

1 **CITY OF SANTA FE, NEW MEXICO**

2 **RESOLUTION NO. 2017-22**

3 **INTRODUCED BY:**

4  
5 Councilor Peter N. Ives

6 Councilor Joseph M. Maestas

7 Councilor Christopher M. Rivera

8 Councilor Renee D. Villarreal

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10 **A RESOLUTION**

11 **IN SUPPORT OF SENATE BILL 360 REGARDING COMPETITIVE RESOURCE**  
12 **PROCUREMENT FOR ELECTRIC UTILITIES IN THE STATE OF NEW MEXICO.**

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14 **WHEREAS**, the Governing Body has reviewed Senate Bill (SB) 360, recently  
15 introduced by State Senator Joseph Cervantes at the 53<sup>rd</sup> Session of the New Mexico Legislature  
16 and now being considered by Legislature, that would require investor-owned electric public  
17 utilities to provide the New Mexico Public Regulation Commission (PRC) with the results of a  
18 competitive resource procurement (RFP) process when applying to the PRC for approval of their  
19 procurement of a new “supply-side electric energy or capacity resource” for a duration greater  
20 than one year ;

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

24 **WHEREAS**, the City of Santa Fe, residents and businesses residing in the City are retail  
25 service customers of Public Service Company of New Mexico (PNM), an investor-owned electric

1 utility, and thus their rates for retail electric service and the impacts of those rates on their budgets  
2 and business operations are affected by the cost of new supply-side electric energy or capacity  
3 resources procured by an investor-owned electric utility for a duration greater than one year;

4 **WHEREAS**, the Governing Body is informed that a 2008 study commissioned by the  
5 National Association of Regulatory Utility Commissioners and the Federal Energy Regulatory  
6 Commission stated: “Competitive procurements can provide utilities with a way of obtaining  
7 electricity supply that has the ‘best’ fit to customers’ needs at the ‘best’ possible terms. In  
8 principle, competitive procurements accomplish this goal by requiring market participants to  
9 compete for the opportunity to provide these services”;

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

15 **WHEREAS**, the Governing Body agrees with the foregoing statement in the 2008 study  
16 commissioned by NARUC and the FERC that requests for competitive proposals by electric  
17 public utilities is an important and valuable method for such utilities to reasonably identify all  
18 feasible supply-side resource options available to them at a particular time to meet their service  
19 needs in accordance with the “most cost-effective resource portfolio” criteria set forth in the  
20 EUEA, NMSA 1978, § 62-17-10, and in the PRC’s IRP Rule, § 17.7.3, *et seq.*, NMAC;

21 **WHEREAS**, the Governing Body in its own procurement processes engages in Request  
22 for Proposal (RFP) processes which ensure a competitive bidding process designed to deliver to  
23 the people of Santa Fe the best and most cost prudent procurements;

24 **WHEREAS**, requiring investor-owned electric public utilities in New Mexico to conduct  
25 RFP processes, similar to those engaged in by governmental entities delivering service to their

1 constituencies, to support their applications to the PRC for approval of new supply-side resources  
2 is prudent and reasonable and in the best interest of the citizens of Santa Fe;

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

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

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

20       **WHEREAS**, in PRC Case Nos. 14-00152-UT, 13-00390-UT, 15-00205-UT and 16-  
21 00105-UT, PNM argued that, absent express statutory authority to do so, the PRC lacks authority  
22 to require an investor-owned electric public utility like PNM to conduct an RFP process and  
23 present its results to the PRC to support its application to the PRC for approval of a new supply-  
24 side resource;

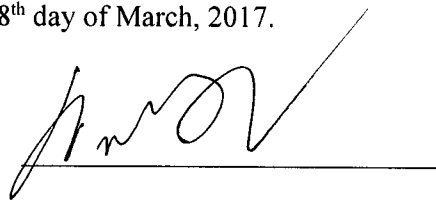
25       **WHEREAS**, based on its review of SB 360, it is the understanding of the Governing

1 Body that subsection I of that Bill sets forth a reasonable provision allowing an investor-owned  
2 electric public utility to request a waiver of the application of the requirements in that Bill upon a  
3 showing of “extraordinary circumstances” and that such a waiver is necessary to protect the  
4 public interest.

5 **NOW, THEREFORE, BE IT RESOLVED**, that the Governing Body strongly supports  
6 the Legislature’s passage and the Governor’s enactment of SB 360 to promote greater and fair  
7 competition with respect to the procurement of supply-side resources by investor-owned electric  
8 public utilities in the State of New Mexico and to protect the interests of customers of investor-  
9 owned electric public utilities and the public interest in this State;

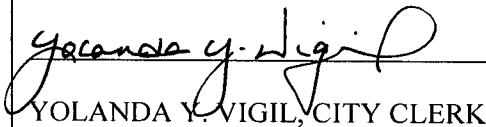
10 **BE IT FURTHER RESOLVED** that the City Clerk of the City of Santa Fe shall  
11 promptly communicate this Resolution to Senator Joseph Cervantes, the Senate Majority Leader,  
12 the Speaker of the House of Representatives, the House Majority Floor Leader, the House  
13 Minority Floor Leader, the House Majority Whip, the House Minority Whip, the Senate President  
14 Pro Tempore, the Senate Minority Floor Leader, the Senate Majority Whip, the Senate Minority  
15 Whip, and to the Governor of State of New Mexico.

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17 PASSED, APPROVED AND ADOPTED this 8<sup>th</sup> day of March, 2017.

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20 JAVIER M. GONZALES, MAYOR

21 ATTEST:

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23   
24 YOLANDA Y. VIGIL, CITY CLERK

1 APPROVED AS TO FORM:

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4 KELLEY A. BRENNAN, CITY ATTORNEY

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*M/Legislation/Resolutions 2017/2017-22 Support SB 360 – Competitive Resource Procurement*