

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

**IN THE MATTER OF THE APPLICATION OF)
DUNCAN VALLEY ELECTRIC)
COOPERATIVE, INC. FOR APPROVAL AND)
AUTHORIZATION FOR THE ISSUANCE OF)
A SECURED PROMISSORY NOTE IN THE)
PRINCIPAL AMOUNT OF \$2,000,000 TO THE)
NATIONAL RURAL UTILITIES)
COOPERATIVE FINANCE CORPORATION)
(CFC) TO BE SECURED BY A NEW)
MORTGAGE, AND FOR ANY OTHER)
APPROVALS AND AUTHORIZATIONS THAT)
MAY BE REQUIRED IN CONNECTION)
WITH SUCH FINANCING)**

Case No. 24-00239-UT

NOTICE OF PROCEEDING AND HEARING

NOTICE is hereby given by the New Mexico Public Regulation Commission (“Commission” or NMPRC) of the following matter:

On July 1, 2024, Duncan Valley Electric Cooperative, Inc. (DVEC or “Cooperative”) filed an Application with the New Mexico Public Regulation Commission for Authorization of Securities (“Application”), pursuant to NMSA 1978, §§ 62-6-6 and 62-6-7 of the New Mexico Public Utility Act (PUA) and Commission Rule 17.1.2.8 NMAC (Applications Relating to Securities).

DVEC is a public utility certified within the meaning of the Public Utility Act operating as a not-for-profit cooperative, owned and controlled by its members. The Cooperative provides electric utility service to approximately 2,220 electric meters and 705 natural gas meters located in Greenlee and Graham counties in Arizona and approximately 340 electric meters in New Mexico.

The approval of the Commission is required prior to DVEC issuing, assuming, or guarantying securities or creating a lien on the Cooperative's properties situated in New Mexico pursuant to NMSA 1978, § 62-6-6 (2023).

In its Application, DVEC seeks the Commission’s approval and authorization to: (i) issue a

secured promissory note (“the note”) in the principal amount of \$2,000,000 to the National Rural Utilities Cooperative Finance Corporation (CFC); (ii) enter a mortgage with CFC pledging and mortgaging utility assets in connection with the loan; and (iii) enter a loan agreement and agreement with CFC for a loan in the principal amount of \$2,000,000.00 from CFC to the Cooperative described in the loan agreement (“2024 Loan Agreement”), and for any other approvals and authorizations that may be required in connection with such financing.

The Application is supported by the Direct Testimony of Kassi Mortensen, Chief Executive Officer of the Cooperative along with exhibits.

The Application states that DVEC’s 8-member Board of Directors (“Board”) is elected by the Cooperative’s members and oversees all aspects of the Cooperative’s operations. The Application reports that the Board approved the \$2,000,000.00 loan from the CFC at a regular meeting of DVEC’s Board held on August 24, 2023.

In her direct testimony, Ms. Mortensen states that on March 28, 2024, DVEC applied to the Arizona Corporation Commission (ACC) for approval of the loan application in the state of Arizona and approval was expected on July 9, 2024. Confirmation of ACC’s approval of DVEC’s loan application was received via email on July 9, 2024.

The Application states the exact term and interest rate is not currently known. However, DVEC avers they are not expected to exceed a term of approximately 35 years, and CFC has quoted a rate of 6.46% as of the end of March 2024 that is used for amortization purposes, the resulting ratio exhibit, and supporting schedules.

The Application states DVEC seeks authorization and approval to execute and deliver the Loan Documents to CFC, including the Note issued to CFC (which may include one or more promissory notes not exceeding the total principal amount of \$2,000,000.00), a Mortgage to CFC

pledging and mortgaging utility assets in connection with the Loan, and the Loan Agreement with CFC.

According to the Application, the purposes for which the proceeds of the Note are to be used include the purposes set out in NMSA 1978, §§ 62-6-6 and 62-6-7, as attested to in the testimony of Ms. Mortensen. The Application states the Note is not being issued by the Cooperative for purposes other than the following: the acquisition of property; the construction, completion, extension or improvement of its facilities; the improvement or maintenance of its service; the discharge or lawful refunding of its obligations; or the reimbursement of moneys actually expended for said purposes from revenue or from other moneys in the general fund not secured by or obtained from the issue, assumption, or guarantee of securities within five years next prior to the filing of an application with the Commission for the required authorization.

DVEC asserts the proposed issuance of the Note to CFC, to be secured by the Mortgage, and entering the Loan Agreement are consistent with the public interest and the purposes thereof are permitted by the Public Utility Act.

DVEC further asserts the aggregate amount of the securities outstanding and proposed to be outstanding with this financing will not exceed the fair value of the Cooperative's properties and business.

