

**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 )** **CASE NO. 20-00222-UT**  
**GENERAL DIVERSIFICATION PLAN; AND ALL )**  
**OTHER AUTHORIZATIONS AND APPROVALS )**  
**REQUIRED TO CONSUMMATE AND IMPLEMENT )**  
**THIS TRANSACTION )**  
)  
**AVANGRID, INC., AVANGRID NETWORKS, INC., )**  
**NM GREEN HOLDINGS, INC., )**  
**PUBLIC SERVICE COMPANY OF NEW MEXICO )**  
**AND PNM RESOURCES, INC., )**  
)  
**JOINT APPLICANTS. )**  
)

**NEW ENERGY ECONOMY’S OBJECTION TO JOINT APPLICANTS’ NOTICE,  
MOTION TO COMPEL DISCOVERY AND REQUEST FOR REMEDY REGARDING  
SPAIN’S OFFICIAL INVESTIGATION INTO AVANGRID/IBERDROLA’S BOARD  
CHAIRMAN IGNACIO GALAN & OTHER EXECUTIVE COMMITTEE MEMBERS  
FOR SPYING, BRIBERY AND FRAUD**

On June 24, 2021 Joint Applicants filed their *Joint Applicants’ Notice Regarding Other Proceedings in Other Jurisdiction (hereafter “Notice”)*. New Energy Economy (“NEE”) hereby files its objection to that Notice because it appears to omit facts that are significant to the Commission’s consideration of the proposed Avangrid/Iberdrola/PNM transaction that is the subject of this proceeding. NEE further moves to compel production of discovery for the third time, requests that the Commission require the Joint Applicants supplement their notice with certain Spanish filings and, if necessary, make an official tribunal-to-tribunal request for Spanish High Court Judge García-Castellón’s “23-page order,” shorten the time to respond to NEE’s

filing, provide for an extension of NEE's expert to file testimony on the issues herein, and take any other action that it deems fair, just and reasonable and consistent with law and the public interest. On May 11, 2021, the Hearing Examiner issued the *Order Regarding Avangrid Service Quality issues and Management Audits and Suspension of the Filing Date for Statements in Opposition to the May 7, 2020 Stipulation* and on May 28, 2021 issued and the *Procedural Order for Proceedings Addressing Contested Stipulation*. It is these orders with which the Joint Applicants purport to comply with via their Notice. Their notice, however, not only minimizes the seriousness of the "proceedings in other jurisdiction" it wholly fails to apprise the Commission, parties, and the public of accusations of bribery, corruption, spying, and production of fraudulent documents by Joint Applicants, Avangrid/Iberdrola and its Executive Committee, on which Avangrid/Iberdrola's principal witness, Mr. Pedro Azagra Blazquez, serves.<sup>1</sup> At minimum, NEE requests that: 1) Avangrid/Iberdrola produce relevant documents to the Hearing Examiner and parties about the corruption and fraud investigation; 2) that Judge García-Castellón's 23-page order be made available to the Hearing Examiner, the Commissioners and the parties to the controlling the Confidentiality Agreement in this proceeding; and 3) Avangrid/Iberdrola produce relevant material in response to NEE's 16<sup>th</sup> set of discovery, and that the time period for response be shortened and if NEE prevails that response time for production also be shortened; and 4) that NEE be allowed to file supplemental expert testimony about *this* issue (only) 10 days post production of the responsive material.

### **Procedural History**

1. On May 11, 2021 the Hearing Examiner issued his *Order Regarding Avangrid Service Quality issues and Management Audits and Suspension of the Filing Date for Statements in*

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<sup>1</sup> <https://www.iberdrola.com/about-us/management-team/executives>

*Opposition to the May 7, 2020 Stipulation.*

2. On May 18, 2021 Joint Applicants filed their 2500+ page Joint Applicants' Response to *Order Regarding Avangrid Service Quality issues and Management Audits*, that included among other things enforcement actions and enforcement measures in rate or other proceedings initiated or concluded by state and federal regulatory agencies since January 1, 2016 against Avangrid, Inc.'s electric and gas utility subsidiaries.

3. On May 28, 2021 the Hearing Examiner issued the *Procedural Order for Proceedings Addressing Contested Stipulation*, requiring among other things that: "The Joint Applicants shall file biweekly status reports starting on June 11, 2021 on the progress of the audits ordered by the Maine Public Utilities Commission in Docket No. 2018-00194 and the Connecticut Public Utilities Regulatory Authority in Docket No. 20-08-03." At p. 9.

4. On June 11, 2021 Joint Applicants<sup>2</sup> filed the *Joint Applicants' Report on Progress of Management Audits* when they stated, among other things: "There are no updates as to the status of the completion of the Management Audits or dates set for submittal of the Management Audits." At p. 1.

5. On June 14, 2021 the Hearing Examiner issued *Order Addressing NEE Motion for Rule to Show Cause Why Joint Applicants Should Not Be Held In Contempt and For Sanctions*. In that Order, the Hearing Examiner ruled, among other things:

A. Paragraph M of the December 18, 2020 Procedural Order requires responses to discovery requests within ten calendar days after service:

M. Service of all documents filed in this proceeding and discovery requests and responses shall be via email unless a party requests a hard copy or unless otherwise ordered. Avangrid and PNM shall post the discovery requests they receive from the parties and Avangrid's and PNM's responses to discovery

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<sup>2</sup> Despite the Hearing Examiner's Order Granting the Joinder of Iberdrola, issued on June 8, 2021, the filings of Joint Applicants have not included Iberdrola as a named party.

requests, including exhibits, on PNM's file sharing platform. All responses to discovery requests shall be served within 10 calendar days of service of the request unless otherwise agreed or ordered.

