



DIVISION OF  
CORPORATION FINANCE

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

March 28, 2018

Jane Whitt Sellers  
McGuireWoods LLP  
jsellers@mcguirewoods.com

Re: PNM Resources, Inc.  
Incoming letter dated January 22, 2018

Dear Ms. Sellers:

This letter is in response to your correspondence dated January 22, 2018 concerning the shareholder proposal (the "Proposal") submitted to PNM Resources, Inc. (the "Company") by the Max and Anna Levinson Foundation et al. (the "Proponents") for inclusion in the Company's proxy materials for its upcoming annual meeting of security holders. We also received correspondence from the Max and Anna Levinson Foundation on February 15, 2018. Copies of all of the correspondence on which this response is based will be made available on our website at <http://www.sec.gov/divisions/corpfin/cf-noaction/14a-8.shtml>. For your reference, a brief discussion of the Division's informal procedures regarding shareholder proposals is also available at the same website address.

Sincerely,

Matt S. McNair  
Senior Special Counsel

Enclosure

cc: Charlotte Levinson  
The Max and Anna Levinson Foundation

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March 28, 2018

**Response of the Office of Chief Counsel**  
**Division of Corporation Finance**

Re: PNM Resources, Inc.  
Incoming letter dated January 22, 2018

The Proposal requests that the Company, with board oversight, publish an assessment of the long-term impacts on the Company's portfolio of public policies and technological advances that are consistent with limiting global warming to no more than two degrees Celsius over pre-industrial levels.

We are unable to concur in your view that the Company may exclude the Proposal under rule 14a-8(i)(10). Based on the information you have presented, it does not appear that the Company's public disclosures compare favorably with the guidelines of the Proposal. Accordingly, we do not believe that the Company may omit the Proposal from its proxy materials in reliance on rule 14a-8(i)(10).

Sincerely,

Caleb French  
Attorney-Adviser

**DIVISION OF CORPORATION FINANCE**  
**INFORMAL PROCEDURES REGARDING SHAREHOLDER PROPOSALS**

The Division of Corporation Finance believes that its responsibility with respect to matters arising under Rule 14a-8 [17 CFR 240.14a-8], as with other matters under the proxy rules, is to aid those who must comply with the rule by offering informal advice and suggestions and to determine, initially, whether or not it may be appropriate in a particular matter to recommend enforcement action to the Commission. In connection with a shareholder proposal under Rule 14a-8, the Division's staff considers the information furnished to it by the company in support of its intention to exclude the proposal from the company's proxy materials, as well as any information furnished by the proponent or the proponent's representative.

Although Rule 14a-8(k) does not require any communications from shareholders to the Commission's staff, the staff will always consider information concerning alleged violations of the statutes and rules administered by the Commission, including arguments as to whether or not activities proposed to be taken would violate the statute or rule involved. The receipt by the staff of such information, however, should not be construed as changing the staff's informal procedures and proxy review into a formal or adversarial procedure.

It is important to note that the staff's no-action responses to Rule 14a-8(j) submissions reflect only informal views. The determinations reached in these no-action letters do not and cannot adjudicate the merits of a company's position with respect to the proposal. Only a court such as a U.S. District Court can decide whether a company is obligated to include shareholder proposals in its proxy materials. Accordingly, a discretionary determination not to recommend or take Commission enforcement action does not preclude a proponent, or any shareholder of a company, from pursuing any rights he or she may have against the company in court, should the company's management omit the proposal from the company's proxy materials.

**From:** Charlotte Levinson \*\*\*  
**Sent:** Thursday, February 15, 2018 10:24 AM  
**To:** ShareholderProposals; jsellers@mcguirewoods.com; Blotter, Jimmie;  
patrick.apodaca@pnmresources.com; leonard.sanchez@pnmresources.com; Nicole Lee  
**Subject:** Max & Anna Levinson Foundation Response to PNMR No Action Request

To: U.S. Securities and Exchange Commission  
Division of Corporation Finance  
Office of Chief Counsel  
100 F. Street, N.E.  
Washington, D.C. 20549

From: Charlotte Levinson, President  
The Max and Anna Levinson Foundation  
P.O. Box 6309  
Santa Fe, NM 87502

Re: Response to PNM Resources, Inc. – Request for Exclusion of the 2017 Max and  
Anna Levinson Foundation Shareholder Proposal

February 15, 2018

To All It May Concern,

The Max and Anna Levinson Foundation disputes the contention by PNM Resources, Inc. in its January 22, 2018 "Response" that the Company has already “substantially implemented” the Foundation’s Proposal. Attached please find our response to PNMR’s request. PNMR’s request, and the Max & Anna Levinson Foundation's Shareholder Resolution are also attached for easy reference.

Thank you very much for your consideration.

Yours truly,

Charlotte Levinson

The Max and Anna Levinson Foundation (Proponent) disputes the contention by PNM Resources, Inc. (the Company) in its January 22, 2018 letter to the Office of Chief Counsel (Response) requesting “no action” in response to the Foundation’s November 18, 2017 proxy material proposal (Proposal) that the Company already has “substantially implemented” the Foundation’s Proposal based on the following facts and applicable law and for the following reasons:

**1. Application of the Standard for Exclusion under Rule 14a-8(i)(10).**

The essential purpose of a proxy statement is to provide sufficient information to existing and potential investors in a company to allow them to make informed decisions about matters that may be brought up at annual or special stockholder meetings. As discussed below, the prior Staff applications of the “substantially implemented” test under Rule 14a-8(i)(10) cited in the Company’s Response are inapposite and do not support exclusion of the Foundation’s Proposal because the Company’s particular policies, practices and procedures described in the Company’s Response (i) do not “compare favorably with the guidelines of the proposal” which focus on “the long term impacts on the Company’s portfolio of public policies and technological advances that are consistent with limiting global warming to no more than two degrees Celsius over pre-industrial levels” and (ii) do not satisfy “the essential objective of the proposal,” which is to better inform investors of the investment risks associated with the Company’s existing and currently planned power generation portfolio.

The Company’s existing power generation portfolio includes both “jurisdictional” and non-“jurisdictional” (i.e., “excluded merchant plant”) generation resources owned, leased or purchased (pursuant to power purchase agreements) by the Company’s wholly-owned subsidiaries, Public Service Co. of New Mexico (PNM) and Texas-New Mexico Power Co. (TNMP) (both regulated as “public utilities”). The investment risks associated with the Company’s power generation portfolio also include the Company’s exposure to financing obligations associated a 2016 loan agreement between New Mexico Capital Utility Corp. (PNMCUC), a subsidiary of the Company, and Westmoreland San Juan, LLC (WSJ), described by the Company as a “ring-fenced, bankruptcy remote, special purpose entity” and subsidiary of Westmoreland Coal Co..

According to a PNM letter dated February 1, 2016 to the New Mexico Public Regulation Commission (NMPRC), PNMCUC, created in January 2016, entered into an agreement to loan \$125 million to WSJ to enable WSJ to purchase the San Juan Coal Mine, which is the sole source of (coal) fuel for PNM’s interests in the San Juan Generating Station (SJGS), from BHP Billiton Co. in January 2016. According to the Company’s Form 10-Q Report for the quarterly period ending September 30, 2017 (p. 64), as of that date, “the amount outstanding under the

Westmoreland Loan was \$66.2 million” and that Loan “is secured by the assets of and the equity interests in the San Juan Coal Co. and its affiliate.”

On November 16, 2017, Standard and Poor’s downgraded the credit rating of Westmoreland Coal Co., the parent of WSJ, to “CCC; Negative from CCC+; Negative.” According to S&P Global Market Intelligence on November 17, 2017, Standard and Poor’s rating agency stated: “we estimate the company will likely breach its minimum fixed charge coverage ratio covenant in the next year, which would cause a cross default with its term loan and senior notes” and “gave Westmoreland a negative outlook, reflecting the view that the company could default or pursue a distressed exchange or other restructuring in the next 12 months.”

The Foundation believes these Company matters are relevant to “the essential objective of the proposal” because it is the Company’s (PNMR’s) stock, rather than any stock in PNM or any of PNMR’s other subsidiaries, that is publicly traded and of material interest to shareholders.

## **2. Disclosures and Other Actions by the Company and PNM Relevant to the Foundation’s Proposal Since the SEC Office of Chief Counsel, Division of Corporate Finance’s February 24, 2017 Rejection of the Company’s “No Action Request” Response to the Foundation’s Similar November 16, 2016 Proposal.**

On January 12, 2017, relying on rule 14a-8(i)(10), the Company asked the Division of Corporation Finance (Staff) of the Securities and Exchange Commission (Commission or SEC) to take “no action” on a proposal by the Foundation that was substantially similar to the Foundation’s Proposal at issue for the Company’s 2017 annual shareholders’ meeting (2017 proposal). On February 24, 2017, the Commission’s Office of Chief Counsel rejected that request by the Company.

The Company’s Board thereafter opposed the Foundation’s 2017 proposal. Nevertheless, as shown on the Company’s May 19, 2017 Form 8-K Report to the Commission, at its May 16, 2017 annual shareholders’ meeting, 32,010,935 votes, representing 49.9% of the votes cast, were in favor of that 2017 proposal, which was narrowly defeated by 67,833 votes, less than one per cent of the total votes cast. That vote by the Company’s shareholders in 2017 demonstrates the importance to investors of the matters addressed in the Foundation’s current Proposal.

The Company’s January 22, 2018 Response argues that the Company has “substantially implemented” the Foundation’s current Proposal by taking the following further actions since that May 2017 vote by its shareholders: (i) PNM’s filing, on July 3, 2017, of its 2017 Integrated Resource Plan (2017 IRP) with the NMPRC; (ii) management’s recent publication, “with Board oversight,” of the “Climate Change Report” available at <http://www.pnmresources.com/about-us/sustainability-portal/climate-change-report.aspx>, “that details the significant efforts PNM is making to transition to a coal-free generation portfolio”; (iii) the Company’s public disclosure of “relevant information on its Sustainability Portal, available at

<http://www.pnmresources.com/about-us/sustainability-portal.aspx>; and (iv) PNM's involvement as a participant in the Electric Power Research Institute's as yet not completed "Understanding Climate Scenario and Goal Setting Activities" study (ERPR Study) which, the Company argues, "demonstrates the Company' commitment to analyzing the various effects that its business and operations have on climate change."

As explained below, none of the foregoing disclosures or actions by the Company since the Office of Chief Counsel's February 24, 2017 rejection of the Company's objections to the Foundation's 2017 Proposal and the Company's May 16, 2017 annual shareholders' meeting and vote on that prior Proposal substantially implement the Foundation's current Proposal or compare favorably with its guidelines. As also explained by the Foundation below, since that time, the following events and actions relating to risks to investors associated with PNM's existing and planned power generation portfolio have occurred or remain unresolved and further demonstrate why the Company's "no action" request on the Foundation's Proposal should be rejected:

- Appeals in 2016 by PNM and other parties of the NMPRC's September 28, 2016 Final Order in PNM's 2015 rate case (NMPRC Case No. 15-00261-UT), in which the "prudence" and "reasonableness" of PNM investments in the coal-fired SJGS and costs relating to PNM's continuing reliance on the coal-fired Four Corners Power Plant (FCPP) to serve its New Mexico retail customers remain pending before and unresolved by the New Mexico Supreme Court (NMSC Docket No. 36,115);
- A number of stakeholders have filed protests of PNM's proposed 2017 Integrated Resource Plan (2017 IRP) in a currently pending NMPRC proceeding (Case No. 17-000174-UT), arguing that it fails to satisfy all requirements in the NMPRC's Integrated Resource Plan Rule (17.7.3 NMAC) and therefore should not be "accepted" by the NMPRC as provided in that Rule. This NMPRC case is not scheduled to result in a final NMPRC order addressing those claims until at least the end of June 2018 or later, *after* the Company conducts its 2018 shareholders' meeting;
- On February 6, 2018, New Energy Economy (NEE), an intervenor in PNM's latest (2016) general rate case (Case No. 16-00276-UT), appealed the NMPRC's January 17, 2018 Revised Final Order ("Order on Notice of Acceptance") to the New Mexico Supreme Court challenging the NMPRC's decision in that Order to "vacate" the findings by two NMPRC hearing examiners that PNM's continuing participation and investments in the FCPP were "imprudent" and deferring the issue of the "prudence" of PNM's continuing participation and investments in that coal-fired plant until PNM's next general rate case filing (expected in 2019);
- At PNM's request, legislators have introduced identical "Energy Redevelopment Act" bills (Senate Bill 47 and House Bill 80) at the 2018 Session of the New Mexico Legislature, which began January 16, 2018 and ends on February 17, 2018, which are intended, in part, to insulate PNM and the Company's investors from the risk of not being

able to fully recover PNM's remaining "undepreciated investments" in the SJGS and the FCPP due to past and potential future "imprudent" findings by the NMPRC regarding PNM's investments in those coal-fired plants if and when they are abandoned by PNM for economic reasons as proposed in PNM's proposed 2017 IRP.

**3. The disclosures by the Company in PNM's "proposed" but not yet "accepted" 2017 IRP filed with the NMPRC do not "compare favorably with the guidelines of the proposal" or satisfy "the essential objective of the proposal."**

The disclosures by the Company's subsidiary, PNM, in PNM's "proposed" 2017 IRP filed with the NMPRC on July 3, 2017 do not "compare favorably with the guidelines of the proposal" or satisfy its "essential objective for numerous reasons. First, as noted earlier, the Proposal's "guidelines" are not limited to "public policies and technological advances" extant or anticipated by PNM at the time it finalized its proposed 2017 IRP, in the first half of 2017.

