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

DIVISION OF
CORPORATION FINANCE

April 2, 2019

David I. Meyers
Troutman Sanders LLP
david.meyers@troutman.com

Re: PNM Resources, Inc.
Incoming letter dated January 18, 2019

Dear Mr. Meyers:

This letter is in response to your correspondence dated January 18, 2019 concerning the shareholder proposal (the "Proposal") submitted to PNM Resources, Inc. (the "Company") by The Sam and Wendy Hitt Family Trust (the "Proponent") for inclusion in the Company's proxy materials for its upcoming annual meeting of security holders. 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,

M. Hughes Bates
Special Counsel

Enclosure

cc: Sam Hitt
sam@wildwatershed.org

April 2, 2019

Response of the Office of Chief Counsel
Division of Corporation Finance

Re: PNM Resources, Inc.
Incoming letter dated January 18, 2019

The Proposal requests that the Company prepare a public report of the financial impacts to shareholders if purchasing the currently leased assets in the Palo Verde Nuclear Generating Station is disallowed by the New Mexico Supreme Court and the New Mexico Public Regulation Commission.

There appears to be some basis for your view that the Company may exclude the Proposal under rule 14a-8(i)(10). Based on the information you have presented, it appears that the Company's public disclosures compare favorably with the guidelines of the Proposal and that the Company has, therefore, substantially implemented the Proposal. Accordingly, we will not recommend enforcement action to the Commission if the Company omits the Proposal from its proxy materials in reliance on rule 14a-8(i)(10). In reaching this position, we have not found it necessary to address the alternative bases for omission upon which the Company relies.

Sincerely,

Lisa Krestynick
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.

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David I. Meyers
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January 18, 2019

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 Sam and Wendy Hitt Family Trust 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 2019 annual meeting of shareholders (the "Proxy Materials") a proposal (the "Proposal") and supporting statement submitted to the Company on December 7, 2018 by The Sam and Wendy Hitt Family Trust (the "Trust" or "Proponent"). 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 Proponent.

The Company anticipates that its Proxy Materials will be available for mailing on or about April 9, 2019. 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 Proponent 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 a shareholder proponent is required to send the company a copy of any correspondence that the proponent elects to submit to the SEC or Staff. Accordingly, we are taking this opportunity to inform the Proponent that if the Proponent 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:

> **BE IT RESOLVED**: Shareholders request that PNM Resources ("PNM") prepare a public report of the financial impacts to shareholders if purchasing the currently leased assets in the Palo Verde Nuclear Generating Station ("PVNGS") is disallowed by the New Mexico Supreme Court and the New Mexico Public Regulation Commission ("PRC"). The report should be prepared within one year of the 2019 annual meeting at reasonable cost and omitting proprietary information.

A copy of the Proposal and supporting statement, as well as the related correspondence regarding the Proponent's share ownership, is attached to this letter as Exhibit A.

BASIS FOR EXCLUSION

We respectfully request on behalf of the Company that the Staff concur in our view that the Company may exclude the Proposal from the Proxy Materials pursuant to (i) Rule 14a-8(i)(3) because the Proposal is materially false and misleading, (ii) 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 public disclosures, and (iii) Rule 14a-8(i)(7) because the Proposal relates to the Company's ordinary business operations.

DISCUSSION

A. Rule 14a-8(i)(3) — The Company may exclude the Proposal because it contains materially false and misleading statements in violation of Rule 14a-9.

1. Background.

Under Rule 14a-8(i)(3), a shareholder proposal may be excluded from a company's proxy materials if the proposal or supporting statement is contrary to any of the Commission's proxy rules, including Rule 14a-9, which prohibits materially false or misleading statements in a company's proxy materials. Rule 14a-9 provides that no solicitation may be made by means of any proxy statement containing "any statement, which, at the time and in the light of the circumstances under which it is made, is false or misleading with respect to any material fact, or

which omits to state any material fact necessary in order to make the statements therein not false or misleading." In Staff Legal Bulletin No. 14B (Sept. 15, 2004) ("SLB 14B"), the Staff articulated the application of this exclusion by explaining that it is appropriate where "the company demonstrates objectively that a factual statement is materially false or misleading." The Staff consistently has allowed the exclusion under Rule 14a-8(i)(3) of a shareholder proposal when the company demonstrates objectively that a factual statement is materially false or misleading. When applying this standard, the Staff has allowed the exclusion of entire shareholder proposals when materially false and misleading factual statements in the supporting statement misrepresent the fundamental premise of the proposal and render the proposal as a whole materially false or misleading.

