

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

<b>Troy ParentCoLLC</b>	)	
<b>TXNM Energy Inc.</b>	)	<b>Docket No. EC25-140-000</b>
<b>Public Service Company of New Mexico</b>	)	
<b>New Mexico PPA Corporation</b>	)	

**REQUEST FOR REHEARING BY CENTER FOR BIOLOGICAL DIVERSITY**

Pursuant to Rule 713 of the Federal Energy Regulatory Commission’s (“FERC” or “Commission”) rules of Practice and Procedure,<sup>1</sup> Intervenor Center for Biological Diversity (“Center”) respectfully requests rehearing of the Commission’s February 20, 2026 Order in this docket.<sup>2</sup> The Order authorized the Disposition of Jurisdictional Facilities (“Acquisition”) as requested by the Joint Applicants<sup>3</sup> pursuant to Section 203 of the Federal Power Act (collectively, “Acquisition Approval Order”).<sup>4</sup>

Since FERC’s issuance of the Acquisition Approval Order, there has been an important development in Joint Applicants’ parallel application before the New Mexico Public Regulation Commission (“New Mexico PRC”): on March 11, 2026, the PRC Hearing Examiners issued a show cause order concerning TXNM Energy Inc’s. (“TXNM”) \$400 million sale of eight million shares of its common stock to an affiliate of the acquiring entity (“Stock Sale Transaction”),

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<sup>1</sup> 18 C.F.R. § 385.713.

<sup>2</sup> Order Authorizing Disposition of Jurisdictional Facilities, Troy ParentCo LLC, TXNM Energy, Inc., Public Service Company of New Mexico, New Mexico PPA Corporation, No. EC25-140-000, 194 FERC ¶ 61,134 (Feb. 20, 2026).

<sup>3</sup> See *Troy Parent CO LLC*, Docket No. EC25-140-000, Joint Application for Authorization Under Section 203 of the Federal Power Act (Aug. 25, 2025) (“Application”). Joint Applicants refer to Troy ParentCo LLC (“TroyCo”), TXNM Energy Inc. (“TXNM”), Public Service Company of New Mexico (“PNM”), and New Mexico PPA Corporation.

<sup>4</sup> 16 U.S.C. § 824b.

without obtaining prior PRC approval as provided by NMSA § 62-6-12 (“Show Cause Order”).<sup>5</sup> In light of the Show Cause Order, the PRC will now consider whether pre-approval was required and if so, the implications for the Joint Applicants’ New Mexico application for Acquisition.<sup>6</sup>

As discussed below, this new development calls into question whether Joint Applicants were required to similarly obtain *this Commission’s* approval before this Stock Sale Transaction, pursuant to Federal Power Act Section (“FPA”) 203(a)(1), as it involved a sale of securities exceeding \$10 million.<sup>7</sup> Although Joint Applicants have recently contended that pre-Acquisition approval by FERC was not necessary,<sup>8</sup> this argument is inconsistent with the plain language of FPA Section 203(a)(1).<sup>9</sup> *See* Section III.A, *infra*. Moreover, even if the blanket authorization under 18 C.F.R. § 33.1(c)(12)(ii) applied, Joint Applicants failed to comply with that section’s separate robust reporting requirements outlined in 18 C.F.R. § 33.1(c)(17). *See* Section III.B, *infra*.

As also discussed below, the Commission’s Acquisition Approval Order also committed legal error due to the serious risks of cross-subsidization and regulatory gap posed by allowing the world’s largest public equity firm, with financial stakes in hundreds of companies that Blackstone has not identified as affiliates—including an increasing number of companies in the utility product, services, and consumer sector—to control PNM. *See* Section III.C, *infra*.

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<sup>5</sup> *Troy Parent CO LLC*, NMPRC Case No. 25-00060-UT, Order Granting Motion For Order Directing Joint Applicants to Show Cause, Accession No. DOC-000220320-26 (March 11, 2026).

<sup>6</sup> *Troy Parent CO LLC*, NMPRC Case No. 25-00060-UT, Order Directing Joint Applicants to Show Cause, Accession No. DOC-000220319-26 (March 11, 2026) (Attachment I).

<sup>7</sup> 16 U.S. Code § 824b(a)(1)(A).

<sup>8</sup> *Troy Parent CO LLC*, NMPRC Case No. 25-00060-UT, Joint Applicants’ Reply to Responses Regarding Prosperity Works’ Motion and Brief for Order To Show Cause with Correction to Document Header, Directing Joint Applicants to Show Cause and Other Relief, Accession No. DOC-00021437-26 (Mar. 4, 2026), at 15 n. 63.

<sup>9</sup> *Loper Bright Enters. v. Raimondo*, 603 U.S. 369 (2024); *PG&E v. FERC*, 113 F.4th 943 (D.C. Cir. 2024); *Allegheny Def. Project v. FERC*, 964 F.3d 1 (D.C. Cir. 2020).

Accordingly, the Center respectfully urges the Commission to grant rehearing based on matters not available for consideration at the time of the initial Approval Order and legal error.<sup>10</sup>

This request for rehearing by an intervenor is timely filed pursuant to Commission Rules 713(b) and 2007.<sup>11</sup>

## **I. Statement of Relevant Facts**

### **A. TXNM's 2025 Stock Sale Transaction And Failure To Obtain Federal And State Pre-Approval**

New Mexico law requires “prior express authorization” from the New Mexico PRC before “stock of a public utility or public utility holding company may be acquired by” certain parties. NMSA § 62-6-12. In particular, Section 62-6-12 of the NMSA 1978 provides, in relevant part, that stock of a public utility holding company may be acquired by affiliated persons acting in concert for the purposes of an acquisition only “[w]ith the prior express authorization of the commission, but not otherwise.” Section 62-6-12(B) further provides that any transaction undertaken in contravention of that section “shall be void and of no effect.”

