BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

IN THE MATTER OF THE JOINT APPLICATION OF AVANGRID, INC., AVANGRID NETWORKS, INC., NM GREEN HOLDINGS, INC., PUBLIC SERVICE COMPANY OF NEW MEXICO AND PNM RESOURCES, INC. FOR APPROVAL OF THE MERGER OF NM GREEN HOLDINGS, INC, WITH PNM RESOURCES, INC.; APPROVAL OF A GENERAL DIVERSIFICATION PLAN; AND ALL OTHER AUTHORIZATIONS AND APPROVALS REQUIRED TO CONSUMMATE AND IMPLEMENT THIS TRANSACTION

CASE NO. 20-00222-UT

VERIFIED STATEMENTS AND EXHIBITS OF

SETH A. BERRY

ON BEHALF OF

NEW ENERGY ECONOMY

May 25, 2021
Background and Experience

Q. Please state your name and business address.
A. My name is Seth A. Berry, and my business address is P.O. Box 117, Richmond ME 04357.

Q. On whose behalf are you providing this verified statement, exhibits and affidavit?
A. I am providing this verified statement, exhibits and affidavit on behalf of New Energy Economy ("NEE").

Q. Please summarize your educational and business background.
A. I am a Representative in the Maine House of Representatives, serving my seventh non-consecutive term. I represent House District 55: Bowdoin, Bowdoinham, most of Richmond, and the unorganized island territory of Perkins Township. I am the House Chair of the Committee on Energy, Utilities and Technology and the founding Co-Chair of the Broadband Caucus. I have served as a state representative since December 2006, with the exception of 2015 and 2016. I have also previously been elected by my House colleagues to serve as Assistant Majority Leader, and also as their Majority Leader. I am also a businessperson and former educator. Since 2011 I have been Vice President at Kennebec River Biosciences in Richmond, a Maine-owned biotechnology firm with an expanding, global presence and a unique focus on aquatic animal health.

For my policy work, I have received the 2014 President’s Award from the Maine Development Foundation for my bipartisan leadership on jobs and workforce measures, the 2014 Maine Children’s Alliance “Giraffe” Award given to those who “stick their necks out for kids,” the 2011 Prevention Award from the Maine Alliance to Prevent Substance Abuse,
the 2007 Clean Air Award from the Maine Lung Association, and others. I am also a
Distinguished Policy Fellow at the University of Maine.

Prior to my legislative and business work, I taught for 18 years in public schools. I spent the
1990s teaching in inner-city New York, and most of the next decade teaching in rural Maine.
I also taught graduate-level courses in education in both New York and Maine. In 1999 I won
the Hexter Award for Excellence in Teaching from the Public Education Association and my
innovative teaching practice was featured in New York City’s Best Middle Schools (Soho
Press, 1999). I hold a BA from Brown University and an MA from Columbia University.

Q. Why are you qualified to present your testimony in this matter?
A. My experiential background as a Maine state legislator has focused on utility and energy
legal and policy matters for 7 years; 5 of these as House Chair of the committee overseeing
all utility matters.

Additionally, I live in Maine and Central Maine Power ("CMP") is the electric monopoly
utility that serves the district that I represent. I am intimately familiar with the actions and
inactions of CMP.

Q. Have you appeared before the New Mexico Public Regulation Commission
("Commission") before?
A. No.

Q. Why are you testifying in this proceeding involving the regulatory commission
approval of the merger between Avangrid and PNM?
A. Because as I understand it, Section 62-6-13 NMSA requires the New Mexico Public
Regulation Commission ("PRC" or "Commission") to approve or deny this merger and that
if it finds that the proposed transaction is unlawful or is "inconsistent with the public
interest” then it has the duty to reject the merger. I believe that Avangrid’s presence in Maine has had a deeply detrimental impact on our state for the below reasons and I wanted to share my experience with this body so that as you deliberate you can keep that in mind.

Executive Summary

Based on our experience in Maine and my direct knowledge of Avangrid/Iberdrola I do not believe that the merger/acquisition would be beneficial to PNM ratepayers or New Mexicans for at least the following reasons:

- Avangrid/Iberdrola’s ownership structure is complex and has significantly reduced local control, as well as a concern for local priorities.

- CMP/Avangrid’s failures to address problems with their billing system, resulting in real and lasting damage to Maine ratepayers, along with their dismal customer satisfaction ratings and unethical disconnect notices to customers in the depths of winter during a pandemic demonstrate a lack of commitment to quality of service and customer care.

- Enforcement actions by regulators in Maine, Connecticut and New York against Avangrid/Iberdrola owned utilities are illustrative of a pattern of mismanagement and disregard for customers and state authorities, and indicative of potential risks posed by the proposed merger.

- CMP/Avangrid’s actions specifically regarding the CMP Transmission Project affect the quality of the human environment and have been, are, and will likely be highly controversial, and are likely to adversely affect endangered or threatened species or its habitat.

- Rather than facilitating public involvement, CMP/Avangrid have actively discouraged and prevented public discourse and meaningful evaluation.

- CMP and our smaller utility, Versant, have helped to give Maine the worst reliability and among the highest rates in the nation.

