)	Previous Imprudent costs	50	0		
2 H (2) (d)	Future imprudent costs	37	0		
2 H (3)	Future environmental costs	0	50		
2 H (4)	Other	5	5		
	Total principal	517	355	872	436
	Interest at 4% for 25 years	269	185	454	487 <sup>1</sup>
	Total rate payer cost	786	540	1326	923

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<sup>1</sup> Full pre-tax rate of return or pre-tax Weighted Average Cost of Capital of 8.6%.

### **Issue #1: Total ratepayer costs have not been fully understood.**

Prior discussions at the legislature have indicated that the cost to ratepayers would be about \$400M. However, this amount is only the principal for SJGS. In addition to the principal, the total cost for any action needs to include return (or interest). Further, as this bill facilitates the retirement of both SJGS and FCPP, costs for both facilities need to be comprehended when discussing the cost to ratepayers. When interest costs and Four Corners costs are properly comprehended, the total cost is \$1326M, more than three times the previously discussed amount of \$400M.

### **Issue #2: SB489 ratepayer cost is higher than NM PRC precedent**

As shown in the table above, the total principal amount that could be securitized is \$872M. Interest costs would be about \$454M. The total cost for ratepayers is \$1326M. NM PRC precedent, as established in 13-00390-UT (the abandonment of two units at San Juan),<sup>2</sup> provided that PNM get 50% of the principal paid by ratepayers at the full Rate of Return. The cost of this approach is \$923M, a savings to ratepayers of \$404M.

To make the costs for the two financing approaches equal, the principal amount financed through securitization would need to be reduced from \$872M to \$607M, a reduction of 30%. Thus, ratepayers would pay 70% and shareholders 30%.

### **Issue #3: Several of the cost factors are flawed**

Decommissioning, mine reclamation, and job training (§§ 2 H (2)(c) and 2 H (2)(d)) should be considered expense items and not capitalized and thus not have financing costs associated with them.

§§§ 2H(2)(c), 2H(2)(d), and 2H(3) are essentially an open check for PNM to recover costs that have previously been ruled to be imprudent by the NM PRC or are future unknown costs without PRC approval for both San Juan and Four Corners.

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<sup>2</sup> In the San Juan abandonment case (closing units 2 & 3), the PRC held: "The Hearing Examiner finds that, under the facts and circumstances of this case, a Stipulation that provides for the recovery of one half of PNM's undepreciated investment in San Juan Units 2 and 3 after the units' abandonment reflects a reasonable balancing of the interests of investors and ratepayers." 13-00390-UT, Certification of Stipulation, April 8, 2015, p. 114. Cost sharing "fairly balances the interests of investors and ratepayers and is reasonable." *Id.*, at p. 124. "PNM should be allowed recovery of 50% of the undepreciated value of Units 2 and 3." 13-00390-UT, Certification of Stipulation, November 16, 2015, p. 101. Adopted by Final Order, December 16, 2015.

**Issue #4: Unduly biased towards utility ownership of new generation resources which constrains competition and increases costs to ratepayers.**

This bill requires that replacement resources be located in the same school district (§3B) and favors sites needing reclamation (§ 3F). This essentially requires that the new replacement facilities be on the existing San Juan site, which highly biases the outcome toward utility ownership. These limitations reduce competition and will likely cause higher costs. Actual PNM solar costs in 2016-18 have been 5-49% higher for utility ownership than Independent Power Purchase costs.<sup>3</sup> Further, the bill eliminates the PRC's ability to require "the most cost effective resource among feasible alternative" solutions, the current legal standard.

§25 D (6) requires that all energy storage systems be utility "operated, maintained and controlled" thus reducing competition, increasing costs to ratepayers, and eliminating the PRC's ability to require cost effective solutions. In California, a ruling was recently issued requiring open competition on energy storage systems, issued by ALJ Stevens "unequivocally directing utilities to allow independent developers to compete with projects utilities own."<sup>4</sup>

In summary, SB489 has significant benefits. However, it also has serious flaws that should be remedied before approval. Your consideration of these issues will be much appreciated.

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Chairman of the Board of New Energy Economy

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<sup>3</sup> NM Supreme Court Case No. S-1-SC-36772, New Energy Economy Brief-in-Chief, P.40 table "PNM Ownership versus Independent Power Purchase Prices"

<sup>4</sup> <https://www.utilitydive.com/news/california-regulators-tee-up-changes-to-utility-distributed-storage-program/549425/>