Significantly, too, an evasive or incomplete answer is treated as a failure to answer. (citing, Rule 1-037(A)(3).)<sup>3</sup>

B. Section 1.2.2.25.I NMAC requires timely supplementation of responses to discovery requests:

**I. Supplementation of responses to discovery requests:** A party or staff who has responded to a request for discovery is under a duty reasonably and promptly to amend or supplement their previous response if they obtain information which they would have been required to provide in such response if the information had been available to them at the time they served the response.<sup>4</sup>

6. On June 24, 2021, Joint Applicants filed their *Joint Applicants' Notice Regarding Other Proceedings in Other Jurisdiction*. Joint Applicants did not file a verified statement or self affirmation as they have done with other filings.<sup>5</sup> In the Notice they state:

1. Joint Applicants wish to provide notice to the Commission of a proceeding in Spain.

a. The Cenyt case started in 2019 and is aimed at investigating certain activities of a person that is accused of providing investigation services to certain companies while also providing services to certain government entities. There are currently 21 companies, several of them listed in Ibex 35 (the 35 largest companies on the Spanish exchange), under investigation, including Repsol, Caixa, BBVA, and Iberdrola. Under the Spanish law, government employees are not permitted to provide services to private companies. However, **there is an open question as to whether this person was a government employee or whether he was a private contractor that was permitted provide services to both private companies and to government entities.**

b. News reports yesterday indicated that there is an investigation about this matter that now includes a number of new individuals, including Iberdrola's Chairman, who is also the Chairman of Avangrid, Francisco Martínez Córcoles, Business CEO, and two individuals who are no longer at Iberdrola (Fernando Becker and Rafael Orbegozo). In Spain, the first stage in any proceeding is a formal investigation where a wide net is cast to determine if there are facts that would support a criminal charge. The investigation stage is just that, an investigation to obtain facts. This is not an indictment or the submittal of formal charges or any other formal action by the Court. Instead, the Judge

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<sup>3</sup> 20-00222-UT, *Order Addressing NEE Motion for Rule to Show Cause Why Joint Applicants Should Not Be Held In Contempt and For Sanctions*, June 11, 2021, p. 12.

<sup>4</sup> *Id.*, p. 12, fn. 11.

<sup>5</sup> Self Affirmation of Pedro Azagra Blazquez, Direct Testimony in Support of Second Amended Stipulation of Pedro Azagra-Blazquez, June 18, 2021.

has accepted the request of the prosecutor to include Chairman Galan and others in the investigation, which is part of the investigation process. Last month Iberdrola's Board informed the Spanish court that any director, member of the management team or employee of Iberdrola would be available to answer any questions about this case. Iberdrola denies any wrongdoing and is pleased to have the opportunity to address rumors that have targeted the company for several years.<sup>6</sup>

(Emphasis supplied.)

Ironically, Joint Applicants filed the Notice regarding "Communication from Iberdrola, S.A. in connection with the so-called 'Villarejo case'"<sup>7</sup> to ameliorate potential PRC concerns with the news of alleged spying, bribery, breach of privacy and fraud in commercial documents."<sup>8</sup> Charles Eldred, Executive Vice President, Corporate Development and Finance, PNMR, stated in his 6/24/2021 email to Avangrid: "Yes...saw it...right thing to do since the HE thinks we are withholding information... any feel for when this may get cleared or at least Iberdrola chairman?"<sup>9</sup> Joint Applicants have failed to provide complete information, or be transparent and forthcoming in their Notice as the below reported information indicates. The Hearing Examiner's prior rulings<sup>10</sup> and admonishments have apparently fallen on deaf ears – engendering no confidence that Avangrid/Iberdrola will comply with regulation and law.

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<sup>6</sup> *Joint Applicants' Notice Regarding Other Proceedings in Other Jurisdiction*, June 24, 2021 pp.1-2.

<sup>7</sup> Exhibit A, JA excerpts of Exhibit NEE 16-29, p. 21.

<sup>8</sup> *Id.*, pp. 31-33.

<sup>9</sup> *Id.*, p. 21.

<sup>10</sup> *Order Regarding Avangrid Service Quality issues and Management Audits and Suspension of the Filing Date for Statements in Opposition to the May 7, 2020 Stipulation*, May 11, 2021, pp. 3-4. "The Joint Applicants have failed to disclose any of the penalties and disallowances in the current proceeding, despite their relevance to this case, i.e., the risk that the adequacy of PNM's service may deteriorate under the direct or indirect control of Avangrid, Inc. ... [T]he Joint Applicants' testimony has been less than forthcoming on these issues. ... The Joint Applicants' failure to disclose this information to the Commission in this proceeding is troubling and is also relevant to the credibility of their witnesses' testimony and the transparency by which Avangrid and PNM would conduct their business in New Mexico if the merger is approved."