- Risks posed by Avangrid/Iberdrola ownership of PNM are contrary to the public interest.
CMP/Avangrid/Iberdrola: A History of Utility Unreliability

CMP/Avangrid/Iberdrola: Naming the decision makers

Q. Why do you refer to CMP here as CMP/Avangrid/Iberdrola?

To attempt to convey where and how decisions are made. It is important to understand the complex evolution in ownership of CMP, which was once Maine owned and generally well-regarded. This evolution towards increasingly distant, complex, and at times adverse decision making structures has been costly and burdensome for Maine regulators, and has hurt Maine utility customers. In 1999, Central Maine Power was acquired by Energy East Corporation. Next, a merger between Energy East and Green Acquisition Capital, Inc., a wholly-owned subsidiary of Iberdrola S.A. (Iberdrola) became effective September 16, 2008. As a result of the merger, Iberdrola holds through direct ownership, 100% of the voting stock of CMP Group. On December 1, 2009, Energy East changed its legal and operating name to Iberdrola USA, Inc. On November 20, 2013, Iberdrola USA Networks, Inc. was formed when Iberdrola USA, Inc. was reorganized to become the parent company of Iberdrola USA Networks, Inc. Iberdrola USA Networks, Inc. was a wholly-owned subsidiary of Iberdrola USA, Inc. In late 2015, Avangrid, Inc., formerly Iberdrola Inc., was reorganized to become the parent company of Avangrid Networks, Inc., formerly Iberdrola USA Networks Inc. CMP is owned by Avangrid. Iberdrola, a Spanish company with operations around the world, owns 81.5% of Avangrid’s stock but is not an applicant in this case. Iberdrola is a Spanish company with multinational ownership. Among its larger stakeholders are at least two national governments: specifically, the sovereign wealth funds of Qatar and Norway. To my knowledge, the largest single shareholder in both Iberdrola and Avangrid’s non-Iberdrola shares is the government of Qatar. In sum, I use the name
CMP/Avangrid/Iberdrola to help make clear that all important decisions are no longer made
locally, at CMP, but rather in other parts of the world with little to no attachment to or
concern for our own.

Billing disaster

Q. Do you have any knowledge of the billing errors and other mismanagement that has
occurred in Maine?

Yes. On October 30th, 2017 CMP/Avangrid/Iberdrola switched over to a new billing system
called Smartcare. Coincidentally, the switchover coincided with a storm that knocked out
power to most CMP/Avangrid/Iberdrola customers for several days. Within a few short
weeks, approximately 97,000 of the company’s 620,000+ customers received bills at least
50% higher than for the same three month period a year earlier. Many other ratepayers, both
residential and commercial, received no bills at all until their eventual balance proved much
higher than they could afford. An investigation by the Maine Public Utilities Commission
(PUC) found 59 distinct types of billing errors affecting more than 100,000 customers. A
$10M disallowance was levied against CMP/Avangrid/Iberdrola for its flagrant mishandling
of its billing system and customer service, giving CMP/Avangrid/Iberdrola the lowest
allowed return on equity in the nation for at least an 18-month period. In addition, an audit
was ordered to determine whether there is something endemic in the management structure
of CMP and its affiliated service companies, Avangrid Management Company and Avangrid
Services Company, that has led to a drop in the quality of CMP’s customer service.¹ PUC staff stated at the time that:

“The commission has not in recent history – and probably never before – seen complaints against a utility reach the numbers they have here, nor seen the kind of public skepticism of customers’ utility bills that has been raised against CMP in the last two years.”²

A detailed investigation by the Portland Press Herald found that CMP’s parent company, Avangrid, was so focused on pushing through the CMP/Avangrid/iberdrola transmission line that it wasn’t paying attention to the serious flaws in CMP’s billing system, which it downplayed.³

Q. What were the impacts of CMP/Avangrid/Iberdrola’s billing problems for Maine ratepayers?

A. Maine ratepayers faced significant hardship as a result of CMP/Avangrid/Iberdrola’s improper billing practices. Customers reported foregoing Christmas celebrations, missing mortgage payments and choosing between paying electricity bills or buying medicine and food. A review of nearly 500 complaints to the PUC painted an embarrassing picture of the company’s response to these complaints. Customer service representatives primarily blamed the weather, faulty wiring and appliances in customer homes or electrical theft. They also blamed customers themselves, leading many to take extreme measures to lower electricity bills in the depths of a Maine winter. The Maine PUC ordered an investigation of customer

communication practices, resulting in a February 26, 2020 order\(^4\) requiring monitoring and
improvement of customer service. Litigation continues in a class action lawsuit brought by
more than 600 ratepayers alleging that CMP’s billing software and metering system
improperly overcharged customers.

