

REC CLERK RECORDED 8/15/2017

**THE BOARD OF COUNTY COMMISSIONERS  
OF SANTA FE COUNTY  
RESOLUTION NO. 2017 - 24**

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**A RESOLUTION SUPPORTING LEGISLATION  
REQUIRING COMPETITIVE RESOURCE  
PROCUREMENT FOR ELECTRIC UTILITIES IN THE  
STATE OF NEW MEXICO**

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**WHEREAS**, the Santa Fe County (County) Board of County Commissioners (Board) has reviewed Senate Bill 360 (SB 360) introduced by State Senator Joseph Cervantes at the 53<sup>rd</sup> Session of the New Mexico Legislature; and

**WHEREAS**, SB 360 would require investor-owned electric public utilities to provide the New Mexico Public Regulation Commission (PRC) with the results of a competitive resource procurement (RFP) process when applying to the PRC for approval of their procurement of a new “supply-side electric energy or capacity resource” for a duration greater than one year; and

**WHEREAS**, SB 360 would also require that the PRC approve a qualified “independent evaluator” to advise the PRC regarding the sufficiency and reasonableness of those utility RFP processes and a utility’s bid evaluation procedures and methods; and

**WHEREAS**, the County and the residents and businesses within the County are retail service customers of the Public Service Company of New Mexico (PNM), an investor-owned electric utility, and thus their rates for retail electric service and the impacts of those rates on their budgets and business operations are affected by the cost of new supply-side electric energy or capacity resources procured by an investor-owned electric utility for a duration greater than one year; and

**WHEREAS**, the Board is informed that a 2008 study commissioned by the National Association of Regulatory Utility Commissioners and the Federal Energy Regulatory Commission stated:

Competitive procurements can provide utilities with a way of obtaining electricity supply that has the ‘best’ fit to customers’ needs at the ‘best’ possible terms. In principle, competitive procurements accomplish this goal by requiring market participants to compete for the opportunity to provide these services; [and]

**WHEREAS**, state law provides that whenever an electric public utility applies to the PRC for approval of a certificate of public convenience and necessity (CCN) for a new supply-side resource pursuant to NMSA 1978, § 62-9-1.A, the utility applicant has the burden of proving to the PRC that the new supply-side resource proposed is its most cost-effective resource option among all feasible alternatives to meet its service needs; and

**WHEREAS**, the Board agrees that requests for competitive proposals by electric public utilities is an important and valuable method for such utilities to reasonably identify all feasible supply-side resource options available to them at a particular time to meet their service needs in accordance with the "most cost-effective resource portfolio" criteria set forth in the New Mexico Efficient Use of Energy Act (EUEA), NMSA 1978, § 62-17-10, and in the PRC's Integrated Resource Planning (IRP) Rule, § 17.7.3, *et seq.*, NMAC; and

**WHEREAS**, the County and most government entities in New Mexico engage in competitive procurement to assure the best and most cost prudent procurements for the benefit of their constituencies; and

**WHEREAS**, requiring investor-owned electric public utilities to engage in competitive procurement similar to governmental entities is prudent, reasonable, and in the best interest of County residents; and

**WHEREAS**, requiring the PRC to implement an independent evaluator advisory process as set forth in SB 360 to ensure those processes are reasonable and conducted fairly will protect and benefit the customers of those utilities and the public interest by encouraging more independent power producers to participate in such utility competitive processes and thereby provide greater competition, consistent with the "most cost-effective resource portfolio" criteria set forth in the EUEA, NMSA 1978, § 62-17-10, and in the PRC's IRP Rule; and

**WHEREAS**, on May 29, 2014, Southwest Generation Operating Co., LLC, an independent power producer, the Office of the Attorney General of New Mexico, New Energy Economy, the Interwest Energy Alliance, and the New Mexico Green Chamber of Commerce filed a Joint Petition with the PRC asking that the PRC establish an independent evaluator process, similar to the independent evaluator or monitor processes adopted in other states, to advise the PRC regarding the reasonableness of the scope of future RFPs and the bidding evaluation processes conducted by PNM to support its future applications to the PRC for approval of new supply-side resource proposals to replace the capacity of Units 2 and 3 of the San Juan Generating Station proposed for retirement at the end of 2017 in Case No. 13-00390-UT that was opposed by PNM and the PRC's Utility Division Staff; and

**WHEREAS**, the PRC has not taken any action on that Joint Petition to date; and

**WHEREAS**, in PRC Case Nos. 14-00152-UT, 13-00390-UT, 15-00205-UT, and 16-00105-UT, PNM argued that PRC lacks statutory authority to require PNM to conduct an RFP process and present its results to the PRC to support its application to the PRC for approval of a new supply-side resource; and

**WHEREAS**, based on its review of SB 360, it is the understanding of the Board that Subsection I of that Bill sets forth a reasonable provision allowing an investor-owned electric public utility to request a waiver of the application of the requirements in the Bill upon a showing of "extraordinary circumstances" and that such a waiver is necessary to protect the public interest.

**NOW, THEREFORE, BE IT RESOLVED**, that the Board strongly supports the Legislature's passage and the Governor's enactment of SB 360 to promote greater and fair competition with respect to the procurement of supply-side resources by investor-owned electric public utilities in the State of New Mexico and to protect the interests of customers of investor-owned electric public utilities and the public interest in this State.

**BE IT FURTHER RESOLVED** that the Board directs staff to promptly provide this Resolution to Senator Joseph Cervantes, the Senate Majority Leader, the Speaker of the House of Representatives, the House Majority Floor Leader, the House Minority Floor Leader, the House Majority Whip, the House Minority Whip, the Senate President Pro Tempore, the Senate Minority Floor Leader, the Senate Majority Whip, the Senate Minority Whip, and to the Governor of State of New Mexico.

**PASSED, APPROVED, AND ADOPTED THIS 14<sup>th</sup> DAY OF MARCH, 2017.**

**BOARD OF COUNTY COMMISSIONERS  
OF SANTA FE COUNTY**

By: *HPR*  
Henry P. Roybal, Chair

ATTEST:  
*Geraldine Salazar*  
Geraldine Salazar, Santa Fe County Clerk

Date: 3-14-2017



**APPROVED AS TO FORM:**

*GS*  
Gregory S. Shaffer, Santa Fe County Attorney

Date: 3/14/2017



COUNTY OF SANTA FE )  
STATE OF NEW MEXICO ) ss  
BCC RESOLUTIONS  
PAGES: 3  
I Hereby Certify That This Instrument Was Filed for  
Record On The 15TH Day Of March, 2017 at 10:23:00 AM  
and Was Duly Recorded as Instrument # 1820457  
of The Records Of Santa Fe County  
Witness My Hand And Seal Of Office  
Geraldine Salazar  
Deputy *Laura Hernandez* County Clerk, Santa Fe, NM