The Proposal's guidelines address *current* public policies and technological advances affecting the generation of electricity and their impacts on the "2 Degree Scenario" goal of the United Nations Framework Convention on Climate Change's Paris Agreement (Paris Agreement) described in the Company's Response. The Proposal's "guidelines" therefore are not limited to PNM's analysis in its proposed 2017 IRP of the impacts of the Clean Air Act (CAA) and the EPA's previously proposed Clean Power Plan (CPP) regulations (subsequently abandoned by the Trump Administration) on the Company's current power generation portfolio and currently planned changes to its power generation portfolio during the four-year "Action Period" (2017-2022) or the twenty-year "planning period" (2017-2036) addressed in PNM's *proposed* 2017 IRP.

This distinction is relevant and significant with respect to the Proposal's "guidelines" because, due to pending litigation challenging the CPP and repeated statements by President Trump and representatives of his administration indicating that his administration intends to repeal the CPP and the U.S. Bureau of Land Management's Methane and Waste Prevention Rule issued in November 2016 and withdraw the United States from the Paris Agreement, there is substantial reason for investors and the SEC to expect today that *decisions by the Company's management* will have a greater impact than provisions in the CAA, the CPP and other federal and state environmental regulations on the consistency of the Company's power generation portfolio with the "2 Degree Scenario" limit and goal of the Paris Agreement going forward. That is to say, from an investor risk perspective, considering the foregoing recent public policy changes announced by the Trump Administration, it is not reasonable for the Company to continue to assess the consistency of its existing and projected power generation portfolio with that 2 Degree Scenario limit by reference solely to the CAA, CPP and other federal environmental regulations in effect or proposed prior to 2018 that were intended to achieve that limit but are not likely to be enforced by the federal government during *at least* the next three years.



From an investor risk perspective, the current likelihood that, under the Trump Administration, the federal government will not enforce those pre-existing federal regulations during the next three years or otherwise attempt to comply with the climate objectives in the Paris Agreement does not eliminate the risk that, as a result of those actions by the federal government, a subsequent presidential administration and Congress may need to implement environmental regulations within the next eight years that establish *even greater restrictions* on greenhouse gas (GHG) emissions from PNM's existing and planned power generation portfolio in order to achieve the 2 Degree Scenario limit addressed in the Paris Agreement.

It is undeniable that PNM's existing ownership and continuing capital investments in the fossil-fueled (coal and natural gas-fired) power generation resources in its resource portfolio that emit GHGs create risks for investors in the Company. For example, the Company's February 29, 2016 SEC Form 10-K for the period ended December 31, 2015 stated (p. A-12): "The profitability of PNM's utilities depends on being able to recover costs through regulated rates and earn a fair return on invested capital. PNM and TNMP are in a period of significant capital expenditures. While increased capital investments and other costs are placing upward pressure on rates, energy efficiency, and a sluggish New Mexico economy are reducing usage by customers."

That Company filing with the SEC (p. A-55) stated further:

Because of PNM's dependence on fossil-fueled generation, legislation or regulation that imposes a limit or cost on GHG could impact the cost at which electricity is produced. While PNM expects to recover any such costs through rates, the timing and outcome of proceedings for cost recovery are uncertain. In addition, to the extent that any additional costs are recovered through rates, customers may reduce their usage, relocate facilities to other areas with lower energy costs, or take other actions that ultimately will adversely impact PNM.

More recently, the Company's Form 10-Q Report to the SEC for the quarterly period ended September 30, 2017 (at pp. 55-56) acknowledged the risks to the Company's investors associated with PNM's continuing reliance on the SJGS and the FCPP in its power generation portfolio even if the remaining participants in those coal-fired plants comply with existing Clean Air Act regulations, as follows:

Although the RA [Restructuring Agreement] results in an agreement among the SJGS participants enabling compliance with current CAA [Clean Air Act] requirements, it is possible that the financial impact of climate change regulation or legislation, other environmental regulations, the result of litigation, and other business considerations, could jeopardize the economic viability of SJGS or willingness of individual participants to continue participation in the plant.

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The Four Corners participants' obligations to comply with EPA's final BART [Best Available Retrofit Technology] determinations, coupled with the financial impact of climate change regulation or legislation, other environmental regulations, and other business considerations, could jeopardize the economic viability of Four Corners or the ability of individual participants to continue their participation in Four Corners.

As noted earlier, the essential objective of the Foundation's Proposal is to better inform investors of the investment risks associated with the current and projected power generation portfolio of the Company, including its wholly-owned subsidiaries. Per the New Mexico Public Utility Act (PUA), NMSA 1978, §§ 62-3-3, 62-6-4, 62-9-1 and 62-17-10, the NMPRC does not regulate non-(New Mexico) "jurisdictional" generation investments or power generation resources that are not used by PNM to provide retail electric service to customers in New Mexico, such as "excluded merchant plant" that PNM can operate to make wholesale sales. The NMPRC's IRP Rule, 17.7.3.9, New Mexico Administrative Code (NMAC), requires public utilities like PNM to only address in their IRPs existing and projected "supply-side and demand-side resources" used to serve their retail service customers in New Mexico. That Rule does not require any disclosures by PNM's holding company, PNMR, and does not require that PNM address in its IRPs the GHG emissions or other climate (2 Degree Limit) effects of "merchant plant" owned and operated by PNM or Texas-New Mexico Power for (wholesale) sales for resale or for retail service to customers in Texas.

The NMPRC's record in Case No. 13-00390-UT shows that, in 2016, in order to keep operating SJGS Units 1 and 4 until at least June 2022, when the latest coal supply contract for those remaining Units expires, PNM acquired an additional 132 MW of capacity of SJGS Unit 4, at no cost from its prior owners but subject to any future liabilities associated with that capacity. Pursuant to paragraph 24 of the "Modified Stipulation" approved by the NMPRC in that case, PNM is "not allowed to recover any undepreciated investment related to the 132 MW of additional capacity, including investment related to the SNCR [Selective Non-Catalytic Converter Reduction] Project."

As also shown by the NMPRC's record in Case No. 13-00390-UT, PNM also acquired an additional 65 MW of capacity from SJGS Unit 4 from its former owners, at no cost to PNM but subject to all future liabilities associated with that capacity, as "excluded merchant plant" because no other remaining participant in the SJGS wanted it and PNM's acquisition of that additional coal-fired generation capacity was necessary to complete the ownership reorganization agreed to by the remaining owners of the SJGS so that PNM could continue operating Units 1 and 4 of the SJGS beyond 2017.<sup>1</sup> Paragraph 20 of that Modified Stipulation approved by the

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<sup>1</sup> NMPRC Case No. 13-00390-UT, sworn prepared July 31, 2015 Supplemental and October 6, 2015 Rebuttal testimonies of PNM witness Chris Olson and sworn prepared August 28, 2015 testimony in support of Supplemental Stipulation by PNM witness Gerard Ortiz. The Company's Form 10-Q Report (p. 55) for the period ended Sept. 30, 2017 reported that PNM has "entered into agreements to sell the power from 36 MW of that capacity to a third party at a fixed price for the period January 1, 2018 through June 30, 2022."

NMPRC in that case states: “the excluded merchant capacity in SJGS Unit 4 may be exchanged for capacity in SJGS Unit 1 if the total amount of excluded merchant capacity does not exceed 65 MW. This paragraph does not prevent PNM from seeking a CCN in the future for any type of additional generating capacity.”<sup>2</sup>

It is indisputable that PNM’s continuing ownership of SJGS Units 1 and 4 and its current plan to continue relying on that coal-fired resource until at least 2022, as stated in its proposed 2017 IRP, continues to expose the Company and its investors to the risk of being unable to recover PNM’s “undepreciated investments” in those plants (including the costs of any future capital investments deemed necessary by the Company to address GHG and other atmospheric emissions from those plants and operate them in an efficient manner) if, as stated in PNM’s proposed 2017 IRP, it would not be prudent for PNM to continue relying on those plans for service to its customers due to the lower costs of alternative energy resources (e.g., renewable energy, energy storage and/or natural gas-fired resources) available to PNM, or for other service-related reasons. It also is indisputable that PNM’s stated plan in its proposed 2017 IRP to continue relying on its ownership interests in the coal-fired FCPP until at least 2031 exposes investors in the Company to similar additional investment recovery risks, including the risk that PNM may be unable to recover the undepreciated costs of any *future* capital investments it makes in those plants to keep them operating in “good working condition” for another fourteen years.

The Company’s Response points out that PNM’s proposed 2017 IRP discloses PNM’s plan to abandon service from its remaining ownership in the SJGS by 2022 and abandon service from its interests in the FCPP in 2031 for service to its New Mexico retail customers based on its determination that doing so would provide long-term cost savings to its customers.<sup>3</sup> The Company’s Response *fails* to point out, however, the following “assumption” and caveat to that plan stated in PNM’s proposed 2017 IRP ( at p.2): “The assessment of coal plant retirements assumes full cost recovery of PNM’s investment in SJGS and Four Corners.”<sup>4</sup> Nor does the Company’s Response or PNM’s *proposed* 2017 IRP explain why, if PNM *already* has determined that it would not be cost-effective for its customers to continue relying on the SJGS beyond 2022 or on the FCPP beyond 2031 considering the availability of more cost-effective resource alternatives to meet its service needs, either of those PNM determinations and plans could change if the NMPRC does not approve PNM’s “full cost recovery” of its remaining undepreciated investments in those plants and a return on them after PNM abandons service from them.

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<sup>2</sup> The full text of the Modified Stipulation filed with the NMPRC on August 13, 2015 and approved by the NMPRC on December 16, 2015 in NMPRC Case No. 13-00390-UT, also referred to in that case as the “Supplemental Stipulation,” is publicly available using the NMPRC’s “Case Lookup EdoCKET” on its website.

<sup>3</sup> 2017 PNM IRP, p. 1 (“Key Findings”).

<sup>4</sup> At least one intervener in NMPRC Case No. 17-00174-UT (New Energy Economy) has protested that “assumption” in PNM’s proposed 2017 IRP.

It is the Foundation's understanding that, under New Mexico and U.S. constitutional law, a public utility like PNM has no regulatory, statutory or constitutional right to recover the entire amount of its remaining (undepreciated) investments in generation plant that is determined to be uneconomic because more cost-effective resource alternatives are available to the utility to meet its service needs, particularly where a regulatory agency has authorized the utility to earn a "return on" its investments in such plants that includes a "risk premium" to compensate investors for that regulatory risk, which has been the NMPRC's historic practice with respect to PNM's investments in the SJGS, the FCPP and PNM's other power generation plants. *See generally Duquesne Light Co. v. Pennsylvania Power Co.*, 488 U.S. 299, 310-13 and n. 7 (1989). It also is the Foundation's understanding that, under applicable New Mexico law (the New Mexico Public Utility Act and NMPRC precedent) and established ratemaking principles adopted by the NMPRC, the NMPRC has authority to deny PNM recovery of or a "return on" investments the NMPRC determines were not "prudent" or "reasonable" in PNM ratemaking proceedings.

In this regard, as noted earlier, in addition to the continuing pending status on appeal of challenges in PNM's 2015 general rate case to the "prudence" and PNM's recovery of its investments in the SJGS and the FCPP before the New Mexico Supreme Court, two other events have occurred since the Office of Chief Counsel's February 24, 2017 rejection of PNM's objections to the Foundation's 2017 proposal that relate to the matters addressed in the Foundation's current Proposal: (i) the NMPRC's issuance on January 17, 2018 of its Revised Final Order ("Order on Notice of Acceptance") in PNM's 2016 general rate case (No. 16-00276-UT) addressing the "prudence" of PNM's continuing participation and investments in the FCPP; and (ii) the introduction, at PNM's request, at the 2018 Session of the New Mexico Legislature of two "Energy Redevelopment Bond Act" bills (SB 47 and HB 80) that would address PNM's recovery of its undepreciated investments in coal-fired plants that it abandons for service to its New Mexico retail service customers within twelve years of the effective date of that Act, if it is enacted. Neither of those recent developments is addressed in the Company's Response.

The NMPRC's Revised Final Order in Case No. 16-00276-UT is relevant to the Foundation's Proposal because it provides that, instead of adopting the finding by two of the NMPRC's hearing examiners that PNM's continuing participation and investments in the FCPP were "imprudent," the NMPRC "vacated" those findings in response to PNM's objections to them in order to obtain the rate benefits of the settlement proposed in that case and expressly *deferred* addressing the issue of the "prudence" of PNM's continuing participation and investments in that coal-fired plant until PNM's next general rate case filing (expected in 2019). NEE appealed that NMPRC Final Order to the New Mexico Supreme Court on February 6, 2018. Based on the timing of its past decisions on such appeals, a decision by that Court in that appeal is not expected until 2019, at the earliest.

Regardless of the outcome of that appeal of the NMPRC's Final Order in Case No. 16-00276-UT, the NMPRC's express *deferral* of a ruling on the "prudence" of PNM's continuing participation and investments in the FCPP appears to provide clear notice to PNM, the

Company's management and its investors that PNM's ability to recover past and future undepreciated investments in that coal-fired plant in future rate cases remains at risk. None of the Company disclosures described in its Response address that risk and its relationship to the guidelines of the Foundation's Proposal.

On or about January 2, 2018, SB 47 and HB 80, entitled "Energy Redevelopment Bond Act" (ERBA), were filed at the 2018 Session of the New Mexico Legislature at PNM's request. One of the apparent purposes of those Bills is to legislatively protect PNM and the Company's investors from exposure to the risk that PNM may not be able to recover all of its past or future undepreciated investments in the SJGS and the FCPP and other associated costs (e.g., for decommissioning of those plants and PNM's share of reclamation of the mines that provide coal to those plants, etc.) from its retail service customers when PNM abandons service from those plants, as proposed in PNM's proposed 2017 IRP for "economic" reasons, if the NMPRC were to find that any of those investments were not "prudent" and "reasonable." Those Bills would do so by legislatively removing the NMPRC's authority and discretion under existing New Mexico law to deny PNM recovery of undepreciated investments in those coal-fired plants and an "energy redevelopment bond"-based return on those investments based on potential future "imprudence" findings if PNM requests a "financing order" pursuant to that legislation to finance its recovery of those investments and other costs defined in those Bills as "energy redevelopment costs."

