

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

Troy ParentCo LLC	)	
TXNM Energy Inc.	)	Docket No. EC25-140-000
Public Service Company of New Mexico	)	
New Mexico PPA Corporation	)	

PROTEST BY THE CENTER FOR BIOLOGICAL DIVERSITY

The Center for Biological Diversity (“the Center”) hereby protests the joint application (“the Application”) of Troy ParentCo LLC (“Buyer”),¹ TXNM Energy Inc. (“TXNM”),² Public Service Company of New Mexico (“PNM”), and New Mexico PPA Corporation (jointly, “Applicants”) for acquisition authorization under Section 203 of the Federal Power Act (“FPA”)³ (collectively, “the Acquisition”). The Center urges the Federal Energy Regulatory Commission (“the Commission” or “FERC”) to deny the Application because the Acquisition is contrary to the public interest and fails to meet FPA Section 203’s statutory requirements for the following reasons: (1) the Acquisition poses a substantial risk of cross-subsidizing non-utility companies for the benefit of associate companies, particularly Blackstone’s data centers and energy generation companies in pursuit of investing in the artificial intelligence boom, in violation of FPA Section 203(a)(4); (2) as a result, the Acquisition is likely to adversely affect competition,

¹ As defined on page 5 of the Application, Buyer Troy ParentCo LLC is controlled by an umbrella group of funds collectively referred to as Blackstone Infrastructure Management (“Blackstone Infrastructure”), which is ultimately owned by Blackstone Inc. (“Blackstone”), one of the world’s largest alternative asset managers. For the purposes of this protest, the Center will refer to Blackstone Infrastructure and Blackstone activities as relevant to the arguments set forth.

² As defined on page 4 of the Application, TXNM also owns the Texas-New Mexico Power Company (“TMNP”), a Texas corporation, that provides electricity to more than 225,000 homes and businesses through Texas. Therefore, this Application involves the acquisition of two public utilities, TMNP and PNM. Since TMNP is in ERCOT and outside of FERC jurisdiction, we refer to it as appropriate and relevant to the arguments made herein.

³ 16 U.S.C. § 824b.

rates, and regulation, harming the public interest required under FPA Section 203(a)(4); and (3) allowing a private equity firm to control a public utility is contrary to the public interest due to the inherent structures of ownership and lack of accountability.

At the very least or in the alternative, because the Application omits critical information regarding these issues, the Center urges the Commission to require Applicants to submit additional critical information pursuant to 18 C.F.R. § 33.10 and not allow the Acquisition to be approved through inaction in 180 days pursuant to 18 C.F.R. § 33.11. In particular, the Commission should require: (1) disclosure of Blackstone's major digital and energy infrastructure affiliates in the AI value chain; (2) disclosure of Blackstone's existing and planned control of data centers in New Mexico, Texas, and the surrounding regions; and (3) a detailed explanation of how none of these non-utility affiliates pose any risk of cross-subsidization or negative effects on competition, rates, and regulation harming the public interest. Upon receipt of this additional information, the Commission should set this matter for an evidentiary hearing before approving the Acquisition.

The Center is a national, non-profit conservation organization with more than 1.7 million members and online activists who care about the country's urgent need to expedite the renewable energy transition and protect human health, the natural environment, and species from impacts of climate change, the extinction crisis, and environmental degradation.

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CONCLUSION

**THE ACQUISITION IS CONTRARY TO THE PUBLIC INTEREST
AND SHOULD BE REJECTED UNDER SECTION 203 OF THE FPA**

The Commission should deny the Application because the Acquisition fails to meet the statutory requirements of Section 203 of the FPA. Alternatively, the Commission should require submission of additional information and then hold an evidentiary hearing on this matter.

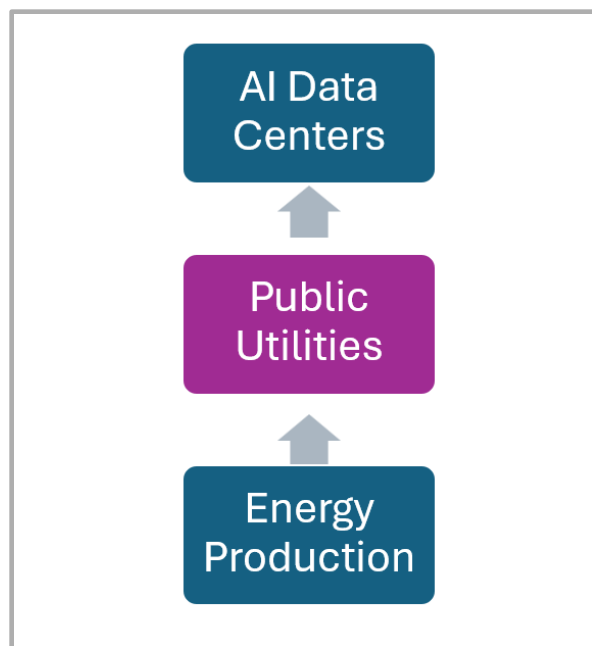
As a threshold issue and as detailed in Section III below, the very nature of the Acquisition—a private equity firm controlling a public utility that is charged with serving the public with a universal good of electricity at reasonable rates—is fundamentally inconsistent with the public interest due to the inherent goal of private equity firms to maximize profits for rapid sale; their strong incentives to engage in anti-competitive conduct; and their track record of engaging in problematic activities without the transparency and accountability mechanisms typical in publicly-traded companies.⁴ Thus, as discussed in Sections I and II below, while there are numerous specific reasons why Blackstone’s bid for acquisition of two public utilities here is not in the public interest, the Commission more broadly should not permit private equity firms to acquire public utilities, because such acquisitions harm the public interest in violation of Section 203(a)(4) of the FPA.⁵

⁴ See Section III, *infra*.

⁵ See, e.g., *Global Infrastructure Management, LLC BlackRock, Inc.*, Docket No. EC24-58-000 (FERC, Sept. 6, 2024) (setting forth former FERC Chairman Mark Christie’s summary of these concerns).

I. The Acquisition would create a serious risk of unlawfully cross-subsidizing non-utility affiliates also owned by Blackstone, namely data centers and energy producers, in violation of the FPA.

FPA Section 203(a)(4) requires that, to approve the Acquisition, the Commission must find that the transaction will not result in the unlawful “cross-subsidization of a non-utility associate company or the pledge or encumbrance of utility assets for the benefit of an associate company, unless the Commission determines that the cross-subsidization, pledge, or encumbrance will be consistent with the public interest.”⁶ The Application repeatedly and conclusorily states there will be no cross-subsidization here.⁷ However, to the contrary, this proposed Acquisition raises substantial concerns about the potential cross-subsidization of two of Blackstone Infrastructure’s major investment areas reflected in the graphic: (i) data centers



and digital infrastructure, to whom the Acquisition’s utilities PNM and TNMP could sell electricity; and (ii) energy production, which the utilities PNM and TNMP could purchase for electricity generation. As the rocketing development of artificial intelligence (“AI”) has super-boosted economic growth in its downstream industries of data centers, public utilities, and energy production, the Acquisition

represents an opportunity for Blackstone to *vertically integrate* its data centers, load-serving utilities and energy development companies in one chain, thereby raising significant potential for

⁶ 16 U.S.C. § 842b(a)(4); 18 C.F.R. § 2.26(f).

