



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
REGION 6  
1445 ROSS AVENUE, SUITE 1200  
DALLAS, TEXAS 75202 – 2733

Office of the Regional Administrator

**Term Sheet**  
**Between the U.S. Environmental Protection Agency,**  
**Public Service Company of New Mexico and the State of New Mexico**

This term sheet reflects a tentative agreement on technical terms and an appended corresponding timeline for action intended to address pollution control requirements for the San Juan Generating Station under the Clean Air Act's requirements for regional haze and interstate transport for visibility. These terms have no binding effect and will only become binding if incorporated into a settlement agreement that receives all necessary EPA and Department of Justice approvals and complies with Section 113(g) of the Clean Air Act, as applicable.

1. The New Mexico Environment Department (NMED) will develop and seek adoption by the New Mexico Environmental Improvement Board ("NM EIB") of a State Implementation Plan (SIP) revision. If the NM EIB approves the SIP revision after following all applicable procedural requirements including notice and a public hearing, the Governor of the State of New Mexico or her designee will submit the SIP revision to EPA for approval with supporting administrative and technical information and visibility modeling. The SIP revision will include the following elements:
  - a. Rulemaking addressing a NO<sub>x</sub> Best Available Retrofit Technology (BART) determination and enforceable emissions limits for SO<sub>2</sub>.
  - b. A five-factor BART analysis in accordance with the BART Guidelines, and other EPA guidance, as applicable, including documentation relied upon in making the BART determination. The use of confidential business information will be minimized to the extent practical in making the analysis.
  - c. New Mexico's rulemaking will require that fifteen (15) months after EPA final approval of the Revised SIP, no earlier than January 31, 2016, Public Service Company of New Mexico (PNM) will complete installation of selective non-catalytic reduction (SNCR) technology on SJGS Unit 1 and 4 and achieve an average nitrogen oxide (NO<sub>x</sub>) emission rate for Units 1 and 4 of no greater than 0.23 lb/MMBtu on a daily rolling 30-day average basis. Within 30 days after this "Term Sheet" is signed, PNM will submit a project schedule to the State and EPA that demonstrates the critical milestones for meeting the January 31, 2016, installation completion date. The dates that follow with an asterisk (\*) in paragraph d. will be revised accordingly if the installation date extends past January 31, 2016 due to delay in EPA's SIP approval.
  - d.
    - i. Testing Program. PNM will commence a program of testing and evaluation, after the installation of the SNCRs. The Testing Program consisting of SNCR Performance Testing, Fuel Performance Testing, and Long-Term Performance

Evaluation is to be completed no later than January 31, 2017\*, unless the Long-Term Performance Evaluation is delayed per the language in paragraph 1.d.iv.

- ii. SNCR Performance Testing will be conducted to develop a targeted ammonia/urea injection rate range at various load levels without exceeding a to-be-agreed-upon preliminary slip limit of between 5 and 10 ppm, with the goal of minimizing NO<sub>x</sub> emissions. PNM shall provide the results of the performance tests, recommended final slip limit, and target ammonia/urea injection rates to NMED and EPA by April 1, 2016\*. PNM will allow up to April 30, 2016\* for the agencies to either concur with PNM's slip limit recommendation or to concur on a different slip limit that PNM will comply with for Units 1 and 4.
- iii. PNM will conduct Fuel Performance Testing (in conjunction with the SNCR Performance Testing) of its pre-treated coal technology, so long as it has not been previously determined to result in any detrimental effect to SJGS Units 1 and 4 or their operation, with the objective of further reducing NO<sub>x</sub> emissions. If the Fuel Performance Testing demonstrates that it does not: (i) measurably increase NO<sub>x</sub> emissions, or (ii) adversely impact overall unit operations, PNM shall also use such pre-treated coal for the 9-month Long-Term Performance Evaluation Period described below. PNM will also use pre-treated coal on units 2 and 3 when used on units 1 and 4.
- iv. Long-Term Performance Evaluation Period. PNM will begin collecting NO<sub>x</sub> emission and ammonia/urea injection rate data from Units 1 and 4 on a daily rolling 30-day average basis for nine continuous months beginning on May 1, 2016\* and provide such data and any recommendations on the NO<sub>x</sub> emission limit to NMED and EPA by February 28, 2017\* or no later than 28 days after completing the Long-Term Performance Evaluation Period. PNM may request more time if a slip limit is not agreed upon by April 30, 2016\*. The Long-Term Performance Evaluation Period must include 60 days between June 1<sup>st</sup> and August 30<sup>th</sup> and 60 days between December 1<sup>st</sup> and February 28<sup>th</sup>. The Demonstrated Emission Rate will be the highest daily rolling 30-day average emission rate during the 9-month Long-Term Performance Evaluation Period (not including periods of malfunction or abnormal operating conditions) adjusted to three significant digits. If the Demonstrated Emission Rate is greater than or equal to 0.200 lb/MMBtu on a daily rolling 30-day average basis no adjustment to the NO<sub>x</sub> emission rate for units 1 and 4 will be made. If the Demonstrated Emission Rate is less than 0.200 lb/MMBtu on a daily rolling 30-day average basis PNM will apply for a permit modification by March 31, 2017\* (or no later than 60 days after completing the Long-Term Performance Evaluation Period) to reduce the permitted emission rate by 60% of the difference between 0.23 lb/MMBtu and the Demonstrated Emission Rate, provided the revised emission rate does not adversely impact overall unit operations. The permit modification will include the agreed upon ammonia slip limit.
- e. New Mexico's rulemaking will require that no later than six months from NM EIB adoption of SO<sub>2</sub> emission limit in the RH and Interstate Visibility Transport SIP