Similarly, Federal Power Act Section 203(a)(1) provides, in pertinent part:

(1) No public utility shall, without first having secured an order of the Commission authorizing it to do so:

(i) Sell, lease, or otherwise dispose of the whole of its facilities subject to the jurisdiction of the Commission, or any part thereof of a value in excess of \$10,000,000;<sup>12</sup>

The Commission has interpreted “otherwise dispose of” in FPA Section 203(a)(1) to apply to certain indirect transfers of securities of a public utility’s upstream holding company.<sup>13</sup>

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<sup>10</sup> 18 C.F.R. § 385.713(c)(3).

<sup>11</sup> 18 C.F.R. §§ 385.713(b), 385.214(c)(1); 385.2007(a)(2).

<sup>12</sup> 16 U.S.C. § 824b(a)(1)(A).

<sup>13</sup> See, e.g., *Dodge Corp.*, 121 FERC ¶ 61,251 (2007), at P19; see also *FPA Section 203 Supplemental Policy Statement*, 120 FERC ¶ 61,060 (July 20, 2007), at P37.

The Commission has further established certain blanket authorizations exempting companies from seeking Commission pre-approvals under FPA Section 203(a)(1). With regards to transactions involving disposition of a public utility's securities to an entity that is not a holding company, 18 C.F.R. § 33.1(c)(12)(ii) provides (emphasis added):

(12) A public utility is granted a blanket authorization under section 203(a)(1) of the Federal Power Act to transfer its outstanding voting securities to: [...]

(ii) *Any person* other than a holding company if, after the transfer, such person and any of its associate or affiliate companies in aggregate will *own less than 10 percent of the outstanding voting interests of such public utility, and within 30 days after the end of the calendar quarter in which such transfer has occurred the public utility notifies the Commission in accordance with paragraph (c)(17) of this section.*

In these circumstances, the Commission has imposed robust reporting when a public utility's securities are disposed of to a non-holding company, as provided in 18 C.F.R. § 33.1(c)(17):

(17) A public utility granted blanket authorization under paragraph (c)(12)(ii) of this section to transfer its outstanding voting securities shall, within 30 days after the end of the calendar quarter in which such transfer has occurred, file with the Commission a report containing the following information:

- (i) The names of all parties to the transaction;
- (ii) Identification of the pre- and post-transaction voting security holdings (and percentage ownership) in the public utility held by the acquirer and its associate or affiliate companies;
- (iii) The date the transaction was consummated;
- (iv) Identification of any public utility or holding company affiliates of the parties to the transaction; and
- (v) A statement indicating 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 as required in § 33.2(j)(1).

With respect to the Stock Sale Transaction, in May, 2025, TXNM, the upstream parent company of PNM, issued eight million shares of TXNM common stock and sold those shares for

\$400 million to Troy TopCo LP (“TopCo”), the parent company of Troy ParentCo, LLC.<sup>14</sup> TopCo’s purchase of common stock amounted to 7.53% of TXNM’s shares and was consummated and became effective on May 18, 2025.<sup>15</sup> However, as is evident from the Application, the Stock Sale Transaction itself was an integral part and threshold step of Joint Applicants’ Acquisition plan to transfer entire control of TXNM—and PNM—to the Troy entities and ultimately Blackstone.<sup>16</sup>

None of the Joint Applicants requested New Mexico PRC or FERC approval prior to this transaction. Rather, they chose to disclose the Stock Sale Transaction—which had already occurred—in their Acquisition approval applications submitted in August 2025 before each regulating authority.

### **B. The Center’s Protests And Commission Approval Order**

In August 2025, Joint Applicants applied to both the New Mexico PRC and FERC for approval of TroyCo’s acquisition of TXNM and PNM. Before FERC, the Center filed a Protest arguing, *inter alia*, that the Commission should reject the Application in light of the risks of inappropriate cross-subsidization, particularly in two sectors in which Blackstone has significant

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<sup>14</sup> Application, at 15 n.46; 49 (Exh. I, at 2); *Troy Parent CO LLC*, NMPRC Case No. 25-00060-UT, Joint Applicants’ Response to Prosperity Works’ Motion and Brief for Order Directing Joint Applicants to Show Cause and Other Relief, Accession No. DOC-000195497-26 (Feb. 18, 2026).

<sup>15</sup> *Id.*

<sup>16</sup> For example, TroyCo’s \$400 million stock purchase served as an entry fee for Blackstone to bid on TXNM, the first step in the larger Acquisition process. *See Troy Parent CO LLC*, NMPRC Case No. 25-00060-UT, Joint Application with Supporting Testimonies, Accession No. 1240580 (Aug. 25, 2025), Exh. D at 44 of 214 (“Following receipt of the initial bids, management and Wells Fargo continued to evaluate options for interim financing and narrowed the focus to propose interim financing through a block sale of \$400 million of common stock, or the PIPE. Each potential acquiror was informed that the merger and PIPE were to be consummated by the same potential acquiror and that both transactions were to be signed and announced simultaneously”). As another example, the Agreement and Plan of Merger references the Stock Sale Transaction as one of the contractual considerations for entering into the merger agreement. Application, at 49 (or page 2 of Exhibit I)(“Whereas the Company and Troy TopCo LLP . . . are entering into a Stock Purchase Agreement. . . . Now Therefore, in consideration of the premises . . . . and for other good and valuable consideration . . . the Parties agree as follows. . .”).

affiliates that stand to benefit from transactions with PNM: (i) energy provider companies as upstream suppliers; and (ii) AI data centers as downstream large-load customers.<sup>17</sup>

The Commission found the Application deficient based on lack of disclosures of state commission protections against inappropriate cross-subsidization and ordered Joint Applicants to provide further information on whether the transaction qualifies for a “safe harbor.”<sup>18</sup> After Joint Applicants responded, the Center filed a Second Protest which explained how a third sector—utility component suppliers, of which Blackstone recently purchased two major sector players MacLean Power Systems and Power Grid Components—also threatened cross-subsidization, and argued that New Mexico’s ring-fencing measures were inadequate to police the sheer number of Blackstone affiliates and adequately protect against cross-subsidization.<sup>19</sup>

On February 20, 2026, the Commission approved the Application.<sup>20</sup> The Commission’s Approval Order determined that the Acquisition will not result in the cross-subsidization of a non-utility affiliate because New Mexico had some ring-fencing measures in place which qualify for a “safe harbor” exemption.<sup>21</sup> The Commission ignored the Center’s arguments that state ring-fencing measures are insufficient to protect against cross-subsidization brought on by the vast and undisclosed number of Blackstone affiliates.