The Staff recognized in SLB 14B two circumstances under which a proposal may be excluded pursuant to Rule 14a-8(i)(3). First, exclusion is warranted where "substantial portions of the supporting statement are irrelevant to a consideration of the subject matter of the proposal, such that there is a strong likelihood that a reasonable shareholder would be uncertain as to the matter on which she is being asked to vote." See, e.g., *The Kroger Co.* Mar. 27, 2017 (concurring in the exclusion of supporting statements involving "neonics" as irrelevant to a consideration of whether to adopt a policy requiring an independent chair because there was "a strong likelihood that a reasonable shareholder would be uncertain as to the matter on which he or she is being asked to vote"). Second, exclusion is warranted where the "company demonstrates objectively that a factual statement is materially false or misleading." See, e.g., *Ferro Corp.* (Mar. 17, 2015) (concurring in the exclusion of a proposal requesting that the company reincorporate in Delaware based on misstatements of Ohio law, which improperly suggested that the stockholders would have increased rights if the Delaware law governed the company instead of Ohio law); *JPMorgan Chase & Co. (*Mar. 11, 2014, *recon. denied* Mar. 28, 2014) (concurring in the exclusion of a proposal as false and misleading because, among other things, it misrepresented the company's vote counting standard for electing directors and mischaracterized the company's treatment of abstentions); *General Electric Co.* (Jan. 6, 2009) (concurring in the exclusion of a proposal under which any director who received more than 25% in "withheld" votes would not be permitted to serve on any key board committee for two years because the company did not typically allow stockholders to withhold votes in director elections); *Johnson & Johnson* (Jan. 31, 2007) (concurring in the exclusion of a proposal to provide stockholders a "vote on an advisory management resolution . . . to approve the Compensation Committee [R]eport" because the proposal would create the false implication that stockholders would receive a vote on executive compensation); *Citigroup Inc.* (January 31, 2007) (permitting exclusion of a proposal asking the board to adopt a policy that shareholders be given the opportunity at each annual meeting to vote on an advisory management resolution to approve the report of the compensation committee in the proxy statement, because the proposal was "materially false or misleading under rule 14a-9"); *State Street Corp.* (Mar. 1, 2005) (concurring in the exclusion of a proposal requesting shareholder action pursuant to a section of state law that had been recodified and was thus no longer applicable); *Wal-Mart Stores, Inc.* (April 2, 2001) (permitting exclusion of a proposal to remove "all genetically engineered crops, organisms or products" because the text of the proposal misleadingly implied that it related only

to the sale of food products); *McDonald's Corp.* (Mar. 13, 2001) (permitting exclusion of a proposal because its request to adopt "SA 8000 Social Accountability Standards" did not accurately describe the standards); *General Magic, Inc.* (May 1, 2000) (concurring in the exclusion of a proposal requesting that the company make "no more false statements" to its shareholders because the proposal created the false impression that the company tolerated dishonest behavior by its employees when in fact the company had corporate policies to the contrary). "[W]hen a proposal and supporting statement will require detailed and extensive editing in order to bring them into compliance with the proxy rules, [the Staff] may find it appropriate for companies to exclude the entire proposal, supporting statement, or both, as materially false or misleading." Staff Legal Bulletin No. 14 (July 13, 2001) ("SLB 14").

2. *The Proposal and the supporting statement are materially false and misleading because they are based on errors in fact.*

The Proposal and supporting statement are materially false and misleading because they are based on an error of facts. The Proposal requests that the Company prepare a public report on the financial impact to shareholders if purchasing the currently leased assets in the Palo Verde Nuclear Generating Station ("PVNGS") is disallowed by the New Mexico Supreme Court and the New Mexico Public Regulation Commission ("PRC"). However, as the Company's public disclosures make clear, purchasing currently leased assets is not at issue in the pending appeal before the New Mexico Supreme Court and the New Mexico Supreme Court will therefore not issue a decision on that matter in the case. Rather, the appeal before the New Mexico Supreme Court with respect to PVNGS centers on whether the Company may recover the costs of assets *that have already been purchased* through inclusion in rate base.

As disclosed in the Company's public filings, Public Service Company of New Mexico, a wholly owned subsidiary of the Company ("PNM"), currently serves its customers from its 10.2% owned interest in PVNGS Unit 3 and from its combined owned and leased 10.2% interest in each of Units 1 and 2 of PVNGS.

In 1985 and 1986, PNM entered into eleven sale and leaseback transactions for its entire 10.2% interest in Units 1 and 2. One purpose of these sale and leaseback transactions was to levelize the rate impact that would otherwise occur when the new capital intensive PVNGS plant began serving PNM's customers. PNM subsequently acquired the beneficial and ownership interests in three of the eleven leases.

Under each of the remaining eight leases, PNM had three options upon expiration of the initial lease period: (i) renew the leases with a 50% reduction in lease payments, (ii) purchase the leased assets at fair market value ("FMV") at the end of the initial lease term or (iii) allow the leases to expire and relinquish control. PNM elected to extend five leases that could be extended for an additional eight years at 50% rental payments. In addition, PNM elected to purchase the 64.1 MW of PVNGS Unit 2 underlying the remaining three PVNGS Unit 2 leases pursuant to the terms of the initial sales-leaseback transaction at FMV for $163.3 million (the "Purchase").

