

## **Victory! U.S. State of New Mexico Rejects Smart Meters**

Posted on [August 12, 2018](#) by [Stop Smart Meters Australia](#)

Recently the New Mexico Public Regulation Commission denied Public Service Company of New Mexico's (PNM) application to install smart meters.

### **The Reasons for rejecting the installation of smart meters include:**

- No net public benefit, no evaluation of alternatives and the public interest
- PNM's unlicensed contractor and PNM's repeated inability to accurately specify the qualifications required for a contractor
- The uncertainty of savings for ratepayers: imminent rate increases, the risk that lifetime costs will exceed savings
- Disproportionate benefits for investors: elimination of financial risks for investors, immediate increase in investor earnings, PNM's requests that the Commission find the AMI capital costs and expenses are reasonable and prudent, full recovery of undepreciated costs and customer education costs as regulatory assets
- Discretionary project — insufficient demonstration of need and no plans to use AMI for energy efficiency
- Opt-out fees do not provide meaningful opportunity to opt-out: unreasonableness of fees , health concerns, safety concerns
- Job losses
- Recent and future rate increases

**Evidence about health effects was discussed at length:** "Customers who have strong feelings about the health effects of the meters should be allowed to protect their stated health concerns without a prohibitively high cost."

The decision goes on to state: "The conditions of the portion of the population who believe they are electromagnetically sensitive deserve acknowledgment and consideration as decisions are made regarding the implementation of an AMI Project. Accommodations could include reasonable opt-out provisions and fees and perhaps the selection of technologies that minimize the impacts on such people. Such accommodations may be desirable to minimize health risks to customers and address the needs and preferences of PNM's customers. These are issues that can and should be addressed in a public input process of the sort PNM stated in its 2012 Report that it would conduct before bringing a smart meter proposal to the Commission for approval."

The PRC Chairman Sandy Jones concluded that the AMI program "was clearly not in the best interest of the public."

The decision means there will not be smart meters in the near future in New Mexico's metropolitan areas.

<https://www.smombiegate.org/breaking-new-mexico-rejects-pnm-smart-meter-proposal-it-does-not-promote-the-public-interest/>

**“The plan presented in the Application does not provide a net public benefit and it does not promote the public interest.”**

**— New Mexico Public Regulation Commission,  
April 11, 2018**

[Recommended Decision 3-19-18](#)

[Final Decision, 4-11-18](#)

**Case No. 15-00312-UT**

Today, the New Mexico Public Regulation Commission denied Public Service Company of New Mexico’s (PNM) application in install Smart Meters. In doing so, it adopted the Hearing Examiner’s Recommended Decision in its entirety.

From **Hearing Examiner recommendations – Summary**, p. 71-74

“The primary purpose of PNM’s project is cost savings. PNM’s proposal focuses on the elimination of 125 meter reading jobs, faster disconnections of late- and non-paying customers, and increased revenues by preventing tampering and diversion of service.

PNM designed its project without public input and without examining alternatives. Not surprisingly, all of the eight non-PNM parties oppose PNM’s requests.

PNM also emphasizes that the project is discretionary. PNM states that the project is **not needed** to provide adequate service or to comply with any Commission rules or other regulatory requirements. As a result, PNM will proceed with the project only if the Commission approves it on PNM’s terms in their entirety and without modification.

PNM cites no statute as direct authority for the approvals it requests and cites no direct authority for the standards the Commission should apply to its requests. PNM argues that the approval should be issued on the basis of its claim that the project’s benefits will exceed its costs over the 20 year estimated life of the meters.

The non-PNM parties in this case include advocates of residential, industrial, municipal, environmental, health and public interests. They include the AG, the City of Albuquerque, CCAE, CFRE, NMIEC, NMUS, WRA and Staff. All question the legal authority for PNM’s requests for approval of the project outside a CCN proceeding and for approval of advance ratemaking treatment. Most support the benefits that can potentially be achieved with smart meters, but they complain about the narrow focus of PNM’s plan, its cost, its unfair balancing of investor and ratepayer interests, and its inflexibility in addressing the concerns of PNM’s customers. They ask that PNM come back with a better plan, after obtaining input from the public.

The primary justification PNM offers for the project is the net savings it says the project would produce for ratepayers. PNM acknowledges that the immediate impact would be rate increases. But it says that, over the 20 year expected life of the AMI meters, it would eventually produce savings.

The non-PNM parties disagree with PNM's savings estimates. They agree that the immediate impact would be rate increases, but they say the lifetime savings would not occur.