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<sup>17</sup> *Troy Parent CO LLC*, Docket No. EC25-140-000, Protest of the Center for Biological Diversity, Accession No. 20251024-5027 (Oct. 24, 2025).

<sup>18</sup> *Troy Parent CO LLC*, Docket No. EC25-140-000, Letter informing Troy ParentCo that filing is deficient, Accession No. 20251223-3098 (Dec. 23, 2025).

<sup>19</sup> *Troy Parent CO LLC*, Docket No. EC25-140-000, Second Protest of the Center for Biological Diversity in response to letter informing Troy ParentCo that filing is deficient, Accession No. 20260123-5155 (Jan. 23, 2026) (“Center’s Second Protest”).

<sup>20</sup> Acquisition Approval Order.

<sup>21</sup> *Id.*, at P74.

### C. The New Mexico Public Regulatory Commission's March 11, 2026 Show Cause Order

In February, 2026, a party in the New Mexico PRC proceeding, later supported by the New Mexico Department of Justice and other parties, filed a motion to show cause concerning Joint Applicants' failure to obtain pre-approval for the Stock Sale Transaction.<sup>22</sup> One of the intervenor parties, New Energy Economy ("NEE"), argued that Joint Applicants had also failed to obtain approval required by FERC.<sup>23</sup>

In responding to that latter argument, on March 4, 2026, Joint Applicants asserted that no Commission approval or notification was necessary because the Stock Sale Transaction was discussed in their August 2025 Application to the Commission. In particular, Joint Applicants stated:

NEE alleges that the Joint Applicants violated regulations promulgated by the FERC. This is simply not true. First, after having been informed of the [Stock Sale Transaction] as part of the application submitted to FERC in the request for approval of the Acquisition, FERC has approved the Acquisition without raising any concerns about or suggesting that approval was required for the [Stock Sale Transaction]. This is consistent with FERC regulations because FERC has found a rebuttable presumption of control to exist only when an entity owns 10% or more of the voting interests of a public utility, which did not occur in the case of the Financing Transaction. *See* 18 C.F.R. § 33.1(c)(2)(ii). Second, the New Mexico Public Utility Act does not confer upon the NMPRC the power to determine violations of FERC regulations.<sup>24</sup>

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<sup>22</sup> *Troy Parent CO LLC*, NMPRC Case No. 25-00060-UT, Prosperity Works' Motion and Brief for Order Directing Joint Applicants to Show Cause and for Other Relief, Accession No. DOC-000186211-26 (Feb. 6, 2026); *Troy Parent CO LLC*, NMPRC Case No. 25-00060-UT, New Mexico Department of Justice's Reply in Support of Motion for Order to Show Cause Directed to Joint Applicants, Accession No. DOC-000195888-26 (Feb. 19, 2026).

<sup>23</sup> *Troy Parent CO LLC*, NMPRC Case No. 25-00060-UT, New Energy Economy's Response to Motion to Show Cause, Accession No. DOC-000196469-26 (Feb. 6, 2026).

<sup>24</sup> *Troy Parent CO LLC*, NMPRC Case No. 25-00060-UT, Joint Applicants' Reply to Responses Regarding Prosperity Works' Motion and Brief for Order To Show Cause with Correction to Document Header, Directing Joint Applicants to Show Cause and Other Relief, Accession No. DOC-00021437-26 (Mar. 4, 2026), at 15 n. 63.

Joint Applicants stated that the mention of the Stock Sale Transaction—footnoted in the body of the Application and part of the recitals and other places in the “Agreement and Plan of Merger” attached as Exhibit I to the Application<sup>25</sup>—served to “inform” FERC of the Stock Sale Transaction.<sup>26</sup>

On March 11, 2026, the New Mexico PRC Hearing Examiners granted the show cause motion<sup>27</sup> and issued the Show Cause Order directing Joint Applicants to show cause as to why the Stock Sale Transaction, completed without the prior authorization of the New Mexico PRC, does not violate NMSA Section 62-6-12, and is not therefore void and of no effect under the statute.<sup>28</sup>

## II. Statement of Issues

1. Joint Applicants were required to obtain both New Mexico PRC and FERC approval prior to the Stock Sale Transaction.<sup>29</sup> This new information implicates whether the underlying Acquisition approval is in the public interest and warrants rehearing.
2. At minimum, Joint Applicants were required to provide the Commission a post-sale report pursuant to 18 C.F.R. § 33.1(c)(17). This new information also implicates whether the underlying Acquisition approval is in the public interest and warrants rehearing.

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<sup>25</sup> Application, at 15 n.46; 49 (Exh. I at 2).

<sup>26</sup> *Troy Parent CO LLC*, NMPRC Case No. 25-00060-UT, Joint Applicants’ Reply to Responses Regarding Prosperity Works’ Motion and Brief for Order To Show Cause with Correction to Document Header, Directing Joint Applicants to Show Cause and Other Relief, Accession No. DOC-00021437-26 (Mar. 4, 2026), at 15 n. 63.