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On August 27, 2015, PNM filed an application with the PRC for a general increase in retail electric rates (the "Rate Case") and PNM was ordered to file additional testimony in 2016 related to the extension of the five leases and the Purchase. On September 28, 2016, the PRC issued an order (the "Order") in connection with the Rate Case which, among other things, only allowed PNM to recover $83.7 million (the initial rate base value) for the Purchase rather than the entire FMV amount of $163.3 million. On September 30, 2016, PNM filed a notice of appeal with the New Mexico Supreme Court regarding the Order, and on October 26, 2016, PNM filed a statement of issues related to its appeal. As disclosed on page 75 of the Company's Form 10-Q for the quarter ended September 30, 2018, and in the Company's other public filings, PNM is appealing the PRC's determination that PNM was imprudent in the actions taken to purchase the previously leased 64.1 MW of capacity in PVNGS Unit 2, extending the leases for 114.6 MW of capacity of PVNGS Units 1 and 2, and installing balanced draft technology equipment on San Juan Generating Station ("SJGS") Units 1 and 4, and the following specific elements of the Order:

- Disallowance of recovery of the full purchase price, representing fair market value, of the 64.1 MW of capacity in PVNGS Unit 2 purchased in January 2016;
- Disallowance of the recovery of the undepreciated costs of capitalized improvements made during the period the 64.1 MW of capacity was leased by PNM;
- Disallowance of recovery of future contributions for PVNGS decommissioning attributable to the 64.1 MW of purchased capacity and the 114.6 MW of capacity under the extended leases; and
- Disallowance of recovery of the costs of converting SJGS Units 1 and 4 to balanced draft technology.

Additionally, New Energy Economy, New Mexico Industrial Energy Consumers Inc. and Albuquerque Bernalillo County Water Utility Authority filed cross-appeals to PNM's appeal appealing PNM's recovery of the purchase price of the Purchase and the cost of the lease extensions, the final rate design, and the inclusion of certain "prepaid pension assets" in rate base. Thus, the cross-appeals likewise do not reference whether PNM may purchase currently leased assets.

In sum, whether or not the Company may purchase currently leased assets (as set forth in the Proposal and supporting statement) is not at issue in the appeal and the New Mexico Supreme Court will therefore not issue a decision on that matter in the Rate Case. Rather, the appeal centers on whether the Company may recover the entire FMV acquisition cost of assets *that have already been purchased* through inclusion in rate base. The statement in the Proposal that shareholders will be financially impacted if purchasing the currently leased assets in the PVNGS is disallowed by the New Mexico Supreme Court and the PRC in the Rate Case is thus a

materially false statement and asks the Company to prepare a report on an issue that does not currently exist. As in *JPMorgan Chase & Co.*, the Proposal is false and misleading because it misrepresents the facts of the Rate Case and related appeals.

The Proposal and supporting statement are also materially false and misleading because they misstate the need for PRC approval with respect to PNM's right to acquire the leased PVNGS interests. As stated above, the Proposal requests that the Company "prepare a public report on the financial impact to shareholders if purchasing the currently leased assets in the [PVNGS] is disallowed by the…[PRC]." The Proposal therefore implies that the PRC has the authority to prevent PNM from purchasing currently leased assets (although that is not at issue in the Rate Case, as discussed above). This implication is materially false because the PRC specifically recognized that PNM has the authority to purchase the interests underlying the currently leased PVNGS assets.[1] Accordingly, the above statement, along with the factual premise of the Proposal, is, objectively, a fundamentally false statement that materially misstates the legal authority of the PRC.

Because the entire Proposal and supporting statement is based on a materially false premise, namely that the Company is seeking to purchase leased assets and that the PRC has the legal authority to prohibit a purchase of assets, we respectfully submit that the Proposal should be excluded under Rule 14a-8(i)(3).

3. The Proposal and the supporting statement are materially false and misleading because they are internally inconsistent and misleading, such that there is a strong likelihood that a reasonable shareholder would be uncertain as to the matter on which he or she is being asked to vote.

The second sentence of the second paragraph of the supporting statement states that "PNM has repurchased portions of these assets from various lessors, and when it has done so PNM has substantially reduced the risks to shareholders associated with nuclear plant decommissioning and capital costs." This sentence clearly states that repurchasing assets substantially reduces risks to shareholders. However, the next sentence of the supporting statement states that "[t]his is because when PNM leases or owns PVNGS assets for ratepayers then ratepayers, not shareholders, bear responsibility or decommissioning and capital costs in proportion to the amount of time the plant is used for retail purposes." This sentence clearly states that it is irrelevant whether the assets are leased or owned, as decommissioning and capital costs will be recovered in either event. Read together, the two statements are fundamentally inconsistent, stating both that repurchasing leases reduces shareholder risk and that repurchasing instead of leasing is irrelevant to shareholder risk. This inconsistency results in a materially vague supporting statement. The Proposal requests a report to shareholders on potential financial impacts to shareholders related to the purchase of leased assets, while the supporting statement completely confuses whether a repurchase is beneficial or irrelevant to shareholders. A

[1] In the Matter of the Application of Pub. Serv. Co. of New Mexico for Revisions of Its Retail Elec. Rates Pursuant to Advice Notice No. 513 Pub. Serv. Co. of New Mexico, Applicant., 15-00261-UT, 2016 WL 5719430, at *17 (Sept. 28, 2016).

shareholder voting on the Proposal would thus have substantial difficulty determining whether the report requested by the Proposal would be relevant to the shareholder's financial risk. Therefore, this is a clear situation for the application of SLB 14B: "the proposal and the supporting statement, *when read together*, have the… result" of being "so inherently vague or indefinite that neither the shareholders voting on the proposal, nor the company in implementing the proposal (if adopted), would be able to determine with any reasonable certainty exactly what actions or measures the proposal requires" (emphasis added). We respectfully submit that this is the type of proposal that should be totally excluded under Rule 14a-8(i)(3).