A January 18, 2018 "Agency Bill Analysis" of SB 47 by the NMPRC's Utility Division Staff for the New Mexico Legislature's Legislative Finance Committee and the New Mexico Department of Finance also addressed the possibility that, if the proposed ERBA legislation is enacted, it could have a negative impact on the "return on equity" the NMPRC authorizes for PNM in the future if PNM requests one or more "financing orders" authorized by the legislation, thereby exposing the Company's investors to that risk. That Bill Analysis by the NMPRC's Staff noted (at p. 7) that this legislation (as initially filed) would remove or diminish the NMPRC's existing authority under the Public Utility Act to strike a "proper balance between the interests of all ratepayers and all investors" (emphasis in original) in the ratemaking process and that:

If recovery of all investment was guaranteed, shareholders would not be incurring any risk, *and therefore there would be no reason to set rates with a profit component that includes any risk premium, as rates are so set.* This profit component to shareholders is the Return on Equity which is weighted by the equity component of a utility's capital structure when calculating the WACC [weighted average cost of capital]. (Emphasis added).

Additional provisions in proposed SB 47/HB 80 would require that PNM satisfy *new* minimum "clean energy resources" percentages of its "total retail sales to its customers" (40% by 2025 and 50% by 2030) that are *substantially higher* than the "renewable portfolio standard"

percentage applicable to PNM (and other investor-owned electric utilities in New Mexico) required by the New Mexico Renewable Energy Act (currently 15%, scheduled to increase to 20% in 2020). If such new renewable energy requirements are enacted in 2018 as part of that proposed legislation, it is the Foundation's understanding that would likely constitute a "material event that would have the effect of changing the results of" PNM's proposed 2017 IRP and require changes to that plan, pursuant to the NMPRC's IRP Rule, 17.7.3.10 NMAC. Moreover, it is the Foundation's understanding that such a "material event" would likely result in one or more parties in pending NMPRC Case No. 17-00174-UT (addressing PNM's proposed 2017 IRP) requesting that the NMPRC "stay" the June 2018 public hearing and the rest of the current procedural schedule in that case until PNM addresses the extent to which those new renewable energy requirements change the results of its *proposed* 2017 IRP.

Another provision in proposed SB 47/HB 80 would prohibit the NMPRC from disallowing "full recovery of any costs of, or investments in" any of PNM's "existing generation" based on an NMPRC finding that complying with the higher minimum "clean energy resources" requirements in the Bills renders that existing generation "uneconomic." The apparent purpose of that provision in those Bills is to protect the Company's investors against the risk that PNM will be unable to fully recover its costs associated with its past and future investments in its existing nuclear generation from the Palo Verde Nuclear Generating Station, and possibly other "existing generation" in its resource portfolio, if it is required to comply with those higher "clean energy resources" requirements.

It is the Foundation's understanding that proposed SB 47/HB 80 was not passed by the New Mexico Legislature before it adjourned on February 15, 2018. Regardless of whether SB similar legislation is proposed by PNM and enacted in the future, such legislation appears to be based on the Company's recognition that recent past and possibly further investments by PNM in the SJGS and FCPP expose the Company's shareholders to the risk that PNM may not be able to recover those investments or a return on them based on PNM's NMPRC-authorized return on equity if and when PNM requests the NMPRC's authority to do so.

Moreover, the Foundation is aware that at least one stakeholder (New Energy Economy) already has communicated by letter to New Mexico legislators that, if the ERBA legislation proposed by PNM at the 2018 Session of the New Mexico Legislature or similar legislation is enacted in the future with similar investment recovery provisions to those described earlier, NEE intends to challenge that legislation in court as being in violation of Article IV, Section 34 of the New Mexico Constitution (which provides: "No act of the legislature shall affect the right or remedy of either party, or change the rules of evidence or procedure in any pending case") due to the cases pending before the New Mexico Supreme Court in which PNM's right to recover its investments in the SJGS and FCPP are at issue. It therefore appears to the Foundation that, even if this sort of coal-fired plant cost recovery legislation is enacted into law in New Mexico in 2019, that legislation may not insulate the Company's investors from these investment risks if its constitutionality is challenged in court and that legal challenge is ultimately successful.

As a matter of applicable (New Mexico) law, there also is no evidence that PNM (or the Company) reasonably assessed in its *proposed* 2017 IRP, which has not yet been “accepted” by the NMPRC as being fully compliant with the NMPRC’s IRP Rule (17.7.3 NMAC), “the long-term impacts on the Company’s portfolio of public policies and technological advances that are consistent with limiting global warming to no more than two degrees Celsius over pre-industrial levels,” as proposed in the Foundation’s Proposal. The distinct “objective” of the NMPRC IRP Rule, as stated in 17.7.3.6 NMAC, is as follows:

The purpose of this rule is to set forth the commission’s requirements for the preparation, filing, review *and acceptance* of integrated resource plans by public utilities supplying electric service in New Mexico *in order to identify the most cost effective portfolio of resources to supply the energy needs of customers*. For resources whose cost and service quality are equivalent, the utility should prefer resources that minimize environment impacts. (Emphasis added).

As stated in that NMPRC IRP Rule, its purpose is focused on the cost-effectiveness of an electric utility’s resource portfolio, rather than on its consistency with the “2 Degree Scenario” goal and limit in the Paris Agreement. The criteria for compliance with that NMPRC Rule therefore is not the same as the criteria set forth in the Foundation’s Proposal.

To accomplish the “objective” stated in 17.7.3.6 NMAC, two sections of the NMPRC’s IRP Rule, codified at 17.7.3.9.F and G NMAC, require that the IRPs proposed by regulated public utilities identify and “consider all feasible supply-side and demand-side resources” and identify its “most cost-effective resource portfolio” by evaluating “all feasible supply and demand-side resource options on a consistent and comparable basis, and take into consideration risk and uncertainty (including but not limited to financial, competitive, reliability, operational, fuel supply, price volatility and anticipated environmental regulation)” and “evaluate the cost of each resource through its projected life with a life-cycle or similar analysis” and “consider and describe ways to mitigate ratepayer risk.” Pursuant to 17.7.3.12.A NMAC in that IRP Rule, the NMPRC is required to review a public utility’s “*proposed* IRP for compliance with the procedures and objectives set forth therein.” (Emphasis added).

That section of the NMPRC’s IRP Rule, which applies to PNM’s proposed 2017 IRP, provides further:

The commission may accept the *proposed* IRP as compliant with this rule without hearing, unless a protest is filed that demonstrates to the commission’s reasonable satisfaction that a hearing is necessary. Protests must be filed within thirty (30) days of the filing of the *proposed* IRP. If the commission has not acted within forty-five (45) days after the filing of the *proposed* IRP, that IRP is deemed *accepted as compliant with this rule*. If the commission determines the *proposed* IRP does not comply with the

requirements of this rule, the commission will identify the deficiencies and return it with the utility with instructions for re-filing. (Emphasis added).<sup>5</sup>

Pursuant to the foregoing plain language in the NMPRC's IRP Rule, if timely protests of a public utility's "proposed" IRP are filed, there is no legal determination that, as proposed, it complies with the requirements in the Rule unless the NMPRC issues an order determining such compliance. As shown by the NMPRC's publicly available records in Case No. 17-00174-UT, timely protests of PNM's *proposed* 2017 IRP were filed by a number of stakeholders.

As further shown by the NMPRC's public record in Case No. 17-00174-UT, on August 16, 2017, the NMPRC issued an Initial Order in that case determining (§ 10) that the protests filed demonstrated to the reasonable satisfaction of the NMPRC that a hearing was "necessary to determine whether PNM's proposed 2017 IRP is in compliance with Rule 17.7.3" and "[a]ccordingly the Commission should not accept the proposed IRP as compliant with Rule 17.7.3 at this time and this matter should be referred to a hearing examiner." The NMPRC's publicly available record in Case No. 17-00174-UT shows that, on January 29, 2018, the Hearing Examiner assigned to that case issued her "Second Procedural Order" setting a public hearing on PNM's proposed 2017 IRP for June 4, 2018. It therefore is clear that the NMPRC will not determine whether PNM's proposed 2017 IRP should be "accepted" as compliant with the NMPRC's IRP Rule until *after* PNM's conducts its 2018 annual shareholders' meeting where the Foundation is asking the Company's management to present the Proposal at issue here.

PNM's proposed 2017 IRP also does not address the risk to the Company's investors associated with its subsidiary PNMCUC's \$125 million loan to WSJ (described by PNM as a "ring-fenced, bankruptcy remote, special purpose entity" and subsidiary of Westmoreland Coal Co.) in January 2016 to enable WSJ to purchase the San Juan Coal Mine, which is the sole source of (coal) fuel for the SJGS, from BHP Billiton Co. after Westmoreland Coal Co. was unable to finance that purchase, as described by PNM in NMPRC Case No. 13-00390-UT, to allow the SJGS to continue operating beyond 2017. The facts that (i) the Westmoreland Coal Co. was unable to finance that coal mine acquisition as previously represented by PNM to the NMPRC in that case and (ii) the Company had to form a new subsidiary (PNMCUC) in January 2016 to borrow funds to loan to WSJ, a loan guaranteed by the Company, in order to allow WSJ to complete that purchase and allow PNM to continue operating the SJGS attest to the substantial investment risks associated with PNM's continuing investments in the coal-fired SJGS.

On March 31, 2016, NEE filed a formal Complaint with the NMPRC, docketed as Case No. 16-00078-UT, requesting that the Commission investigate that PNMCUC loan and its potential impact on PNM's customers. As shown by the NMPRC's publicly available record in Case No. 16-00078-UT, on May 4, 2016, PNM filed an Answer to that Complaint opposing the relief requested, arguing, *inter alia*, that (i) PNM had no knowledge or reason to believe that Westmoreland Coal Co. would not be able to satisfy its previously stated contractual obligation to purchase the San Juan Coal Mine while Case No. 13-00390-UT was pending and (ii) PNMCUC's \$125 million loan to WSJ, funded by The Bank of Tokyo-Mitsubishi and "guaranteed by PNMR," did not involve or affect PNM. As shown in the NMPRC's docket in

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<sup>5</sup> The NMPRC amended this Section of its IRP Rule on January 10, 2018 in a rulemaking proceeding, Case No. 17-00198-UT. As PNM acknowledged in that case, however, because NMPRC rule changes operate prospectively and not retroactively, those changes do not apply to PNM's previously filed proposed 2017 IRP.



that case, the NMPRC has conducted no investigation of that loan transaction or its potential effect on PNM's cost of capital or investors in the Company to date in that Complaint docket or in any other manner.

For all of these reasons and as a matter of New Mexico law, PNM's *proposed* 2017 IRP has not been determined by the NMPRC to be compliant with its IRP Rule to date. Therefore there is no factual basis supporting the Company's claim that PNM's *proposed* 2017 IRP is reliable or, more importantly, that it presented assessments that "substantially implemented" the Foundation Proposal at issue here.

**4. The Company's publication of the "Climate Change Report" on its website also does not "compare favorably with the guidelines of the proposal" or satisfy "the essential objective of the proposal."**

The Company's recent publication of the "Climate Change Report" on its website cited in its Response also does not compare favorably with the guidelines of the Foundation's Proposal or satisfy the Proposal's essential objective. On the contrary, although that Report begins by acknowledging that "[c]limate change continues to pose risk and demand answers," it is more of a public relations effort justifying past and current planning decisions by PNM's management than the sort of "assessment of the long-term impacts on the company's portfolio of public policies and technological advances that are consistent with limiting global warming to no more than two degrees Celsius over pre-industrial levels" requested in the Foundation's Proposal.

For example, the Company states in that Report: "We have made, and continue to make, significant investments to reduce the environmental impact of delivering power while minimizing the cost to our customers," citing the 40% reduction of PNM's annual CO<sub>2</sub> emissions "over 2012 levels" expected to result from its abandonment and closure of two units of the SJGS at the end of 2017 and its expectation that, by 2030, it will "achieve an annual reduction of approximately 60 percent in CO<sub>2</sub> emissions "over 2012 levels." In support of that 2030 "expectation," the Company cites its plan in its proposed 2017 IRP to "completely exit coal generation by 2031."

There are a number of problems with these Company claims relative to the Foundation's Proposal. First, PNM's "2012 level" of annual CO<sub>2</sub> emissions is not the same as the "two degrees Celsius over pre-industrial levels" objective of the Paris Agreement. Second, the Company's Climate Change Report ignores the fact that, in 2012 and 2013, PNM decided to ask the NMPRC for authority to continue operating Units 1 and 4 of the SJGS *for an indefinite time period* beyond 2017 (which it received in December 2015 in NMPRC Case No. 13-00390-UT) and, as noted earlier, continued thereafter to make substantial additional investments in those plants to keep operating them, some of which the NMPRC subsequently found to be "imprudent" in NMPRC Case No. 15-00261-UT, currently on appeal before the New Mexico Supreme Court.

The Company's Climate Change Report" relies principally on PNM's *proposed* 2017 IRP, addressed earlier. As noted earlier, however, PNM's proposed 2017 IRP states that PNM plans to continue relying on its remaining 497 MW ownership interest in the SJGS until 2022 and on its 200 MW ownership interest in the FCPP until 2031, with the "assumption" and caveat that the NMPRC authorizes PNM's "full cost recovery" of its then remaining undepreciated

investments in those plants and a return on those investments (which, as noted earlier, appears to be one of the principal objectives of its proposed SB 47/HB 80 “ERBA” legislation).