<sup>27</sup> *Troy Parent CO LLC*, NMPRC Case No. 25-00060-UT, Order Granting Motion for Order to Joint Applicants to Show Cause, Accession No. DOC-000220320-26 (March 11, 2026).

<sup>28</sup> *Troy Parent CO LLC*, NMPRC Case No. 25-00060-UT, Order Directing Joint Applicants to Show Cause, Accession No. DOC-000220319-26, (March 11, 2026). By separate Order, the Hearing Examiners put the main acquisition proceeding on hold. *Troy Parent CO LLC*, NMPRC Case No. 25-00060-UT, Order Staying Procedural Schedule, Accession No. DOC-000228394-26, (March 17, 2026).

<sup>29</sup> NMSA § 62-6-12; 16 U.S. Code § 824b(a)(1)(A).

3. The Acquisition Approval Order failed to consider the cross-subsidization risks and regulatory gap posed by Blackstone affiliates. This legal error warrants rehearing on the public interest factors of cross-subsidization and adverse regulatory impacts.

### **III. Arguments in Favor of Rehearing**

#### **A. Joint Applicants' Failure to Obtain Commission Approval Prior To The Stock Sale Transaction Calls Into Question Whether the Application Is In The Public Interest.**

Federal Power Act Section 203(a)(1) provides that “[n]o public utility shall, without first having secured an order of the Commission authorizing it to do so . . . sell, lease, or otherwise dispose of the whole of its facilities subject to the jurisdiction of the Commission, or any part thereof of a value in excess of \$10,000,000.”<sup>30</sup> In connection with the Acquisition that is subject to the Application, TXNM sold TopCo \$400,000,000 worth in its common stock, without obtaining prior FERC authorization.

Joint Applicants contend that prior FERC approval was not necessary for the Stock Sale Transaction.<sup>31</sup> However, the Center respectfully submits that this contention is inconsistent with the statute, which requires prior authorization for any securities disposition above \$10,000,000 in value.<sup>32</sup> In short, because Joint Applicants proceeded “without first having secured an order of the Commission authorizing” the Stock Sale Transaction, they did not comply with the Federal Power Act.<sup>33</sup>

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<sup>30</sup> 16 U.S. Code § 824b(a)(1)(A).

<sup>31</sup> *Troy Parent CO LLC*, NMPRC Case No. 25-00060-UT, Joint Applicants’ Reply to Responses Regarding Prosperity Works’ Motion and Brief for Order To Show Cause with Correction to Document Header, Directing Joint Applicants to Show Cause and Other Relief, Accession No. DOC-00021437-26 (Mar. 4, 2026), at 15 n. 63.

<sup>32</sup> 16 U.S. Code § 824b(a)(1)(A).

<sup>33</sup> These requirements apply to a holding company like TXNM where the transaction results in an indirect change in control by a non-holding company. Here, the Stock Sale Transaction served as the integral first step—the bidding entry fee—to consummate the full Acquisition. *See supra* n. 16. That is why the New Mexico PRC Hearing Examiners have issued the Show Cause Order to examine the relationship between these two transactions. *Troy Parent CO LLC*, NMPRC Case No. 25-00060-UT,

To be sure, the Commission has established blanket authorization regulations that purport to address this situation.<sup>34</sup> As discussed below however, Joint Applicants have failed to even fulfill the reporting obligations of those regulations. *See infra* Section III.B. However, as a threshold matter, these regulations cannot trump the plain language of the statute requiring the Commission's express pre-approval.

The D.C. Circuit's decision in *Allegheny Def. Project v. FERC* demonstrates why the Commission's regulations cannot override this statutory requirement.<sup>35</sup> There, the Commission argued that it had the authority to delay resolution of rehearing requests for administrative efficiency, despite statutory language requiring a resolution within a defined period. Rejecting this argument, the *en banc* D.C. Circuit concluded that the statutory language controls.<sup>36</sup>

Here, too, while the blanket authorization regulations may promote administrative efficiency, they cannot override the plain language of Section 203 of the Federal Power Act, which requires that the Commission approve transactions of more than \$10,000,000 before they are completed. The Commission therefore should not permit this Application to proceed in violation of this statutory requirement.<sup>37</sup>

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Order Directing Joint Applicants to Show Cause, Accession No. DOC-000220319-26 (March 11, 2026) (Attachment I).

Moreover, the Commission's rebuttable presumption that a securities disposition of less than 10% of voting shares does not amount to a change of control is rebutted here, in light of the Stock Sale Transaction's role as a threshold bidding fee to consummate the greater Acquisition. This situation is precisely the type of transactions that the Federal Trade Commission has previously warned against, whereby ownership transfers below certain ownership percentages can reduce the incentives for parties to compete, raising antitrust concerns. *See* Federal Trade Commission, FERC Docket No. RM09-16-0000, at PP 58-59 (Mar. 29, 2010).

<sup>34</sup> 18 C.F.R. § 33.1(c) *et seq.*

<sup>35</sup> *Allegheny Def. Project v. FERC*, 964 F.3d 1 (D.C. Cir. 2020).

<sup>36</sup> *Id.* at 13-19.

<sup>37</sup> *See also, e.g., Loper Bright Enters. v. Raimondo*, 603 U.S. 369 (2024); *PG&E v. FERC*, 113 F.4th 943 (D.C. Cir. 2024).