B. Rule 14a-8(i)(10) — The Company may exclude the Proposal because it already has substantially implemented the Proposal.

Alternatively, and to the extent that the Staff does not concur that the entire Proposal may be excluded as materially false and misleading under Rule 14a-8(i)(3), the Company believes the Proposal may be excluded pursuant to Rule 14a-8(i)(10) as substantially implemented.

1. Background.

Rule 14a-8(i)(10) provides that a company may exclude a proposal from its proxy materials if "the company has already substantially implemented the proposal." According to the Commission, this exclusion "is designed to avoid the possibility of shareholders having to consider matters which have already been favorably acted upon by management." See Release No. 34-20091 (Aug. 16, 1983) (the "1983 Release"), which the Commission codified in Exchange Act Release No. 40018, at n.30 (May 21, 1998) (the "1998 Release"). The Staff has articulated this standard by stating that "a determination that the company has substantially implemented the proposal depends upon whether particular policies, practices and procedures compare favorably with the guidelines of the proposal." See, e.g., *United Cont'l Holdings, Inc.* (Apr. 13, 2018); *eBayInc.* (Mar. 29, 2018); *Kewaunee Scientific Corp.* (May 31, 2017); *Wal-Mart Stores, Inc.* (Mar. 16, 2017); *Oshkosh Corp*. (Nov. 4, 2016); *NetApp, Inc.* (June 10, 2015); *JPMorgan Chase & Co*. (Mar. 6, 2015); *Peabody Energy Corp*. (Feb. 25, 2014); *Medtronic, Inc.* (June 13, 2013); *Starbucks Corp.* (Nov. 27, 2012), *Whole Foods Market, Inc.* (Nov. 14, 2012), and *Texaco, Inc.* (Mar. 28, 1991). A company need not implement every detail of a proposal in order for the Staff to permit exclusion under Rule 14a-8(i)(10). See 1983 Release. Rather, the Staff has consistently 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 *Walgreens Boot Alliance, Inc.* (November 13, 2018) the Staff allowed the company to exclude under Rule 14a-8(i)(10) a proposal requesting the company issue a report describing its implementation plans ensuring how its policies and practices are advancing and not undermining UN Sustainable Development Goals because the company's public disclosures compared favorably to the guidelines of the proposal. Additionally, 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).

2. *The Company's disclosures in its public filings substantially implement the Proposal.*

Although the Proposal and supporting statement erroneously describe the nature of the case before the New Mexico Supreme Court, the Proposal further requests the Board to prepare a public report of the financial impacts to shareholders if the Company's appeal is denied. The Company, however, already provides extensive disclosure related to the actual New Mexico Supreme Court case through its public filings with the SEC by disclosing in detail losses that have previously been recorded in connection with the Rate Case and potential future losses if the appeal is not decided in PNM's favor. For example, Note 12 to the Unaudited Condensed Consolidated Financial Statements of the Company and its subsidiaries set forth in the Company's Quarterly Report on Form 10-Q for the quarter ended September 30, 2018 ("Note 12"), discloses that, in connection with the Rate Case, PNM recorded: (i) pre-tax regulatory disallowances of $6.8 million at September 30, 2016 for capital costs and $4.5 million at September 30, 2016 for costs recorded as regulatory assets and deferred charges, (ii) a pre-tax loss of $3.1 million at December 31, 2017 representing seven months of capital cost recovery, (iii) an additional pre-tax loss of $1.8 million at June 30, 2018 representing additional capital cost recovery that the Order disallowed and would not be recovered through October 31, 2018 and (iv) an additional pre-tax loss of $0.9 million at September 30, 2018, representing capital costs that the Order disallowed and will not be recovered through January 31, 2019. Although the Company cannot predict what decision the New Mexico Supreme Court will reach or what further actions the PRC will take, the Company also specifically sets forth potential additional losses in Note 12 if PNM's appeal is unsuccessful, including:

- The remaining costs to acquire the assets previously leased under three leases aggregating 64.1 MW of PVNGS Unit 2 capacity in excess of the recovery permitted under the Order; the net book value of such excess amount was $73.9 million, after considering the losses recorded to date;

- The undepreciated costs of capitalized improvements made during the period the 64.1 MW of capacity in PVNGS Unit 2 purchased by PNM in January 2016 was being

leased by PNM; the net book value of these improvements was $38.3 million, after considering the losses recorded to date; and

- The remaining costs to convert SJGS Units 1 and 4 to balanced draft technology; the net book value of these assets was $50.3 million, after considering the losses recorded to date.