They recommend rejection, because they do not see any benefits sufficient to compensate for the rate increases. The non-PNM parties show that the immediate result of PNM's \$121.5 million plan would be rate increases (at least \$5.9 million per year after the meters have been installed), that PNM's projections of long-term savings are uncertain and that PNM ratepayers would likely pay more over 20 years with AMI meters than the existing non-AMI meters.

The terms of PNM's plan include full cost recovery of the \$95 .1 million cost of the new AMI meters, \$24.9 million for PNM's existing non-AMI meters that will be replaced and will no longer be serving customers, and \$1.5 million in PNM's customer education costs. In addition, **while ratepayers would be paying more, PNM's shareholders would earn a \$42.8 million pre-tax return on the new AMI meters, a \$11.0 million pre-tax return on the non-AMI meters that will be replaced, and a \$183,000 pre-tax return on PNM's customer education costs.**

The Hearing Examiner agrees with the non-PNM parties that the plan does not fairly balance the interests of investors and ratepayers. Ratepayers should not bear 100% of the risk that PNM's savings predictions will occur, while shareholders earn an additional return on the new investment and continue to earn a return on the replaced investment. In addition, the prudence of the \$95 .1 million capital cost of the project is questionable, given the \$6.2 million cost increase resulting from PNM's re-bidding of the installation portion of the project. PNM re bid the installation work because **the contractor it initially selected violated New Mexico's contractor license requirements.**

Further, PNM's proposed \$42.72 per month opt-out fee is too high. Several of the non PNM parties have raised concerns about the health impacts, safety, and security of the AMI meters. While PNM contests the validity of the concerns and PNM's plan allows customers who have such concerns to choose not to receive an AMI meter, the magnitude of the monthly opt-out fee is too high to provide customers with a meaningful choice.

As a discretionary project, the timing is also not good. PNM hopes to achieve its predicted savings largely by **laying off 125 employees** who perform meter reading and related functions. In addition, PNM ratepayers have experienced a recent series of rate increases — an increase in October 2017 and an increase effective in February of this year. Further rate increases also appear to be on the horizon as PNM seeks unrecovered costs of coal plants that it plans to retire and new generating resources to replace them.

To be clear, the Hearing Examiner is not recommending that PNM be prohibited from adopting an AMI project. The recommendation is that PNM's AMI project not be approved at this time in its current form. PNM should engage in the planning process it told the Commission in 2012 was necessary for a project of such a scope. The planning process should examine reasonable alternatives and solicit public input to develop a plan that fairly addresses the needs of its customers and its service territory.”

Reasons for recommendations include:

- No net public benefit, no evaluation of alternatives and the public interest
- PNM's unlicensed contractor and PNM's repeated inability to accurately specify the qualifications required for a contractor
- The uncertainty of savings for ratepayers: imminent rate increases, the risk that lifetime costs will exceed savings
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Excerpts:

p. 81 PNM's 2012 report on advanced metering recognized the need for public input and a detailed implementation plan before coming to the Commission for approval of a project. PNM has not adopted that approach here.

p. 83 Perhaps most troubling, PNM has presented its plan in inflexible terms, refusing to consider and address the concerns expressed by the non-PNM parties. If the terms of PNM's proposal are not approved in full, PNM will not implement the project.

p. 84-85 The final meter installation cost ultimately increased by \$7,002,478 over the amount in the original bid. Teague (Sept. 5, 2017), p. 9 PNM's repeated mistakes are surprising. They raise questions about the thoroughness of PNM's planning and the reliability of the cost estimates PNM uses to justify the project. It is difficult for the Commission to approve the project with any confidence that other similar mistakes have not been made and that the project, which will involve physical installations at the service locations of more than 500,000 of PNM's customers, will be performed without additional unanticipated problems and costs.

p. 87 Staff states that cost estimates are projections, not actual data, and that the results could swing dramatically if actual results were to vary in just a few cost categories over the 20 years at issue here. Mr. Gunter found it particularly troubling that PNM's forecasts for six of the first seven years indicated that the project will be more costly than under the current meter system. Gunter (7/15/2016), pp. 6-8.

p. 88 Furthermore, PNM's cost-benefit analysis excluded a variety of additional costs that are likely to be incurred. PNM's analysis did not include a contingency allowance for delays, project changes and other unforeseen events that might occur during the implementation of the project. Tr. 101 (2/28/17). **PNM also did not include a cost for any replacement meters during the 20 year estimated lives.** 34 PNM's cost-benefit analysis also **relied upon the high end of its depreciation expert's advice that the AMI meters would have service lives of 15 to 20 years. No consideration was given to replacement costs if the more conservative low end of the 15 to 20 year range proved accurate.** Tr. 120-121 (2/28/17). **The exclusion of replacement costs is also dubious given the short warranty periods at issue.** Itron's AMI meters are generally sold with

a **three year warranty**, but PNM negotiated a reduced meter price in exchange for a **warranty of only one year**.