**Q. Are there additional examples of CMP/Avangrid’s disregard for customers in Maine?**

A. Yes. In Maine utilities are prohibited from turning off a residential customer’s power
each winter prior to April 15th without approval from the Maine PUC, which is rarely
granted. Despite that prohibition, CMP/Avangrid/Iberdrola issued thousands of misleading
disconnect notices to Maine residents during the 2020-21 winter months in the midst of the
COVID pandemic and the resulting economic hardship faced by so many. The PUC issued
an Order on August 5, 2020 finding that CMP had violated a PUC rule and requiring
payment of an administrative penalty of $500,000 in civil penalties, the maximum allowed
under Maine law.\(^5\) As a result of their continual carelessness and disregard for customers
CMP/Avangrid/Iberdrola has ranked last among all large and mid-sized electric utilities for
customer satisfaction in 2018, 2019 and 2020 surveys by JD Power and Associates. In 2013,
prior to Avangrid’s acquisition of CMP, it was ranked among the highest in the nation.\(^6\)


Systemic Issues at Avangrid/Iberdrola

Q. Do you believe that the management practices at CMP are indicative of any systemic issues at Avangrid/Iberdrola that might affect PNM customers or New Mexicans if the proposed merger is approved?

A. Yes.

Q. Please elaborate on why that is the case.

A. Customer service, reliability and ethical issues with Avangrid subsidiaries and its majority owner, Iberdrola SA, extend beyond CMP. I am aware of additional penalties imposed on Avangrid subsidiaries by regulators in New York and Connecticut, and ethical and legal violations by Iberdrola SA that resulted in fines and the company’s disbarment from World Bank financing.

In New York, following two severe winter storms that impacted more than a million electric utility customers in 2018, including 520,000 customers of New York State Electric & Gas Corporation (NYSEG) and Rochester Gas and Electric Corporation (RG&E), subsidiaries of Avangrid, the New York Department of Public Service (NYDPS) commenced a comprehensive investigation of the preparation and response to those events by New York’s major electric utility companies. Their investigation found 24 violations of emergency response procedures by these Avangrid subsidiaries, and the companies agreed to a penalty amount of $10.5 million to be paid from shareholder funds for the admitted 21 collective
violations. The commission notes that “the $10.5 million penalty amount contained in the
Joint Proposal is the largest ever in New York State for a utility failing to follow procedures
related to an emergency response.”

In Connecticut the Public Utilities Regulatory Authority (PURC) conducted an investigation
of United Illuminating (UI), an Avangrid subsidiary, following its failure to comply with
MakeSafe standards of acceptable performance in emergency preparation or restoration of
service and failure to report accidents resulting from Tropical Storm Isaias in August of
2020. The company’s management failures left some customers without power — amid a
coronavirus pandemic and hot summer temperatures — for up to nine days. The company
was issued a Notice of Violation on May 6th, 2021 that prescribes a civil penalty of $2.1M
for violations and a separate order was issued reducing Return on Equity by 15 basis points.
PURC directed United Illuminating to increase the number of line workers, damage
assessors, liaisons and other emergency response personnel and to complete a comprehensive
management audit at the expense of shareholders. PURC Commissioner Michael Caron was
quoted saying that United Illuminating is a competent “blue sky” company, but repeatedly
fails at storm response.

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7 http://documents.dps.ny.gov/search/Home/ViewDoc/Find?id=%7B36961302-9A33-4314-9136-BDF742830DB7%7D&ext=pdf
8 http://www.dpuc.state.ct.us/dockcurr.nsf/8e6fc37a54110e3e852576190052b64d/c663c84fd5d7ba
e8852586ed005d887f/$FILE/20-08-03RE01%20NOV%20UI.pdf
During the 2015 acquisition of United Illuminating and Connecticut Natural Gas Co by Avangrid, regulators learned that Iberdrola SA, the parent company of Avangrid, was accused in five recent cases of fraud and corruption around the world, with millions of dollars in fines, tens of millions in proposed fines and a worldwide ban on World Bank financing. The violations include a bribery finding in Iberdrola’s successful effort to win contracts for two power plants in Latvia in 2004 through 2008, which was decided by Latvian courts. There was also a fraud finding, with an agreement reached in May of 2015, in which Iberdrola failed to tell the World Bank about its employment relationship with an agent in a power plant deal in Albania. In that case, Iberdrola was barred from World Bank deals for at least a year. And in two troubling cases involving price-fixing in Iberdrola’s home country, Spain, in 2010 and 2014, adjudication led to fines totaling 4.4 million euros; though the fines were later dropped.\(^{11}\) A third case resulted in a fine of 25 million euros for manipulating the Spanish wholesale electricity market.\(^{12}\)

Findings of ethical and legal violations against Iberdrola SA are troubling. In both Maine and Connecticut regulators found it necessary to order an audit of the subsidiary and Avangrid management to identify endemic flaws in company structure and practices.\(^{13}\) Taken together, these findings of incompetence, fraud and corruption provide convincing evidence of systemic flaws in the management structure and practices at Avangrid and its parent


company, Iberdrola SA, that pose risks to PNM customers and to New Mexican residents in
general.

Q. Are there any additional risks to PNM customers and New Mexicans posed by the
merger?

A. Yes. In the class action lawsuit referenced above, Iberdrola SA has taken the position that it
is not subject to the jurisdiction of the state of Maine. As I mentioned earlier, Iberdrola owns
100% of voting shares in CMP. Iberdrola SA has not been named party to the
PNM/Avangrid merger agreement and therefore may similarly claim immunity from PRC
authority and liability in any future case in New Mexico.