The Company also discloses in Note 12 potential financial impacts in the event that the New Mexico Supreme Court were to overturn all of the issues subject to the cross-appeals and, upon remand, the PRC did not provide any cost recovery of those items: "PNM would write-off all of the costs to acquire the assets previously leased under three leases, aggregating 64.1 MW of PVNGS Unit 2 capacity, totaling $147.5 million (which amount includes $73.9 million that is the subject of PNM's appeal discussed above) at September 30, 2018, after considering the losses recorded to date. The impacts of not recovering costs for the lease extensions, new coal supply contract for Four Corners [Power Plant], and "prepaid pension asset" in rate base would be recognized in future periods reflecting that rates charged to customers would not recover those costs as they are incurred. The outcomes of the cross-appeals regarding the [Fuel and Purchased Power Adjustment Clause] and rate design should not have a financial impact to PNM." The above-mentioned disclosure is consistent with the apparent objective of the Proposal, which is to elicit disclosure regarding the potential financial impacts if the New Mexico Supreme Court appeal is not decided in PNM's favor.

An alternative reading of the Proposal would suggest that the Proposal requests a report on potential financial impacts to shareholders if the five PVNGS leases that were extended are purchased in the future and the purchase price is disallowed by the PRC. The supporting statement states that "there are risks that…104 MW of PVNGS Unit 1 (lease expiration in 2023) and 10 MW of PVNGS Unit 2 (lease expiration in 2024) may be disallowed into rate base." However, it would be premature and speculative of the Company to disclose any potential financial impacts of such a disallowance. First, the leases do not expire until 2023 and 2024, and the Company has not yet determined whether it would be in the best interests of the Company to purchase the leases. Second, the Company cannot know what determination the PRC may make in the future. Currently, the leases that have been extended are being recovered in base rates. The PRC would need to make a determination at the time of any potential future purchase and related application to include purchased assets in rate base regarding whether such purchase was not prudent such that the purchase price should not be wholly recovered in rate base. To prepare a report on the financial impacts of an event that may never occur is based on numerous assumptions, would be speculative and misleading, and would not be useful to shareholders.

Further, 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, the Company must substantially implement the shareholder proposal. As the Commission described in an earlier release noting the distinction between the current rule and its predecessor:

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> 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).

Accordingly, the Company's current disclosures substantially implements, compares favorably to, and satisfies the essential objective of the Proposal, which is to prepare a public report regarding potential financial impacts to shareholders of the case before the New Mexico Supreme Court. The Proposal may therefore be excluded pursuant to Rule 14a-8(i)(10).

C. Rule 14a-8(i)(7) — The Company may exclude the Proposal because it deals with a matter relating to the Company's ordinary business operations.

Alternatively, and to the extent that the Staff does not concur that the entire Proposal may be excluded as materially false and misleading under Rule 14a-8(i)(3) or pursuant to Rule 14a-8(i)(10) as substantially implemented, the Company believes the Proposal may be excluded pursuant to Rule 14a-8(i)(7) as a matter relating to the Company's ordinary business operations.

1. Background.

Rule 14a-8(i)(7) permits a company to exclude from its proxy materials a shareholder proposal that relates to the company's "ordinary business operations." According to the SEC release accompanying the 1998 amendments to Rule 14a-8, the term "ordinary business" refers to matters that are not necessarily "ordinary" in the common meaning of the word, but instead the term "is rooted in the corporate law concept of providing management with the flexibility in directing certain core matters involving the company's business and operations." 1998 Release. In the 1998 Release, the SEC stated that the underlying policy of the ordinary business exclusion is "to confine the resolution of ordinary business problems to management and the board of directors, since it is impracticable for shareholders to decide how to solve such problems at an annual meeting," and identified two central considerations that underlie this policy. The first was that "[c]ertain tasks are so fundamental to management's ability to run a company on a day-to-day basis that they could not, as a practical matter, be subject to direct shareholder oversight." The second consideration related to "the degree to which the proposal seeks to 'micro-manage' the company by probing too deeply into matters of a complex nature upon which shareholders, as a group, would not be in a position to make an informed judgment." *Id.* (citing Exchange Act Release No. 12999) (Nov. 22, 1976).

Framing a shareholder proposal in the form of a request for a report does not change the nature of the proposal. The Commission has stated that a proposal requesting the dissemination of a report may be excludable under Rule 14a-8(i)(7) if the subject matter of the report is within the ordinary business of the issuer. See the 1983 Release. In addition, the Staff has indicated that "[where] the subject matter of the additional disclosure sought in a particular proposal involves a matter of ordinary business . . . it may be excluded under rule 14a-8(i)(7)." *Johnson Controls, Inc.* (avail. Oct. 26, 1999).