### **The Iberdrola/Cenyt Investigation, according to press reports:**

7. Spain's High Court on June 23<sup>rd</sup>, 2021 initiated an investigation into Iberdrola Chief Executive Ignacio Galan as a part of spying case spanning 2004-2017.<sup>11</sup> "The orders and the commercial relations were neither sporadic not specific but rather continuous over time," says Spanish Judge Manuel García-Castellón, as reported by El Pais Tuesday.<sup>12</sup> "Throughout a 23-page order, dated this Tuesday, García-Castellón lists the number of indications that accumulate within the abstract towards the management of the Spanish firm."<sup>13</sup>
8. Iberdrola SA Chairman Ignacio Galan and three others<sup>14</sup> -- all current or former Iberdrola executives are being investigated by Spanish authorities for their alleged role in a corporate spying case.<sup>15</sup> Spain's national court<sup>16</sup> formally named their alleged involvement in bribery,

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<sup>11</sup>See, Exhibit B, <https://energywatch.eu/EnergyNews/Utilities/article13082904.ece>; <https://moneytrainingclub.com/galans-indictment-for-the-villarejo-case-blurs-his-20-years-at-iberdrola-in-full-swing-with-the-government/>; <https://www.tellerreport.com/business/2020-02-17---the-former-security-chief-of-iberdrola-breaks-the-negotiations-with-the-anti-corruption-prosecutor-and-asks-to-annul-his-statements-before-the-national-court-rkVJ116PQL.html>

<sup>12</sup>See, Exhibit B, <https://energywatch.eu/EnergyNews/Utilities/article13082904.ece>; <https://digismak.com/anti-corruption-asks-to-impute-sanchez-galan-for-hiring-villarejo-economy/>

(Ignacio Sánchez Galán, president of Iberdrola, knew and authorized the espionage work that, for 13 years, commissioned from retired commissioner José Manuel Villarejo.);

<https://trashbilling.club/the-choose-imputes-the-president-of-iberdrola-for-the-alleged-espionage-orders-of-villarejo-economy/>

<sup>13</sup>See, Exhibit B,, <https://trashbilling.club/the-choose-imputes-the-president-of-iberdrola-for-the-alleged-espionage-orders-of-villarejo-economy/>

<sup>14</sup> Joint Applicants filed their *Joint Applicants' Notice Regarding Other Proceedings in Other Jurisdiction*, June 24, 2021; See, Exhibit B, <https://moneytrainingclub.com/galans-indictment-for-the-villarejo-case-blurs-his-20-years-at-iberdrola-in-full-swing-with-the-government/> (Galán, his former number two, Francisco Martínez Córcoles, the former president of Iberdrola Spain Fernando Becker and Rafael Orbegoza, former chief of the president's cabinet); <https://www.explica.co/the-national-court-imputes-galan-and-iberdrola-suffers-in-the-ibex-35.html>

<sup>15</sup>See, Exhibit B, <https://www.bloomberquint.com/business/iberdrola-s-chairman-galan-named-as-suspect-in-criminal-probe>

<sup>16</sup>See, Exhibit B, <https://spainsnews.com/anti-corruption-asks-to-impute-the-president-of-iberdrola-for-the-work-of-villarejo-for-the-electricity-company/>

falsification of documents and violation of privacy.<sup>17</sup> This includes Iberdrola's activities into the Cofrentes nuclear power plant.<sup>18</sup>

9. According to investigators, Iberdrola hired a firm, Cenyt, operated by a former police chief Jose Manuel Villarejo, to spy on energy competitors and their executives, and others.<sup>19</sup>

10. The events under investigation date back as far as 2004, when the utility, led by current Chairman Galan of Iberdrola, paid Cenyt, and/or police chief Jose Manuel Villarejo to spy on, to investigate, and create bad press for, or bribe<sup>20</sup> and influence officials in at least five cases:

A. The Arrow project, which was to eliminate local and environmental opposition to building power plant Arcos de la Frontera<sup>21</sup> to obtain permission to build a plant in

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“the Public Ministry is also interested in the imputation of Iberdrola's ‘number two’, Francisco Martínez Córcoles, the former president of Iberdrola Spain, Fernando Becker, and the former head of the Presidential Cabinet Rafael Orbegozo.”

<sup>17</sup>See, Exhibit B, <https://www.bloomberqint.com/business/iberdrola-s-chairman-galan-named-as-suspect-in-criminal-probe>; <https://moneytrainingclub.com/galans-indictment-for-the-villarejo-case-blurs-his-20-years-at-iberdrola-in-full-swing-with-the-government/>; <https://www.explica.co/the-national-court-imputes-galan-and-iberdrola-suffers-in-the-ibex-35.html>

<sup>18</sup>See, Exhibit B, <https://then24.com/2021/06/22/the-anticorruption-prosecutors-office-asks-to-impute-sanchez-galan-for-the-espionage-of-villarejo/>; Nuclear waste Low-low level and low-medium level radioactive waste generated by Iberdrola in 2017 for the Cofrentes nuclear plant is 7,064/MWh and for partially-owned nuclear plants produced in 2017 16,185/MWh; As to high level waste, 303 spent fuel assemblies were generated during 2017.

[https://www.iberdrola.com/wcorp/gc/prod/en\\_US/corporativos/docs/IA\\_SustainabilityReport17.pdf](https://www.iberdrola.com/wcorp/gc/prod/en_US/corporativos/docs/IA_SustainabilityReport17.pdf)

“Iberdrola's sustainability report,” p. 170-173 of 336.

This is NOT a waste-free or renewable company. It is a fly ash, slag, hazardous and non-hazardous waste, including fracking contamination waste, and radioactive waste company. While Iberdrola/Avangrid seeks to “minimize waste and improve waste management”, it produces millions of tons of hazardous and non-hazardous waste annually and spends a lot of money green-washing its activities.

<sup>19</sup>See, Exhibit B.