**B. Joint Applicants’ Failure To Comply With The FERC Report Requirements Under 18 C.F.R. § 33.1(c)(12)(ii) And (c)(17) On The Stock Sale Transaction Implicates Whether the Application Is In The Public Interest.**

Even assuming *arguendo* that FERC’s blanket authorization regulations are permissible under the plain language of FPA Section 203(a)(1), Joint Applicants did not comply with those regulatory obligations either. In particular, they have failed to comply with FERC regulations requiring a mandatory report for transactions involving sales of public utility securities to non-holding companies outside FERC’s jurisdiction.<sup>38</sup>

As noted, Joint Applicants have contended that the fact that the Commission itself failed to raise any concerns or suggest that any approval was required for the Stock Sale Transaction when the Commission approved the Acquisition means that Joint Applicants have not violated FERC regulations regarding notification and approval requirements of the Stock Sale Transaction.<sup>39</sup> According to Joint Applications, mere mention of the Stock Sale Transaction—which is footnoted in the body of the Application and part of the recitals and then other places in the “Agreement and Plan of Merger” attached as Exhibit I to the Application<sup>40</sup>—was sufficient to “inform” FERC of the Stock Sale Transaction.<sup>41</sup>

But Joint Applicants are wrong. 18 C.F.R. § 33.1(c)(12)(ii) provides that a public utility that sells less than 10% of its voting shares to a “person” that is not a holding company is granted a blanket authorization for the transfer pursuant to FPA Section 203(a)(1). However, even under

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<sup>38</sup> 18 C.F.R. §§ 33.1(c)(12)(ii); (c)(17).

<sup>39</sup> *Troy Parent CO LLC*, NMPRC Case No. 25-00060-UT, Joint Applicants’ Reply to Responses Regarding Prosperity Works’ Motion and Brief for Order To Show Cause with Correction to Document Header, Directing Joint Applicants to Show Cause and Other Relief, Accession No. DOC-00021437-26 (Mar. 4, 2026).

<sup>40</sup> Application, at 15 n.46; 49 (Exh. I, at 2).

<sup>41</sup> *Troy Parent CO LLC*, NMPRC Case No. 25-00060-UT, Joint Applicants’ Reply to Responses Regarding Prosperity Works’ Motion and Brief for Order To Show Cause with Correction to Document Header, Directing Joint Applicants to Show Cause and Other Relief, Accession No. DOC-00021437-26 (Mar. 4, 2026), at 15 n. 63.

those circumstances, the regulations require the filing of a timely report to the Commission. Pursuant to 18 C.F.R. § 33.1(c)(17), the publicly-filed report must identify the parties and relevant affiliates involved, make assurances that the transaction will not lead to cross-subsidization of non-utility affiliates, and identify the transaction’s change in voting security holdings of the acquirer and affiliate companies. In contrast to the other blanket authorizations, FERC explicitly designed extra reporting requirements for transactions involving entities outside their jurisdiction “so that the Commission and the public may monitor the purchase and sale of securities under the blanket authorization” and “determine whether any further action is required under Commission regulations.”<sup>42</sup>

This pair of reporting regulations apply to the Stock Sale Transaction, which amounted to a transfer of 7.53% of TXNM’s shares to TopCo.<sup>43</sup> TopCo, a Delaware limited partnership,<sup>44</sup> is a “person,” which FERC regulations define as “any individual, partnership, corporation, trust, association or any other private entity . . .”<sup>45</sup> As the transaction was consummated on May 18, 2025, the report was presumably due “within 30 days after the end of the calendar quarter in which such transfer has occurred,” or late July 2025. But Joint Applicants never filed the FERC report, despite the explicit mandate for this type of transaction from the Commission.

Joint Applicants’ failure to comply with FERC reporting requirements calls into question whether the Acquisition Application is in the public interest, for it suggests Applicants may have sought to skirt regulatory requirements in their effort to pursue this Acquisition. The Commission should consider whether such an approach is consistent with the Commission’s expectation that

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<sup>42</sup> *Blanket Authorization Under FPA Section 203*, Order No. 708-B, 127 FERC ¶ 61,157 at P10 (2009).

<sup>43</sup> Application, at 49 (Ex. I, at 2).

<sup>44</sup> Application, at 5.

<sup>45</sup> 16 U.S.C. § 1151(i).

companies charged with providing the fundamental service of reliable and affordable electricity rigorously comply with all regulatory requirements designed to ensure their effective operation. In short, this reporting omission undermines Applicants’ contention that this acquisition will have no impact on effective regulation.

**C. FERC’s Approval Order Failed To Consider Cross-Subsidization Risks and Regulatory Gaps Posed by Blackstone Affiliates.**

As noted, the Center’s Second Protest explained the concrete cross-subsidization risks and regulatory gaps posed by approval of this Acquisition, in light of Blackstone’s sprawling ownership of companies likely to enter into contracts with PNM, none of which are disclosed in the Application.<sup>46</sup> For example, the Center highlighted Blackstone’s recent acquisition of two large utility supply companies, making Blackstone the sole owner of the leading utility component suppliers in the market.<sup>47</sup> Because the Applicants disclosed neither these nor many other companies—including, *e.g.*, massive AI data center operators—in their list of “affiliates” in the Application, the Center explained that existing ring-fencing could not protect New Mexico ratepayers from cross-subsidization risks posed by these companies, *since they are not considered affiliates, and thus affiliate transactions ring-fencing requirements would not apply.*<sup>48</sup>

In approving the Application, the Commission did not address this argument. Rather, the Commission stated that “the Center does not explain why any potential contracts between the public utilities involved in the Proposed Transaction and any potential [affiliates] would not be subject to” New Mexico’s affiliate transaction rules.<sup>49</sup>

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<sup>46</sup> See Center’s Second Protest.

<sup>47</sup> *Id.* at 6.

<sup>48</sup> *Id.* at 12.

<sup>49</sup> Acquisition Approval Order at 24.

However, this is precisely what the Center in fact explained: that the contracts between myriad companies owned by Blackstone and PNM will *not* be subject to these ring-fencing measures because Joint Applicants *do not consider them to be affiliates covered by these rules*. Indeed, if they were in fact affiliates, they would have been disclosed in the Application.