The Staff consistently has concurred with the exclusion under Rule 14a-8(i)(7) of shareholder proposals that implicate and seek to oversee a company's ordinary business operations, including when the subject matter of the proposal is the same as or similar to that which is at the heart of litigation in which a company is involved. For example, in *Johnson & Johnson* (avail. Feb. 14, 2012), the Staff concurred with the exclusion of a proposal that requested that the company report on any new initiatives instituted by management to address the "health and social welfare concerns of people harmed by adverse effects from Levaquin," one of the Company's pharmaceutical products. Specifically, the proposal was excludable as relating to the company's litigation strategy where the company was litigating several thousand cases involving claims that individuals had been injured by the company's drug LEVAQUIN®. Thus, the report requested in the proposal would have required a report on the very matter being litigated — "adverse effects from" the company's product. See also *General Electric Co.* (avail. Feb. 3, 2016) (concurring with the exclusion, as relating to litigation strategy, of a proposal requesting that the company issue a report containing specified information regarding the alleged discharge chemicals into the Hudson River, while the company was a defendant in multiple pending lawsuits alleging damages related to the company's alleged past release of chemicals into the Hudson River); *Wal-Mart Stores, Inc.* (avail. Apr. 14, 2015) (concurring with the exclusion, as relating to litigation strategy, of a proposal requesting that the company prepare an annual report on company actions taken to eliminate gender-based pay inequity and progress made toward such elimination given numerous pending lawsuits and claims alleging gender-based pay discrimination); *Reynolds American Inc.* (avail. Mar. 7, 2007) (concurring with the exclusion, as relating to litigation strategy, of a proposal requesting that the company provide information on the health hazards of secondhand smoke, including legal options available to minors to ensure their environments are smoke free, where the company was currently litigating six separate cases alleging injury as a result of exposure to secondhand smoke and a principal issue concerned the health hazards of secondhand smoke); *AT&T Inc.* (avail. Feb. 9, 2007) (concurring with the exclusion, as relating to ordinary business operations (i.e., litigation strategy)), of a proposal requesting that the company issue a report containing specified information regarding the alleged disclosure of customer records to governmental agencies, while the company was a defendant in multiple pending lawsuits alleging unlawful acts by the company in relation to such disclosures); *Reynolds American Inc.* (avail. Feb. 10, 2006) (concurring with the exclusion, as relating to litigation strategy, of a proposal requesting that the company notify African-Americans of the unique health hazards to them associated with smoking menthol cigarettes, where the company noted that undertaking such a campaign would be inconsistent with positions it was taking in denying such health hazards as defendant in a

lawsuit alleging that the use of menthol cigarettes by the African-American community poses unique health risks to this community).

2. The Proposal relates to the ordinary business matter of the company's litigation strategy.

As with the proposals in *Johnson & Johnson* and *Wal-Mart Stores, Inc.*, the Company believes that the Proposal may be excluded from the Proxy Materials pursuant to Rule 14a-8(i)(7) because the Proposal involves the same subject matter as, and implicates the Company's litigation strategy in, the pending Rate Case appeal with the New Mexico Supreme Court, and therefore relates to the Company's ordinary business operations.

As discussed above, the Company's subsidiary, PNM, is appealing the PRC's Order disallowing recovery of a portion of the purchase price representing fair market value of the Purchase through inclusion in PNM's rate base. If the appeal is unsuccessful and recovery of the purchase price is disallowed, PNM will be unable to recover such costs through its customer rates. Although the Company discloses in its public filings potential financial impacts *to the Company* of an unsuccessful appeal, the Company cannot predict what the ultimate impact *to shareholders* may be, and to speculate on such impact would affect the Company's litigation strategy. Assessing exposure to potential claims and the scope of potential liability in pending litigation and evaluating "the financial impacts to shareholders", are exactly the types of "core matters involving the [C]ompany's business and operations" that are the basis for Rule 14a-8(i)(7). Exchange Act Release No. 40018 (May 21, 1998). For that reason, the Staff consistently has viewed shareholder proposals, like the Proposal, that implicate a company's conduct of litigation or its litigation strategy as properly excludable under the "ordinary course of business" exception contained in Rule 14a-8(i)(7). See, e.g., *Chevron Corp.* (avail. Mar. 19, 2013) (excluding a proposal as relating to the company's ordinary business operations (i.e., litigation strategy) where the proposal requested that the company review its "legal initiatives against investors" because "[p]roposals that would affect the conduct of ongoing litigation to which the company is a party are generally excludable under rule 14a-8(i)(7)"); *CMS Energy Corp.* (avail. Feb. 23, 2004 (concurring with the exclusion of a shareholder proposal requiring the company to void any agreements with two former members of management and initiate action to recover all amounts paid to them, where the Staff noted that the proposal related to the "conduct of litigation"); *NetCurrents, Inc.* (avail. May 8, 2001) (excluding a proposal as relating to the company's ordinary business operations (i.e., litigation strategy) where the proposal required the company to file suit against certain of its officers for financial improprieties); *Benihana National Corp.* (avail. Sept. 13, 1991) (permitting exclusion under Rule 14a-8(c)(7) of a proposal requesting the company to publish a report prepared by a board committee analyzing claims asserted in a pending lawsuit).