Neither PNM nor the Company has definitively agreed to abandon service from either of those coal-fired plants by those years if such “full cost recovery” by PNM is *not* authorized by the NMPRC (or required by the proposed ERBA legislation). Moreover, nothing in that proposed legislation requires that PNM cease operating Units 1 and 4 of the SJGS (including the 65 MW of “excluded merchant plant” PNM owns and is currently operating for sales in the wholesale power market) or precludes PNM from using its ownership interest in the FCPP to make sales in the wholesale power market after it abandons service from those coal-fired plants for its New Mexico retail service customers.

The Company’s Climate Change Report states that, if PNM “completely” exits coal generation by 2031, that “will result in PNM operations surpassing the carbon reduction standard of 32 percent established in EPA’s 2015 Clean Power Plan.” There is no current federal or state requirement, either in the 2015 CPP, which the Trump Administration has indicated it will not implement, or elsewhere that PNM “completely” exit coal generation by 2031. Moreover, as noted earlier, PNM’s proposed abandonment of the SJGS and FCPP by 2031 to serve its New Mexico retail customers does not necessarily prevent PNM from using those coal-fired resources thereafter to sell power in the wholesale power market.

The Company’s Climate Change Report states further that the plan in its proposed 2017 IRP, “which includes maintaining the existing carbon-free nuclear capacity in PNM’s resource portfolio, has the lowest carbon emission projections (in addition to being the most cost-effective) of the many scenarios considered.” As noted earlier, however, PNM’s proposed 2017 IRP states PNM’s current plan to keep relying on its coal-fired SJGS and FCPP resources until at least 2022 and 2031, respectively, or possibly longer if the NMPRC does not approve “full cost recovery” of its remaining investments in those plants.

As also noted earlier, in PNM’s 2015 rate case (No. 15-00261-UT), the NMPRC found that PNM’s decision in 2012 to purchase one of its leased interests in the Palo Verde Nuclear Generating Station was not “prudent.” That case, which is currently pending on appeal before the New Mexico Supreme Court, exposes PNM’s plan in its proposed 2017 IRP to continue relying on its existing nuclear capacity to meet its “carbon emission projections” by 2031 to further risk. As also noted earlier, PNM’s proposed ERBA legislation in the 2018 Session of the New Mexico Legislature contains a provision that quite clearly is intended to address the risk that, if the higher “clean energy resource” requirements for PNM in that legislation are enacted, some or all of PNM’s existing nuclear capacity may become “uneconomic” and expose PNM to the risk of not being able to recover its undepreciated investments in those nuclear resources.

The Company’s Climate Change Report states further that the plan in its proposed 2017 IRP “would result in a diverse portfolio of renewables, gas generation and potentially energy storage” that “would provide the best balance of cost and reliability, and would result in a significant reduction in the environmental impact associated with supplying energy.” PNM’s proposed “most cost-effective portfolio” in its proposed 2017 IRP, however, does *not* include *any* “energy storage” resources during the 20-year (2017-2036) “planning period” addressed in that IRP. Moreover, though PNM’s “Four-Year Action Plan” in its proposed 2017 IRP (pp. 147-149) states that PNM will “refine” that plan based on the results of an RFP requesting proposals

to replace the SJGS if PNM abandons service from that plant in 2022 (that PNM subsequently issued on October 30, 2017), to date, PNM has not requested NMPRC approval of its procurement of *any* new energy storage resources it may need as a result of that SJGS abandonment.

PNM's current plan to not procure any new energy storage resources in its resource portfolio, at least for the next four years, is relevant to the "technological advances" element of the Foundation's Proposal for the following reasons. It is the Foundation's understanding, based on recent information provided to the NMPRC and publicly available data that, as electric utilities like PNM incorporate more "variable" renewable energy resources (e.g., solar and wind) into their generation portfolios, it is increasingly more cost-effective for them to rely more on "flexible" resources, such as natural gas-fired peaking plants and energy storage, than on coal-fired or nuclear resources that provide inflexible "base load" capacity. It also is the Foundation's understanding that the cost of utility-scale energy storage resources is continuing to decline and becoming more competitive compared to new gas-fired plants that typically have relatively low "capacity factors" (i.e., that are needed less frequently than generating plants that provide "base load" or "intermediate" capacity).

PNM's current plan to not procure any new energy storage resources in its resource portfolio, at least for the next four years, also is relevant to the "technological advances" element of the Foundation's Proposal because of the substantial criticism PNM recently has received at the NMPRC (e.g., in Case No. 17-00174-UT in response to its proposed 2017 IRP) and at the New Mexico Legislature (in response to its proposed ERBA legislation) that PNM's plans are driven more by its management's objective to maximize the Company's earnings by acquiring ownership of new gas-fired and solar resources than by the objective of providing "the best balance of cost and reliability" that would maximize its ability to reduce the GHG emissions of its resource portfolio and achieve the "no more than two degrees Celsius over pre-industrial levels" goal of the Paris Agreement.

The Foundation also is concerned about the reliability of the statement at the end of the Company's Climate Change Report that "[i]n order to accomplish meaningful results, we will be working to partner even more closely with our stakeholders." The Foundation would agree that "real change is possible" if the Company and PNM "partner even more closely with our stakeholders."

It does not appear to the Foundation, however, that the Company and PNM have taken such a collaborative approach with PNM's principal customer, regulatory, environmental and power supply stakeholder representatives with respect to its recently proposed ERBA legislation, described earlier. Over the past few weeks, the Foundation has received reliable reports that PNM has *not* included many of those representatives, including representatives of the Office of the New Mexico Attorney General (which represents the interests of PNM's residential and small commercial customers), the Utility Division Staff of the NMPRC, some of PNM's large industrial, water utility and tribal customers, some environmental groups or independent power producers in meaningful discussions addressing the substance and drafting of that legislation. The Foundation finds those reports disturbing, not only because they contradict the foregoing statement in the Company's Climate Change Report, but also because the Foundation believes the Company's failure to "partner closely" with those stakeholders regarding that legislation is inimical to the concerns in and objective of the Foundation's Proposal.

**5. The Company’s disclosures on its “Sustainability Portal” on its web site also do not “compare favorably with the guidelines of the proposal” or satisfy “the essential objective of the proposal.”**

The Company’s Response (p. 6) also argues vaguely that information on its “Sustainability Portal” on its web site complies favorably with the guidelines of the Foundation’s Proposal and satisfies the essential objective of the Proposal, claiming that it “covers a wide variety of environmental and climate-change related topics applicable to the Company, including a discussion on the Company’s efforts to in relation to the Clean Power Plan and details on the Company’s historic and perspective GHG emissions reductions.” The Company argued similarly in its objections to the Foundation’s last (2017) proposal.

The Foundation’s review of the information posted on that Company “Portal,” including the information addressing “PNM’s Regional Haze Plan” quoted in the Company’s Response, indicates that it simply repeats or summarizes conclusory statements in PNM’s *proposed* 2017 IRP that has not been accepted by the NMPRC as compliant with its IRP Rule to date, with little if any current analysis of the specific matter addressed in the Foundation’s Proposal. The information provided there does not appear to supplement or update the information provided in PNM’s proposed 2017 IRP regarding the guidelines in the Proposal in any substantial way considering PNM’s most recent load forecasts and the developments that have occurred since PNM’s 2017 annual shareholders’ meeting, described earlier.

For the reasons addressed earlier, PNM’s proposed but not yet NMPRC-“accepted” 2017 IRP, as supplemented by the information provided on the Company’s Sustainability Portal does not “substantially implement” the Foundation’s Proposal.

**5. PNM’s “participation” in the ERPRI Study also does not “compare favorably with the guidelines of the proposal” or satisfy “the essential objective of the proposal.”**

The Company’s Response (p. 6) also argues that “PNM’s involvement with the EPRI Study further demonstrates the Company’s commitment to analyzing the various effects that its business and operations have on climate change” and therefore compares favorably with the guidelines of the Foundation’s Proposal and help satisfy its “essential objective.” The Foundation respectfully disagrees.

The Foundation is aware that Ms. Pat Vincent-Collawn, C.E.O and President of the Company, currently serves as the chair of the EPRI Board of Directors, and therefore may have some influence on the results of that EPRI Study. The Company’s Response, however, acknowledges that neither the EPRI Study nor its potential application to PNM has been completed or determined to date, stating: “Once the technical research is completed and an evaluation specific to PNM is developed, PNM will revisit relevant assessments of its generation portfolio and provide additional disclosures on its Sustainability Portal.” Neither the Company’s reference to such an uncompleted ERPRI Study as applied to PNM’s generation portfolio nor the Company’s promise to provide “additional disclosures” regarding the results of that study

“compares favorably with the guidelines” of the Foundation’s Proposal or satisfies “the essential objective” of its Proposal.

**6. The disclosures described in the Company’s Response also fall far short of the December 2016 Recommendations of the Task Force on Climate-related Financial Disclosures.**

Clearly other companies who received the same request captured in the resolution understood the thrust of the proposal and responded accordingly. In Europe Statoil, BP and Shell have responded to this specific request and most recently ExxonMobil issued their report in response to the same resolution PNM voted on in 2017. In addition so you can see the careful level of detail and responsiveness by a number of companies we have provided links to several positive reports. In all these cases the reports are responsive, while the 4 page PNM brochure deals with a series of different issues related to climate change ignoring the central thrust of the resolution.

For reference and comparison, the best report for TCFD compliance that we’ve seen is Marathon Petroleum’s: [http://www.marathonpetroleum.com/content/documents/investor\\_center/fact\\_books/2017\\_Climate\\_Related\\_Scenarios.pdf](http://www.marathonpetroleum.com/content/documents/investor_center/fact_books/2017_Climate_Related_Scenarios.pdf) Ceres calls it out as leader and game-changing report, as well.

Some others:

- **Suncor** is good at laying out various scenarios and the potential impacts, as well as addressing governance structure:  
<https://sustainability.suncor.com/2017/pdf/Climate-Report-EN.pdf>  
<https://sustainability.suncor.com/2017/en/economy/managing-enterprise-risk.aspx>
- **Eni** has articulated its “path to decarbonization” because it “recognizes the need to keep global warming below 2° C above pre-industrial levels by the end of the century and intends to play a leading role in the energy transition process, in accordance with the objectives of the Paris Agreement. For this reason Eni pursues a climate strategy that is integrated with the business model. In addition to reducing direct emissions, this involves developing renewable sources along with natural gas, which has a central role in the conventional hydrocarbon portfolio, and R&D investments to contain indirect emissions.” Good discussion of governance, too.  
[https://www.eni.com/en\\_IT/sustainability/climate-change-and-new-forms-of-energy/governance-and-risk-management.page](https://www.eni.com/en_IT/sustainability/climate-change-and-new-forms-of-energy/governance-and-risk-management.page)  
[https://www.eni.com/docs/en\\_IT/enicom/sustainability/path-to-decarbonization\\_EniFor-ENG-2016.pdf](https://www.eni.com/docs/en_IT/enicom/sustainability/path-to-decarbonization_EniFor-ENG-2016.pdf)

For the foregoing reasons, the Company’s request that the SEC exclude the Foundation’s Proposal from PNM’s 2018 Proxy Materials should be denied. The current, up-to-date Company assessment requested in the Foundation’s Proposal is necessary and appropriate to allow existing and potential investors in the Company to make informed decisions about the risks associated with the Company’s existing and currently planned future reliance on fossil-fueled power generation resources to the extent those resources produce emissions that are inconsistent with

limiting global warming to more than two degrees Celsius over pre-industrial levels, as articulated in the Paris Agreement.

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McGUIREWOODS

January 22, 2018

VIA E-MAIL (shareholderproposals@sec.gov)

U.S. Securities and Exchange Commission  
Division of Corporation Finance  
Office of Chief Counsel  
100 F. Street, N.E.  
Washington, D.C. 20549

Re: PNM Resources, Inc. – Exclusion of Shareholder Proposal Submitted by The Max and Anna Levinson Foundation Pursuant to Rule 14a-8

Ladies and Gentlemen:

On behalf of our client PNM Resources, Inc., a New Mexico corporation (the “Company”), we hereby respectfully request that the staff of the Division of Corporation Finance (the “Staff”) of the Securities and Exchange Commission (the “Commission” or “SEC”) advise the Company that it will not recommend any enforcement action to the SEC if the Company omits from its proxy materials to be distributed in connection with its 2018 annual meeting of shareholders (the “Proxy Materials”) a proposal (the “Proposal”) and supporting statement submitted to the Company dated November 8, 2017 by The Max and Anna Levinson Foundation (the “Foundation” or “Proponent”), and by Miller/Howard Investments, Inc. on behalf of Helen Hamada and Lowell G. Miller (as a co-proponent) (the “Co-Filer”). References to a “Rule” or to “Rules” in this letter refer to rules promulgated under the Securities Exchange Act of 1934, as amended (the “Exchange Act”).

Pursuant to Rule 14a-8(j), we have:

- filed this letter with the SEC in accordance with the deadline specified in Rule 14a-8(j); and
- concurrently sent a copy of this correspondence to the Foundation and the Co-Filer.

The Company anticipates that its Proxy Materials will be available for mailing on or about April 10, 2018. We respectfully request that the Staff, to the extent possible, advise the Company with respect to the Proposal consistent with this timing.

The Company agrees to forward promptly to the Foundation and the Co-Filer any response from the Staff to this no-action request that the Staff transmits by e-mail or facsimile to the Company only.

Rule 14a-8(k) and Staff Legal Bulletin No. 14D (“SLB 14D”) provide that shareholder proponents are required to send companies a copy of any correspondence that the proponents elect to

submit to the SEC or Staff. Accordingly, we are taking this opportunity to inform the Proponent and the Co-Filer that if the Proponent or Co-Filer elects to submit additional correspondence to the SEC or the Staff with respect to the Proposal, a copy of that correspondence should be furnished concurrently to the undersigned on behalf of the Company pursuant to Rule 14a-8(k) and SLB 14D.

