



July 16, 2015

Commissioner Cheryl A. LaFleur

**STATEMENT**

FEDERAL ENERGY REGULATORY COMMISSION

Docket No. EL15-59-000

Item No. E-13

## Statement of Commissioner Cheryl A. LaFleur on The Navopache Case

"The petition of Navopache Electric Cooperative Inc. (Navopache) for declaratory order seeks expedited Commission action regarding a discrete contract interpretation dispute with Public Service Company of New Mexico (PNM). Specifically, Navopache argues that the power sales agreement with PNM allows Navopache to choose to procure its power and energy without limit from alternative suppliers, rather than procure its requirements solely from PNM. Based on my review of the contract and the record, I agree with Navopache that the plain language of the agreement, particularly section 10.4, grants Navopache that choice.<sup>1</sup> Because the contract is clear and unambiguous, I believe there are no issues of material fact to be resolved at a hearing.

"For these reasons, I disagree with the Commission's decision to set this matter for hearing. Today's order introduces unnecessary additional process and delays the swift resolution that Navopache seeks, and to which I think it is entitled based upon the plain language of the agreement. Nonetheless, while I disagree with today's order, I respect the Commission's findings and recognize that additional facts will be identified and considered as part of the hearing process, unless this matter is resolved through settlement. If this matter comes before the Commission again, I will consider those facts in reaching a merits determination.

"Accordingly, I respectfully dissent."

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<sup>1</sup> Section 10.4 provides that:

Navopache may acquire, by purchase or construction, alternate sources of Energy and Power. To the extent Navopache acquires such Firm Energy and Firm Power and provides PNM written notice not less than six (6) months prior to the date of the first delivery of such Energy and Power to Navopache, PNM shall not oppose Navopache's acquisition or scheduling of such Energy and Power. Once Navopache provides such notice, PNM will reduce its planning to serve Navopache's load accordingly.