<sup>20</sup>See, Exhibit B, <https://www.reuters.com/business/energy/spanish-court-puts-iberdrola-ceo-under-investigation-alleged-spying-case-2021-06-23/>

<sup>21</sup>See, Exhibit B, <https://energywatch.eu/EnergyNews/Utilities/article13082904.ece>; <https://nmpoliticalreport.com/2021/06/24/iberdrola-executives-named-in-criminal-espionage-investigation/>

southern Spain;<sup>22</sup> and to expedite the permits for a combined cycle power plant in Arcos de la Frontera (Cádiz), and whose payments They were covered up through the security company Casesa, which, according to the judge, would indicate “a willingness on the part of the company to hide these jobs”<sup>23</sup>

B. Black Board, an operation to gather dirt on and harass Manuel Pizarro, former chairman of utility the Spanish competitor Endesa SA,<sup>24</sup>

C. Posy, involving the CEO of ACS – and Real Madrid – as an espionage target to gather information on construction tycoon Florentino Pérez and his family amid a takeover battle to be on the Board of Iberdrola<sup>25</sup>

D. Gipsy, an internal investigation of personnel suspected for corruption<sup>26</sup>

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<sup>22</sup>See, Exhibit B, <https://www.bloomberquint.com/business/iberdrola-s-chairman-galan-named-as-suspect-in-criminal-probe>; <https://www.reuters.com/business/energy/spanish-court-puts-iberdrola-ceo-under-investigation-alleged-spying-case-2021-06-23/>

<sup>23</sup>See, Exhibit B, <https://moneytrainingclub.com/galans-indictment-for-the-villarejo-case-blurs-his-20-years-at-iberdrola-in-full-swing-with-the-government/>; <https://trashbilling.club/the-choose-imputes-the-president-of-iberdrola-for-the-alleged-espionage-orders-of-villarejo-economy/>

<sup>24</sup>See, Exhibit B, <https://www.bloomberquint.com/business/iberdrola-s-chairman-galan-named-as-suspect-in-criminal-probe>; <https://www.reuters.com/business/energy/spanish-court-puts-iberdrola-ceo-under-investigation-alleged-spying-case-2021-06-23/>; <https://energywatch.eu/EnergyNews/Utilities/article13082904.ece>; <https://moneytrainingclub.com/galans-indictment-for-the-villarejo-case-blurs-his-20-years-at-iberdrola-in-full-swing-with-the-government/>

<sup>25</sup>See, Exhibit B, <https://energywatch.eu/EnergyNews/Utilities/article13082904.ece>; <https://spainsnews.com/anti-corruption-asks-to-impute-the-president-of-iberdrola-for-the-work-of-villarejo-for-the-electricity-company/>

(Iberdrola paid 1.13 million euros between 2004 and 2017 to Commissioner José Manuel Villarejo to finance a dozen covert operations. The commissioner allegedly carried out espionage work against the president of ACS, Florentino Pérez, for which the first Spanish electricity company paid him 232,000 euros.); <https://moneytrainingclub.com/galans-indictment-for-the-villarejo-case-blurs-his-20-years-at-iberdrola-in-full-swing-with-the-government/>

<sup>26</sup>See, Exhibit B, <https://energywatch.eu/EnergyNews/Utilities/article13082904.ece>; <https://www.vozpopuli.com/espana/florentino-villarejo-iberdrola.html>

E. Wind, a probe of Swiss Eolica Dobrogea and company CEO Christopher Kaap, a group that was Iberdrola's partner in multiple developments in Romania<sup>27</sup>

11. Documentation on billing for these services was hidden and tampered with by Iberdrola.<sup>28</sup>

12. Iberdrola SA Chairman Ignacio Galan was aware of the payments, the court said.<sup>29</sup>

13. Iberdrola admitted to hiring Villarejo's security company Cenyt from 2004-2009 and 2012-2017, making payments detailed in 17 invoices.<sup>30</sup> Iberdrola's accounting books document payment of more than 1 million euros to Cenyt, owned by José Manuel Villarejo.<sup>31</sup> The prosecutor notes that these payments were made while Villarejo was still in active duty, alleging further that the invoices were manipulated to conceal specific services rendered.<sup>32</sup>

14. Former police chief Jose Manuel Villarejo was released from jail in March 2021, after three years of pre-trial detention in a separate case dealing with alleged money laundering and bribing public officials.<sup>33</sup>

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<sup>27</sup>See, Exhibit B, <https://energywatch.eu/EnergyNews/Utilities/article13082904.ece>; <https://www.vozpopuli.com/espana/florentino-villarejo-iberdrola.html>; <https://trashbilling.club/the-choose-imputes-the-president-of-iberdrola-for-the-alleged-espionage-orders-of-villarejo-economy/>

<sup>28</sup>See, Exhibit B, <https://www.bloomberqint.com/business/iberdrola-s-chairman-galan-named-as-suspect-in-criminal-probe>; <https://trashbilling.club/the-choose-imputes-the-president-of-iberdrola-for-the-alleged-espionage-orders-of-villarejo-economy/>

(According to the abstract, the plot allegedly accessed the visitors of phone calls from a few of its victims and Iberdrola used a 3rd firm (Castellana de Seguridad SA) to invoice Cenyt via it.)

<sup>29</sup>See, Exhibit B, <https://www.bloomberqint.com/business/iberdrola-s-chairman-galan-named-as-suspect-in-criminal-probe>; <https://energywatch.eu/EnergyNews/Utilities/article13082904.ece>

<sup>30</sup>See, Exhibit B, <https://www.reuters.com/business/energy/spanish-court-puts-iberdrola-ceo-under-investigation-alleged-spying-case-2021-06-23/>; <https://spainsnews.com/anti-corruption-asks-to-impute-the-president-of-iberdrola-for-the-work-of-villarejo-for-the-electricity-company/>; <https://www.explica.co/the-national-court-imputes-galan-and-iberdrola-suffers-in-the-ibex-35.html>

<sup>31</sup>See, Exhibit B, <https://energywatch.eu/EnergyNews/Utilities/article13082904.ece>

<sup>32</sup> *Id.*

<sup>33</sup>See, Exhibit B, <https://www.reuters.com/business/energy/spanish-court-puts-iberdrola-ceo-under-investigation-alleged-spying-case-2021-06-23/>