### **THE PROPOSAL**

The Proposal states:

“RESOLVED: Shareholders request that PNM, with board oversight, publish an assessment (at reasonable cost and omitting proprietary information) of the long term impacts on the company’s portfolio, of public policies and technological advances that are consistent with limiting global warming to no more than two degrees Celsius over pre-industrial levels.”

A copy of the Proposal and supporting statement, as well as the related correspondence regarding the Proposal with the Proponent and the Co-Filer, is attached to this letter as Exhibit A.

### **BASIS FOR EXCLUSION**

The Company believes that the Proposal may be properly excluded from the Proxy Materials pursuant to Rule 14a-8(i)(10) because the Proposal has been substantially implemented by the Company, which has addressed the subject matter of the Proposal in recent and previous reports and public disclosures.

### **DISCUSSION**

**Rule 14a-8(i)(10) – the Proposal may be excluded because the Company has already substantially implemented the proposal.**

#### *A. Background*

Rule 14a-8(i)(10) permits a company to exclude a shareholder proposal from its proxy materials if the company has substantially implemented the proposal. The SEC’s view of the purpose of this exclusion was stated with respect to the predecessor to Rule 14a-8(i)(10): the rule was “designed to avoid the possibility of shareholders having to consider matters which already have been favorably acted upon by the management.” SEC Release No. 34-12598 (July 7, 1976). To be excluded, the proposal does not need to be implemented in full or exactly as presented by the proponent. Instead, the standard for exclusion is substantial implementation. Exchange Act Release No. 40018 (May 21, 1998) (the “1998 Release”).

The Staff has stated that, in determining whether a shareholder proposal has been substantially implemented, it will consider whether a company’s particular policies, practices, and procedures “compare favorably with the guidelines of the proposal.” *Oshkosh Corp.* (Nov. 4, 2016); *NetApp, Inc.* (June 10, 2015); *Peabody Energy Corp.* (Feb. 25, 2014); *Medtronic, Inc.* (June 13, 2013); see, e.g., *Starbucks Corp.* (Nov. 27, 2012), *Whole Foods Market, Inc.* (Nov. 14, 2012), and *Texaco, Inc.* (Mar. 28, 1991). The Staff has permitted companies to exclude proposals from their proxy materials pursuant to Rule 14a-8(i)(10) where a company satisfied the essential objective of the proposal, even if the company did not take the exact action requested by the proponent or implement the proposal in every detail or if the company exercised discretion in determining how to implement the proposal. See, e.g., *Cisco Systems, Inc.* (Sept. 27, 2016) (allowing exclusion under Rule 14a-8(i)(10) of a proxy access proposal despite its including eligibility criteria distinguishable from those in the company’s existing proxy access bylaw); *Walgreen Co.* (Sept. 26, 2013) (allowing exclusion under Rule 14a-8(i)(10) of a proposal requesting an amendment to the company’s organizational documents that would eliminate all super-majority vote requirements, where such company



eliminated all but one such requirement); and *Johnson & Johnson* (Feb. 19, 2008) (allowing exclusion under Rule 14a-8(i)(10) of a proposal requesting that the company's board of directors amend the bylaws to permit a "reasonable percentage" of shareholders to call a special meeting where the proposal states that it "favors 10%" and the company planned to propose a bylaw amendment requiring at least 25% of shareholders to call a special meeting). See also, e.g., *Hewlett-Packard Co.* (Dec. 11, 2007), *Anheuser-Busch Cos., Inc.* (Jan. 17, 2007) and *Bristol-Myers Squibb Co.* (Mar. 9, 2006). Further, when a company can demonstrate that it has already taken actions to address each element of a shareholder proposal, the Staff has concurred that the proposal has been "substantially implemented." See, e.g., *WD-40 Co.* (Sept. 27, 2016); *Oracle Corp.* (Aug. 11, 2016); *Exxon Mobil Corp.* (Mar. 17, 2015); *Deere & Co.* (Nov. 13, 2012); *Exxon Mobil Corp.* (Mar. 23, 2009); *Exxon Mobil Corp.* (Jan. 24, 2001); and *The Gap, Inc.* (Mar. 8, 1996).

The Staff has allowed other similar proposals calling for reports to be excluded where companies could show that they were already issuing reports similar to those the proponents were requesting. For example, in *Dominion Resources, Inc.* (Feb. 9, 2016), the Staff allowed the company to exclude a proposal requesting a report on how the company measures, mitigates, sets reduction targets, and discloses methane emissions, which exclusion was granted because the public disclosures made in the company's Methane Management Report 2015 "compare[d] favorably with the guidelines of the proposal." See also *Dominion Resources, Inc.* (Feb. 5, 2013) (allowing the Company to exclude a proposal requesting a report on the Company's plans for deploying wind turbines for utility scale power generation off the Virginia and North Carolina coasts because the Company already made similar disclosures pursuant to state regulatory reporting requirements); *Dominion Resources, Inc.* (Jan. 24, 2013) (allowing the Company to exclude a shareholder proposal seeking a report on increasing energy efficiency based on disclosures made in annual reports filed with state regulatory authorities). Similarly, in *Exxon Mobil Corp.* (Mar. 23, 2007), the proponent requested a report on the company's response to rising regulatory, competitive and public pressure to develop renewable energy technologies and products. Exxon was able to demonstrate that it had communicated with its shareholders on topics of renewable energy and greenhouse gas emissions through a number of venues, including executive speeches and a report available on its website. The Staff allowed Exxon to exclude the proposal in reliance on Rule 14a-8(i)(10). For similar results, see also *Entergy Corp.* (Feb. 14, 2014) (requesting the board prepare a report on policies the company could adopt and near-term actions it could take to reduce greenhouse gas emissions); *Abercrombie & Fitch Co.* (Mar. 28, 2012) (requesting that the board prepare a sustainability report that includes strategies to reduce greenhouse gas emissions, addresses energy efficiency measures as well as other environmental and social impacts, such as water use and worker safety); *MGM Resorts International* (Feb. 28, 2012) (requesting that the board issue a sustainability report to shareholders); *Duke Energy Corp.* (Feb. 12, 2012) (requesting that the board assess actions the company is taking or could take to build shareholder value and reduce greenhouse gas and other air emissions by providing comprehensive energy efficiency and renewable energy programs to its customers, and issue a report on its plans to achieve these goals); *Exelon Corp.* (Feb. 14, 2010) (allowing the exclusion of a proposal that requested a recurring report on different aspects of the company's political contributions when the company had already adopted guidelines for political contributions made with corporate funds, and issued a report on the company's political contributions); *Exxon Mobil Corp.* (Mar. 18, 2004) (requesting a report to shareholders outlining recommendations to management for promoting renewable energy sources and developing strategic plans to help bring renewable energy sources into the company's energy mix); and *Xcel Energy, Inc.* (Feb. 17, 2004) (requesting a report on how the company is responding to rising regulatory, competitive and public pressure to significantly reduce carbon dioxide and other emissions).

*B. The Company's disclosures in its climate change report and publicly available Integrated Resource Plan, in addition to other publicly available disclosures on its website, and participation in an industry-wide project regarding climate change, substantially implement the Proposal*

The Proposal asks that Public Service Company of New Mexico ("PNM"), one of the Company's operating subsidiaries, "publish an assessment . . . of the long term impacts on the company's portfolio, of public policies and technological advances that are consistent with limiting global warming to no more than two degrees Celsius over pre-industrial levels."

Management has recently published, with Board oversight, a climate change report (the "Climate Change Report"), available at <http://www.pnmresources.com/about-us/sustainability-portal/climate-change-report.aspx>, that details the significant efforts PNM is making to transition to a coal-free generation portfolio. The Climate Change Report also expressly describes how these efforts align with the two degrees Celsius goal of the Paris Agreement (as defined below), which is the source of the two degree temperature limitation goal noted in the Proposal (the "2 Degree Scenario"). Highlights of the Climate Change Report include:

- (a) By 2018, PNM expects to reduce annual CO<sub>2</sub> emissions, which comprises the vast majority of PNM's greenhouse gas ("GHG") emissions, by approximately 40 percent over 2012 levels<sup>1</sup>;
- (b) By 2030, PNM expects to achieve an annual reduction of approximately 60 percent in CO<sub>2</sub> emissions over 2012 levels. This would far exceed the carbon reductions that the U.S. had previously voluntarily committed to the Paris Agreement. The previously planned implementation of the CPP (as defined below) was a key element in achieving those reductions. The CPP established 2030 CO<sub>2</sub> reduction goals of 28 percent for the state of New Mexico and 32 percent for the country;
- (c) PNM plans to exit all coal generation by 2031; and
- (d) PNM's goal is to reduce annual CO<sub>2</sub> emissions in 2040 by a total of 87 percent from 2012 levels.

In addition to the Climate Change Report, PNM regularly spends extensive amounts of time and corporate resources conducting and publicly disclosing relevant scenario analyses of its generation assets under the Integrated Resource Plan ("IRP") process mandated by New Mexico law to facilitate New Mexico Public Regulation Commission ("NMPRC") oversight of PNM. PNM's current IRP report (the "2017 IRP"), which was filed with the NMPRC on July 3, 2017 and is available at <https://www.pnm.com/irp>, as well as its prior IRP reports, evaluates, among other things, alternative cost and risk scenarios as well as existing and anticipated regulatory and technological developments with respect to PNM's meeting its obligation to supply the energy needs of its customers over a 20-year planning horizon. Among other things, the 2017 IRP: (a) includes a four-year action plan, (b) assesses its portfolio of generation assets on the basis of the GHG emissions reductions called for in the CPP (as defined below), which are substantially comparable to the goals of the 2 Degree Scenario, and (c) evaluates PNM's generation portfolio against the CPP, which calls for states to cut power sector carbon dioxide emissions 32% over 2005 levels by 2030.

Thus, the 2017 IRP enables a comparison of PNM's potential future GHG emissions to the United States' submission of its Intended Nationally Determined Contribution ("INDC") to the Paris

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<sup>1</sup> By itself, this reduction aligns with the original U.S. commitment to the Paris Agreement to reduce greenhouse gas emissions by 26-28% from 2005 levels by 2025.

Agreement of reducing GHG emissions by 26-28% below 2005 levels by 2025. The U.S. INDC is described in the Moody's June 2016 report of environmental risks as a baseline plausible central scenario for analyzing carbon transition risk and in the 2017 IRP PNM assesses its portfolio accordingly.

The 2 Degree Scenario is the "central aim" of the United Nations Framework Convention on Climate Change's Paris Agreement, which was signed by the U.S. on April 22, 2016 and entered into force in November 2016 (the "Paris Agreement").<sup>2</sup> Although on June 1, 2017, President Trump announced that the U.S. would withdraw from the Paris Agreement, to date there have been no specific details as to how this will be accomplished.

To help achieve the 2 Degree Scenario, the Paris Agreement puts forth a series of frameworks through which signatories to the agreement work towards the 2 Degree Scenario, in particular by reducing the flow of heat-trapping GHG emissions into the atmosphere and developing other ways to mitigate the impacts of climate change. As a part of its agreement to join to the Paris Agreement, the U.S. submitted its INDC, through which it committed to reduce its GHG emissions by 26-28 percent below the 2005 level in 2025, and to make "best efforts" to reduce emissions by 28 percent.<sup>3</sup> The U.S.'s INDC explained that several U.S. laws, as well as existing and proposed regulations, were relevant to the implementation of the U.S. target, including the Clean Air Act (the "CAA") (42 U.S.C. §7401 et seq.) and the Environmental Protection Agency's proposed (at the time) regulations to cut carbon pollution from existing power plants, which became known as the "Clean Power Plan" (the "CPP") (80 F.R. 64966).<sup>4</sup> The CPP, which was developed under the CAA, aims to cut carbon pollution at the state or regional levels from existing power plants by 32 percent of 2005 levels by 2030 and was been described by the former White House administration as one of the tools that the U.S. would use to meet its GHG emissions reduction targets under the Paris Agreement. Therefore, when considering the impact of public policies consistent with the 2 Degree Scenario, as requested by the Proposal, the Company focuses its assessment on the long-term impact of the reduction in GHG emissions in-line with the U.S. INDC and the CPP.

The Climate Change Report (and the 2017 IRP) already incorporates the scenario analysis into its strategic and capital allocation planning that includes modelling based on anticipated future regulation of GHG emissions (at levels comparable to the CPP and the U.S. INDC), technology innovation and customer usage patterns. As mentioned above, the Climate Change Report also expressly describes how these efforts align with 2 Degree Scenario. These documents provide the information sought by the Proposal, and in fact show that (a) PNM's actions to date (which are expected to reduce annual CO<sub>2</sub> emissions for 2018 by approximately 40% over 2012 levels) already exceed CPP goals (which, in turn, seek to address the 2 Degree Scenario) and (b) PNM's planned exit from coal generation by 2031, as supported by the 2017 IRP, results in a plan that, if implemented, will greatly exceed CPP reductions. As such, the Climate Change Report and the 2017 IRP contain disclosures that meet the essential objective of the Proposal, compare favorably with the guidelines in the Proposal and may, therefore be excluded from the Company's Proxy Materials.

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<sup>2</sup> The Paris Agreement and additional information related thereto can be found at: [http://unfccc.int/paris\\_agreement/items/9485.php](http://unfccc.int/paris_agreement/items/9485.php).

<sup>3</sup> The U.S. INDC can be found at: <http://www4.unfccc.int/submissions/INDC/Submission%20Pages/submissions.aspx>.

<sup>4</sup> *Ibid.* The Clean Power Plan Final Rule: <https://www.epa.gov/sites/production/files/2015-08/documents/cpp-final-rule-ria.pdf>.