⁷ See, e.g., Application, Exhibit M and Affidavit of Julie R. Solomon (providing short claims about cross-subsidization, without any substantiation).

cross-subsidization of the non-utility businesses that threaten to harm the public interest in violation of Section 203 of the FPA.

A. The AI boom and energy sector constraints for data centers pose a particularly acute risk for cross-subsidization resulting from the proposed Acquisition.

First, it is important to set the context in which Blackstone is seeking to make this Acquisition, which is not discussed in the Application. Surging adoption of AI technologies has amplified the demand for data centers across the U.S., but data center growth faces obstacles across the power value chain. Having invested heavily in data center infrastructure and now energy infrastructure, Blackstone's profitability depends on unlocking the bottleneck of energy supply for data centers in order to maximize gains from the AI boom.

As a threshold matter, AI is driving the exponential growth of data center buildout and energy demand—representing an unprecedented rise in electricity demand for the utility industry that had reached flat growth in the last few decades. In a 2024 study, the U.S. Department of Energy (“DOE”) estimated that data center load growth has tripled over the past decade and is projected to double or triple again by 2028.⁸ The report also found that data centers consumed about 4.4% of total U.S. electricity in 2023 and are expected to consume approximately 6.7 to 12% of total U.S. electricity by 2028. *Id.* The DOE further estimated that total data center electricity usage climbed from 58 TWh in 2014 to 176 TWh in 2023 and estimates an increase between 325 to 580 TWh by 2028. *Id.* Notably, the DOE's estimates are relatively conservative as compared to other industry forecasts. For example, the Boston Consulting Group estimated that data center energy use would reach over 1,000 TWh by 2030, or nearly a quarter of all U.S.

⁸ Shehabi, A. et al., Lawrence Berkley National Laboratory, U.S. Department of Energy, 2024 U.S. Data Center Energy Usage Report (2024), <https://escholarship.org/uc/item/32d6m0d1>.

electricity generation—the equivalent of the electricity used by 100 million U.S. houses or about two-thirds of total homes in the U.S.⁹

Blackstone Infrastructure has heavily invested in the AI boom—and its investments in data centers rely on dissolving the bottleneck of energy supply for data centers. As stated by Greg Blank, the CEO of Blackstone Infrastructure Strategies, “The largest technology companies are projected to spend over \$2 trillion on data centers over the next five-to-seven years, \$1 trillion inside the US and \$1 trillion outside the US. This is the megatrend of all megatrends, and we’re investing in it globally.”¹⁰ As a result, Blackstone Infrastructure has prioritized digital infrastructure—including the acquisition of QTS, the world’s largest data center company—and energy infrastructure, including major energy developers and an ever-increasing number of public utilities, Application at 7-14, as two of its key investment areas to capture the greatest value in the AI value chain.¹¹ Blackstone’s Mike Forman summarizes the firm’s investment strategy (emphasis added)¹²:

As data center owners, we benefit from significant barriers to new supply. *Power is a major bottleneck to delivering new capacity. . . . Blackstone is investing heavily in new generation and transmission infrastructure, but upgrading and modernizing the grid takes decades—not months or years. We have been able to procure power at scale* by leveraging our 20+ years of experience investing in energy markets and the highly capable teams at our portfolio companies, but most new entrants to the space lack this expertise. . . . We are focused on investing behind best-in-class platforms, including our portfolio companies QTS, AirTrunk and Lumina, and our joint venture partner Digital Realty.

⁹ Vivian Lee, Boston Consulting Group, U.S. Data Center Power Outlook: Balancing competing power consumption needs (June 28, 2024) <https://www.linkedin.com/pulse/us-data-center-power-outlook-balancing-competing-consumption-lee-iz4pe/?trackingId=HUdUv0sARxW55L9exZtfTA%3D%3D>.

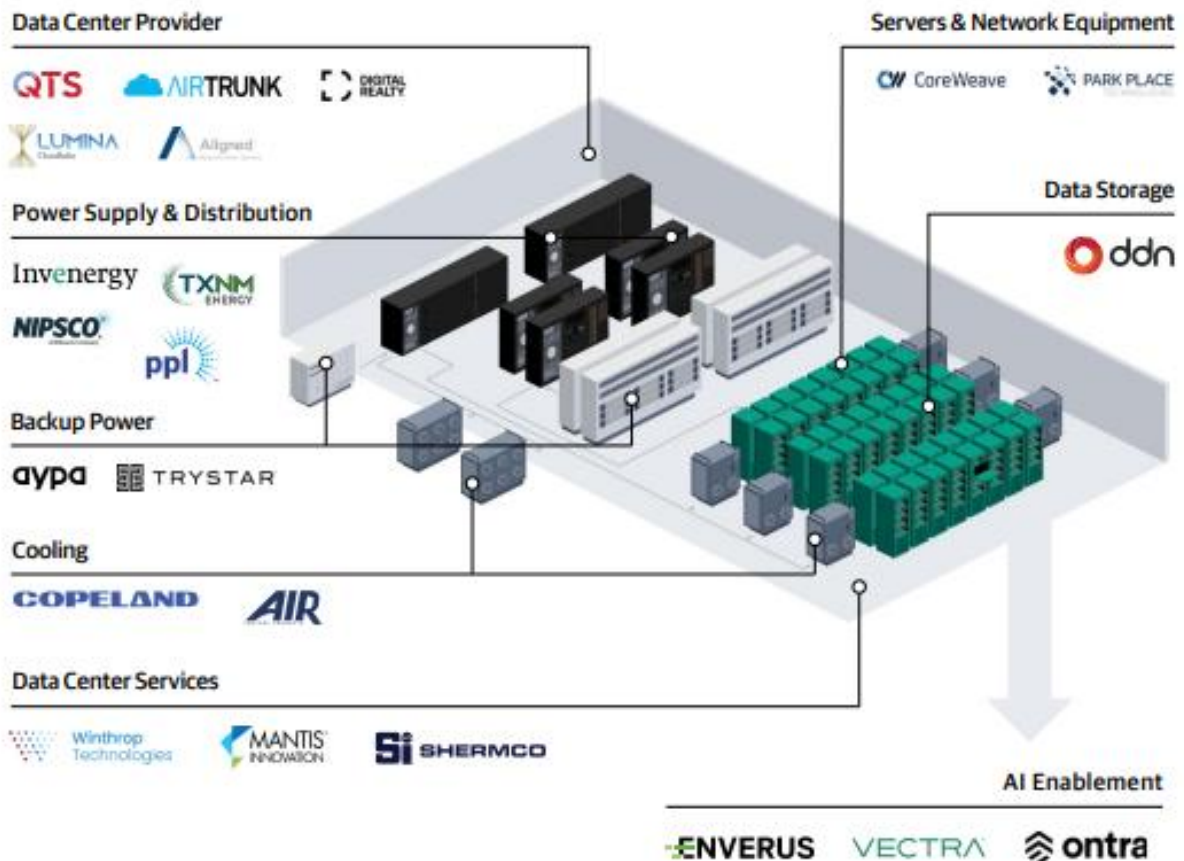
¹⁰ Q&A: Greg Blank on Infrastructure investing’s Trillion Dollar Opportunities (June 16, 2025) <https://www.blackstone.com/insights/article/greg-blank-on-infrastructure-investings-trillion-dollar-opportunities/>.