The CMP Transmission Project

Q. Do you have familiarity with the CMP Transmission Project; Please explain what it
is and why you object to it?

A. Yes. In September 2017, CMP applied to construct 171.4 miles of electrical transmission
lines and related facilities in Maine allegedly capable of delivering up to 1,200 megawatts of
electricity from the Canadian border to southern New England (hereafter, the “Project” or the
“CMP Project”). The stated need for the Project is Massachusetts seeking long-term contracts
to supply 9,450,000 MW hours of Clean Energy Generation.

53.1 miles of the transmission line corridor will create a new, permanent scar on the
landscape of Maine’s Western Mountains Region and irreparably damage and fragment
numerous aquatic resources and important wildlife habitat. The new transmission corridor
will bisect a vast, globally significant and largely undeveloped forest, including part of the
Western Maine Mountains, a vital core of the largest intact temperate forest in the eastern United States. The area supports abundant wildlife, including iconic Maine species like moose and American marten, as well as threatened Canada lynx. The western Maine forests in the area of the CMP Project are key parts of the last stronghold of native, wild brook trout habitat in the eastern United States and contain the only remaining substantial deer wintering yard in the region; the newly cleared corridor would slice right through the middle of that important deer habitat. Many rivers and streams course through the Project area, including the Kennebec River, famous for its scenic and thrilling whitewater rafting and paddling. The CMP Project will employ horizontal directional drilling to run the transmission line under the Kennebec River.

The abundant natural resources of the region support a thriving tourism industry of fishing guides, hunters, hikers, and boaters. Outdoor enthusiasts come from far and wide to recreate and enjoy the scenery and natural beauty of the area and pump millions of dollars into the area’s local economies.

Through this geographically unique and ecologically critical area, CMP proposes to cut a new 53.1 mile, 150-foot wide corridor, 54 feet of which will be completely and permanently cleared. The CMP Project will instantly become one of the area’s largest fragmenting features, and it will cause immediate and irreparable harm to terrestrial\textsuperscript{14} and aquatic\textsuperscript{15}

\textsuperscript{14} The region includes more than half of the United States’ largest globally important bird area, which is crucial habitat for 34 northern woodland songbird species.  
https://www.worldbirds.org/birds-of-maine/  
The region provides core habitat for keystone species such as American marten and Canada lynx as well as loon, moose, and a host of other iconic Maine animals.  
environments and the wildlife that depend on those environments for suitable habitat and
survival. It also will disrupt the outdoor recreation tourism industry of the region, which is
why, among other outdoor recreation groups, the Sportsman’s Alliance of Maine, New
England Backcountry Hunters and Anglers, and Trout Unlimited either oppose or have
rescinded their prior support for the CMP Project.

While the CMP Project’s stated purpose is to fulfill long-term contracts for “clean energy”
projects with the State of Massachusetts, CMP/Avangrid/Iberdrola have refused to produce
actual evidence that the Project will actually reduce greenhouse gas (“GHG”) emissions, and
there is evidence that challenges their primary rationale and emission-reduction benefits.

According to federal documents, the CMP Project in total (for all segments) will result in
permanent fill of wetlands (4.87 acres), and 47.64 acres of wetlands will be temporarily
impacted. The Project also will result in the permanent conversion of 111.55 acres of forested
wetlands to scrub-shrub wetlands. Additional aquatic resources, including wetlands and
vernal pools, that are not wetlands (i.e., that are not determined to be waters of the United
States) also will be impacted by the Project.

In a February 12, 2019 letter to Governor Mills, the Maine State Federation of Firefighters
wrote to express concerns about fire and other emergency response capacities within the

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15 It is the heart of the largest block of intact freshwater aquatic habitat in the Northeast, supporting populations of wild, native brook trout that have been identified as the “last true stronghold for brook trout in the United States.”

16 This Project is not consistent with and would negatively impact the scenic character and existing uses in the Western Maine Mountains, particularly impacting tourism and guiding industries dependent on the scenic and remote qualities of this region, including impacts to the Appalachian Trail. The Project is expected to also harm the experience of existing recreational users, including hikers, boaters, and paddlers, and those who hunt and fish in these remote and beautiful areas.
areas located along and adjacent to the proposed CMP corridor. In 2020, Maine experienced an unprecedented wildfire season, as well as other areas of the country (California, also from transmission line areas that were abalaze). As of July 25, 2020, Maine had seen a 170 percent increase in wildfires over 2019. At least four of the wildfires this year in Maine have been caused by powerlines.

More than 100 resources listed in or eligible for listing in the National Register of Historic Places ("NRHP") are within the Project area. Some of these NRHP-listed or eligible resources include the Appalachian Trail, Arnold Trail to Quebec, and various barns and farmsteads. Maine’s State Historical Preservation Officer noted that the Project would adversely affect four of these resources, including two farmsteads in Starks, Maine; a barn in Livermore Falls; and the Bowman Airfield, also in Livermore Falls.