In addition to the Climate Change Report and its IRP reports, the Company publicly discloses relevant information on its Sustainability Portal<sup>5</sup>. This website covers a wide variety of environmental and climate-change related topics applicable to the Company, including a discussion on the Company's efforts in relation to the CPP and details on the Company's historic and prospective GHG emissions reductions. As regards to the CPP, the Sustainability Portal states:

*“PNM’s Regional Haze Plan for SJGS [the San Juan Generating Station] will play a significant role in helping New Mexico comply with EPA’s final Clean Power Plan ... [b]y undertaking the significant actions at SJGS [the retirement of two coal-burning facilities], New Mexico’s greenhouse gas emissions will be lowered by approximately 25% by the year 2030 as compared to 2012 levels.”*<sup>6</sup>

The Sustainability Portal includes further discussions of the Company's environmental stewardship, and its energy efficiency and renewable energy efforts. It also directly addresses the Company's current efforts and expectations with respect to overall GHG emissions reductions. The Sustainability Portal thus includes supplementary, but complementary materials, which, in conjunction with the Climate Change Report and the 2017 IRP, substantially implements the Proposal.

Finally, PNM is a participant in the Electric Power Research Institute's "Understanding Climate Scenario and Goal Setting Activities" study (the "EPRI Study") in which several other large energy companies are participants. The EPRI Study's stated goals include developing a technical foundation for informed dialogue and decisions on climate scenarios and science based targets; providing insights to inform company options and key issues; facilitating a collaborative industry forum for discussing and sharing ideas; and informing member dialogue with stakeholders on emission reductions, alternatives and goals. PNM's involvement with the EPRI Study further demonstrates the Company's commitment to analyzing the various effects that its business and operations have on climate change. Once the technical research is completed and an evaluation specific to PNM is developed, PNM will revisit relevant assessments of its generation portfolio and provide additional disclosures on its Sustainability Portal.

While the Company believes that the Climate Change Report and the 2017 IRP, together with the Company's other public disclosures (including the Sustainability Portal), clearly meet the essential objectives of the Proposal, we note that the Company need not take the exact action requested by a shareholder in order to be able to exclude a proposal under Rule 14a-8(i)(10); rather, it must substantially implement the shareholder proposal. As the Commission described in an earlier release noting the distinction between the current rule and its predecessor:

In the past, the staff has permitted the exclusion of proposals under Rule 14a-8(c)(10) [the predecessor to current Rule 14a-8(i)(10)] only in those cases where the action requested by the proposal has been fully effected. The Commission proposed an interpretive change to permit the omission of proposals that have been 'substantially implemented by the issuer.' While the new interpretive position will add more subjectivity to the application of the provision, the Commission has determined that the previous formalistic application of this provision defeated its purpose. Accordingly, the Commission is adopting the proposed interpretive change. Amendments to Rule 14a-8 Under the Securities Exchange Act of 1934 Relating to Proposals by Security Holders, Exchange Act Release No. 34-20091(Aug. 16, 1983).

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<sup>5</sup> Available at <http://www.pnmresources.com/about-us/sustainability-portal.aspx>.

<sup>6</sup> Sustainability Portal, Environment, SJGS Regional Haze Plan and The Clean Power Plan (emphasis added.)

**CONCLUSION**

For the reasons stated above, we believe that the Proposal may be properly excluded from the Proxy Materials. If you have any questions or need any additional information with regard to the enclosed or the foregoing, please contact me at (804) 775-1054 or at jsellers@mcguirewoods.com or my colleague, Katherine K. DeLuca, at (804) 775-4385 or at kdeluca@mcguirewoods.com.

Sincerely,

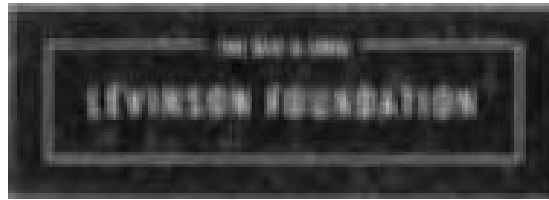
A handwritten signature in cursive script that reads "Jane Whitt Sellers".

Jane Whitt Sellers

Enclosures

cc: Patrick V. Apodaca – Senior Vice President, General Counsel and Secretary  
Leonard D. Sanchez – Associate General Counsel  
The Max and Anna Levinson Foundation  
Miller/Howard Investments, Inc. on behalf of Helen Hamada and Lowell G. Miller

Exhibit A



November 8, 2017

Corporate Secretary  
PNM Resources, Inc.  
414 Silver Avenue SW  
Albuquerque, NM 87102-3289

Greetings,

I am writing to propose that a 2 Degree Scenario Analysis Report be prepared and published by PNM Resources, Inc. assessing the long term impacts on the company's portfolio, of public policies and technological advances that are consistent with limiting global warming to no more than two degrees Celsius over pre-industrial levels.

The Max & Anna Levinson Foundation has a history of advocating for transparency with companies where we invest. 2 Degree Scenario Analyses provide investors with information that helps confirm companies are running their businesses safely and efficiently as well as managing long-term risks and opportunities.

At present investors do not have access to evaluative data to assess PNM's environmental and social performance. PNM had challenged our 2 Degree Scenario Analysis resolution before the SEC last year arguing that such a study would duplicate information they were already required to provide to state and federal regulators. The SEC specifically rejected the company's arguments and the resolution went ahead to a vote.

PNM Resources was confronted with a very strong showing of support. The 2 Degree Scenario Analysis resolution received 49.9% of the vote. In a year where 2 Degree Scenario Analysis resolutions were presented at a number of companies and received support nationwide, PNM's percentage in favor was one of the highest, after only Occidental Petroleum (67%) and ExxonMobil (62%).

The attached proposal is submitted for inclusion in the 2016 PNM Resources Inc. proxy statement in accordance with Rule 14a-8 of the General Rules and Regulations of the Securities Act of 1934. The Max & Anna Levinson Foundation is the beneficial owner of these shares as defined in Rule 13d-3 of the Act. We have continuously held over \$2,000 of PNM Resources stock over the last 12 months, and we intend to maintain ownership of at least \$2,000 of PNM Resources stock through the next general annual meeting. A representative will attend the shareholder meeting to move the resolution as required by the SEC rules. We will provide additional proof of ownership from our sub-custodian, a DTC participant, upon request. We own 100 shares of PNM stock.

We believe that transparency through a 2 Degree Scenario Analysis report creates a level of accountability that will benefit the company, its customers and its shareholders in the long-term.

We expect other co-filers may join in this resolution. The Max & Anna Levinson Foundation is glad to play the role of primary filer.

We hope that we can discuss our request for initiating a 2 Degree Scenario Analysis Report. Guidance can be found here: <https://www.fsb-tcfd.org/wp-content/uploads/2017/06/FINAL-TCFD-Report-062817.pdf> I can be reached at 505 995 8802, or \*\*\*

Sincerely,

P.O. Box 6309, Santa Fe, New Mexico 87502 (505) 995-8802 levinsonfoundation.org info@levinsonfoundation.org

## 2 Degree Scenario Analysis

### WHEREAS:

In November 2016 the Paris Agreement entered into force. Its goal of keeping global temperature rise well below 2 degrees Celsius has already begun to shape national policy decisions globally. The International Energy Agency estimates that to meet this goal the global average carbon intensity of electricity production will need to drop by 90 percent, a large target. As long-term shareholders, we would like to understand how Public Service Company of New Mexico's ("PNM") business planning is taking into account the risks and opportunities presented by global efforts to keep global temperatures within acceptable boundaries.

In June 2016, the credit rating agency Moody's indicated that they would begin to analyze carbon transition risk based on scenarios consistent with the Paris Agreement, and noted the high carbon risk exposure of the power sector.

Rapid expansion of low carbon technologies including distributed solar, battery storage, grid modernization, energy efficiency and electric vehicles provide not only challenges for utility business models but also opportunities for growth. Many large corporations are actively seeking to increase their use of renewable energy, providing a significant market opportunity for forward-thinking utilities. We believe the energy transition occurring has a significant impact on PNM, and thus we have asked for the company to take proactive steps.

A 2 degree scenario analysis of our company's current generation and future plans will generate a comprehensive picture of current and future risks and opportunities for our company going beyond our routine planning. By assessing the impact of a 2 degree scenario on the company's full portfolio of power generation assets and planned capital expenditures through 2040, including the financial risks associated with such scenarios, the company can better plan for future regulatory, technological and market changes.

Numerous companies are involved in doing such an assessment. Resources exist such as Recommendations of the Task Force on Climate-related Financial Disclosures. <https://www.fsb-tcfd.org/wp-content/uploads/2017/06/FINAL-TCFD-Report-062817.pdf> The Task Force is comprised of 32 global members representing a broad range of economic sectors and financial markets.

In 2017, With respect to the "2 degree scenario" resolution, PNM argued that such a study would duplicate information they were already required to provide to state and federal regulators. The SEC specifically rejected the company's arguments and the resolutions went ahead to a vote. PNM was confronted with a very strong showing of support for the "2 degree scenario" resolution, which received 49.9% of the vote. In a year where 2 degree scenario resolutions were presented at a number of companies and received support nationwide, PNM's percentage in favor was one of the highest, after only Occidental Petroleum (67%) and ExxonMobil (62%).

We believe there is a compelling self-interest for PNM and our shareholders to do the assessment.

**RESOLVED:** Shareholders request that PNM, with board oversight, publish an assessment (at reasonable cost and omitting proprietary information) of the long term impacts on the company's portfolio, of public policies and technological advances that are consistent with limiting global warming to no more than two degrees Celsius over pre-industrial levels.





Institutional Trust and Custody  
425 Walnut Street  
Cincinnati, OH 45202  
usbank.com

Date: November 13, 2017

To Whom It May Concern:

U.S. Bank is the sub-custodian for Boston Trust & Investment Management Company (Boston Trust) who is the custodian for the account of **Max and Anna Levinson Foundation Endowment**.

We are writing to confirm that **Max and Anna Levinson Foundation Endowment** has had continuous ownership of at least \$2,000 of **PNM Resources Inc. (Cusip#69349H107)** as of March 27, 2017

U.S. Bank serves as the sub-custodian for Boston Trust and Investment Management Company. U.S. Bank is a DTC participant.

Sincerely,

A handwritten signature in cursive script, appearing to read "Joanne MacVey".

Joanne MacVey  
Officer, Client Service Manager  
Institutional Trust & Custody

PNM Resources, Inc.  
414 Silver Ave., SW  
Albuquerque, NM 87102-3289  
PNMResources.com



November 16, 2017

*Sent via Electronic Mail and Overnight Delivery*

Charlotte Levinson  
The Max and Anna Levinson Foundation  
P.O. Box 6309  
Santa Fe, New Mexico 87502-6309  
\*\*\*

Dear Ms. Levinson:

On November 9, 2017, PNM Resources, Inc. (PNMR) received the shareholder proposal (the Proposal) submitted by you on behalf of the Max and Anna Levinson Foundation (the Foundation) for inclusion in the PNMR proxy statement for the 2018 Annual Meeting of Shareholders (the 2018 Annual Meeting). In accordance with the regulations of the Securities and Exchange Commission (SEC), we are required to notify you if your submission does not comply with the rules and regulations of the SEC promulgated under the Securities Exchange Act of 1934, as amended (the Exchange Act).

We are unable to verify through PNMR's records that the Foundation has been a stockholder of PNMR in the amount and for the period of time required by Rule 14a-8(b) under the Exchange Act (Rule 14a-8(b)) and therefore are unable to determine the Foundation's eligibility to submit a proposal for consideration at the 2018 Annual Meeting. The letter provided to PNMR by US Bank on November 16, 2017 also fails to provide the proof of continuous ownership required by Rule 14a-8.

Accordingly, we request that you provide the written information required by Rule 14a-8(b)(2) establishing the Foundation's ownership eligibility. Rule 14a-8(b) states that, in order to be eligible to submit a proposal, the Foundation must have continuously held at least \$2,000 in market value, or 1%, of PNMR's securities for at least one year preceding and including the date on which you submitted the proposal (**November 8, 2017**).

The Foundation must continue to hold the requisite amount of PNMR's securities through the date of the 2018 Annual Meeting.

There are two ways to demonstrate the Foundation's ownership eligibility under the SEC rules. You may submit to us either:

Charlotte Levinson  
The Max and Anna Levinson Foundation  
November 16, 2017  
Page 2

- a written statement from the “record” holder of the securities (usually a broker or a bank that is a Depository Trust Company (DTC) participant) verifying that, as of the date you submitted the Proposal (November 8, 2017), the Foundation has held continuously the requisite number of PNMR’s securities for at least one year; or
- a copy of a filed Schedule 13D, Form 3, Form 4, Form 5 or amendments to those documents or updated forms, reflecting the Foundation’s ownership of shares as of or before the date on which the one-year eligibility period began and a written statement that the Foundation continuously held the required number of shares for the one-year period as of the date of the statement.

Please note that pursuant to Staff Legal Bulletin 14F (SLB 14F) and Staff Legal Bulletin 14G (SLB 14G) issued by the SEC only DTC participants or affiliated DTC participants should be viewed as record holders of the securities deposited at DTC.

We understand from your letter dated November 8, 2017 that you intend to provide verification of ownership from the Foundation’s sub-custodian, a DTC participant, upon request. We received a letter from US Bank on November 16, 2017, however, such letter fails to provide the proof of continuous ownership required by Rule 14a-8. **Therefore, in accordance with Rule 14a-8(f)(1) under the Exchange Act, we inform you that the Foundation’s proof of ownership information that satisfies the requirements of Rule 14a-8 must be postmarked or transmitted electronically to us no later than 14 calendar days from the date you receive this letter.**

We also note that the length of your supporting statement slightly exceeds the maximum 500 word length that the SEC requires us to accept. By our count, based on the Staff’s word-counting metrics as applied in granting prior no action letter requests (which separately counts symbols, hyphenated words, and undefined acronyms as multiple words), is 506. It is not our intention to seek to exclude your proposal solely on the basis of this procedural defect, but we may point it out if we submit an exclusion request to the SEC on other grounds. If you do decide to resubmit, please do so before the deadline of December 5, 2017 which was announced in our 2017 annual meeting proxy statement.