¹¹ *Id.*

¹² Mike Forman, Blackstone, *Cutting through the noise: the long-term case for data centers*, May 1, 2025, <https://www.blackstone.com/insights/article/cutting-through-the-noise-the-long-term-case-for-data-centers/>.

Investing Across the AI Value Chain

Blackstone invests at scale in the critical enablers of AI — such as data centers, hardware, and electricity — what we call the “picks and shovels” of the AI revolution. These investments provide a compelling entry point into one of our highest-conviction themes while potentially offering broader diversification⁽¹⁾ across the AI and digital infrastructure ecosystem, beyond what is typically available in public markets.



Blackstone Infrastructure's Investments Across the AI Value Chain¹³

However, the success of Blackstone's data center and energy generation investments depend on unlocking the key constraint to their growth: the availability of energy for data centers. Thus, as McKinsey & Company has explained, “The power sector is rapidly becoming a protagonist in the AI story. Access to power has become a critical factor in driving new data center builds. As the power ecosystem grapples with meeting data centers' voracious need for

¹³ Blackstone, Investing in the Picks and Shovels of AI, Fall 2025, <https://www.blackstone.com/wp-content/uploads/sites/2/2023/11/Investing-in-the-Picks-and-Shovels-of-AI.pdf?v=1758561007>.

power, it faces substantial constraints, including limitations on . . . power sources, sustainability of power sources, [and] upstream infrastructure for power access . . .”¹⁴

Critically, these primary power constraints are largely controlled by public utilities, including interconnection times and availability of power sources. Therefore, the success of Blackstone’s other investments in data centers and other energy infrastructure is dependent on utilities’ abilities to deliver on energy needs.¹⁵ In short, in light of Blackstone’s urgent need for gargantuan amounts of new energy delivery to power its data center build out, the proposed Acquisition raises serious concerns about cross-subsidization by presenting an opportune pathway for Blackstone to incorporate two public utilities into its value chain and thereby control their decision-making to the benefit of Blackstone’s data center and energy development interests.

B. The Application conspicuously omits any mention of Blackstone’s digital and many of its energy infrastructure affiliates and thus fails to properly provide evidentiary support for the lack of cross-subsidization of these non-utility affiliates.

To safeguard the FPA Section 203(a)(4)’s prohibition against cross-subsidization, the Commission’s regulations establish verification and informational requirements for entities that seek a determination that a proposed transaction will not result in inappropriate cross-subsidization or pledge or encumbrance of utility assets.¹⁶ Specifically, Section 33.2(j)(1)

¹⁴ McKinsey & Co., How data centers and the energy sector can sate AI’s hunger for power, Sep. 17, 2024, <https://www.mckinsey.com/industries/private-capital/our-insights/how-data-centers-and-the-energy-sector-can-sate-ais-hunger-for-power>.

¹⁵ As a result, electric utilities are overbuilding fossil fuel infrastructure to meet anticipated demand growth from data centers. A December 2024 report from Grid Strategies found that nationally, the utility industry is planning for about 50% more data center demand than the tech industry is projecting. Wilson, J. et al., Grid Strategies, *Strategic Industries Surging: Driving US Power Demand*, Dec. 2024, <https://gridstrategiesllc.com/wp-content/uploads/National-Load-Growth-Report-2024.pdf>.

¹⁶ 18 C.F.R. § 33.2(j) (2022).

requires an explanation of “how applicants are providing assurance, *based on facts and circumstances known to them or that are reasonably foreseeable*, that the proposed transaction will not result in, *at the time of the transaction or in the future*, cross-subsidization of a non-utility associate company or pledge or encumbrance of utility assets for the benefit of an associate company.” (Emphasis in regulation.) Moreover, as explained by the Commission in its supplemental regulations on cross-subsidization:

The Commission’s focus generally has been on preventing a transfer of benefits from a public utility’s captive customers to shareholders of the public utility’s holding company due to an intra-system transaction that involves electric power or energy, generation facilities, or non-power goods and services. Concerns arise in a number of circumstances, including where a market-regulated affiliate (*e.g.*, a power seller with market-based rates) or a non-utility affiliate provides power or goods and services to a franchised public utility with captive customers, as well as the circumstance in which the franchised public utility with captive customers provides power or non-power goods and services to the market-regulated or non-utility affiliate.¹⁷

Here, in apparent contravention of these disclosure requirements, the Application does not disclose Blackstone’s control of the world’s largest data center corporation and major energy developers—the two industries that, as discussed, drive utility electricity load demand and provide utility energy supply. Because the Applicant has omitted Blackstone’s digital infrastructure affiliates and has failed to fully disclose fossil generation that are part of the firm’s investments in the AI value chain, the Application falls short of FERC’s Section 33.2(j)(1) requirements to provide an explanation and provide assurances that the proposed transaction will not result in the cross-subsidization of these non-utility affiliates.

Indeed, both these types of potential cross-subsidization are present here, but Blackstone has not addressed them or provided any information about any existing and future plans of how

¹⁷ FPA Section 203 Supplemental Policy Statement, 18 C.F.R. Part 33, ¶13.

the proposed acquired utilities are to interact with—and protect against cross-subsidization of—Blackstone’s non-utility affiliates, particularly its data centers and many of its fossil energy production companies. And, as noted, while Applicants state in Exhibit M that the Acquisition will not result in cross-subsidization, they offer no explanation why. Application, Exhibit M.

First, regarding the non-utility affiliate of Blackstone’s digital infrastructure companies, the Application omits Blackstone’s ownership of the world’s largest data center provider, QTS Realty.¹⁸ Since purchasing QTS Realty in 2021 for \$10 billion, Blackstone has poured billions into the company, to grow it more than 900%.¹⁹ Blackstone’s investments have expanded QTS’s data centers particularly for AI, often leasing its facilities to companies like Amazon and Meta and supplying the electricity and water needed to power and cool their computers.²⁰ This is in addition to Blackstone’s ownership of several other major digital infrastructure companies—including AirTrunk, the largest data center business in the Asia Pacific region—all of which are contributing to data center development.²¹

The Application contains no information about Blackstone’s control of data centers in or around New Mexico and Texas, and whether Blackstone’s planned acquisition of the two utilities here is directly or indirectly connected to its control of data centers. Blackstone’s significant control of data centers in the entire country—and now, world—renders Blackstone a potential pivotal controller of load in the New Mexico and Texas region.