Accordingly, the Commission legally erred in finding that New Mexico's ring-fencing measures are adequate to protect against unlawful cross-subsidization. FERC did not address the Center's argument that the capacious universe of Blackstone affiliates—crossing into (i) energy and power producers; (ii) utility component suppliers; and (iii) AI data center operators—demonstrates that existing ring-fencing measures are inadequate.

Thus, for example, while PNM will be situated within Blackstone Infrastructure, MacLean Power Systems and Power Grid Components—two of Blackstone's newly purchased major utility component suppliers—are owned by an entirely different Blackstone entity (Blackstone Energy Transition Partners).<sup>50</sup> Thus, if PNM enters into a contract with these dominant component suppliers, New Mexico's ring-fencing measures *will not require* disclosure of this affiliate transaction with a company owned outside the Blackstone Infrastructure entity or ensure protections for ratepayers against inflated costs from the Blackstone-owned companies.

Moreover, this patent inadequacy in New Mexico's ring-fencing measures not only threatens harmful cross-subsidization, it also reveals a regulatory gap necessary to protect wholesale and retail ratepayers that the Commission has not addressed. In short, in light of Blackstone's behemoth size and the hundreds of its affiliates that potentially stand to gain from PNM transactions, to fulfill its statutory mandate the Commission must not approve this Application on this record, for it leaves

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<sup>50</sup> Blackstone, *MacLean Power Systems and Power Grid Components Joint Forces to Form Leading Supplier of Engineered Components and Solutions for Utility Infrastructure*, Dec. 10, 2025, <https://www.blackstone.com/news/press/maclean-power-systems-and-power-grid-components-join-forces-to-form-leading-supplier-of-engineered-components-and-solutions-for-utility-infrastructure/>.

vital regulatory gaps and risks serious cross-subsidization, in contravention of ensuring that mergers serve the public interest under the Federal Power Act, the Commission's regulations, and the Merger Policy Statement.

### CONCLUSION

For the foregoing reasons, the Center respectfully urges the Commission to grant rehearing and rescind the approval of the Acquisition Application.

Dated: March 23, 2026

Respectfully submitted,

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**ATTACHMENT 1**

*New Mexico PRC's Order Directing Joint Applicants to Show Cause*

**BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION**

**IN THE MATTER OF THE JOINT APPLICATION OF )  
PUBLIC SERVICE COMPANY OF NEW MEXICO, )  
TXNM ENERGY, INC.AND TROY PARENTCO LLC )  
FOR APPROVAL OF AN ACQUISITION AND MERGER )  
OF TROY MERGER SUB INC. WITH TXNM ENERGY, ) Case No. 25-00060-UT  
INC.; APPROVAL OF A GENERAL DIVERSIFICATION )  
PLAN; AND ALL OTHER AUTHORIZATIONS AND )  
APPROVALS REQUIRED TO CONSUMMATE AND )  
IMPLEMENT THIS TRANSACTION (“JOINT )  
APPLICATION”) )**

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**ORDER DIRECTING JOINT APPLICANTS TO SHOW CAUSE**

**THIS MATTER** comes before the Hearing Examiners upon Prosperity Works’ Motion and Brief for Order Directing Joint Applicants to Show Cause (“Motion”), the Joint Applicants’ Response in opposition thereto (“Response”), the pleadings filed by other parties joining and supporting the Motion, and the replies filed by Joint Applicants and other parties. Prosperity Works’ Motion raises questions concerning the interpretation and applicability of NMSA 1978, Section 62-6-12, and whether the stock acquisition described in the pleadings was subject to the statute’s requirement for prior Commission authorization. The Hearing Examiners reviewed the various pleadings, supporting documentation, and law. Finding good cause to do so, the Hearing Examiners have contemporaneously issued a separate order in this docket granting Prosperity Works’ Motion.

Having granted the Motion, the Hearing Examiners now direct the Joint Applicants to appear and, pursuant to 1.2.2.22 NMAC, show cause why the purchase by TopCo of 8,000,000 shares of TXNM Energy, Inc. stock for \$400,000,000, completed without the prior authorization of the Commission, does not violate the provisions of NMSA 1978, Section 62-6-12, and is not therefore void and of no effect under that statute. The Hearing Examiners further direct the Joint

Applicants to address the legal and practical implications that a potential Commission determination that the stock purchase is void and of no effect would have on the Joint Application pending in this docket.

The Hearing Examiners **FIND AND CONCLUDE** as follows:

### **I. BACKGROUND AND SUMMARY OF THE PLEADINGS**

1. On February 6, 2026, Prosperity Works filed its Motion and Brief for Order Directing Joint Applicants to Show Cause. In its Motion, Prosperity Works contends that the stock acquisition at issue falls squarely within the scope of NMSA 1978, Section 62-6-12(A)(3), which provides that stock of a public utility holding company may be acquired by any person affiliated with or acting in concert with an acquiring entity for the purposes of an acquisition only with the prior express authorization of the Commission.<sup>1</sup>

2. Prosperity Works asserts that the statute's plain language is mandatory and unambiguous, and that the Legislature's use of the phrase "stock... may be acquired... only with the prior express authorization of the commission, but not otherwise" reflects a legislative intent to require Commission approval before such stock acquisitions occur.<sup>2</sup> Prosperity Works further emphasizes that Section 62-6-12(B) provides that any transaction undertaken in contravention of that requirement "shall be void and of no effect."<sup>3</sup>

3. Prosperity Works contends that the stock acquisition in question was undertaken "for the purposes of" the proposed merger and acquisition, as that phrase is used in the statute.<sup>4</sup>

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<sup>1</sup> Motion at 1-2.

<sup>2</sup> *Id.* at 3.

<sup>3</sup> *Id.* at 3-4.

<sup>4</sup> *Id.* at 6.