In addition, the Staff consistently has concurred with the exclusion under Rule 14a-8(i)(7) of shareholder proposals when the subject matter of the proposal is the same as or similar to current litigation in which the company is then involved and when the implementation of the

proposal would be inconsistent with positions that the company is asserting in litigation. See, e.g., *Wal-Mart Stores, Inc.* (avail. Apr. 14, 2015) (excluding a proposal as relating to the company's ordinary business operations where "the [p]roposal would obligate the [c]ompany to take a public position, outside the context of pending litigation and the discovery process, with respect to the very subject matter of the [p]roposal"); *Johnson & Johnson* (avail. Feb. 14, 2012) (concurring in the exclusion of a proposal where implementation would have required the company to report on any new initiatives instituted by management to address the health and social welfare concerns of people harmed by LEVAQUIN®, thereby taking a position contrary to the company's litigation strategy); *R.J. Reynolds Tobacco Holdings, Inc.* (avail. Feb. 6, 2004) (concurring in the exclusion of a proposal that directed the company to stop using the terms "light," "ultralight," "mild" and similar words in marketing cigarettes until shareholders could be assured through independent research that light and ultralight brands actually reduce the risk of smoking-related diseases. At the time the proposal was submitted, the company was a defendant in multiple lawsuits in which the plaintiffs were alleging that the terms "light" and "ultralight" were deceptive. The company argued that implementing the proposal while the lawsuits were pending "would be a de facto admission by the Company that 'light' and 'ultralight' cigarettes do not pose reduced health risks as compared to regular cigarettes."). See also *Exxon Mobil Corp.* (avail. Mar. 21, 2000) (concurring with the exclusion of a proposal requesting immediate payment of settlements associated with Exxon Valdez oil spill as relating to litigation strategy and related decisions).

In summary, the Proposal requests that the Company take action that would interfere with the Company's ability to defend the Company's interests in pending litigation against the Company at the same time that the Company is actively appealing before the New Mexico Supreme Court the Order in the Rate Case. In this regard, the Proposal seeks to substitute the judgment of shareholders for that of the Company on decisions involving litigation strategy by requiring the Company to take action that is contrary to its legal defense in pending litigation. Thus, implementation of the Proposal would intrude upon Company management's exercise of its day-to-day business judgment with respect to pending litigation in the ordinary course of its business operations.

Accordingly, we believe that the Proposal may be properly excluded from the Company's Proxy Materials under Rule14a-8(i)(7) as relating to the Company's ordinary business operations.

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) 697-1239 or at dave.meyers@troutman.com.

troutman sanders

Sincerely,

David I. Meyers

Enclosures
cc: Patrick V. Apodaca – Senior Vice President, General Counsel and Secretary
Leonard D. Sanchez – Associate General Counsel
The Sam and Wendy Hitt Family Trust

Exhibit A

December 7, 2018

Corporate Secretary
PNM Resources, Inc.
Corporate Headquarters – MS 1245
Albuquerque, NM 87158

Dear Sir or Madam Secretary:

We are writing to request that PNM Resources prepare a public report of the financial impact on shareholders if the New Mexico Supreme Court and the New Mexico Public Regulation Commission disallow PNM's intended purchase of the currently leased assets in the Palo Verde Nuclear Generating Station.

The attached proposal is submitted for inclusion in the 2019 PNM Resources, Inc., proxy statement in accordance with Rule 14a-8 of the general Rules and Regulations of the Securities Act of 1934. The Sam and Wendy Hitt Family Trust is the beneficial owner of 100 shares of PNM resources stock. We have continuously owned more than $2,000 of PNM Resources stock for more than a year and intend to continue owning those shares through the 2019 annual meeting. Under separate cover, our Walden Assets Management portfolio manager will provide verification of ownership from the sub-custodian, U.S. Bank, a DTC participant.

One of us, or a representative, will attend the annual shareholder meeting to move the resolution as is required by SEC rules. We may be joined by co-filers, but we are the primary filer of this Financial Impact Analysis of Nuclear Assets. We look forward to discussing our proposal with you. Sam can be contacted at (505) 438-1057, or sam@wildwaterhshed.org.

Sincerely,

Sam and Wendy Hitt
P.O. Box 1943
Santa Fe, NM 87504

FINANCIAL IMPACT ANALYSIS OF NUCLEAR ASSETS

BE IT RESOLVED: Shareholders request that PNM Resources ("PNM") prepare a public report of the financial impacts to shareholders if purchasing the currently leased assets in the Palo Verde Nuclear Generating Station ("PVNGS") is disallowed by the New Mexico Supreme Court and the New Mexico Public Regulation Commission ("PRC"). The report should be prepared within one year of the 2019 annual meeting at reasonable cost and omitting proprietary information.

SUPPORTING STATEMENT

PNM has a 10.2% interest in each of the three units at the PVNGS. In 1985, the PRC authorized PNM to sell and lease back substantially all of its 10.2% ownership interest in Palo Verde ("PV") Unit 1 to third party investors, who simultaneously leased the assets back to PNM. In 1986, the PRC authorized PNM to sell its 10.2% ownership interest in PV Unit 2 and the remainder of its PV Unit 1 interests to third party investors, who simultaneously leased these assets back to PNM. The PRC excluded all of PNM's 10.2% ownership interest in PV Unit 3 from the rate base until 2015, when it approved inclusion of the 10.2% interest in PV Unit 3 back into the rate base.