As I understand it, Avangrid plans to expand its market south to Mexico and west to Arizona and California to capture some of the clean energy opportunity by building and owning extensive transmission to capitalize on and exponentially expand its PNM investment. This is what Avangrid did with CMP: use our relatively small local electric market for its larger strategic business pathway to more lucrative demand markets elsewhere. I imagine that this cultural, archaeological, social/political historical impingement could be deleterious for NM as well.

Q. What is your understanding of the support/opposition for the CMP Project?

A. Mainers overwhelmingly oppose the CMP Project. Twenty-five towns along the transmission corridor’s route voted to oppose the CMP Project or rescinded their support of the Project. Opponents of the Project gathered more than 66,000 certified signatures for a petition for a ballot measure that would have required the Maine Public Utilities Commission
to reverse its May 3, 2019 Order that provided CMP with a certificate of public convenience and necessity for the Project. In addition to Plaintiffs, several other entities, including the Penobscot Nation, the Town of Caratunk, Congressional Representative Jared Golden, the Friends of Sebago Lake, and hundreds of Maine citizens, requested the Corps prepare an EIS for the CMP Project. Further, the electricity the CMP Project will transmit comes from large hydropower “megadams” in Canada, which cause ecological destruction when constructed and operated and which expose local, indigenous communities near the dams to unsafe levels of methylmercury and to threats of dam failures. These megadams also have disrupted First Nation communities’ ability to pursue their traditional fishing and hunting practices.\(^\text{17}\)

**Q. Did CMP/Avangrid/Iberdrola sidestep public disclosure and involvement requirements in Maine?**

**A.** Yes, CMP/Avangrid/Iberdrola failed to comply with law and the public process was flawed and inadequate. Mainers stressed the significant environmental, economic, and social adverse impacts the CMP Project would have for a project that was delivering profits to Canada and Avangrid/Iberdrola for the delivery of electricity to Massachusetts. Additionally, CMP/Avangrid acted in nefarious ways to stifle public involvement and discourse. Their Political Action Committee spent thousands on private detectives to follow citizen petition gatherers, and thousands more on lobbying. Avangrid/Iberdrola and Hydro Quebec have also spent millions in advertising because the CMP Project is so unpopular. Rather than the

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\(^{17}\) Ninety-percent of proposed Canadian hydroelectric projects may expose local indigenous communities to methylmercury, in food webs near indigenous communities.  
Project being evaluated on the merits, the Investors have used extra-legal measures, lobbying and propaganda to try and force their way.

Q. Did CMP/Avangrid fully consider the impacts from the CMP Project in the same area?

A. No, CMP/Avangrid made self-serving conclusory statements that were not based in fact and failed to adequately consider environmental justice-related issues of the Project. CMP/Avangrid failed to consider the impacts of the Project on indigenous communities in Canada. The dams supplying the CMP Project electricity were built without adequate studies analyzing their effects on the environment, and without the consultation or consent of the indigenous communities or compensation to them.

For instance, while the Project’s purpose of delivering purportedly clean energy to the New England region, CMP/Avangrid failed to consider or evaluate local impacts, thus ignoring the significance of the action in regards to society as a whole, the affected region, and other affected interests. CMP/Avangrid/Iberdrola made unfounded claims and then refused to back them up with studies: one such claim was that the transmission line would bring 3,500 jobs to Maine, which they later revised to 1,600 jobs but a study found the number was closer to 38 jobs. Avangrid claimed, “The project also awarded key contracts of over $320 million using Maine workers.” But the New England Clean Energy Connect website plainly states that companies they subcontract with will hire Maine workers only “when possible.” Further, three out of the four companies awarded contracts aren’t even based in Maine (Irby Construction of MS, Northern Clearing of WI and Sargent Electric of PA).

Later, CMP/Avangrid claim that the transmission line would deliver clean energy and address climate change but CMP/Avangrid refuse to subject the project to any actual
analysis. In 2017, they actively and expensively lobbied to kill LD 640, a bill that would have required an independent analysis of the Project’s net, global (not regional) GHG impact.

Q. Was there a high level of scientific debate over the impacts of the Project?
A. Yes. Economic, climate and environmental factors were ignored—the Project’s uncertain impacts, precedent for future actions, cumulative effects, impacts on Indigenous peoples, historic resources and endangered-listed species, and CMP/Avangrid/Iberdrola ignored explicit federal and state regulatory language to protect these peoples, places, local economic sufficiency, and our natural habitat and local economy.

Q. Do you believe that the Project will cause irreparable harm to Maine and the place you call home, are sworn to represent and the place you raised your children and love?
A. Yes. I represent the people of House District 55 and I am responsible to make decisions that benefit my constituents as well as the rest of Maine. Additionally, I have two sons and the preservation of Maine’s invaluable and unspoiled wilderness is a legacy that I hope to pass on to them. Maine’s Western Mountains Region is a place dear to the hearts and memories of Mainers across the state, and central to the economy and character of all those who live in its vicinity. CMP and Avangrid have proved through their actions in Maine that profit is their only guiding principle and our experience in Maine illustrates the dangers of allowing control of energy to corporations who care more about money than people.

Not in the Public Interest

Q. Are there standards which guide the Commission’s review of this filing?
Q. What are the risks to the public interest posed by the proposed merger in New Mexico?