¹⁸ Blackstone, Infrastructure, <https://www.blackstone.com/our-businesses/infrastructure/>.

¹⁹ Q&A: Greg Blank on Infrastructure investing’s Trillion Dollar Opportunities, <https://www.blackstone.com/insights/article/greg-blank-on-infrastructure-investings-trillion-dollar-opportunities/>.

²⁰ Maureen Farrell, “Wall St. Is All In on A.I. Data Centers. But Are They The Next Bubble?,” New York Times, June 2, 2025, <https://www.nytimes.com/2025/06/02/business/ai-data-centers-private-equity.html>.

²¹ Q&A: Greg Blank on Infrastructure investing’s Trillion Dollar Opportunities, <https://www.blackstone.com/insights/article/greg-blank-on-infrastructure-investings-trillion-dollar-opportunities/>.

Consistent with the concerns emphasized in the Commission’s regulations, in this Application, data centers serve as a prime example of how “a franchised public utility with captive customers may . . . sell power to its marketing affiliate at below-market prices, thus transferring benefits from customers to shareholders of the holding company.”²² The profitability of Blackstone’s investments in QTS and its other digital infrastructure companies rests on ensuring that data centers are serviced with energy to retain data center customers, and owning utilities that can supply such energy poses a threat that data centers could purchase power at below-market prices. As reported in the *New York Times*:

Blackstone has called data centers one of its “highest conviction investments.” Blackstone . . . has sunk more money into data centers and related infrastructure than into almost any other sector in the firm’s 40-year history. All told, Blackstone has put more than \$100 billion into buying and lending to data centers, as well investing in construction firms, natural gas power plants and the machinery needed to build them. . . . Blackstone has reiterated its commitment to building more centers and investing in the power plants needed to run the computers inside them.²³

Blackstone’s move to purchase PNM and TNMP are part of its larger trend of purchasing utilities with interest to serve its data centers—all raising issues that such vertical integration could foretell cheaper rates for data centers at the expense of utility ratepayers. For example, as detailed on page 8 of the Application, Blackstone has purchased Potomac Energy Center, LLC, which is a natural gas-fired power plant that serves the world’s data center hotspot of Loudon County, Virginia. Blackstone owns numerous data center facilities there, where QTS boasts several major data center campuses with a significant footprint in the county.²⁴

²² FPA Section 203 Supplemental Policy Statement, 18 C.F.R. Part 33, ¶13.

²³ Maureen Farrell, “Wall St. Is All In on A.I. Data Centers. But Are They The Next Bubble?,” *New York Times*, June 2, 2025, <https://www.nytimes.com/2025/06/02/business/ai-data-centers-private-equity.html>.

²⁴ QTS, Virginia Locations, <https://qtsdatacenters.com/us-locations/?jsf=jet-engine:qts-datacenters&tax=datacenterlocation:90,86> (detailing numerous campuses in Loudon County and new developments in surrounding counties).

Second, the Application fails to provide a full picture of Blackstone and Blackstone Infrastructure’s ownership of fossil fuel and other major energy assets that could supply power to PNM and TNMP.²⁵ Blackstone owns several energy generation companies that theoretically could sell energy to these two utilities. According to the Private Equity Stakeholder Project, Blackstone backs 14 fossil fuel companies, representing 70% of the companies in its energy portfolio. The Application does disclose its affiliates of other public utilities and chooses to disclose some of its generation assets, in particular Nitro Companies which are majority renewable energy and transmission facilities. Application at 7-15. But Blackstone fails to highlight its fossil fuel generation of Invenergy, for example, which owns and operates fracked gas power generation, as well as wind and solar, and one of the most toxic polluters in the country, the 50 year-old Gavin coal plant, which was the ninth highest carbon-emitting power plant in the country as of 2022.²⁶

As emphasized by the Commission’s regulations, potential energy development for utilities serve as a second pattern the Commission will closely scrutinize for risks of cross-subsidization: “[C]ustomers may be harmed if the franchised public utility purchases non-power goods and services from an affiliate at above-market prices or sells non-power goods and services to an affiliate at less than market value and seeks to recover the overcharges or the undercharges through rates for service to captive customers.”²⁷ Again, based on the Application before the Commission, there is a risk that Blackstone could sell the goods of its energy generation companies to the PNM and TNMP for less than market value, potentially leading to recovering through ratepayers. The Applicants’ apparent failure to fully disclose all relevant

²⁵ Private Equity Stakeholder Project, Blackstone Inc: 2024 Scorecard, <https://peclimaterisks.org/firm-blackstone-inc/>.

²⁶ *Id.*

²⁷ FPA Section 203 Supplemental Policy Statement, 18 C.F.R. Part 33, ¶13.

affiliates that are fossil and other generation sources highlights these risks and appears to run contrary to the Commission’s mandate to disclose and explain how such non-utility affiliates won’t be cross-subsidized.

C. The Application does not qualify for a safe harbor exemption.

Applicants claim that the Acquisition falls within a Commission-established safe harbor, and therefore they are not required to provide evidentiary support for the lack of cross-subsidization. Application, at 27 and Exhibit M. This appears to be inaccurate.

First, Exhibit M states that the Acquisition qualifies for the first of three classes of safe harbor transactions, where “[n]o franchised public utility with captive customers is involved in the Transaction.” Application at Exhibit M. This statement does not square with the fact that the proposed acquisition of TXNM is also the proposed acquisition of its subsidiary public utilities PNM and TNMP, which are of course public utilities with captive customers.

Second, the Application also appears to claim the second class of safe harbor for transactions where the Acquisition is subject to state commission review of cross-subsidization and thus does not need federal review. However, any state commission review will be insufficient here, given Blackstone’s myriad investments across many states. Thus, while state commissions may also review cross-subsidization issues, that review is inherently more circumscribed by focusing on issues within the state itself. FERC, by contrast, plays the critical role of reviewing the cross-subsidization issues that are *interstate*—for example, how these newly acquired utilities may serve electricity to new data centers outside of Texas and New Mexico or may purchase intrastate energy from Blackstone’s affiliates outside those two states. Thus, FERC should not allow the Applicants to evade the disclosures that the Commission routinely requires based on any claim for a safe harbor, but rather should require all the disclosures necessary to fully and fairly consider the cross-subsidization threats inherent in this

transaction. Once the actual risks of cross-subsidization are exposed, it becomes clear that the Acquisition would be inconsistent with the public interest pursuant to Section 203(a)(4) of the FPA. As detailed in the next section, such cross-subsidization will in turn likely lead to negative impacts on rates, competition, and regulation.

II. The Acquisition will likely adversely affect rates, competition, regulation, and other areas undermining the public interest.