15. In May, *after an Iberdrola shareholders' meeting was held and after a new Internal Affairs report was incorporated into the case*,<sup>34</sup> in which previous recorded conversations were revealed between Villarejo and the head of Security of Iberdrola, Antonio Asenjo, previously part of Iberdrola's Executive Committee, Asenjo referred to "don Ignacio" or the "gentleman" or "el Señorito" in the framework of the "Arrow" project, one of the commissions Villarejo/Cenyt carried out.<sup>35</sup> Nine audio conversations between Villarejo and the former Iberdrola head of security of the company, Asenjo, already charged in the case, recorded Villarejo demanding more money for his work, and, at various times, the recordings referred to Iberdrola Chairman Galán as the *director* of those projects' (Arrow, Gipsy, Posy, etc.) orders.<sup>36</sup>

16. The imputation of the president of Iberdrola, Ignacio Sánchez Galán, for the allegedly illegal orders made by the company to the former retired commissioner Villarejo to spy on rivals and politicians has tarnished the 20th anniversary of the Iberdrola<sup>37</sup> despite the *New York Times* laudatory article ignoring the judicial scandal, described Iberdrola as "the Exxon of green

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<sup>34</sup>See, Exhibit B, <https://www.explica.co/the-national-court-imputes-galan-and-iberdrola-suffers-in-the-ibex-35.html>

<sup>35</sup>See, Exhibit B, <https://www.vozpopuli.com/espana/villarejo-galan-audios-iberdrola.html>; (<https://www.explica.co/the-national-court-imputes-galan-and-iberdrola-suffers-in-the-ibex-35.html>): ("In them the commissioner referred at different times to "Don Ignacio" or the "Señorito" within the framework of the "Arrow" project, which dealt with the problems suffered by Iberdrola for the construction of a thermal power plant in Arcos de la Frontera (Cadiz).); <https://www.explica.co/the-national-court-imputes-galan-and-iberdrola-suffers-in-the-ibex-35.html>; <https://spainsnews.com/anti-corruption-asks-to-impute-the-president-of-iberdrola-for-the-work-of-villarejo-for-the-electricity-company/>

<sup>36</sup>See, Exhibit B, <https://digismak.com/anti-corruption-asks-to-impute-sanchez-galan-for-hiring-villarejo-economy/>; <https://www.explica.co/the-national-court-imputes-galan-and-iberdrola-suffers-in-the-ibex-35.html>; <https://trashbilling.club/the-choose-imputes-the-president-of-iberdrola-for-the-alleged-espionage-orders-of-villarejo-economy/> ("the retired commissioner is heard demanding more cash for his work and likewise refers at varied occasions to Galán as a connoisseur of the orders.")

<sup>37</sup>See, Exhibit B, <https://moneytrainingclub.com/galans-indictment-for-the-villarejo-case-blurs-his-20-years-at-iberdrola-in-full-swing-with-the-government/>

energy”,<sup>38</sup> which refers to Florentino Pérez attempted coup of the Iberdrola board and Galán’s successful maneuvering and ultimate eradication of outside influence.

17. Initially, claims against the former Iberdrola head of security, Antonio Asenjo, were reported as incidental, and framed as that of a rogue man (the hiring of Villarejo and completely excused Iberdrola President Ignacio Sánchez Galán and other Iberdrola Executive Committee members). However, recently Asenjo has given validity to the testimony, that Sánchez Galán was involved in the orders to Villarejo.<sup>39</sup>

18. Additionally, Iberdrola has been under an investigation for an alleged crime against consumers for manipulating the price of electricity in Spain at the end of 2013 that has been in the National Court since 2017.<sup>40</sup>

### **Discrepancies & Why is the Iberdrola/Cenyt Investigation is Relevant to the Merger**

19. Why is this corruption and fraud investigation relevant? Past criminal activity is relevant to understand what future Iberdrola/Avangrid actions will be like. The evidence demonstrates the lengths Iberdrola will go to control the business of its subsidiaries, harass, fend off and eradicate competition, spy on and personally attack opponents whether they are judges or other business leaders or citizen petition gatherers, or engage in other underhanded nefarious and fraudulent activities. Further, this pattern of disturbing misconduct is consistent with activities described by Representative Seth Berry<sup>41</sup> and admitted to by witness Pedro Azagra Blazquez.<sup>42</sup>

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<sup>38</sup> <https://www.nytimes.com/2021/04/28/business/wind-power-industry-iberdrola.html>

<sup>39</sup> See, Exhibit B, <https://www.tellerreport.com/business/2020-02-17---the-former-security-chief-of-iberdrola-breaks-the-negotiations-with-the-anti-corruption-prosecutor-and-asks-to-annul-his-statements-before-the-national-court-rkVJ116PQL.html>

<sup>40</sup> See, Exhibit B, <https://moneytrainingclub.com/galans-indictment-for-the-villarejo-case-blurs-his-20-years-at-iberdrola-in-full-swing-with-the-government/>

<sup>41</sup> Verified Statement of Seth A. Berry, May 25, 2021, pp. 8-11, attached as Exhibit D to *Reply of New Energy Economy to Joint Applicants’ Response to Order Regarding Avangrid Service*

20. In the Hearing Examiner's *Order Granting Joint Motion for Joinder of Iberdrola* he found that:

A. "Iberdrola has been participating as a party in every way except in name. Iberdrola has been a central participant in this proceeding and the merger negotiations that led to the proceeding."<sup>43</sup>

B. The Joint Applicants state that Iberdrola's role in this matter is "to help [Avangrid] complete merger and acquisition tasks."<sup>44</sup> ... The Joint Applicants have not been clear<sup>45</sup> about the nature of the help Iberdrola is providing to help Avangrid."

