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CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 2019-__

INTRODUCED BY:

Councilor Renee D. Villarreal

A RESOLUTION

OPPOSING PUBLIC SERVICE COMPANY OF NEW MEXICO’S (“PNM”) INVESTMENT IN NUCLEAR ENERGY AT PALO VERDE NUCLEAR POWER PLANT; URGING THE NEW MEXICO PUBLIC REGULATION COMMISSION (“PRC”) TO REQUIRE THAT PNM’S REPLACEMENT POWER PLAN INCLUDE AS MUCH RENEWABLE ENERGY AS POSSIBLE; URGING THE PRC TO HOLD RATEPAYERS HARMLESS FOR PNM’S COST RECOVERY; AND EVALUATING INTERVENING ON BEHALF OF CITY OF SANTA FE RATEPAYERS IN CASES BEFORE THE PRC INVOLVING PALO VERDE NUCLEAR POWER PLANT.

WHEREAS, on May 16, 2019, the New Mexico Supreme Court (“Court”) ruled in Case No. 36115, appeal of PRC case, 15-00261-UT, that PNM’s nuclear investment in Palo Verde Nuclear Generating Station (“Palo Verde”) was made without (i) any financial analysis and (ii) any comparison to other feasible resource alternatives – and as a result, was imprudent; and

WHEREAS, consumer protections were central to the Supreme Court’s analysis and it held “that it was not inappropriate for the Commission to address whether PNM had

1 demonstrated Palo Verde to be cost-effective...the goal of the consideration of alternatives is, of
2 course, to reasonably protect ratepayers from wasteful expenditure. The failure to reasonably
3 consider alternatives was a fundamental flaw in PNM’s decision-making process”; and

4 **WHEREAS**, the high Court ruled that: “the purpose of a prudence review is to hold
5 ratepayers harmless from any amount imprudently invested, a disallowance should equal the
6 amount of the unreasonable investment.”; and

7 **WHEREAS**, “ratepayers are not to be charged for the negligent, wasteful or improvident
8 expenditures, or for the cost of management decisions which are not made in good faith.”

9 **WHEREAS**, ratepayers are financially responsible to the regulated utility for prudently
10 procured investments; the converse is true as well: ratepayers are not to be charged for
11 “imprudent” utility investments; and

12 **WHEREAS**, investments negligently made without concern for cost, or compared to
13 other less costly and environmentally damaging energy resources, will not result in just, fair, or
14 reasonable rates; and

15 **WHEREAS**, ratepayers are to be held harmless for the imprudent actions of utility
16 management, the Court acknowledged the possibility of a “full disallowance” to insulate
17 ratepayers from the high costs of nuclear; and

18 **WHEREAS**, according to submitted documents in PRC cases, PNM’s cost per megawatt
19 hour for nuclear energy is substantially higher than that of both wind and solar (see Exhibit A);
20 and

21 **WHEREAS**, radioactive waste is generated with the production of nuclear energy with
22 no long-term solution for its safe disposal; and

23 **WHEREAS**, despite the clear trend toward higher temperature and more arid conditions
24 across the Southwest, PNM continues to invest in energy resources that use vast amounts of
25 water; and

1 **WHEREAS**, these investments continue despite PNM acknowledging the risk of drought
2 “which could potentially affect the plants’ water supplies” in its compliance filing with the
3 Securities and Exchange Commission; and

4 **WHEREAS**, the generation of nuclear energy is the most water-intensive way to produce
5 electricity, with Palo Verde consuming 768 gallons of water for every MWh produced, according
6 to PNM’s 2014 Integrated Resource Plan (IRP) filing; and

7 **WHEREAS**, investment in Palo Verde nuclear resource would cost ratepayers more than
8 \$2 billion over the life of the nuclear plant; and

9 **WHEREAS**, spending that same amount of money in New Mexico on much less costly
10 solar and wind power could create homegrown, family-supporting jobs that produce affordable
11 and clean energy; and

12 **WHEREAS**, according to a 2018 Talk Poverty report, 19.7% of New Mexican
13 households live at or below the poverty level – currently \$24,860 for a family of four; and

14 **WHEREAS**, the same report states that 27% of children live below the poverty line; and

15 **WHEREAS**, these statistics place New Mexico second highest in overall poverty and
16 highest in child poverty nationwide; and