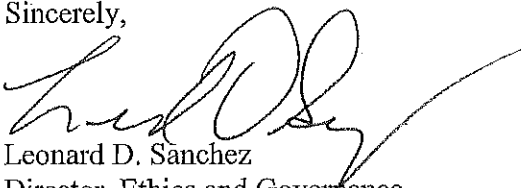
Pursuant to Rule 14a-8(f) under the Exchange Act, PNMR will be entitled to exclude the Proposal from its proxy materials if proof of ownership is not timely received, or if such proof of ownership letter does not provide the proof of ownership information required by Rule 14a-8(b). Additionally, PNMR will be entitled to exclude the Proposal if a revised version that does not exceed 500 words is not received. Copies of Rule 14a-8 under the Exchange Act, SLB 14F and SLB 14G are attached for your reference.

Charlotte Levinson  
The Max and Anna Levinson Foundation  
November 16, 2017  
Page 3

Your documentation and/or response may be sent to me at PNM Resources, Inc., 414 Silver Ave., SW, Albuquerque, NM 87102-3289, via electronic e-mail at [leonard.sanchez@pnresources.com](mailto:leonard.sanchez@pnresources.com). If you should have any questions regarding this matter, I can be reached at 505-241-4941.

Finally, please note that in addition to the eligibility deficiency cited above, PNMR reserves the right in the future to raise any further bases upon which your proposal may be properly excluded under Rule 14a-8 of the Exchange Act.

Sincerely,



Leonard D. Sanchez  
Director, Ethics and Governance

Enclosures

**DeLuca, Katherine K.**

**From:** Charlotte Levinson \*\*\* >  
**Sent:** Friday, November 17, 2017 9:23 AM  
**To:** Sanchez, Leonard  
**Subject:** [External] Re: PNM Resources--Levinson Foundation Shareholder Proposal  
**Attachments:** 2018 resolution cover letter copy 2.docx

**CAUTION:** This email was received from an EXTERNAL source, use caution when clicking links or opening attachments. If you believe this to be a malicious and/or phishing email, please send this email as an attachment to [SpamControl@pnmresources.com](mailto:SpamControl@pnmresources.com)

Greetings, Attached please find an updated cover letter, omitting 5 words per your stipulation that the letter be 500 words, including symbols such as asterisks and parenthesis, not 506. The letter confirming ownership is being revised to include the word "continuous", per your stipulation. It will be sent directly to you from the custodians. I'm sorry that this is how PNM chooses to engage, rather than confront the seriousness of climate change.

Charlotte Levinson, President  
The Max & Anna Levinson Foundation  
P.O. Box 6309, Santa Fe, New Mexico 87502  
505-995-8802 [levinsonfoundation.org](http://levinsonfoundation.org)

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**From:** "Sanchez, Leonard" <[Leonard.Sanchez@pnmresources.com](mailto:Leonard.Sanchez@pnmresources.com)>  
**Date:** Thursday, November 16, 2017 at 4:23 PM  
**To:** Charlotte Levinson \*\*\*  
**Subject:** RE: PNM Resources--Levinson Foundation Shareholder Proposal

Ms. Levinson:

Attached is a response to the shareholder proposal submitted by you on behalf of The Max and Anna Levinson Foundation. The response outlines the reasons the proposal does not comply with the applicable SEC rules and regulations and provides a copy of Rule 14a-8 under the Exchange Act along with other materials that you may find useful. The response, along with the attachments, was mailed to you today.

Please let me know if I can be of assistance.

Sincerely,

***Leonard D. Sanchez***

Associate General Counsel and  
Director, Ethics and Governance  
PNM Resources, Inc.  
414 Silver Ave. SW MS 0805  
Albuquerque, New Mexico 87102-3289  
Phone: (505) 241-4941  
[Leonard.Sanchez@pnmresources.com](mailto:Leonard.Sanchez@pnmresources.com)

November 8, 2017

Corporate Secretary  
PNM Resources, Inc.  
414 Silver Avenue SW  
Albuquerque, NM 87102-3289

Greetings,

We propose that a 2 Degree Scenario Analysis Report be prepared and published by PNM Resources, Inc. assessing the long term impacts on the company's portfolio, of public policies and technological advances that are consistent with limiting global warming to no more than two degrees Celsius over pre-industrial levels.

The Max & Anna Levinson Foundation has a history of advocating for transparency with companies where we invest. 2 Degree Scenario Analyses provide investors with information that helps confirm companies are running their businesses safely and efficiently and managing long-term risks and opportunities.

At present investors do not have access to evaluative data to assess PNM's environmental and social performance. PNM had challenged our 2 Degree Scenario Analysis resolution before the SEC last year arguing that such a study would duplicate information they were already required to provide to state and federal regulators. The SEC specifically rejected the company's arguments and the resolution went ahead to a vote.

PNM Resources was confronted with a very strong showing of support. The 2 Degree Scenario Analysis resolution received 49.9% of the vote. In a year where 2 Degree Scenario Analysis resolutions were presented at a number of companies and received support nationwide, PNM's percentage in favor was one of the highest, after only Occidental Petroleum (67%) and ExxonMobil (62%).

The attached proposal is submitted for inclusion in the 2016 PNM Resources Inc. proxy statement in accordance with Rule 14a-8 of the General Rules and Regulations of the Securities Act of 1934. The Max & Anna Levinson Foundation is the beneficial owner of these shares as defined in Rule 13d-3 of the Act. We have continuously held over \$2,000 of PNM Resources stock over the last 12 months, and we intend to maintain ownership of at least \$2,000 of PNM Resources stock through the next general annual meeting. A representative will attend the shareholder meeting to move the resolution as required by the SEC rules. We will provide additional proof of ownership from our sub-custodian, a DTC participant, upon request. We own 100 shares of PNM stock.

We believe that transparency through a 2 Degree Scenario Analysis report creates a level of accountability that will benefit the company, its customers and its shareholders in the long-term.

We expect other co-filers may join in this resolution. The Max & Anna Levinson Foundation is glad to play the role of primary filer.

We hope that we can discuss our request for initiating a 2 Degree Scenario Analysis Report. Guidance can be found here: <https://www.fsb-tcfd.org/wp-content/uploads/2017/06/FINAL-TCFD-Report-062817.pdf> I can be reached at 505 995 8802, or  
\*\*\*

Sincerely,



Institutional Trust and Custody  
425 Walnut Street  
Cincinnati, OH 45202

usbank.com

Date: November 8, 2017

To Whom It May Concern:

U.S. Bank is the sub-custodian for Boston Trust & Investment Management Company (Boston Trust) who is the custodian for the account of **Max and Anna Levinson Foundation Endowment**.

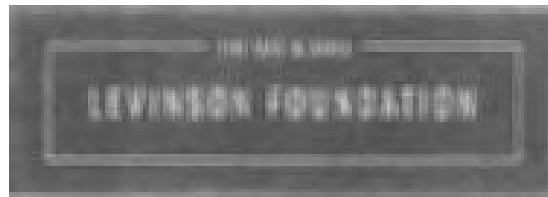
We are writing to confirm that **Max and Anna Levinson Foundation Endowment** has had continuous ownership of at least \$2,000 of **PNM Resources Inc. (Cusip#69349H107)** from November 8, 2016 to November 8, 2017.

U.S. Bank serves as the sub-custodian for Boston Trust and Investment Management Company. U.S. Bank is a DTC participant.

Sincerely,

A handwritten signature in black ink, appearing to read "Joanne MacVey". The signature is fluid and cursive.

Joanne MacVey  
Officer, Client Service Manager  
Institutional Trust & Custody



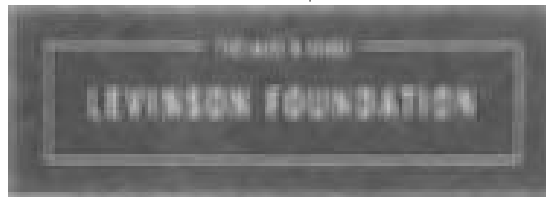
11.27.17

The word count on  
our Resolution has been  
shortened to 500.

Please use the corrected  
version.

A handwritten signature in cursive script, appearing to read "Cheryl Levinson".





November 8, 2017

Corporate Secretary  
PNM Resources, Inc.  
414 Silver Avenue SW  
Albuquerque, NM 87102-3289

Greetings,

We propose that a 2 Degree Scenario Analysis Report be prepared and published by PNM Resources, Inc. assessing the long term impacts on the company's portfolio, of public policies and technological advances that are consistent with limiting global warming to no more than two degrees Celsius over pre-industrial levels.

The Max & Anna Levinson Foundation has a history of advocating for transparency with companies where we invest. 2 Degree Scenario Analyses provide investors with information that helps confirm companies are running their businesses safely and efficiently and managing long-term risks and opportunities.

At present investors do not have access to evaluative data to assess PNM's environmental and social performance. PNM had challenged our 2 Degree Scenario Analysis resolution before the SEC last year arguing that such a study would duplicate information they were already required to provide to state and federal regulators. The SEC specifically rejected the company's arguments and the resolution went ahead to a vote.

PNM Resources was confronted with a very strong showing of support. The 2 Degree Scenario Analysis resolution received 49.9% of the vote. In a year where 2 Degree Scenario Analysis resolutions were presented at a number of companies and received support nationwide, PNM's percentage in favor was one of the highest, after only Occidental Petroleum (67%) and ExxonMobil (62%).

The attached proposal is submitted for inclusion in the 2016 PNM Resources Inc. proxy statement in accordance with Rule 14a-8 of the General Rules and Regulations of the Securities Act of 1934. The Max & Anna Levinson Foundation is the beneficial owner of these shares as defined in Rule 13d-3 of the Act. We have continuously held over \$2,000 of PNM Resources stock over the last 12 months, and we intend to maintain ownership of at least \$2,000 of PNM Resources stock through the next general annual meeting. A representative will attend the shareholder meeting to move the resolution as required by the SEC rules. We will provide additional proof of ownership from our sub-custodian, a DTC participant, upon request. We own 100 shares of PNM stock.

We believe that transparency through a 2 Degree Scenario Analysis report creates a level of accountability that will benefit the company, its customers and its shareholders in the long-term.

We expect other co-filers may join in this resolution. The Max & Anna Levinson Foundation is glad to play the role of primary filer.

We hope that we can discuss our request for initiating a 2 Degree Scenario Analysis Report. Guidance can be found here: <https://www.fsb-tcfd.org/wp-content/uploads/2017/06/FINAL-TCFD-Report-062817.pdf> I can be reached at 505 995 8802, or \*\*\*

Sincerely,

 , President

P.O. Box 6309, Santa Fe, New Mexico 87502 (505) 995-8802 levinsonfoundation.org info@levinsonfoundation.org

## 2 Degree Scenario Analysis

### WHEREAS:

In November 2016 the Paris Agreement entered into force. Its goal of keeping global temperature rise well below 2 degrees Celsius has already begun to shape national policy decisions globally. The International Energy Agency estimates that to meet this goal the global average carbon intensity of electricity production will need to drop by 90 percent, a large target. As shareholders, we would like to understand how Public Service Company of New Mexico's ("PNM") business planning takes into account risks and opportunities presented by global efforts to keep global temperatures within acceptable boundaries.

In June 2016, the credit rating agency Moody's indicated that they would begin analyzing carbon transition risk based on scenarios consistent with the Paris Agreement, and noted the high carbon risk exposure of the power sector.

Rapid expansion of low carbon technologies including distributed solar, battery storage, grid modernization, energy efficiency and electric vehicles provide challenges for utility business models but also opportunities for growth. Many large corporations are actively seeking to increase their use of renewable energy, providing a significant market opportunity for forward-thinking utilities. We believe the energy transition occurring has a significant impact on PNM, and thus we have asked for the company to take proactive steps.

A 2 degree scenario analysis of our company's current generation and future plans will generate a comprehensive picture of current and future risks and opportunities for our company going beyond routine planning. By assessing the impact of a 2 degree scenario on the company's full portfolio of power generation assets and planned capital expenditures through 2040, including the financial risks associated with such scenarios, the company can better plan for future regulatory, technological and market changes.

Numerous companies are doing such an assessment. Resources exist such as Recommendations of the Task Force on Climate-related Financial Disclosures. <https://www.fsb-tcf.org/wp-content/uploads/2017/06/FINAL-TCFD-Report-062817.pdf> The Task Force is comprised of 32 global members representing a broad range of economic sectors and financial markets.

In 2017, regarding the "2 degree scenario" resolution, PNM argued that such a study would duplicate information they were already required to provide to state and federal regulators. The SEC specifically rejected the company's arguments and the resolutions went ahead to a vote. PNM was confronted with very strong support for the "2 degree scenario" resolution, which received 49.9% of the vote. In a year where 2 degree scenario resolutions were presented at a number of companies and received support nationwide, PNM's percentage in favor was one of the highest, after only Occidental Petroleum (67%) and ExxonMobil (62%).

We believe there is a compelling self-interest for PNM and our shareholders to do the assessment.

**RESOLVED:** Shareholders request that PNM, with board oversight, publish an assessment (at reasonable cost and omitting proprietary information) of the long term impacts on the company's portfolio, of public policies and technological advances that are consistent with limiting global warming to no more than two degrees Celsius over pre-industrial levels.