C. "Iberdrola's joinder as a party is needed to ensure that it will be subject to the jurisdiction of the Commission and the State of New Mexico[.] ... Indeed, the vigor with which the Joint Applicants are fighting in this case to resist Iberdrola's submission to the Commission's jurisdiction as a party in this case suggests that Iberdrola will not easily submit to the Commission's jurisdiction in the future -- under paragraph 15 of the Stipulation or otherwise. One has to question the reasons for this resistance."<sup>46</sup>

D. Paragraphs 15 and 54 of the Stipulation are not enforceable against Iberdrola.<sup>47</sup>

E. "Iberdrola's participation as a party is needed to afford the parties a full opportunity for discovery. ... The Hearing Examiner has also directed the Joint Applicants to provide further information about Iberdrola in the testimony the Joint Applicants submit in support of the Stipulation."<sup>48</sup>

Just as the Hearing Examiner found it was lawful to join Iberdrola for purposes of regulatory enforcement issues when they arise, the same reasoning applies to require complete information<sup>49</sup> about the corporate spying, bribery, and falsification of documents case.

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*Quality Issues and Management Audits.* ("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. 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.") (fn. omitted.)

<sup>42</sup> See, Exhibit C, Joint Applicants' Objections and Responses to NEE-12, May 24, 2021.

<sup>43</sup> *Order Granting Joint Motion for Joinder of Iberdrola*, June 8, 2021, p. 16.

<sup>44</sup> *Id.*, p. 17, *citing*, Response in Opposition to Joint Motion, at 11.

<sup>45</sup> *Id.*

<sup>46</sup> *Id.*, pp. 18, 20.

<sup>47</sup> *Id.*, pp. 19-21.

<sup>48</sup> *Id.*, p. 23, *citing*, Procedural Order for Proceedings Addressing Contested Stipulation, May 28, 2021, Attachment 1.

<sup>49</sup> *Order Addressing NEE Motion for Rule to Show Cause Why Joint Applicants Should Not Be*

21. The accusations of disturbing conduct by the merger's principles are highly relevant to fairly contentious issues raised in this case, including, for instance, the independence of a post merger board and whether the independent evaluator is truly "independent," (raised by NEE and other parties in our statements in opposition to the stipulations).<sup>50</sup> Other parties have also raised issues about ring-fencing, affiliate transactions, unfair competition, etc. that are also implicated by the matters that are the subject of this Motion. To explore this more deeply, for example, according to Mr. Azagra Blazquez: "To be clear, there is no reason to have a majority independent board at PNM, and Avangrid would not be in a position to close the Proposed Transaction if a majority of independent directors is required."<sup>51</sup> Contrary to Mr. Blazquez's testimony there *are* reasons to have an independent board: one of which is if the Iberdrola/Avangrid majority board members are beholden to the dictates and control of Iberdrola's Chairman and Executive Committee who may now and in future be involved in criminal behavior or civil wrongdoing that is likely to impact the decision-making of the future post merger board. Will non-independent Iberdrola/Avangrid board members act in accordance with what is in the best interest of PNM ratepayers or act to enlarge shareholder profit margins and senior management salaries of the Iberdrola/Avangrid headquarters at *any* cost? According

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*Held In Contempt and For Sanctions*, June 14, 2021, p. 14. ("Contrary to the Joint Applicants' response to the instant Motion, this is not how discovery is supposed to take place. The Commission's rules and the December 18 procedural order require complete responses at the time a party provides a discovery response, and incomplete answers are considered failures to respond. The rules also require the timely supplementation of responses. The rules do not require parties conducting discovery to presume that the answers they receive will be incomplete. Incomplete answers are the exception to what the rules anticipate. The rules do not anticipate that a party conducting discovery will also be required to undertake a continuing series of communications to confirm the presumption that the answers are incomplete, and then to file motions to compel complete answers.")

<sup>50</sup> *New Energy Economy's Statement of Opposition to Amended Stipulation of June 4, 2021*, June 9, 2021, pp. 3-6.

<sup>51</sup> 20-00222-UT, *Direct Testimony of Pedro Azagra Blazquez*, June 18, 2021, p. 18.

to PNM post-merger CEO, Don Tarry’s “my view” in the Santa Fe New Mexican on June 13, 2021, Joint Applicants will take advantage of the “opportunities to build renewable energy projects for use not only in NM but also for the entire Southwest.”<sup>52</sup> That gives us a clue that already Joint Applicants have plans that are more far-reaching than service to PNM ratepayers.

And conversely, if there really is nothing in Spanish Judge Manuel García-Castellón’s 23-page order of concern to this Commission and is as inconsequential as Joint Applicants have portrayed the matter to be (“whether this person was a government employee or whether he was a private contractor that was permitted provide services to both private companies and to government entities.”) then that would remove this issue from the list of reasons to deny the merger.

### **Other Failures of Joint Applicants to Apprise the Commission**

22. Apparently on April 29, 2021, the North American Electric Reliability Corporation (NERC) provided Notice of Penalty regarding Central Maine Power Company (CMP), an Avangrid/Iberdrola affiliate.