As explained in Order Nos. 642 and 669 and the *Merger Policy Statement*, the Commission investigates three factors in determining whether an acquisition is consistent with the public interest: (i) its effect on competition, (ii) its effects on rates, and (iii) its effects on regulation.²⁸

As discussed in Section I above and in Section III below, ownership of public utilities by gargantuan private equity companies creates intrinsic risks in each category and thus threatens adverse impacts to all ratepayers. The scale of assets held by firms like Blackstone makes those risks hard to fully evaluate even with complete information. They are impossible to evaluate when, as in this proceeding, the Applicant has failed to provide even basic information about relevant assets. Moreover, in light of the Acquisition's potential nexus with large-load data centers, the Commission should request more information from Applicants as FERC itself has raised a host of concerns about the potentially adverse impacts of new large loads like data centers on rates and reliability, among other concerns in another recent proceeding.²⁹

This proceeding is a chance to prevent ratepayers from being exposed to the unnecessary risks of private equity ownership. However, once again, at minimum it cannot be approved before Blackstone provides detailed information about companies in its portfolio that might be

²⁸ FPA Section 203 Supplemental Policy Statement, 18 C.F.R. Part 33.

²⁹ *PJM Interconnection, L.L.C.*, No. EL-25-49, Order Instituting Proceeding Under Section 206, 190 FERC ¶ 61,115 (Feb. 20, 2025).

served by TXNM utilities, provide generation to TXNM, or otherwise become entangled with TXNM's business operations.

A. The Acquisition is likely to have adverse effects on competition.

The Acquisition presents a potential threat to vertical market power concentration. Applicants argue that they are not required to undergo a vertical competitive analysis, but they only analyze upstream power suppliers, not downstream customers.³⁰ Application at 20-21 and Exhibit J at 5-6.

Blackstone does not mention anti-competitive impacts with regard to downstream customers. As discussed in Section I, one of Blackstone Infrastructure's investment interests is in supplying energy to its data centers to ensure profitability and unlock the energy bottleneck. The Application neglects to discuss the potential vertical competition concerns arising out of downstream customers like Blackstone-owned data centers that PNM could serve. While it is unclear whether Blackstone owns any data centers in TXNM's utilities' service jurisdiction or nearby, FERC should require disclosure of Blackstone's existing ownership and future plans for digital infrastructure buildout in these geographic areas to address vertical competition concerns.³¹ Moreover, Blackstone owns other large customers within PNM territory, including Hilton Hotels, which has 27 locations in Albuquerque and Santa Fe.³² Should Blackstone acquire

³⁰ 18 C.F.R. Part 33, Order No. 642, <https://www.ferc.gov/sites/default/files/2020-04/rm98-4-000.pdf>.

³¹ Though TNMP is part of ERCOT and thus outside of FERC's jurisdiction, it is worth noting that Blackstone already owns data center assets near TNMP's jurisdiction and could directly serve those customers or have plans to expand data centers into the jurisdiction; for example, QTS already operates more than 165 megawatts of data centers in Irving, Texas, less than 15 miles from TNMP territory in Lewisville. QTS, Irving 1, <https://qtsdatacenters.com/data-centers/irving/>; QTS, Fort Worth 1, <https://qtsdatacenters.com/data-centers/fort-worth/> (providing a critical campus capacity of 70 megawatts). Similar dynamics may be at play in and around PNM's territory and thus warrants further disclosure from Applicants.

³² See Hilton Hotels, New Mexico Locations, www.hilton.com/en/locations/usa/new-mexico/.

TXNM, each of these companies is a potential locus of anti-competitive, cross-subsidizing contracts and thus of adverse impacts to ratepayers.

Second, with respect to supplier issues, Blackstone's ownership of Invenergy and Tallgrass Energy could also lead to upstream vertical competition issues. For example, Blackstone-owned Invenergy has an ongoing massive transmission project in northern and central New Mexico that crosses through PNM territory.³³ Separately, Blackstone-owned Tallgrass Energy has two major projects in New Mexico—a hydrogen power plant and a hydrogen and natural gas pipeline.³⁴ These projects could become potential suppliers of energy generation to PNM, eliminating competition from alternative energy suppliers.

FERC should require that Blackstone undergo a vertical competition analysis that addresses these issues.

B. The Acquisition is likely to have adverse effects on rates, particularly for retail customers.

The Application confines its analysis of rate impacts to wholesale customers and wholly fails to address adverse impacts on retail ratepayers, who face the greatest risk of rate increases. *See* Application at 23–26. Large industrial customers, data centers foremost among them, comprise a growing portion of utility load and the vast majority of load growth. Section I(A), *supra*. These customers cannot be served without expensive investments in generation³⁵ and

³³ Invenergy, <https://northpath.invenergy.com/>.

³⁴ Jerry Redfern, “Like it or not, a hydrogen ecosystem is coming to New Mexico,” Source NM, June 28, 2024, <https://sourcenm.com/2024/06/28/like-it-or-not-a-hydrogen-ecosystem-is-coming-to-new-mexico/>; Jerry Redfern, “Many on Navajo Nation blindsided by hydrogen pipeline change,” Source NM, May 15, 2025, <https://sourcenm.com/2025/05/15/many-on-navajo-nation-blindsided-by-hydrogen-pipeline-change/>.

³⁵ *See, e.g.*, McKinsey Quarterly, “The cost of compute: A \$7 trillion race to scale data centers,” April 28, 2025, <https://www.mckinsey.com/industries/technology-media-and-telecommunications/our-insights/the-cost-of-compute-a-7-trillion-dollar-race-to-scale-data-centers> (estimating up to \$600 billion capital expenditures on generation for data centers by 2030).

transmission.³⁶ Utilities frequently strike special deals with such customers that provide substantial discounts—which is to say, force retail ratepayers to disproportionately carry the costs of those expensive investments.³⁷ This exploitative dynamic is a threat to all retail ratepayers, but the threat is magnified when private equity firms, through extensive, diverse affiliations, have the opportunity for self-dealing. Blackstone’s ownership of QTS, among other data center holdings, therefore poses a particular risk of adverse rate impacts for TXNM’s retail customers. The magnitude of this risk cannot be evaluated by the Commission until Blackstone provides comprehensive information about its data center holdings, including existing and planned developments and power needs.

Another likely adverse impact on rates arises directly from this transaction: should the Acquisition be consummated, Blackstone will pay a more than \$2 billion premium to TXNM shareholders.³⁸ It would seem inevitable that ratepayers eventually will pay back that premium and more. Although this premium will not be directly recouped through rate basing, given how private equity operates, it is likely Blackstone will manage to turn a profit on this investment and thus will recoup this premium from ratepayers in other ways. This Commission cannot anticipate whether that will be effectuated through financial engineering at TXNM, cross-subsidies and

³⁶ See, e.g., Mike Jacobs, “Data Centers Are Already Increasing Your Energy Bills. We Have the Receipts”; see also Union of Concerned Scientists, The Equation, September 29, 2025, <https://blog.ucs.org/mike-jacobs/data-centers-are-already-increasing-your-energy-bills/> (more than \$4.3 billion in data center-caused transmission costs in 2024 in just seven states).