Specifically, that the stock purchase was negotiated contemporaneously with the merger agreement, was executed in close temporal proximity to the merger announcement, involved an affiliate of the acquiring entity that is directly participating in the proposed acquisition, and is referred to in Joint Applicants' own testimony several times in the same context as the merger.<sup>5</sup> Prosperity Works argues that these circumstances demonstrate that the stock acquisition, whether or not it resulted in control or was characterized as "separate" by the transacting parties, was an integral component of the overall acquisition transaction, undertaken by an affiliated entity acting in concert with the acquiring party to facilitate or advance the proposed merger.<sup>6</sup>

4. On February 18, 2026, the Joint Applicants filed their Response opposing the Motion. In their Response, the Joint Applicants argue that NMSA 1978, Section 62-6-12 does not apply to the stock acquisition at issue because, in their view, the statute governs only transactions that result in the acquisition of control of a public utility or public utility holding company.<sup>7</sup> The Joint Applicants assert that the statutory scheme, when read as a whole, is intended to regulate changes in control and that the Commission's prior authorization requirement must therefore be interpreted in that context.<sup>8</sup> They contend that the stock acquisition in question involved the purchase of a non-controlling interest.<sup>9</sup>

5. The Joint Applicants further assert that the stock acquisition was undertaken as a financing transaction separate and distinct from the proposed merger and acquisition. According to the Joint Applicants, the stock issuance was intended to provide capital and financial stability and was not

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<sup>5</sup> *Id.* at 6-9.

<sup>6</sup> *Id.*

<sup>7</sup> Response at 4-5.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.* at 19.

itself a mechanism for acquiring control of the utility or its holding company.<sup>10</sup> They argue that the transaction does not constitute an acquisition “for the purposes of” the merger within the meaning of Section 62-6-12, and that interpreting the statute to apply to such financing transactions would improperly expand the Commission’s jurisdiction beyond what the Legislature intended.<sup>11</sup>

6. Finally, the Joint Applicants argue that interpreting Section 62-6-12 to require prior Commission approval for the stock acquisition at issue would create uncertainty and disrupt ordinary financial transactions involving public utility holding companies.<sup>12</sup> They assert that such an interpretation would effectively require Commission approval for a wide range of minority stock transactions that do not implicate control or operational authority and would be inconsistent with both the statutory framework and past regulatory practice.<sup>13</sup>

7. Several other parties filed pleadings joining and supporting Prosperity Works’ Motion and requesting an order to show cause:

- a. Commission Staff states that the plain language of Section 62-6-12 is clear and does not require the “circuitous” statutory interpretation suggested by Joint Applicants.<sup>14</sup> Staff asserts that Joint Applicants’ arguments are insufficiently supported and that further explanation is necessary to resolve the statutory question.<sup>15</sup>
- b. The New Mexico Department of Justice joins Prosperity Works’ Motion and argues that prior approval requirements such as Section 62-6-12 serve a critical regulatory

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<sup>10</sup> *Id.* at 20.

<sup>11</sup> *Id.* at 16.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> Staff’s Response to Motion for Show Cause Order at 5-6.

<sup>15</sup> *Id.* at 9-10.

function by preserving Commission oversight and protecting the public interest.<sup>16</sup>

NMDOJ requests that the Commission require Joint Applicants to show cause and explain both the legality of the transaction and its implications for the pending acquisition.<sup>17</sup>

- c. New Energy Economy and the New Mexico Consumer Protection Alliance argue that Section 62-6-12 unambiguously requires prior Commission authorization for stock acquisitions undertaken in connection with a utility merger and that any such transaction completed without authorization is statutorily void.<sup>18</sup> They further assert that the Commission lacks discretion to overlook this statutory requirement and must deny the merger if the violation is confirmed.<sup>19</sup>
- d. The Coalition for Clean Affordable Energy concurs with Prosperity Works' Motion and supports the requested relief requiring Joint Applicants to show cause.<sup>20</sup>

8. On March 2, 2026, the Joint Applicants and Prosperity Works filed an Unopposed Motion for Leave to File Replies claiming that issues were raised in the supporting pleadings that were not contemplated in the original Motion and Response. The Hearing Examiners granted the motion with an expedited filing deadline.

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<sup>16</sup> New Mexico Department of Justice's Notice of Joinder and Brief Supporting Motion for Order to Show Cause Directed to Joint Applicants at 4.

<sup>17</sup> *Id.* at 8.

<sup>18</sup> Response in Support of Motion to Show Cause at 1.

<sup>19</sup> *Id.* at 13.

<sup>20</sup> Coalition for Clean Affordable Energy's Response to and Concurrence With Prosperity Works' Motion to Show Cause.

9. On March 4, 2026, Joint Applicants, Prosperity Works, New Energy Economy and the New Mexico Department of Justice filed replies further arguing in support of their respective positions.

10. The Hearing Examiners, after careful review, have determined that these pleadings raise colorable and material issues regarding the scope and applicability of Section 62-6-12 and whether the stock acquisition required prior Commission authorization. The Hearing Examiners therefore find that sufficient questions exist regarding statutory compliance to warrant formal investigation pursuant to 1.2.2.22 NMAC.

## **II. COMMISSION AUTHORITY AND LEGAL FRAMEWORK**

11. Pursuant to NMSA 1978, Section 62-3-1, public utilities are affected with the public interest and are subject to Commission supervision to ensure that their activities are conducted in a manner consistent with law and the public interest.

12. Pursuant to NMSA 1978, Section 62-6-12, the Commission is specifically charged with regulating mergers, acquisitions, and related transactions involving public utilities and their holding companies.

13. Section 62-6-12(A) provides, in relevant part, that stock of a public utility holding company may be acquired by affiliated persons acting in concert for the purposes of an acquisition only “[w]ith the prior express authorization of the commission, but not otherwise.” Section 62-6-12(B) further provides that any transaction undertaken in contravention of that section “shall be void and of no effect.”