17 **WHEREAS**, according to an Inside Energy report from 2016, the percent of income
18 spent on energy bills for homes below 50% of the federal poverty level exceeded 25% in every
19 county in New Mexico except Bernalillo County; and

20 **WHEREAS**, people of color and senior citizens are disproportionately affected by
21 increased energy costs; and

22 **WHEREAS**, if higher cost nuclear-generated energy is authorized and results in
23 increased bills for customers, many of our most vulnerable residents will be forced to make hard
24 economic choices that will likely cause long-term hardship; and

25 **WHEREAS**, Palo Verde, the largest nuclear energy-generating power plant in the U.S.,

1 reported a radioactive water leak in 2013 that was reported by the Phoenix New Times to cost up
2 to \$15 million to repair; and

3 **WHEREAS**, in the same year the AP reported that an unreleased Government
4 Accountability Office report that cited Palo Verde with the second-most total violations, with 299
5 “lower-level” violations and five “higher-level” violations; and

6 **WHEREAS**, the Preamble of the City of Santa Fe Municipal Charter states that it is the
7 City’s “determination to secure for ourselves and our children the continuity of our cultural
8 values, our personal freedoms, and our well-being”; and

9 **WHEREAS**, the City of Santa Fe has a history of accepting these responsibilities and
10 acknowledging the reality and imminent threat of climate change, probably effects of climate
11 change on our City, and our ability and responsibility to reduce our contribution to the causes of
12 climate change, as evidenced by the City’s early endorsement of the U.S. Conference of Mayors
13 Climate Protection Agreement (2005), the adoption of the City of Santa Fe’s 25-year
14 Sustainability Plan (2018), it’s commitment to becoming carbon neutral by 2040, and the
15 adoption of many other resolutions addressing similar concerns; and

16 **WHEREAS**, the closing of the coal-powered San Juan Units 2 and 3 presents a critical
17 opportunity to transition away from New Mexico’s investment in fossil fuels and nuclear energy
18 and creates an opportunity to rapidly deploy renewable energy technologies to meet New
19 Mexico’s energy demands.

20 **NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE**
21 **CITY OF SANTA FE** the Governing Body opposes PNM’s investment in nuclear energy on the
22 basis that:

- 23 1. It is not the most cost-effective solution among feasible renewable energy
24 alternatives;
- 25 2. It generates radioactive waste that is a threat to our environment;

1 3. It does not create family-supporting renewable, affordable and clean energy jobs
2 in New Mexico for New Mexicans;

3 4. It is a risky investment in an unsustainable and costly energy source that is not in
4 the best interest of the public or the ratepayers; and

5 5. It unfairly places the burden of PNM's poor financial planning on the ratepayers
6 of New Mexico.

7 **BE IT FURTHER RESOLVED** that the Governing Body strongly urges the PRC to
8 require that PNM's replacement power plan include as much renewable energy and energy
9 efficiency as is technically and economically feasible.

10 **BE IT FURTHER RESOLVED** that the Governing Body urges the PRC to hold
11 ratepayers harmless for the imprudent Palo Verde investments and deny PNM's cost recovery
12 from ratepayers.

13 **BE IT FURTHER RESOLVED** that the Governing Body directs the City Attorney to
14 evaluate intervening on behalf of the residents of the City of Santa Fe in cases before the PRC
15 involving Palo Verde Nuclear Plant and replacement power either independently or by partnering
16 with other members of the Coalition for Sustainable Communities New Mexico.

17 **BE IT FURTHER RESOLVED** that the City Clerk is directed to forward a copy of this
18 Resolution to the New Mexico Public Regulation Commission and General Counsel as official
19 public testimony on behalf of the City of Santa Fe in case No. 15-00261-UT and 19-00102-UT
20 before the PRC.

21 **BE IT FURTHER RESOLVED** that the City Clerk is directed to forward a copy of this
22 Resolution to the Governor of New Mexico and New Mexico's Congressional Delegation.

23 PASSED, APPROVED, and ADOPTED this _____ day of _____, 2019.
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ALAN M. WEBBER, MAYOR

ATTEST:

YOLANDA Y. VIGIL, CITY CLERK

APPROVED AS TO FORM:

ERIN K. McSHERRY, CITY ATTORNEY