PNM's analysis does not include replacement costs that might arise from the obsolescence of the meters over their physical service lives and their potential incompatibility with future applications that might be used with the AMI system.

PNM's analysis does not include estimates of cost to remediate a hacking incident, such as costs to restore lost data and other billing information.

Mr. O'Leary testified that PNM is not willing to guarantee its savings estimates.

p. 93 PNM has not met its burden to prove the reasonableness and prudence of its anticipated capital costs and expenses. PNM solicited competitive bids for the project, but its bidding process was complicated with errors that raise questions about the reasonableness of the costs PNM seeks to recover.

p. 95-96 PNM also argues that the capital costs ultimately recovered will be reasonable and prudent, because PNM is proposing to apply the Commission's cost overrun rule (17.3.580 NMAC) that applies to CCN proceedings to any final costs that exceed PNM's capital cost estimates in this case. The cost overrun rule would require PNM to justify the recovery of capital costs in excess of 10% of PNM's capital cost estimates here. 39

PNM, however, has already exceeded its original capital cost estimate by 9.2%, and the prudence of that exceedance is in question. In addition, the cost overrun rule only applies to capital costs. It would not apply to the estimated O&M savings and increased revenues on which PNM relies to justify the project.

...Under the circumstances, the Hearing Examiner cannot recommend that the Commission make an advance determination that the prices proposed by either PNM's newly-selected installation contractor or Itron (for the remainder of the AMI work) are prudent and reasonable. In addition, Itron's pricing is guaranteed only until March 31, 2018.

p. 96 PNM's requests for the approval of regulatory assets to recover the undepreciated costs of the existing meters that PNM intends to replace and the estimated costs of a customer education program do not, in the context of PNM's current plan, fairly balance the interests of investors and ratepayers. ° First, as discussed throughout this Recommended Decision, PNM has not presented sufficient justification to retire the existing meters and replace them with AMI meters.

Second, PNM's proposal would provide for the full recovery of all of PNM's costs while ratepayers would bear the risk that the cost savings PNM uses as the justification for its project would materialize.

p. 97 PNM makes little effort to show that the AMI project is actually needed. PNM argues that the project is discretionary and is not needed to provide adequate and reliable service.

p. 98 Mr. Ortiz went further, suggesting that PNM might not pursue any AMI-related energy efficiency programs. He stated that PNM's plans for such measures will depend upon the availability of funding under the Efficient Use of Energy Act, which requires and limits the cost of energy efficiency programs under the Act to 3% of customer bills. NMSA 1978, §62-17-6.A.

**He stated that there are many energy efficiency and demand response programs that PNM can undertake that do not require AMI, and that any AMI-related programs will have to compete for energy efficiency budget dollars with the other programs.**

He said that energy efficiency programs are approved annually, and that any programs that use AMI **will not be considered until after full-scale AMI deployment in 2020 or beyond**. He said, if PNM's budget is already fully allocated with existing programs, there will not be incremental dollars available to implement AMI-related programs..

p. 101 Ms. Teague also stated that only six to ten of PNM's more than 500,000 customers have expressed an interest in switching from their current analog meter to a smart meter and that no customers have asked that human beings not read their meters.

p. 102 PNM acknowledges, however, that other means are available to achieve these benefits. Mr. Ortiz, for example, states that PNM has the ability to implement time of use and demand response programs with means other than AMI technology. Tr. 110 (2/27/17).

**Thus, the value of the operational benefits appears to pale in comparison to the financial risks and the potentially negative impact on the public interest.**

p. 110-111 Staff and others argue that the timing of the project is bad — with its immediate impacts on jobs. The project would terminate 125 meter reader and collection positions. ...As Ms. Crane testified, these are good jobs for New Mexico, with relatively high pay and good benefits. New Mexico was hard hit by the recession and its recovery continues to lag both the national recovery and the recovery in neighboring states.

This is not a good time to approve a project whose primary purpose is to eliminate jobs.

p. 120 Findings of Fact and Conclusions of Law:

**#4 The Commission should not exercise its discretionary authority to approve PNM's Application. The plan presented in the Application does not provide a net public benefit and it does not promote the public interest.**