Administrative Office of the Courts

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STATE SUPREME COURT AFFIRMS REGULATORY DECISION ALLOWING PARTIAL CLOSURE OF COAL-FIRED POWER PLANT

SANTA FE – The state Supreme Court on Monday affirmed a regulatory decision allowing Public Service Company of New Mexico (PNM) to close part of a coal-fired power plant and replace the electrical generation capacity with a mix of other energy sources.

The Court, in a unanimous ruling, concluded that there was an "abundance of evidence" to support the decision by the Public Regulation Commission (PRC) in December 2015 approving the electric utility's plan, which provided for the closing of two of four units at the San Juan Regional Generating Station near Farmington. Replacement power was to come from one of the remaining coal-burning units as well as from the Palo Verde Nuclear Generating Station in Arizona.

New Energy Economy appealed the commission's decision but the Court rejected its arguments as "unpersuasive or entirely without merit."

The commission accepted a hearing examiner's recommendation in favor of the utility's plan, which was an agreement reached among the utility and other parties including the state attorney general's office, Western Resource Advocates and the New Mexico Industrial Energy Consumers. Utilities need PRC approval to close a power plant or acquire new generating capacity. PNM developed its plan to help comply with federal air pollution requirements for reducing haze-causing emissions.

The Court said the PRC determined the utility's plan "fairly and justly resolved" the regulatory proceeding and the commission's conclusion was based on findings by the hearing examiner of a "net public benefit" from the plan's mix of electrical power.

The PRC's decision to accept the hearing examiner's "cost benefit analysis is a quintessential policy decision with which we will not interfere," the Court said in its opinion written by Chief Justice Judith K. Nakamura.

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To read the opinion in *New Energy Economy v. N.M. Public Regulation Commission*, No. S-1-SC-35697 slip op. (N.M. S. Ct. March 5, 2018), please visit the New Mexico Compilation Commission's website using the following link:

http://www.nmcompcomm.us/nmcases/nmsc/slips/SC35,697.pdf

The Supreme Court also filed an opinion Monday in *Freeman v. Fairchild*, No. S-1-SC-34929 slip op. (N.M. S. Ct. March 5, 2018). To read the opinion in *Freeman*, please visit the New Mexico Compilation Commission's website using the following link:

http://www.nmcompcomm.us/nmcases/nmsc/slips/SC34,929.pdf