A. Profit is the overriding motivation for Avangrid and Iberdrola management. The CMP transmission project represents a potential $2 billion in profit for CMP and its parent companies, and they have pursued this profit with a singular focus, despite overwhelming public opposition and significant environmental consequences. Their campaign to force completion of this destructive transmission line included a network of out-of-state political consultants and aggressive strategies to discredit the people’s referendum opposing the project, including:

- $397,467 spent on lawyers to challenge the Secretary of State’s certification of the petition signatures, sue the State of Maine in an effort to block the referendum from appearing on the ballot after failing to disqualify sufficient signatures, and then appeal the court’s decision that the ballot measure was valid;
- $99,021 on a private detective firm, Merrill’s Investigations, to stalk Maine citizens who were gathering signatures;
- $117,820 on an Arizona-based political firm, Signafide, whose sole purpose was to attempt to discredit signatures for citizen initiatives; and
- $112,114 on an Oakland, California-based opposition research firm, VR Research, to dig into the records of organizations and presumably individuals opposed to the project.

Company reports show that CMP spent more than $7.25 million on TV and cable ads, $70,138 on digital ads, $1.2 million on direct mail and print ads, and $628,775 on polling and survey research to defeat the referendum. The campaign manager was paid well over twice
the salary of Maine’s governor. These actions demonstrate that CMP and Avangrid prioritize profits over the interests of the public, and the extent to which they are willing to use their extensive resources to influence decision makers in order to pursue those profits.

The people I have been sworn to represent have been harmed financially and materially by the greed and mismanagement of CMP and Avangrid. Maine’s two for-profit investor-owned utilities, including CMP and a smaller utility, are charging Maine residents 58% more for power than our consumer-owned utilities. In a state like Maine, where severe winters make electricity a life or death necessity, the mismanagement and failures of CMP have significant real world consequences.

At minimum, an investor owned utility must prove itself reliable and provide cost effective energy for ratepayers. The mismanagement that resulted in billing errors for Mainers, misleading disconnect notices, and failures to follow emergency response procedures during adverse weather events, as well as the unethical and illegal actions of Iberdrola SA, are illustrative of the potential harms faced by New Mexico ratepayers if the merger is approved. The extensive financial resources of the company and its willingness to circumvent public interests in pursuit of profits also pose a significant risk.

Q. What measures can be taken to protect the public interest?

A. The risks inherent in ownership by Avangrid/Iberdrola are best avoided by adoption of an alternative utility model. In Maine we have proposed bi-partisan legislation to adopt a non-

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profit consumer owned utility model to save Maine ratepayers $9 billion over the first 30 years, and to secure our electricity grid. To quote my colleague Senator Rick Bennett (R, Oxford), former Senate President: "Electricity is the lifeblood of Maine homes and businesses, and it is becoming more important every day. Right now, foreign governments and foreign corporations own Maine’s major utility monopolies. This ownership model has been a disaster, leaving Maine with the most outages, the worst customer service, and among the highest rates in the country."21

Electrification of our entire economy will mean total dependence on the grid. We would not entrust our schools or fire departments to for-profit, distantly-owned monopolies. Nor should we do so with our utilities.

Conclusion

The Commission should reject the proposed merger acquisition as inconsistent with the public interest. The Commission must consider the actions of Avangrid/Iberdrola in my home state of Maine and in other states in which they operate; if the Commission does, it will reject the proposed merger acquisition as harmful to the economic, environmental, climate, and social standards consistent with life, as more fully set out above.

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20 See attached, "The Top 10 States with the Most and Least Power Outages in the U.S."; unfortunately Maine is now #1 with the most frequent power outages.
21 See attached, our rates in Maine are no longer competitive; not only do we have the worst reliability, we have the 10th highest overall residential rates, thanks at least in part to CMP/Avangrid/Iberdrola.
BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

IN THE MATTER OF THE JOINT
APPLICATION OF AVANGRID, INC.,
AVANGRID NETWORKS, INC., NM GREEN
HOLDINGS, INC., PUBLIC SERVICE
COMPANY OF NEW MEXICO AND PNM
RESOURCES, INC. FOR APPROVAL OF THE
MERGER OF NM GREEN HOLDINGS, INC,
WITH PNM RESOURCES, INC.; APPROVAL
OF A GENERAL DIVERSIFICATION PLAN;
AND ALL OTHER AUTHORIZATIONS AND
APPROVALS REQUIRED TO CONSUMMATE
AND IMPLEMENT THIS TRANSACTION

CASE NO. 20-00222-UT

AFFIDAVIT OF SETH A. BERRY

Seth A. Berry, being duly sworn, deposes and states as follows:

1. I am over the age of eighteen and have personal knowledge of the matters set forth in the
attached verified statement and exhibits.

2. My name is Seth A. Berry. My business address is P.O. Box 117, Richmond ME 04357.

3. I have prepared the attached verified statement and exhibits on behalf of New Energy
Economy.

4. I verify that the contents of the affidavit to be true and correct.

FURTHER AFFIANT SAYETH NAUGHT.

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SETH A. BERRY                        DATE

Subscribed and sworn to me by Seth A. Berry on this ______ day of May, 2021.