## **III. LEGAL ANALYSIS AND BASIS FOR SHOW CAUSE**

14. The Commission’s statutory responsibilities require it to ensure that transactions subject to its jurisdiction comply with applicable law and serve the public interest. Pursuant to 1.2.2.22(A)

NMAC, the Commission may initiate an investigation through an order to show cause. Pursuant to 1.2.2.22(B) NMAC, following investigation and hearing, the Commission may issue a final order resolving the matters under investigation.

15. Section 62-6-12 expressly addresses stock acquisitions undertaken by affiliated persons acting in concert for the purposes of an acquisition. The statutory question presented by the Motion, and further examined in the Response, Replies, and associated pleadings, is therefore central to the Commission's exercise of its regulatory authority.

16. Based upon the pleadings presented to the Hearing Examiners, Prosperity Works' interpretation of Section 62-6-12 presents a compelling and facially supportable reading of the statutory text sufficient to warrant further examination. Specifically, Prosperity Works' interpretation is grounded in the statute's plain language, including its express reference to acquisitions of "stock" undertaken "for the purposes of any acquisition," and raises significant questions regarding the applicability of the statute to the transaction at issue.

17. The Joint Applicants' Response and Reply do not fully address the statutory concerns raised in the Motion and emphasized in the associated supporting pleadings. Although it offers an interpretation of the relevant provisions, it does not sufficiently analyze or reconcile that interpretation with the statute's text. Nor does the Response provide legal authority that squarely supports its proposed reading of the statute's scope. While the Response and Reply characterize the transaction in a manner that Joint Applicants contend falls outside the statute, those characterizations, without further legal and evidentiary development, do not resolve the statutory questions presented.

18. The Hearing Examiners cannot recommend that the Commission depart from the ordinary meaning of the statutory language or rely upon a strained interpretation to resolve important

questions of statutory applicability on an insufficiently developed record. Given the mandatory nature of the statutory provisions at issue and the potential legal consequences, further inquiry is necessary to ensure that the Joint Applicants have properly adhered to the statutory obligations presented in Section 62-6-12.

19. Accordingly, the Hearing Examiners find that the statutory questions raised in the Motion are sufficiently consequential to warrant formal investigation pursuant to 1.2.2.22 NMAC, and that the Joint Applicants must be required to show cause why the stock acquisition described in the associated pleadings described in this Order does not violate NMSA 1978, Section 62-6-12 and is not subject to the statutory consequences set forth therein.

20. The Hearing Examiners emphasize that this Order **does not constitute a final determination that Section 62-6-12 was violated or that the stock acquisition should be rendered void**. Rather, this Order only initiates a formal investigation to determine whether the stock acquisition violated Section 62-6-12 and, if so, the legal and practical consequences of that violation.

**IT IS THEREFORE ORDERED:**

A. An investigation pursuant to 1.2.2.22 NMAC is initiated.

B. Following briefing, evidentiary hearing, and oral argument, the Commission will determine whether Joint Applicants violated NMSA 1978, Section 62-6-12. If a violation is found to have occurred, the Commission will determine the legal and practical implications of such violation. Any such determination will be issued by the Commission in a final order subject to appeal to the New Mexico Supreme Court.

C. Joint Applicants **SHALL SHOW CAUSE** why the stock acquisition described in this Order and the associated pleadings does not violate NMSA 1978, Section 62-6-12. Specifically, the Joint Applicants **SHALL** address the following matters:

- a. Whether Section 62-6-12 applies to the stock acquisition and required prior express authorization of the Commission before completion of the transaction;
- b. If the stock acquisition is found to have contravened Section 62-6-12, the legal consequences of such violation, including whether the transaction is void and of no effect pursuant to Section 62-6-12(B);
- c. Any other issues of law or fact necessary for the Commission to determine whether the stock acquisition complies with Section 62-6-12 and applicable law.

D. The Joint Applicants **SHALL** file briefing, testimony, and any supporting documentation necessary to address the matters specified above. This filing **SHALL** include all legal authority, statutory analysis, and factual evidence supporting their position.

E. Other parties to this matter **MAY** file further briefing in support of their position on this matter and/or briefing responsive to Joint Applicants' Show Cause Briefing but are not required to do so.

F. Joint Applicants **SHALL** file their Show Cause Briefing on or before April 6, 2026.

G. Other parties **MAY** file further briefing in support of their position on this matter on or before April 6, 2026.

H. Prosperity works and other parties **MAY** file briefing responsive to Joint Applicants' Show Cause briefing on or before April 20, 2026.

I. Joint Applicants **MAY** file briefing responsive to other parties' briefing in support of this matter or their position on or before April 20, 2026.

J. A public hearing **SHALL BE HELD** for the purpose of receiving evidence and, as appropriate, hearing oral argument concerning the matters specified in this Order. The Hearing Examiners may receive sworn testimony, documentary evidence, and other relevant materials, and may hear oral arguments from the Joint Applicants and Prosperity Works. The hearing may proceed as an evidentiary hearing, oral argument, or a combination thereof, as the Hearing Examiners deem necessary to develop a full and complete record for the Commission's determination.

K. The date, time, and location, and other logistics of the hearing and pre-hearing conference shall be set by separate notice.

**ISSUED** under the Seal of the Commission at Santa Fe, New Mexico, this 11<sup>th</sup> day of March 2026.



**NEW MEXICO PUBLIC REGULATION COMMISSION**

A handwritten signature in black ink, appearing to be "J Barrett", written over a horizontal line.

Jocelyn Barrett

**Hearing Examiner**

Jocelyn.Barrett@prc.nm.gov

A handwritten signature in black ink, appearing to be "Patrick Schaefer", written over a horizontal line.

Patrick Schaefer

**Hearing Examiner**

## 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: March 23, 2026

/s/ Anchun Jean Su