³⁷ See generally Eliza Martin and Ari Peskoe, “Extracting Profits from the Public: How Utility Ratepayers Are Paying for Big Tech’s Power,” Environmental & Energy Law Program, Harvard University, March 2025, <https://eelp.law.harvard.edu/wp-content/uploads/2025/03/Harvard-ELI-Extracting-Profits-from-the-Public.pdf>.

³⁸ The Acquisition is an \$11.5 billion deal, representing a premium of 23% over prior stock price, and thus implying a premium of more than \$2.15 billion. See Blackstone, “TXNM Energy Enters Agreement to be Acquired by Blackstone Infrastructure,” May 19, 2025, <https://www.blackstone.com/news/press/txnm-energy-enters-agreement-to-be-acquired-by-blackstone-infrastructure/>.

self-dealing with affiliates, expansion of the rate base through unnecessary investments, or aggressive requests for rate increases—but it would be turning a blind eye to economic reality for this Acquisition to be approved based on the assumption that the \$2 billion dollar windfall to TXNM's shareholders will not eventually be recovered.

Although the only way to entirely prevent this adverse impact would be to reject the Application, at the very least the Commission should require Blackstone to supplement the Application to provide detailed information about both the premium paid to shareholders, including TXNM executives, and the analysis that convinced Blackstone management that rates will grow significantly enough to net a profit even after paying such a significant premium.

C. The Acquisition will create obstacles to effective regulation.

Finally, the Acquisition will stymie future regulation by reducing the information available to regulators and the public, by increasing the complexity and frequency of basic regulatory oversight and, consequently, by reducing regulators' capacity to make proactive changes that address current issues with our utility system.³⁹ As a publicly traded company, TXNM must file regular reports with the Securities and Exchange Commission that provide important information about finances and management. The cessation of these reports, if TXNM is taken private by this Acquisition, will heighten the information asymmetry between TXNM and regulators and make it more difficult for advocacy organizations and the public to provide well-informed input. This is particularly important because TXNM would not only go private as a result of the Acquisition but would become part of—and managed by—Blackstone.

The interplay of corporate interests among Blackstone affiliates makes it difficult for regulators to consistently solicit the information they would need to make fully informed

³⁹ See *infra*. at 21-22.

decisions. Given the wide range of potential affiliate transactions, the loss of compulsory, proactive reporting cannot be compensated for on a case-by-case basis. Moreover, the quantity of potential conflicts of interest and opportunities for self-dealing could overwhelm state regulators, leaving little bandwidth to address pressing issues like rate reform and distributed generation. This additional pressure on regulators will also likely lead to worse outcomes for ratepayers, intensifying the financial burdens of already-rising electricity rates.

D. The Acquisition is likely to also impact reliability and other areas that are harmful to the public interest.

In addition to the impacts discussed above, the Acquisition—because of its potential tie to servicing data infrastructure (*see* Section I)—may also affect electric reliability and result in other impacts that may be detrimental to the public interest. Specifically, as recently highlighted before the Commission at a technical conference, the build-out of AI data centers has significantly increased the risk of electricity disruptions and blackouts, as emphasized by Jim Ross, president and CEO of the North American Electric Reliability Corp.⁴⁰:

The reliability of the power grid remains extremely high, but paradoxically, the risks to reliability continue to mount. In fact, we’re seeing an increasing number of small-scale events and near misses that continue to reinforce what we can’t call anything but a five-alarm fire when it comes to reliability.

In addition to reliability, the large-scale buildout of AI data centers also carries risks to the public in the domains of water resource extraction, public health, air and climate pollution, slowing the energy transition, and environmental degradation.⁴¹

⁴⁰ Francisco “A.J.” Camacho, Data center growth a ‘five-alarm fire’ for electric reliability, E&E News, Oct 22, 2025, <https://subscriber.politicopro.com/article/eenews/2025/10/22/data-center-growth-signals-five-alarm-fire-for-electric-reliability-00617204>.

⁴¹ See, e.g., McKinsey and Co., The data center balance: How US states can navigate the opportunities and challenges, Aug. 8, 2025, <https://www.mckinsey.com/industries/public-sector/our-insights/the-data-center-balance-how-us-states-can-navigate-the-opportunities-and-challenges>; Bashir, N,

III. Allowing a private equity firm to control a public utility is contrary to the public interest.

Private equity firms differ from traditional businesses in fundamental ways. They are run by a single manager, or small group of managers, and generally acquire companies by pooling substantial debt with funds from a small number of wealthy investors.⁴² They then utilize their control over acquired firms to focus on reorganizing the firm to maximize profits and make it attractive for sale.⁴³ Maximizing profits often includes prioritizing dividends, fees and various forms of engineering.⁴⁴

With financial engineering, private equity adjusts the equity and debt of acquired companies to maximize returns.⁴⁵ With governance engineering, private equity firms replace top management, restructure management compensation, and otherwise change personnel to similarly maximize profits.⁴⁶ Finally, with operational engineering firms change business practices to similarly maximize profits.⁴⁷ These practices allow the acquiring firm to squeeze as much profit from the acquired business as quickly as possible.

Private equity firms also have strong incentives to engage in anti-competitive conduct, incentives that are held more in check at publicly traded firms where professional managers do not stand to benefit so directly from such misconduct, and thus are less likely to risk legal

et al., The Climate and Sustainability Implications of Generative AI, Massachusetts Institute of Technology, <https://mit-genai.pubpub.org/pub/8ulgrckc/release/2>.

⁴² See generally Sandeep Vaheesan, *Different Shades of Gray: Crafting a Regulatory Response to Private Equity Buyouts in Electricity* (“Shades of Gray”), *The Electricity Journal* (Jan./Feb. 2009), <https://www.sciencedirect.com/science/article/pii/S1040619008002856>.

⁴³ *Id.*

⁴⁴ *In the Matter of the Petition of Minn. Power for Acquisition of ALLETE by Canada Pension Plan Investment Bd.*, Dckt. No. E-015/PA-24-198 (Minn. Pub. Util Commn), Testimony of Jim Baker (“Baker Test.”), Feb. 4, 2025, at 3.

⁴⁵ *In the Matter of the Petition of Minn. Power for Acquisition of ALLETE by Canada Pension Plan Investment Bd.*, Dckt. No. E-015/PA-24-198 (Minn. Pub. Util Commn), Testimony of Craig M. Addonizio (“Addonizio Test.”), Feb. 4, 2025, at 59.

⁴⁶ *Id.* at 60.

⁴⁷ *Id.*

liability.⁴⁸ Because a small number of individuals stand to benefit from anti-competitive and even unlawful activities, “management may feel pressured to pursue *every* profitable business practice, including ones that are anticompetitive.”⁴⁹ Given this business approach, allowing a private equity firm to control a public utility is not in the public interest.