Notary Public_____________________________

My Commission Expires: _____________
The Top 10 States with the Most and Least Power Outages in the U.S.

Based on Average Annual Frequency Data from 2015-2019

The 10 States with the Most Frequent Power Outages

<table>
<thead>
<tr>
<th>State</th>
<th>Average # of Outages</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maine</td>
<td>3.9</td>
</tr>
<tr>
<td>West Virginia</td>
<td>2.8</td>
</tr>
<tr>
<td>Louisiana</td>
<td>2.3</td>
</tr>
<tr>
<td>Alaska</td>
<td>2.2</td>
</tr>
<tr>
<td>Tennessee</td>
<td>2.2</td>
</tr>
<tr>
<td>Florida</td>
<td>2.2</td>
</tr>
<tr>
<td>Montana</td>
<td>2.1</td>
</tr>
<tr>
<td>Mississippi</td>
<td>2.1</td>
</tr>
<tr>
<td>Georgia</td>
<td>2.1</td>
</tr>
<tr>
<td>Oklahoma</td>
<td>2.0</td>
</tr>
</tbody>
</table>

The 10 States with the Least Frequent Power Outages

<table>
<thead>
<tr>
<th>State</th>
<th>Average # of Outages</th>
</tr>
</thead>
<tbody>
<tr>
<td>District of Columbia</td>
<td>0.7</td>
</tr>
<tr>
<td>Wisconsin</td>
<td>0.8</td>
</tr>
<tr>
<td>Utah</td>
<td>0.8</td>
</tr>
<tr>
<td>Massachusetts</td>
<td>0.8</td>
</tr>
<tr>
<td>Arizona</td>
<td>1.0</td>
</tr>
<tr>
<td>Delaware</td>
<td>1.1</td>
</tr>
<tr>
<td>Nebraska</td>
<td>1.1</td>
</tr>
<tr>
<td>Pennsylvania</td>
<td>1.1</td>
</tr>
<tr>
<td>Iowa</td>
<td>1.1</td>
</tr>
<tr>
<td>Missouri</td>
<td>1.1</td>
</tr>
</tbody>
</table>
Here is a table showing average retail price, net summer capacity, net generation, and total retail sales for various states in the U.S.:

<table>
<thead>
<tr>
<th>Name</th>
<th>Average retail price (cents/kWh)</th>
<th>Net summer capacity (MW)</th>
<th>Net generation (MW)</th>
<th>Total retail sales (MW)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alabama</td>
<td>9.83</td>
<td>29.256</td>
<td>142,679,433</td>
<td>88,095,112</td>
</tr>
<tr>
<td>Alaska</td>
<td>20.22</td>
<td>2,765</td>
<td>6,070,843</td>
<td>9,818,805</td>
</tr>
<tr>
<td>Arizona</td>
<td>10.52</td>
<td>26,792</td>
<td>115,581,967</td>
<td>77,929,170</td>
</tr>
<tr>
<td>Arkansas</td>
<td>6.22</td>
<td>14,782</td>
<td>64,442,896</td>
<td>48,093,032</td>
</tr>
<tr>
<td>California</td>
<td>16.89</td>
<td>79,469</td>
<td>201,764,204</td>
<td>200,378,710</td>
</tr>
<tr>
<td>Colorado</td>
<td>10.17</td>
<td>16,592</td>
<td>56,327,724</td>
<td>56,520,823</td>
</tr>
<tr>
<td>Connecticut</td>
<td>16.66</td>
<td>10,464</td>
<td>40,505,036</td>
<td>27,999,396</td>
</tr>
<tr>
<td>Delaware</td>
<td>10.52</td>
<td>3,372</td>
<td>5,256,536</td>
<td>11,469,422</td>
</tr>
<tr>
<td>District of Columbia</td>
<td>12.27</td>
<td>40</td>
<td>174,080</td>
<td>11,028,403</td>
</tr>
<tr>
<td>Florida</td>
<td>10.44</td>
<td>60,512</td>
<td>245,603,485</td>
<td>240,347,955</td>
</tr>
<tr>
<td>Georgia</td>
<td>9.96</td>
<td>38,927</td>
<td>128,691,569</td>
<td>139,320,990</td>
</tr>
<tr>
<td>Hawaii</td>
<td>27.72</td>
<td>2,962</td>
<td>7,467,306</td>
<td>8,452,687</td>
</tr>
<tr>
<td>Idaho</td>
<td>7.89</td>
<td>5,212</td>
<td>16,407,812</td>
<td>23,956,276</td>
</tr>
<tr>
<td>Illinois</td>
<td>9.56</td>
<td>44,250</td>
<td>184,470,652</td>
<td>138,319,481</td>
</tr>
<tr>
<td>Indiana</td>
<td>9.91</td>
<td>26,665</td>
<td>102,505,381</td>
<td>102,104,203</td>
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<tr>
<td>Iowa</td>
<td>9.08</td>
<td>20,410</td>
<td>61,673,644</td>
<td>61,943,148</td>
</tr>
<tr>
<td>Kansas</td>
<td>9.26</td>
<td>16,232</td>
<td>60,887,992</td>
<td>41,519,627</td>
</tr>
<tr>
<td>Kentucky</td>
<td>8.65</td>
<td>14,958</td>
<td>71,804,254</td>
<td>75,345,362</td>
</tr>
<tr>
<td>Louisiana</td>
<td>7.71</td>
<td>24,340</td>
<td>100,174,762</td>
<td>93,128,525</td>
</tr>
<tr>
<td>Maine</td>
<td>14.04</td>
<td>4,705</td>
<td>25,469,062</td>
<td>11,732,049</td>
</tr>
<tr>
<td>Maryland</td>
<td>11.24</td>
<td>14,609</td>
<td>39,328,689</td>
<td>60,720,654</td>
</tr>
<tr>
<td>Massachusetts</td>
<td>18.49</td>
<td>12,912</td>
<td>21,516,636</td>
<td>51,326,596</td>
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<tr>
<td>Michigan</td>
<td>11.96</td>
<td>29,457</td>
<td>116,741,343</td>
<td>101,249,293</td>
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<tr>
<td>Minnesota</td>
<td>10.33</td>
<td>17,373</td>
<td>59,378,390</td>
<td>66,968,594</td>
</tr>
<tr>
<td>Mississippi</td>
<td>9.28</td>
<td>14,541</td>
<td>65,956,760</td>
<td>48,951,026</td>
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<tr>
<td>Missouri</td>
<td>9.68</td>
<td>20,052</td>
<td>78,276,751</td>
<td>78,857,773</td>
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<tr>
<td>Montana</td>
<td>9.02</td>
<td>6,373</td>
<td>27,797,079</td>
<td>15,321,271</td>
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<tr>
<td>Nebraska</td>
<td>9.98</td>
<td>3,466</td>
<td>37,297,615</td>
<td>30,363,190</td>
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<tr>
<td>Nevada</td>
<td>8.78</td>
<td>11,038</td>
<td>39,889,660</td>
<td>36,092,396</td>
</tr>
<tr>
<td>New Hampshire</td>
<td>17.15</td>
<td>4,497</td>
<td>18,026,595</td>
<td>13,711,657</td>
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<tr>
<td>New Jersey</td>
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<tr>
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<td>8.99</td>
<td>8,770</td>
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<td>24,886,124</td>
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<tr>
<td>New York</td>
<td>14.34</td>
<td>41,070</td>
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<td>143,662,345</td>
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<tr>
<td>North Carolina</td>
<td>9.46</td>
<td>34,860</td>
<td>131,761,861</td>
<td>136,435,531</td>
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<tr>
<td>North Dakota</td>
<td>8.86</td>
<td>6,655</td>
<td>41,147,324</td>
<td>21,559,295</td>
</tr>
<tr>
<td>Ohio</td>
<td>9.58</td>
<td>28,461</td>
<td>120,031,126</td>
<td>148,521,926</td>
</tr>
<tr>
<td>Oklahoma</td>
<td>7.66</td>
<td>27,376</td>
<td>65,216,501</td>
<td>64,796,946</td>
</tr>
<tr>
<td>Oregon</td>
<td>8.81</td>
<td>16,797</td>
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<td>56,404,396</td>
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<tr>
<td>Pennsylvania</td>
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<td>145,580,383</td>
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<tr>
<td>Rhode Island</td>
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<td>7,624,403</td>
<td>7,345,915</td>
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<tr>
<td>South Carolina</td>
<td>10.02</td>
<td>23,962</td>
<td>100,172,594</td>
<td>80,205,620</td>
</tr>
<tr>
<td>South Dakota</td>
<td>9.56</td>
<td>4,652</td>
<td>14,564,647</td>
<td>12,868,931</td>
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<tr>
<td>Tennessee</td>
<td>9.69</td>
<td>21,404</td>
<td>62,327,108</td>
<td>99,829,180</td>
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<tr>
<td>Texas</td>
<td>9.60</td>
<td>126,117</td>
<td>483,250,031</td>
<td>420,343,434</td>
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<tr>
<td>Utah</td>
<td>8.94</td>
<td>8,992</td>
<td>35,117,033</td>
<td>31,142,645</td>
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<tr>
<td>Vermont</td>
<td>15.36</td>
<td>1,811</td>
<td>2,289,799</td>
<td>5,427,664</td>
</tr>
<tr>
<td>Virginia</td>
<td>9.52</td>
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<td>96,627,639</td>
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</tr>
<tr>
<td>Washington</td>
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<td>30,927</td>
<td>106,463,608</td>
<td>91,052,796</td>
</tr>
<tr>
<td>West Virginia</td>
<td>8.49</td>
<td>18,968</td>
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<tr>
<td>Wisconsin</td>
<td>9.66</td>
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<td>62,774,299</td>
<td>69,157,540</td>
</tr>
<tr>
<td>Wyoming</td>
<td>9.40</td>
<td>6,467</td>
<td>42,145,066</td>
<td>16,762,496</td>
</tr>
<tr>
<td>U.S. Total</td>
<td>10.54</td>
<td>1,099,110</td>
<td>4,126,882,144</td>
<td>2,011,150,463</td>
</tr>
</tbody>
</table>