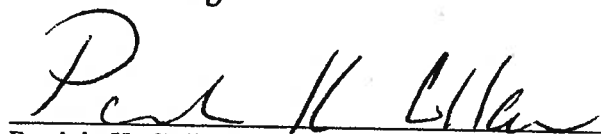
revisions, PNM will comply with new sulfur dioxide ("SO<sub>2</sub>") emission rates at Units 1 and 4 of 0.10 lb/MMBtu on a daily rolling 30-day average basis.

- f. New Mexico's rulemaking will require that PNM diligently seek all necessary regulatory approvals to allow for retirement of SJGS Units 2 and 3 by December 31, 2017. New Mexico's rulemaking will require PNM to retire SJGS Units 2 and 3 by December 31, 2017.
2. NMED and EPA intend that the Regional Haze and Interstate Transport SIP revisions as adopted and submitted to EPA will, if approved by EPA, lead to EPA action withdrawing the federal implementation plan for SJGS. Nothing in the Regional Haze and Interstate Transport SIP revisions as adopted and submitted to EPA by New Mexico shall relieve SJGS from its obligations to comply with all applicable federal, state, and local laws and regulations, including laws, regulations, and compliance deadlines that become applicable after the date of any revisions to New Mexico's Regional Haze SIP that may be approved by EPA.
3. NMED also will develop and propose as part of the revised BART determination for PNM, a revision to the Visibility Interstate Transport SIP for NO<sub>x</sub> and SO<sub>2</sub>. NMED's Visibility Interstate Transport SIP revision will require enforceable emissions limits for NO<sub>x</sub> and SO<sub>2</sub> consistent with the emission limits established in the Regional Haze SIP submission in accordance with item 1.
4. PNM agrees that the natural gas combustion turbine(s) to be sited at the San Juan Generating Station to partially replace the retired Unit 2 and Unit 3 coal capacity will undergo BACT analysis and control even if not subject to major source PSD, with the goal of minimizing the visibility impact of emissions of NO<sub>x</sub>. PNM agrees that the aggregate annual NO<sub>x</sub> emissions from any such on site replacement power shall not exceed 75 tons.

Signature Page for Term Sheet between the U.S. Environmental Protection Agency, Public Service Company of New Mexico, and the State of New Mexico.

FOR PUBLIC SERVICE COMPANY OF NEW MEXICO:

Dated: February 15, 2013

A handwritten signature in black ink, appearing to read "Patricia K. Collawn", written over a horizontal line.

Patricia K. Collawn  
President and CEO  
Public Service Company of New Mexico

Signature Page for Term Sheet between the U.S. Environmental Protection Agency, Public Service Company of New Mexico, and the State of New Mexico.

FOR THE STATE OF NEW MEXICO:

Dated: Feb. 15, 2013

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F. David Martin

Secretary

New Mexico Environment Department

Signature Page for Term Sheet between the U.S. Environmental Protection Agency, Public Service Company of New Mexico, and the State of New Mexico.

FOR THE U.S ENVIRONMENTAL PROTECTION AGENCY:

Dated: February 15, 2013

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Ron Curry  
Regional Administrator  
U.S. Environmental Protection Agency, Region 6

## **TERM SHEET ATTACHMENT**

### **Timeline**

February 15, 2013	EPA Comfort Letter
February 22, 2013	Letter from NMED requesting that EPA not take action on the current SIP.
March 2013	PNM submits new BART analysis to NMED
March 2013	NMED begins work on revised SIP pursuant to the "Term Sheet"
May/June 2013	Request hearing before the EIB and start public comment period
September 2013	Revised SIP presented to EIB
Within 30 Days of preceding event	Revised SIP submitted to EPA
Within 60 Days of preceding event	Completeness Determination (EPA can now determine if additional discussion concerning FIP Compliance Dates is warranted)
Within 135 Days of preceding event	EPA proposes action on Revised SIP
Within 150 Days of preceding event	EPA final action on Proposed SIP
Within 30 Days of preceding event	EPA/NMED discussion concerning FIP Compliance Dates (if necessary)