23. Joint Applicants have failed to provide complete information<sup>53</sup> about this penalty for failure to adhere to reliability standards. CMP/Avangrid was fined \$360,000; “CMP affiliates’ compliance history [was] an aggravating factor in the penalty determination.”<sup>54</sup> CMP/Avangrid

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<sup>52</sup> “Here’s the real deal on proposed PNM merger”

[https://www.santafenewmexican.com/opinion/my\\_view/heres-the-real-deal-on-proposed-pnm-merger/article\\_3cef220e-c983-11eb-9928-6f074ca15587.html](https://www.santafenewmexican.com/opinion/my_view/heres-the-real-deal-on-proposed-pnm-merger/article_3cef220e-c983-11eb-9928-6f074ca15587.html)

<sup>53</sup> This information was included in Joint Applicants’ Response to Order Regarding Avangrid Service Quality Issues and Management Audits, filed on May 18<sup>th</sup>, page 1 of JA Exhibit May 11 Order 1C.

<sup>54</sup> See, Exhibit D, North American Electric Reliability Corporation (“NERC”) Full Notice of Penalty regarding Central Maine Power Company, FERC Docket No. NP21-\_-000 , April 29, 2021, p. 4.

entered into a settlement agreement with NERC, Registry ID No. NCR07029.<sup>55</sup>

24. Regarding regulatory non-compliance, NEE learned that Iberdrola was sanctioned pursuant to Spanish Procedure law for failing to provide information and documents as required. “In a nutshell, Iberdrola had not provided the information required and consequently hindered the investigative powers that each supervisory authority has, infringing Article 58.1 of the GDPR.”<sup>56</sup>

### **Motion to Compel Responsive Answers and Documents Pursuant to NEE’s 16<sup>th</sup> Set of Discovery**

25. PNM has failed to provide the Commission and the parties transparency regarding the corruption investigation that is ongoing in Spain regarding Iberdrola’s top management.<sup>57</sup> Mr. Galan holds the position of Chairman and Chief Executive Officer of Iberdrola, and is the Chairman of the Board of Directors of Avangrid.<sup>58</sup> “Mr. Azagra and Mr. Galan have a well-established working relationship, and both are, and have been for many years, executives at Iberdrola and board members of Avangrid.”<sup>59</sup>

26. New Energy Economy served interrogatories, due on July 6, which required the Joint Applicants to provide information about Iberdrola’s corruption, bribery, spying, fraud, and falsification of documents.

27. While Joint Applicants provided slightly more information in their Response to NEE’s 16<sup>th</sup> set of discovery than the threadbare information what was provided in their Notice, and

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<sup>55</sup> *Id.*, pp. 10-31.

<sup>56</sup> *See*, Exhibit B, [https://edpb.europa.eu/news/national-news/2020/spanish-data-protection-authority-fined-company-iberdrola-not-responding\\_en](https://edpb.europa.eu/news/national-news/2020/spanish-data-protection-authority-fined-company-iberdrola-not-responding_en)

<sup>57</sup> *See*, Exhibit B, <https://www.euronews.com/2021/07/09/us-spain-court-villarejo>;  
<https://www.reuters.com/world/europe/spanish-court-puts-iberdrola-renovables-under-investigation-alleged-spying-case-2021-07-09/>

<sup>58</sup> Exhibit E, Case No. 20-00222-UT, Joint Applicants’ Objections and Responses to NEE-16, July 6, 2021, NEE 16-35.

<sup>59</sup> *Id.*, NEE 16-5.

admitted that the person to whom Joint Applicants refer in their Notice regarding the Cenyt investigation is Police Commissioner Jose Manuel Villarejo<sup>60</sup> and that “Iberdrola, S.A. and Iberdrola Renovables Energía, S.A.U. paid Cenyt a total of approximately 1 million euros between 2004- 2009 and 2012- 2017,”<sup>61</sup> yet they omitted the reasons WHY Iberdrola was engaged in that activity. Joint Applicants’ failed to answer the following interrogatories and produce relevant responsive documentation: NEE 16-1, 16-4 NEE E & F, NEE 16-6, NEE 16-15, NEE 16-18, NEE 16-19, NEE 16-20, NEE 16-22 through NEE 16-28, NEE 16-33 and NEE 16-34.<sup>62</sup> NEE contacted Joint Applicants in accordance with Rule 1.2.2.25(J)(1) NMAC to obtain the discovery<sup>63</sup> and Avangrid/Iberdrola attorney Mr. Haverly<sup>64</sup> responded, but in large part refused to provide responses.<sup>64</sup>

28. Press reports regarding the report, however, make clear that it does involve top Iberdrola/Avangrid management, including harassing environmentalists who opposed the construction and siting of a plant, interference with fair competition, harassing and spying on energy competitors, bribing officials in order for Iberdrola to obtain necessary regulatory approvals, and more fully described above.

29. The Joint Applicants’ repeated objections regarding requested documentation and investigation was the following: “unduly burdensome, overly broad ambiguous, and is not reasonably calculated to lead to the discovery of admissible evidence bearing on the proposed merger between PNM Resources, Inc. and Avangrid.”

30. One of the principal matters that is subject to disclosure is a 23-page order of Judge García-Castellón about the particular involvement of Iberdrola/Avangrid that has lead to the

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<sup>60</sup> *Id.*, NEE 16-30.

<sup>61</sup> *Id.*, NEE 16-24.

<sup>62</sup> *Id.*

<sup>63</sup> See Exhibit F, NEE letter to Joint Applicants, July 8, 2021.

<sup>64</sup> See Exhibit G, Mr. Haverly’s email to Mariel Nanasi, attorney for NEE, July 8, 2021.

official investigation.<sup>65</sup> NEE has been unable to obtain a copy of the order because, on information and belief, under Spanish law such orders are available only tribunal-to-tribunal on a need to know basis. NEE believes, however, that Iberdrola/Avangrid will have a copy of the order and could produce it to the PRC under confidentiality. If Iberdrola/Avangrid submits a sworn statement that it does not possess a copy of the order, NEE respectfully requests that the PRC request one from the Spanish Courts.