Indeed, given these problematic and unique features of private equity firms, former FERC Chairman Mark Christie has raised significant concerns with allowing private equity firms to control our energy system.⁵⁰ In particular, Chairman Christie has explained that private equity acquisition of utilities “pose the threat of decreased innovation, reduced competition, and ultimate higher prices to consumers, as well as the prospect of chilling investment”⁵¹ As he has further noted:

[y]ou do not need a Ph.D. in economics to see the potential for anticompetitive conduct and outcomes when an investment entity like a huge asset manager seeks to own generation assets that will be — or should be — competitors. Market power is an ever-present concern, and one rule I taught my law students is that any seller with market power will use it. That’s not a moral judgment, just economic reality.”⁵²

Chairman Christie has also highlighted the conflict of interest involved when private equity, with enormous assets, are not acting as passive investors but “instead appear to be actively using their investment power to affect how the utility meets its own public service obligations.”⁵³ As he summarized:

⁴⁸ Shades of Gray, *supra*.

⁴⁹ *Id.* at 40 (“While private equity buyouts generally give rise to the same market power issues associated with mergers between public firms, the concentrated ownership of private equity firms increases the probability that managers will profitably exploit opportunities that are presented in markets that are not structurally conducive to competitive outcomes”).

⁵⁰ *Global Infrastructure Management, LLC BlackRock, Inc.*, Docket No. EC24-58-000 (FERC, Sept. 6, 2024).

⁵¹ *Id.* ¶ 2.

⁵² *Id.* ¶ 4.

⁵³ *Id.* ¶ 5

Cross-ownership creates the threat of the exercise of market power. Market power, even through concentrated horizontal shareholding, deters investment; it does not encourage it. And importantly, truly effective regulation of transactions affecting public utilities does not result in a chilling of investment. Investors will always seek an adequate return, which good utility regulation recognizes. And it is the Commission's responsibility, indeed all utility regulators' responsibility, to make sure that such money is not being needlessly extracted from consumers' pockets through exercises of market power or other forms of rent-seeking.⁵⁴

It is hardly surprising that the drive for high returns—often as much as 15% to 20% per year—expected in private equity transactions can have adverse effects on both horizontal and vertical competition.⁵⁵ The drive to cut costs also provides incentives to reduce qualified staff, defer necessary maintenance and capital improvements, and otherwise reduce investment in the acquired company.⁵⁶ It also often leads the private equity firm to add debt to the acquired company's balance sheet, so the proceeds from that debt can be paid out as dividends, a practice known as dividend recapitalization.⁵⁷ It can even lead to bankruptcy.⁵⁸

Nonetheless, there is a growing and troubling trend of private equity firms seeking to acquire public utilities across the country.⁵⁹ Indeed, in another recent ruling evaluating the potential implications of another private equity firm's proposed utility acquisition—Black Rock's

⁵⁴ *Id.* ¶ 7; see also *BlackRock, Inc.*, Docket No. EC25-12-000 (FERC, Apr. 17, 2025 (reiterating these concerns)).

⁵⁵ Shades of Gray, *supra*; see also Baker Test. At 5. As discussed *supra*, Blackstone's massive data center holdings raise serious competition concerns. See, e.g., Theresa Houck, *Inside Blackstone's Electrification Push: From Shermco to the Power Backbone of AI Data Centers*, Data Center Frontier (Oct. 7, 2025), <https://www.datacenterfrontier.com/energy/article/55321638/inside-blackstones-electrification-push-from-shermco-to-the-power-backbone-of-ai-data-centers> (detailing Blackstone's "clear pattern of vertical integration; linking power generation, electrical service, data center operations, and AI-enabling technology under one strategic umbrella").

⁵⁶ Baker Test. at 7. Significant job losses are common after a private equity buy-out. *Id.* at 6-7.

⁵⁷ *Id.* at 6.

⁵⁸ *Id.* at 8-11.

⁵⁹ Marc Levy, *Private equity sees profits in power utilities as electric bills rise and Big Tech seeks more energy*, AP News, Sept. 27, 2025, <https://apnews.com/article/big-tech-private-equity-electricity-utilities-power-energy-7c5d119142380bb7a83bbe722f69f2a5>.

proposed takeover of ALLETE in Minnesota—the Administrative Law Judge recently echoed many of the precise concerns that demonstrate why private equity firms should not control public utilities.⁶⁰ As the Judge there explained:

Private equity firms often raise capital from investors in commingled closed-ended funds [and] then seek to invest substantially all the fund’s capital in companies within four to five years. [] Private equity firms typically seek to grow the portfolio company’s value during a four-to-six-year hold period before selling it or taking it public through an initial public offering. Private equity firms typically seek returns that exceed the stock market [and] focus on growing cash flows by increasing portfolio company revenue, cutting costs, or acquiring competitors.⁶¹

Given private equity firms’ unique profit model, the Judge was also concerned with whether the private equity buyer—Black Rock—would be guided by the appropriate public interest objectives explaining how, through control of the utility’s Board, Black Rock would be in a position to control the utility’s “day-to-day operations and approve[] their budgets and strategic plans.”⁶²

The Judge was also concerned about a private equity firm actively managing the utility to the detriment of the public interest. Echoing the concerns discussed above, the Judge explained how “private equity firms use their position as the controlling shareholder to make significant changes in the companies they invest in, such as changes

⁶⁰ *In the Matter of the Petition of Minn. Power for Acquisition of ALLETE by Canada Pension Plan Investment Bd.*, Dckt. No. E-015/PA-24-198 (Minn. Pub. Util. Comm’n), Findings of Fact, Conclusions of Law, and Recommendations (“Minn. Ruling”), July 15, 2025. Only after the proposed transaction was further modified with several “unprecedented” commitments did the full Commission approve the final transaction. Dan Kraker, *State regulators approve sale of northern MN public utility to private investors*, MPRNEWS, Oct. 3, 2025, <https://www.mprnews.org/story/2025/10/03/state-regulators-approve-sale-of-northern-mn-public-utility-to-private-investors>.

⁶¹ The Judge was also concerned about the potential for a premature sale by Black Rock, explaining that because “[s]uccessful private equity investing necessitates careful evaluation of investments [and] achievement of substantial returns in a specified timeframe,” there is a serious risk of “earlier-than-expected exit strategies.” Minn. Ruling at ¶¶ 201-03. Although here Blackstone has committed not to sell PNM for ten years, there is every reason to expect a sale as soon as that time period passes.

