



## Administrative Office of the Courts

FOR IMMEDIATE RELEASE

March 18, 2024

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Supreme Court invalidates \$10,000 regulatory fine levied during utility merger case

SANTA FE – The state Supreme Court today annulled a \$10,000 penalty imposed on Public Service Company of New Mexico (PNM) and Avangrid, Inc. and its corporate affiliates over the incomplete disclosure of information during regulatory proceedings about their proposed merger.

In a nonprecedential decision, New Mexico’s highest court unanimously concluded that the sanction by the Public Regulation Commission (PRC) was “overbroad and must be vacated.”

The penalty was part of the regulator’s order in 2021 rejecting the merger of PNM, the state’s largest electric utility, and Avangrid, the U.S. subsidiary of Spanish energy company Iberdrola, S.A. The rejection of the merger was appealed to the Supreme Court.

The PRC imposed the penalty on PNM, Iberdrola, Avangrid and its subsidiaries – collectively known as “appellants” in the Supreme Court case – because of Avangrid’s failure to provide complete information about violations and fines against the company and its affiliates. The information was requested during the discovery phase of the regulatory case when the parties exchange evidence and other materials.

The Court declared that the penalty was “unreasonable and unlawful” because it was imposed on all of the companies when only Avangrid violated discovery-related orders in the regulatory proceeding. Iberdrola was not a party to the merger case when the incomplete responses were submitted by Avangrid and “the Commission did not explain in its final order why Appellants are liable as a group or what specific orders Appellants did not follow,” the Court wrote. The justices noted that the PRC “concedes on appeal that it improperly expanded the sanction to parties beyond Avangrid.”

Connecticut-based Avangrid terminated its proposal to acquire PNM earlier this year, and the Court several weeks later approved a request by PNM to dismiss all issues in its appeal of the merger denial except the challenge to the \$10,000 penalty.

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To read the decision in *Public Service Co. of New Mexico v. N.M. Public Regulation Commission*, No. S-1-SC-39152, please visit the New Mexico Compilation Commission's website using the following link:

<https://nmonesource.com/nmos/nmsc/en/item/522426/index.do>