31. NEE respectfully requests to incorporate the law cited in its two other Motions to Compel Outstanding Discovery and its Motion for Rule to Show Cause and For Sanctions herein.<sup>66</sup>

32. As this Hearing Examiner has found before that the Joint Applicants' "response provided only a partial answer. It did not answer the remaining parts of the interrogatory. The request in NEE's Motion that the interrogatory be answered completely should be granted."<sup>67</sup> Further, "[t]he Hearing Examiner finds that NEE's interrogatories address a legitimate area for discovery. The extent to which and the circumstances in which a witness has participated in statements intended to directly or indirectly influence a Commission decision are potentially relevant to the credibility of the witness. The extent to which the witness conceals or fails to disclose that participation is also potentially relevant to the witness's credibility. The discovery, therefore, is reasonably calculated to lead to the discovery of admissible evidence."<sup>68</sup>

33. The discovery sought is specific and timely. Iberdrola/Avangrid's actions regarding this

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<sup>65</sup> <https://www.euronews.com/2021/07/09/us-spain-court-villarejo>;  
<https://www.reuters.com/world/europe/spanish-court-puts-iberdrola-renovables-under-investigation-alleged-spying-case-2021-07-09/>

<sup>66</sup> Case No. 20-00222-UT, *New Energy Economy's Motions to Compel Outstanding Discovery*, 4/12/2021; *New Energy Economy's Motion for Rule to Show Cause Why Joint Applicants Shouldn't Be Held in Contempt and For Sanctions*, 5/27/2021; *New Energy Economy's Motions to Compel Outstanding Discovery Regarding Four Corners Power Plant*, 6/4/2021.

<sup>67</sup> *Order Addressing NEE Motion to Compel Discovery*, April 19, 2021, p. 5.

<sup>68</sup> *Id.*, p. 9.

misconduct is relevant to the credibility of their prime witness, Mr. Azagra Blazquez, how they will conduct themselves in New Mexico, whether we can trust their control and oversight of PNM, whether they will harass, spy on and punish environmentalists and other opponents of their regulatory or legislative pursuits, whether they will be forthcoming and transparent, and whether they will comply with and abide by the law. Frankly, there can be no other matter that is more important to the public interest.

### **Remedies Consistent with the Public Interest**

34. New Energy Economy respectfully requests that:

A) The New Mexico Public Regulation Commission require Avangrid/Iberdrola to state under oath whether they possess a copy of the García-Castellón order. If they do not have a copy, NEE requests that the PRC deliver a formal request to the Anticorruption Prosecutor's Office and the National Court, Manuel García-Castellón in which he sits, for a copy.<sup>69</sup>

B) Require Joint Applicants to file an amended *Notice Regarding Other Proceedings in Other Jurisdiction*, with a complete and non-evasive explanation of the investigation and any necessary associated history about Cenyt, Villerjo and Iberdrola's involvement with that police commissioner and that detective entity, payments made and the reasons why, and an attestation by a witness in this case.

C) Compel Joint Applicants to respond to NEE's discovery regarding this issue.

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<sup>69</sup> <https://www.reuters.com/article/us-spain-iberdrola-idUKKBN1WP16V>

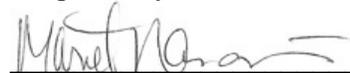
D) Allow NEE's expert to provide supplemental testimony about this issue 10 business days after receipt the relevant information is tendered to the Commission and parties.

35. NEE sought the position of parties: PNM/PNMR oppose the motion, as did Iberdrola, Avangrid, Avangrid Networks, and NM Green Holdings. No other party responded in the time allotted.

**WHEREFORE**, New Energy Economy is rightfully concerned that Joint Applicants have failed to apprise the Commission and parties of ongoing regulatory non-compliance or other relevant investigations for serious misconduct. New Energy Economy respectfully requests an Order requiring Joint Applicants to disclose relevant material as more fully described above and take any other measures that this tribunal believes is just, fair, reasonable and in the public interest.

Date: July 9, 2021

Respectfully submitted,



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**BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION**

IN THE MATTER OF THE JOINT APPLICATION )  
 OF AVANGRID, INC., AVANGRID NETWORKS, )  
 INC., NM GR& Oteen 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 ) **CASE NO. 20-00222-UT**  
 GENERAL DIVERSIFICATION PLAN; AND ALL )  
 OTHER AUTHORIZATIONS AND APPROVALS )  
 REQUIRED TO CONSUMMATE AND IMPLEMENT )  
 THIS TRANSACTION )  
 )  
 AVANGRID, INC., AVANGRID NETWORKS, INC., )  
 NM GREEN HOLDINGS, INC., )  
 PUBLIC SERVICE COMPANY OF NEW MEXICO )  
 AND PNM RESOURCES, INC., )  
 )  
 JOINT APPLICANTS. )  
 )

**CERTIFICATE OF SERVICE**

I CERTIFY that on this date I sent via email to the parties and individuals listed below a true and correct copy of:

**NEW ENERGY ECONOMY’S OBJECTION TO JOINT APPLICANTS’ NOTICE,  
 MOTION TO COMPEL DISCOVERY AND REQUEST FOR REMEDY REGARDING  
 SPAIN’S OFFICIAL INVESTIGATION INTO AVANGRID/IBERDROLA’S BOARD  
 CHAIRMAN IGNACIO GALAN & OTHER EXECUTIVE COMMITTEE MEMBERS  
 FOR SPYING, BRIBERY AND FRAUD**

**AND EXHIBITS A-G; THE AFFIDAVIT OF MARIEL NANASI; AND COS.**

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