In return for the lease payments, PNM received the right to power generated by PVNGS. For roughly the past 30 years, the costs of the PVNGS leases have been recovered in base rates. PNM has repurchased portions of these assets from various lessors, and when it has done so PNM has substantially reduced the risks to shareholders associated with nuclear plant decommissioning and capital costs. This is because when PNM leases or owns PVNGS assets for ratepayers then ratepayers, not shareholders, bear responsibility for decommissioning and capital costs in proportion to the amount of time the plant is used for retail purposes.

However, there are risks that 64.1 MW of PVNGS Unit 2 (after a finding by the PRC that PNM's procurement of the 64.1 MW was "imprudent"; the appeal is pending in the New Mexico Supreme Court) and 104 MW of PVNGS Unit 1 (lease expiration in 2023) and 10 MW of PVNGS Unit 2 (lease expiration in 2024) may be disallowed into rate base. If purchase of PVNGS leases are disallowed then PNM shareholders, not ratepayers, will be responsible for decommissioning expenses and any capital project costs for projects pending at the date of the lease expiration. In testimony PNM conceded that there was a risk that shareholders, not ratepayers, would bear the cost of non-depreciated capital improvements and decommissioning expenses if PNM did not buy the leases. PNM has argued that disallowance of purchase of the PV leases for ratepayers would cause "serious harm" to the company and therefore its shareholders.

Institutional Trust and
Custody
425 Walnut Street
Cincinnati, OH 45202

usbank.com

Date: December 7, 2018

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 The Sam and Wendy Hitt Family Trust.

We are writing to confirm that The Sam and Wendy Hitt Family Trust has had continuous ownership of at least $2,000 of PNM Resources Inc. (Cusip#69349H107) as of December 7, 2017.

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

Sincerely,

Joanne MacVey
Officer, Client Service Manager
Institutional Trust & Custody

From:	Schroeder, Kimberly
To:	sam@wildwatershed.org
Cc:	Sanchez, Leonard; McCormack, Susan; Meyers, Dave; Schroeder, Kimberly
Subject:	PNM Resources - The Sam and Wendy Hitt Family Trust Shareholder Proposal
Date:	Wednesday, December 12, 2018 4:38:22 PM
Attachments:	12-12-18 Hitt - Notice of Deficiency w-enclosures.pdf image001.png

Mr. and Ms. Hitt,

Attached is a response to the shareholder proposal submitted by you on behalf of The Sam and Wendy Hitt Family Trust dated December 7, 2018. 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,

Kimberly Schroeder | Paralegal | (505) 241-4937 | Kimberly.Schroeder@pnmresources.com

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

December 12, 2018

Sent via Electronic Mail and Overnight Delivery

Sam and Wendy Hitt
The Sam and Wendy Hitt Family Trust
P.O. Box 1943
Santa Fe, New Mexico 87504
sam@wildwatershed.org

Dear Mr. and Ms. Hitt:

On December 7, 2018, PNM Resources, Inc. (PNMR) received the shareholder proposal (the Proposal) submitted by you on behalf of the Sam and Wendy Hitt Family Trust (the Trust) for inclusion in the PNMR proxy statement for the 2019 Annual Meeting of Shareholders (the 2019 Annual Meeting). In accordance with the regulations of the Securities and Exchange Commission (the 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 Trust 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 Trust's eligibility to submit a proposal for consideration at the 2019 Annual Meeting.

Accordingly, we request that you provide the written information required by Rule 14a-8(b)(2) establishing the Trust's ownership eligibility. Rule 14a-8(b) states that, in order to be eligible to submit a proposal, the Trust 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 (**December 7, 2018**).

The Trust must continue to hold the requisite amount of PNMR's securities through the date of the 2019 Annual Meeting.

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

- 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 (December 7, 2018), the Trust 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 Trust's ownership of shares as of or before the date on which the one-year eligibility period began and a written statement that the Trust 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.

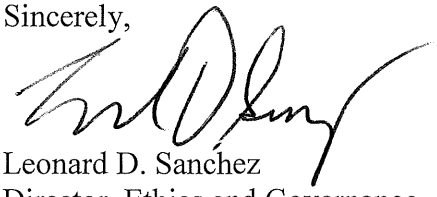
We understand from your letter dated December 7, 2018 that you intend to provide verification of ownership from the Trust's portfolio manager, Walden Asset Management, through the Trust's sub-custodian, a DTC participant. However, PNMR has received no such proof of continuous ownership required by Rule 14a-8. **Therefore, in accordance with Rule 14a-8(f)(1) under the Exchange Act, we inform you that the Trust'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**.

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). Copies of Rule 14a-8 under the Exchange Act, SLB 14F and SLB 14G are attached for your reference.

Your documentation and/or response may be sent to me at PNM Resources, Inc., 414 Silver Ave., SW, Albuquerque, NM 87102-3289 or via electronic e-mail at leonard.sanchez@pnmresources.com, with a copy to my assistant, Kimberly Schroeder at kimberly.schroeder@pnmresources.com. If you should have any questions regarding this matter, please contact Ms. Schroeder at 505-241-4937.

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