November 28, 2017

Patrick V. Apodaca  
Senior Vice President, General Counsel and Secretary  
PNM Resources, Inc.  
414 Silver Avenue SW  
Albuquerque, NM 87102-3289  
patrick.apodaca@pnmresources.com

**VIA FEDERAL EXPRESS and EMAIL**

Dear Mr. Apodaca:

On behalf of Lowell G. Miller, CIO and Founder of Miller/Howard Investments, Inc., we write to give notice that pursuant to the 2017 proxy statement of PNM Resources, Inc. (PNM), and Rule 14a-8 under the Securities Exchange Act of 1934, Miller/Howard Investments, Inc. intends to file the attached proposal at the 2018 annual meeting of shareholders. Lowell Miller is a beneficial owner of more than \$2,000 in market value of PNM stock, has continuously held these shares for over one year, and has authorized Miller/Howard Investments, Inc. to file this proposal on his behalf. In addition, Mr. Miller intends to hold the shares through the date on which the annual meeting is held. Verification of stock ownership and authorization from Lowell G. Miller for Miller/Howard Investments, Inc. to file the proposal will be submitted under separate cover.

As you are aware, Miller/Howard Investments, Inc. (Miller/Howard) is an independent, research-driven investment boutique with over twenty-five years of experience managing portfolios for major institutions, mutual funds, and individuals in dividend-focused investment strategies. In addition to financial analysis, we perform rigorous research seeking high-quality companies that are contributing to the economy in meaningful ways and have demonstrated a strong commitment to good governance, the environment, and social responsibility. We are long-term investors in PNM.

We believe that reporting on environmental risk management makes a company more responsive to its shareholders who are seeking information on how the company is navigating regulation, evolving legislation, and increasing public expectations around how corporate behavior impacts the environment.

We are writing to propose that a 2 Degree Scenario Analysis Report be prepared and published by PNM assessing the long term impacts on the company's portfolio of public policies and technological advances that are consistent with limiting global warming to no more than two degrees Celsius over pre-industrial levels.

At present investors do not have access to data necessary to assess PNM's environmental and social performance. PNM challenged a 2 Degree Scenario Analysis resolution before the SEC last year by arguing that such a study would duplicate information they were already required to provide to state and federal regulators. The SEC specifically rejected the company's arguments and the resolution went ahead to a vote.

Miller/Howard Investments Inc.  
10 Dixon Avenue  
Woodstock NY 12498

MAIN 845-679-9166  
FAX 845-679-5862  
www.mhinvest.com

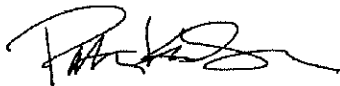
Patrick V. Apodaca  
PNM Resources, Inc.  
November 28, 2017  
Page 2

This resolution received a very strong showing of support, garnering 49.9% of the vote. In a year where 2 Degree Scenario Analysis resolutions were presented at a number of companies and received support nationwide, PNM's percentage in favor was one of the highest.

The Max & Anna Levinson Foundation (the "Levinson Foundation") has agreed to serve as lead filer of this proposal, and we authorize the Levinson Foundation to withdraw on our behalf if an agreement is reached. We are submitting this proposal as co-filers because we strongly believe it is in the best interests of the company and its shareholders.

Please contact the undersigned at [esg@mhinvest.com](mailto:esg@mhinvest.com) to set a time for a discussion.

Sincerely,



Patricia Karr Seabrook  
Shareholder Advocacy Coordinator  
Miller/Howard Investments, Inc.

cc: Luan Jenifer, Chief Operating Officer, Miller/Howard Investments, Inc. ([luan@mhinvest.com](mailto:luan@mhinvest.com)).



November 28, 2017

Patrick V. Apodaca  
Senior Vice President, General Counsel and Secretary  
PNM Resources, Inc.  
414 Silver Avenue SW  
Albuquerque, NM 87102-3289  
patrick.apodaca@pnmresources.com

**VIA FEDERAL EXPRESS and EMAIL**

Dear Mr. Apodaca:

On behalf of Helen Hamada, Senior Advisor, Miller/Howard Investments, Inc., we write to give notice that pursuant to the 2017 proxy statement of PNM Resources, Inc. (PNM), and Rule 14a-8 under the Securities Exchange Act of 1934, Miller/Howard Investments, Inc. intends to file the attached proposal at the 2018 annual meeting of shareholders. Helen Hamada is a beneficial owner of more than \$2,000 in market value of PNM stock, has continuously held these shares for over one year, and has authorized Miller/Howard Investments, Inc. to file this proposal on her behalf. In addition, Ms. Hamada intends to hold the shares through the date on which the annual meeting is held. Verification of stock ownership and authorization from Helen Hamada for Miller/Howard Investments, Inc. to file the proposal will be submitted under separate cover.

As you are aware, Miller/Howard Investments, Inc. (Miller/Howard) is an independent, research-driven investment boutique with over twenty-five years of experience managing portfolios for major institutions, mutual funds, and individuals in dividend-focused investment strategies. In addition to financial analysis, we perform rigorous research seeking high-quality companies that are contributing to the economy in meaningful ways and have demonstrated a strong commitment to good governance, the environment, and social responsibility. We are long-term investors in PNM.

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We are writing to propose that a 2 Degree Scenario Analysis Report be prepared and published by PNM assessing the long term impacts on the company's portfolio of public policies and technological advances that are consistent with limiting global warming to no more than two degrees Celsius over pre-industrial levels.

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Miller/Howard Investments Inc.  
10 Dixon Avenue  
Woodstock NY 12498

MAIN 845-679-9166  
FAX 845-679-5862  
www.mhinvest.com

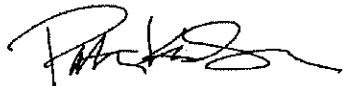
Patrick V. Apodaca  
PNM Resources, Inc.  
November 28, 2017  
Page 2

This resolution received a very strong showing of support, garnering 49.9% of the vote. In a year where 2 Degree Scenario Analysis resolutions were presented at a number of companies and received support nationwide, PNM's percentage in favor was one of the highest.

The Max & Anna Levinson Foundation (the "Levinson Foundation") has agreed to serve as lead filer of this proposal, and we authorize the Levinson Foundation to withdraw on our behalf if an agreement is reached. We are submitting this proposal as co-filers because we strongly believe it is in the best interests of the company and its shareholders.

Please contact the undersigned at [esg@mhinvest.com](mailto:esg@mhinvest.com) to set a time for a discussion.

Sincerely,



Patricia Karr Seabrook  
Shareholder Advocacy Coordinator  
Miller/Howard Investments, Inc.

cc: Luan Jenifer, Chief Operating Officer, Miller/Howard Investments, Inc. ([luan@mhinvest.com](mailto:luan@mhinvest.com)).

**DeLuca, Katherine K.**

---

**From:** Sanchez, Leonard <Leonard.Sanchez@pnmresources.com>  
**Sent:** Monday, December 04, 2017 9:30 AM  
**To:** Patricia Karr Seabrook  
**Cc:** Luan Jenifer; Miller/Howard Investments ESG Team  
**Subject:** Re: [External] UPDATED - Miller/Howard submission of shareholder proposal on PNM Resources, Inc.

Thank you.

Leonard

---

**From:** Patricia Karr Seabrook <patricia@mhinvest.com>  
**Sent:** Monday, December 4, 2017 7:28 AM  
**To:** Sanchez, Leonard  
**Cc:** Luan Jenifer; Miller/Howard Investments ESG Team  
**Subject:** RE: [External] UPDATED - Miller/Howard submission of shareholder proposal on PNM Resources, Inc.

Dear Mr. Sanchez,

Thank you for following up regarding proof of ownership letter.  
I am working with our custodian to obtain the letter. I will have it for you this week.

Best,  
Patricia

Patricia Karr Seabrook  
Shareholder Advocacy Coordinator  
845-679-9166 (phone) | 866-901-9071 (fax)  
[patricia@mhinvest.com](mailto:patricia@mhinvest.com) | [esg@mhinvest.com](mailto:esg@mhinvest.com)  
10 Dixon Avenue | Woodstock, NY 12498  
[www.mhinvest.com](http://www.mhinvest.com)



**From:** Sanchez, Leonard [mailto:Leonard.Sanchez@pnmresources.com]  
**Sent:** Friday, December 01, 2017 5:45 PM  
**To:** Patricia Karr Seabrook <patricia@mhinvest.com>; Luan Jenifer <luan@mhinvest.com>; Miller/Howard Investments ESG Team <esg@mhinvest.com>  
**Subject:** RE: [External] UPDATED - Miller/Howard submission of shareholder proposal on PNM Resources, Inc.

Ms. Seabrook:

You submitted co-filer submissions on behalf of Helen Hamada and Lowell Miller. Your letters indicated that verification of stock ownership and authorization from Lowell G. Miller for Miller/Howard Investments, Inc. to file the

proposal will be submitted under separate cover letters. I am following up because we have not received the verifications.

Sincerely,

**Leonard D. Sanchez**

Associate General Counsel and  
Director, Ethics and Governance  
PNM Resources, Inc.  
414 Silver Ave. SW MS 0805  
Albuquerque, New Mexico 87102-3289  
Phone: (505) 241-4941  
[Leonard.Sanchez@pnmresources.com](mailto:Leonard.Sanchez@pnmresources.com)

**From:** Patricia Karr Seabrook <[patricia@mhinvest.com](mailto:patricia@mhinvest.com)>  
**Date:** November 28, 2017 at 8:52:19 AM MST  
**To:** "patrick.apodaca@pnmresources.com" <[patrick.apodaca@pnmresources.com](mailto:patrick.apodaca@pnmresources.com)>  
**Cc:** Luan Jenifer <[luan@mhinvest.com](mailto:luan@mhinvest.com)>, Miller/Howard Investments ESG Team <[esg@mhinvest.com](mailto:esg@mhinvest.com)>  
**Subject:** [External] UPDATED - Miller/Howard submission of shareholder proposal on PNM Resources, Inc.

\*\*\*\*\*  
\*\*\*\*\*  
**CAUTION:** This email was received from an EXTERNAL source, use caution when clicking links or opening attachments.  
If you believe this to be a malicious and/or phishing email, please send this email as an attachment to

**Miller / Howard**

SpamControl@INVESTMENTS

\*\*\*\*\*  
\*\*\*\*\*

Dear Mr. Apodaca,

Please see attached letter and shareholder proposal regarding 2 Degree Scenario Analysis, which we submitting as co-filers.

Please acknowledge receipt of this email.

Regards,  
Patricia

Patricia Karr Seabrook  
Shareholder Advocacy Coordinator  
845-679-9166 (phone) | 866-901-9071 (fax)  
[patricia@mhinvest.com](mailto:patricia@mhinvest.com) | [esg@mhinvest.com](mailto:esg@mhinvest.com)  
10 Dixon Avenue | Woodstock, NY 12498  
[www.mhinvest.com](http://www.mhinvest.com)



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**Please click on the link below for important information regarding this email communication.**

**<http://www.mhinvest.com/disclaimer.html>**



December 5, 2017

Leonard D. Sanchez  
Associate General Counsel and  
Director, Ethics and Governance  
PNM Resources, Inc.  
414 Silver Avenue SW  
Albuquerque, NM 87102-3289  
Leonard.Sanchez@pnmresources.com

**VIA FEDERAL EXPRESS and EMAIL**

Dear Mr. Sanchez,

Please find enclosed verification from Charles Schwab of stock ownership for Helen Hamada. The shareholder proposal was sent to you via email and Federal Express under separate cover along with a filing letter dated November 28, 2017.

In addition, I enclose a letter signed by Ms. Hamada authorizing Miller/Howard Investments, Inc. to file the shareholder resolution. This letter also states Ms. Hamada's intention to hold these shares through the date of PNM Resources, Inc.'s annual meeting in 2018.

Sincerely,

A handwritten signature in black ink, appearing to read 'Patricia Seabrook', written in a cursive style.

Patricia Karr Seabrook  
Shareholder Advocacy Coordinator  
Miller/Howard Investments, Inc.

cc: Luan Jenifer, Chief Operating Officer, Miller/Howard Investments, Inc.; esg@mhinvest.com



Advisor Services  
1958 Summit Park Dr  
Orlando, FL 32810

December 5, 2017

Patricia Seabrook  
Shareholder Advocacy Coordinator  
Miller Howard Investments  
(845) 679-9166

Re: Helen Hamada TTEE  
Trust Acct: XXXX- \*\*\*

This letter is to confirm that Charles Schwab & Co holds as custodian for the above account, shares of PNM Resources Inc. stock in excess of \$2,000. These shares have been held in this account continuously for at least one year prior to November 28, 2017.

These shares are held at Depository Trust Company under the nominee name of Charles Schwab & Company.

This letter serves as confirmation that the shares are held by Charles Schwab & Co. Inc.

Sincerely,

A handwritten signature in black ink, appearing to read "Blake Seibert", written over a horizontal line.

Blake Seibert  
Team Lead  
Schwab Advisor Services

November 28, 2017

Luan Jenifer  
Chief Operating Officer  
Miller/Howard Investments, Inc.  
10 Dixon Avenue  
Woodstock, NY 12498

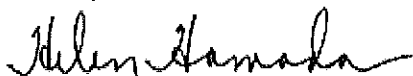
Dear Ms. Jenifer:

This letter is to confirm that I authorize Miller/Howard Investments, Inc. to file a shareholder resolution on my behalf at PNM Resources, Inc. at the 2018 annual meeting of shareholders.

This letter is to confirm that as of November 28, 2017, I was a record investor holding shares of PNM Resources, Inc. Common Stock. This letter also confirms that I have held these shares continuously in excess of \$2,000 in market value for at least twelve months prior to November 28, 2017, and that I will continue to hold sufficient shares through the date of the annual shareholders' meeting in 2018.

I give Miller/Howard Investments, Inc. the authority to deal on my behalf with any and all aspects of the shareholder resolution, including but not limited to presentation at the annual meeting, and withdrawal of the resolution.

Sincerely,



Helen Hamada  
Senior Advisor  
Miller/Howard Investments, Inc.

cc: Miller/Howard Investments: [patricia@mhinvest.com](mailto:patricia@mhinvest.com) and [esg@mhinvest.com](mailto:esg@mhinvest.com)