

# Editorial: PRC's 5-0 vote 'unfriends' New Mexico's economy

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Don't even think about it.

That's the message the New Mexico Public Regulation Commission sent Tuesday via a 5-0 vote that essentially says, "Thanks, Facebook, for deciding to invest \$1 billion in New Mexico. Now here's a surprise bill for \$39 million."

And to anyone considering investing in New Mexico, that translates into don't.

Much to the chagrin of Facebook, economic developers and the administration of Gov. Michelle Lujan Grisham, the five-member commission accepted a hearing examiner's recommendation that Facebook should ante up nearly half the cost of a new \$85 million high-voltage transmission line to carry renewable power to the company's sprawling new data center complex in Los Lunas.

The PRC commissioners say their vote was based in large part on testimony from a Public Service Company of New Mexico executive who said the new line would only benefit Facebook. PNM later clarified and corrected the testimony.

To review, New Mexico – for a change – prevailed in a heated competition to land the Facebook investment, which in addition to thousands of construction jobs puts it on the map in competing for investment in the new high-tech economy. A decision by a giant like Facebook to locate here is significant in the message it sends.

Unfortunately, the PRC sent a different message this week: Rely on our promises at your peril.

A key criteria in Facebook's decision to come here was 100 percent renewable energy powering its data complex – which has one unit built and several more on the drawing board, at least until that 5-0 vote. The company says the decision to suddenly try to get it to pay \$39 million could affect its long-term operations in the state. It urged the PRC to stick with what it thought was an ironclad deal.

PRC members say they took the action because of the PNM executive's testimony in February. The PRC said that, based on the testimony, retail customers would be paying the cost of a line from which they derived no benefit. But PNM says the line is a system upgrade that will benefit wholesale and retail customers in

addition to Facebook; the 2016 agreement only requires Facebook to pay for all infrastructure costs if it is the sole beneficiary.

This is where the PRC should have stepped back to review the entire issue, including PNM's correction of the executive's testimony – especially in light of Facebook's huge investment and the state's commitment to renewable energy.

It's unclear why PNM – accustomed to complex rate hearings – would testify in such a way that it then needed to clarify or correct it. PNM has declined to comment further. And it's beyond unfortunate the PRC didn't factor in PNM's correction before casting the unanimous stick-it-to-PNM/Facebook vote.

Because it's not as if the PRC didn't get a heads up this vote was a very big deal.

Bobby Hollis, head of energy and site selection for a Facebook subsidiary, wrote in a letter to the PRC “this new issue is a significant deviation of our understanding of the terms and conditions of our Special Service Contract with PNM and its financial implications, creating uncertainty around the long-term costs of our operations in New Mexico. This contrary interpretation fundamentally restructures the transaction upon which we relied when we decided to locate in Los Lunas.”

Gary Tonjes of Albuquerque Economic Development had warned the PRC that an adverse ruling “could significantly damage New Mexico's reputation and ability to attract other companies to the state.”

Gov. Michelle Lujan Grisham's administration weighed in with a letter signed by two Cabinet secretaries that said the decision could have a “chilling effect” on statewide economic development. “If New Mexico does not keep all the promises made to this company, we may not have another opportunity for years,” said the letter penned by Economic Development Secretary Alicia J. Keyes and Energy and Natural Resources Secretary Sarah Cottrell Propst. “There is not a bigger red flag to a site selector ... than failing to follow through on promises.”

PNM needs to request a rehearing, and the PRC needs to assess all of the facts and change its order. If it fails to do so, then it's incumbent on PNM to appeal to the New Mexico Supreme Court. Because this decision could deliver a blow that will take the state years to recover from – if ever.