

# PRC decision blindsides Facebook, state officials warn

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A state Public Regulation Commission decision Tuesday requiring PNM to bill Facebook for nearly half the cost of a new, \$85 million transmission line could reverberate well beyond New Mexico's borders.

State officials and economic development professionals say the decision could be seen as renegeing on previous PRC commitments, causing a "chilling effect" on efforts to recruit more large companies to New Mexico like Facebook, which is building a massive data center in Los Lunas.

Facebook says the decision could affect its long-term operations in the state, raising costs and throwing into doubt Public Service Company of New Mexico's ability to provide 100 percent renewable energy to run the facility.

It's unclear how PNM will respond to the order. It has 30 days to file a motion for a rehearing, or it could appeal the PRC decision to the state Supreme Court.

PNM representatives told the Journal on Wednesday that they could not immediately comment on the issue.

PRC members, who voted 5-0 Tuesday to approve the order, contend that PNM cannot bill ratepayers for the transmission project because the line will not benefit retail customers, only Facebook and wholesale electric operators who need the transmission capacity to supply renewable energy to other markets.

The proposed high-voltage line, which would run from Clines Corners to a new substation in Sandoval County, would transmit electricity produced by a 166-megawatt wind farm being built near Encino by Avangrid Renewables to supply Facebook's data center.

PNM in August requested PRC approval to construct the line. PNM has said the line will carry electricity from other sources for use by other customers as part of an overall system upgrade that will benefit everybody, not just Facebook.

The transmission line and its costs were not part of any original plan to supply Facebook with renewable generation, so PNM proposed splitting the bill between wholesale and retail customers.

But during hearings on the transmission line in February, one PNM executive contradicted that position, testifying that the project would serve only the needs of Facebook and wholesale customers, with no net impact in use or costs on retail electric consumers.

That led the hearing examiner, Carolyn Glick, to recommend that only wholesale users and Facebook pay for the line, with Facebook covering nearly half the bill, or \$39 million.

PNM later filed a written correction to the February executive testimony, but commissioners opted to accept Glick's recommendation.

"PNM did a complete, 180-degree turn from what its witness said at the hearing, and that testimony was not refuted or rebutted by anyone," Commissioner Cynthia Hall told the Journal. "... Nothing supported PNM's later assertion that the transmission line would ultimately benefit ratepayers to justify imposing \$39 million in costs on them."

Under a special service contract, or SSC, between PNM and Facebook that the PRC approved in 2016, no ratepayers are supposed to be affected by any renewable generation systems managed by PNM to supply the Los Lunas data center. That contract comes out of a new "green energy tariff" that the PRC authorized to allow PNM to supply renewable electricity directly to customers such as Facebook with special rates negotiated between PNM and those large-scale consumers.

"Language in the SSC clearly says there will be no cost to PNM retail ratepayers for any renewable generation for the data center," Hall said. "There should be no net impact."

But Facebook says that applies only to renewable generation and infrastructure directly connected to its data center, not general transmission system upgrades like the project under review.

"This new issue is a significant deviation of our understanding of the terms and conditions of our SSC with PNM and its financial implications, creating uncertainty around the long-term costs of our operations in New Mexico," Bobby Hollis, head of energy and site selection for the Facebook subsidiary Greater Kudu LLC, wrote in a March 29 letter to the PRC. "... (This) contrary interpretation fundamentally restructures the transaction upon which we relied when we decided to locate in Los Lunas."

One of Facebook's criteria for locating in New Mexico was that its data center could be powered by 100 percent renewable resources.

**The green energy tariff and subsequent service contract allowed that to happen.**



Rows of solar panels dot the desert landscape at one of three solar farms now powering Facebook's data center in Los Lunas. (Marla Brose/Albuquerque Journal)

**The La Joya wind farm is one of two wind farms and six solar plants that PNM has either built or planned to supply nearly 400 megawatts of renewable generation to Facebook as the company builds out the data center in stages over the next few years.**

**Since 2016, Facebook has invested about \$400 million out of more than \$1 billion it plans to pump into the data center project, according to Hollis.**

**In a separate letter to commissioners on April 12, Gary Tonjes, head of the business recruitment organization Albuquerque Economic Development, warned the PRC that an adverse ruling in the case would be unfair to Facebook and PNM and could significantly damage New Mexico's reputation and ability to attract other companies to the state.**

**"Changing the rules after the fact would create significant short- and long-term damage to New Mexico," Tonjes wrote. "... (It) would be interpreted by other companies as a 'bait and switch,' effectively branding New Mexico as high-risk and anti-business."**

**Economic Development Secretary Alicia J. Keyes and Energy, Minerals and Natural Resources Secretary Sarah Cottrell Propst weighed in as well in a joint**

letter to commissioners on April 15 warning that the PRC decision could have a “chilling effect” on statewide economic development and renewable energy investments.

“If New Mexico does not keep all of the promises made to this company, we may not have the opportunity to land another project of this caliber for years,” the secretaries said. “There is no bigger ‘red flag’ to a site selector or business executive than failing to follow through on an agreement.”

Hall said all the PRC members are concerned about the consequences, but PNM presented no evidence to show that retail customers would actually benefit from the new transmission line.

“Of course, we’re upset,” Hall said. “But it’s our role to act in the public good based on clear evidence. ... It strains credulity that PNM would think we would accept its position without evidence.”