⁶² *Id.* at ¶ 247.

to the board of directors, changes to strategy, changes in spending, and changes to a business's capital structure,” and how in the pending transaction Black Rock intended to “drive and guide governance decisions.”⁶³ Similar concerns exist here, particularly since a single individual, Steve Schwartzman, will, through control of the PNM Board, have control over PNM decision's if the acquisition is permitted.⁶⁴

Yet another reason that private equity control of a public utility is contrary to the public interest is the fundamental loss in transparency and accountability inherent in these acquisitions. Because they are not publicly traded, public equity firms are not subject to the security rules and frequent public reporting required by publicly traded companies.⁶⁵ They also do not have an independent Board of Directors.⁶⁶ Finally, without the general shareholders that exist in a publicly traded company, a private equity firm is not subject to shareholder oversight.

Again, the Judge in Minnesota highlighted these significant transparency concerns, explaining how, once acquired, the utility will “no longer file the quarterly, annual, or other SEC reports required of publicly traded companies.”⁶⁷ As the Judge explained, because SEC reporting allows “stakeholders in Commission proceedings to evaluate the financial health and potential

⁶³ *Id.* at ¶¶ 251, 256.

⁶⁴ As noted, although the Minnesota Public Service Commission later approved the transaction, that came after significant modifications to the proposal to safeguard the public interest, including *ensuring the independence of the Board of Directors*. See Brian Martucci, *BlackRock's Minnesota Power takeover splits DFL coalition as corporate giant seeks bigger targets*, Oct. 6, 2025, <https://minnesotareformer.com/2025/10/06/blackrocks-minnesota-power-takeover-splits-dfl-coalition-as-corporate-giant-seeks-bigger-targets/>. No such independence will exist here.

⁶⁵ Baker Test. at 8-11.

⁶⁶ As discussed *infra* at 21, one particular concern with this merger is that while there will be several independent directors, Blackstone intends to control a majority of the Board.

⁶⁷ Minn. Ruling at ¶ 235.

risks of” utility activities,”⁶⁸ approval of the merger “would significantly reduce information about [the utility] available to the Commission and Minnesota ratepayers.”⁶⁹ So too here.

In short, given their misaligned incentives, combined with the lack of transparency and oversight found in traditional firms, private equity firms are much more likely to violate requirements intended to safeguard the public interest than traditional firms. Indeed, the history of private equity firms engaged in problematic and arguably illegal activities is legion.⁷⁰ To give just a few examples, reports have documented how private equity firms have:

- Hollowed out services at safety-net hospitals, harming the communities they serve.⁷¹
- Engaged in price-fixing to raise rents.⁷²
- “Monetiz[ed] poor people” through unscrupulous business practices.⁷³

⁶⁸ *Id.* at ¶ 237.

⁶⁹ *Id.* at ¶ 244.

⁷⁰ One site that tracks industry payments for alleged legal violations, Good Jobs First, states that private equity firms and the companies they control have racked up more than \$13 billion in penalties since 2000. *See Violation Tracker Industry Summary Page*, [https://violationtracker.goodjobsfirst.org/?major_industry=private%20equity%20\(including%20portfolio%20companies\)&order=agency_code&sort=](https://violationtracker.goodjobsfirst.org/?major_industry=private%20equity%20(including%20portfolio%20companies)&order=agency_code&sort=); see also, e.g., Brendan Ballou, *Plunder: Private Equity’s Plan to Pillage America* (2023).

⁷¹ Eileen O’Grady, *How Private Equity Raided Safety Net Hospitals and Left Communities Holding the Bag*, Private Equity Stakeholder Project Nov. 2022, https://pestakeholder.org/wp-content/uploads/2022/11/Prospect_Primer_Nov-2022.pdf; see also, e.g., Lydia DePillis, *Rich investors may have let a hospital go bankrupt. Now, they could profit from the land*, CNN July 29, 2019, <https://www.cnn.com/2019/07/29/economy/hahnemann-hospital-closing-philadelphia/index.html>.

⁷² Aug. 8, 2025 Press Release, *Justice Department Reaches Proposed Settlement with Greystar, the Largest U.S. Landlord, to End Its Participation in Algorithmic Pricing Scheme*, <https://www.justice.gov/opa/pr/justice-department-reaches-proposed-settlement-greystar-largest-us-landlord-end-its>; see also Jordan Ash, *Blackstone Comes to Collect: How America’s Largest Landlord and Wall Street’s Highest Paid CEO Are Jacking Up Rents and Ramping Up Evictions*, Private Equity Stakeholder Project, Mar. 2023, <https://pestakeholder.org/news/advocates-come-out-against-proposed-acquisition-of-tricon-by-blackstone/>.

⁷³ Peter Whoriskey, *A Way of Monetizing Poor People: How Private Equity Firms Make Money Offering Loans To Cash-Strapped Americans*, Washington Post, July 1, 2018, https://www.washingtonpost.com/business/economy/a-way-of-monetizing-poor-people-how-private-equity-firms-make-money-offering-loans-to-cash-strapped-americans/2018/07/01/5f7e2670-5dec-11e8-9ee3-49d6d4814c4c_story.html

- Caused hundreds of thousands of job losses.⁷⁴

Moreover, as the Judge in Minnesota detailed, a private equity firm's acquisition of a utility can inexorably lead to higher customer rates.⁷⁵

For all these reasons, allowing a private equity firm to control a utility is not in the public interest. These concerns are even further exacerbated in this case as to PNM because the Application pending before the New Mexico PRC makes clear that Blackstone will control PNM's decision-making post-merger. In particular, the Regulatory Commitments section explains the following composition of PNM's Board of seven-members: (A) three independent directors; (B) one director with utility executive experience; and (C) the President and CEO of PNM.⁷⁶ Thus, since only three of the seven directors will be independent, Blackstone will ultimately control the PNM Board, and thus PNM decision-making.⁷⁷ And, as noted, while the Application sets forth a complicated governing structure with several layers of proposed company ownership, the ultimate controlling owner of the transaction will be a single individual—Steven Shwartzman.⁷⁸

CONCLUSION

For the foregoing reasons, the Center respectfully requests the Commission deny the Acquisition Application because it fails to meet the statutory requirements of FPA Section 203.

⁷⁴ United For Respect, How Wall Street Firms are Pillaging American Retail (July 2019), <https://united4respect.org/pirateequity/>

⁷⁵ Minn. Ruling at ¶¶ 229 -34.

⁷⁶ See *In the Matter of Joint Application of PSC NM, et. al.*, No. 25-00060-UT (N.M. Pub. Reg. Commn. Aug. 25, 2025), Exhibit B, Page 1.

⁷⁷ Since Blackstone will be in the position to choose the President and CEO of PNM, that individual will not be independent. And while the Regulatory Commitments carve out a role for the Independent Directors, the limitations on that role demonstrate that in other respects the Board will not, in fact, be independent.

⁷⁸ See Application at 4-6.

At minimum, the Commission should require submission of additional critical information and hold an evidentiary hearing before the 180 days expire and put on hold any approval of the Application.

Dated: October 24, 2025

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document on each person designated on the official service list compiled by the Secretary of the Federal Energy Regulatory Commission in this proceeding.

DATED: October 24, 2025

/s/ A. Jean Su