Finally, DVEC requests that the Application be approved without a hearing. Pursuant to 62-6-7 of the PUA, the Commission may prescribe a hearing and notice, but in its discretion is not required to hold a hearing. DVEC asserts that a hearing is not justified in this case. In support of its position that no hearing be held, DVEC submits that it is expecting the Arizona Corporation Commission's ACC's approval and authorization of the Cooperative's requested loan from CFC; most of the Cooperative's customers and meters (approximately 2,220) are located in Arizona; by

comparison, approximately 340 electric meters are in New Mexico; the bulk of the Cooperative's energy sales (over 99 percent) are to its Arizona members; the Cooperative is a small rural electric cooperative, so the expense and loss of time to the Cooperative would be high in relation to any expected benefit; and, the need for a public hearing is null if there are no interventions following notice to the Cooperative's customers, if required by the Commission.

Additionally, although not referenced in the Application, pursuant to Section 62-6-8(B) of the PUA, no hearing is required for Commission approval of securities and related instruments to the United States of America or any agency or instrumentality thereof, alone in or connection with a CFC loan, and the Commission is required to approve such issuance within 30 days after the application is filed as provided in PUA Section 62-6-9, unless the Commission, for good cause, orders a hearing and/or continues an application beyond 30 days.

Due to scheduling issues and the press of other Commission business, the undersigned Hearing Examiner has found good cause pursuant to Rule 17.1.2.8(C)(4) NMAC to extend the period for disposition of the Application to September 12, 2024.

Finally, under NMSA 1978, § 62-6-7, whether to hold a hearing upon receipt of an application relating to securities is discretionary. This Procedural Order schedules a hearing, which is subject to being vacated at the Hearing Examiner's discretion.

Further information regarding this case can be obtained online at the Commission's Case Lookup E-Docket at <https://www.prc.nm.gov/case-lookup-e-docket/>, or by contacting DVEC. The Commission has assigned Case No. 24-00239-UT to this case and all inquiries or written comments concerning this matter should refer to that case number. In addition, further details regarding this matter and its procedural requirements are set forth in the Procedural Order issued by the Hearing Examiner on July 9, 2024.

The current procedural schedule for this case established in the Procedural Order is as follows:

1. Anyone desiring to become a party (“intervenor”) in this case shall file a motion for leave to intervene in conformity with Rules 1.2.2.23(A) and (B) NMAC no later than **August 12, 2024**. Protests shall be filed on the same date.

2. Staff shall, and any intervenor may, file direct testimony on or before **August 12, 2024**.

3. Any rebuttal testimony shall be filed on or before **August 15, 2024**.

4. A public hearing is scheduled for **August 16, 2024, commencing at 9:30 a.m. MST**, via Zoom videoconference. The purpose of the hearing is to hear and receive testimony, exhibits, arguments and any other appropriate matters relevant to this proceeding to determine whether the Commission should grant the authorizations requested in DVEC’s Application. Such hearing may be vacated if deemed not required pursuant to 17.1.2.8(C)(3) NMAC, in which case the Commission will take public comment and dispose of the Application at an Open Meeting.

5. Interested persons who are not affiliated with a party may make oral or written comment pursuant to Rule 1.2.2.23(F) NMAC. Oral comments shall be taken at the beginning of the hearing on **August 16, 2024** and shall be limited to 3 minutes per commenter. As part of the public hearing, public comment will be taken via the Zoom platform. Therefore, persons wishing to make an oral comment must register in advance, not later than 8:30 a.m. MT on August 16, 2024, by e-mailing Ana Kippenbrock at Ana.Kippenbrock@prc.nm.gov. Written comments may be submitted before the Commission takes final action by sending the comment, which shall reference NMPRC Case No. 24-00239-UT, to prc.records@prc.nm.gov. Public comments in any form are not considered evidence.

6. Unless otherwise provided for by subsequent order setting a hearing in this matter, the

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Commission shall consider the adoption of a final order disposing of DVEC's Application at an Open Meeting to be held on a date to be announced in an Open Meeting agenda posted on the Commission's website at <https://www.prc.nm.gov/nmprc-open-meeting-agenda/>.

7. The procedural dates and requirements established for this proceeding are subject to further order or ruling of the Hearing Examiner or Commission.

Any interested person may examine DVEC's Application, together with supporting pre- filed direct testimony and any exhibits and related papers online at <https://www.nm-prc.org/case-lookup-e-docket/> or by contacting DVEC at the following address and telephone number:

Duncan Valley Electric Cooperative
379597 AZ 75
Post Office Box 440
Duncan, AZ 85534
Telephone: (928) 359-2503

Anyone filing pleadings, documents, or testimony in this case shall comply with the Commission's electronic filing policy. This includes filings in .pdf format, with electronic signatures, sent to the Records Bureau's e-mail address, as set out in the Commission's procedural rules at: prc.records@prc.nm.gov, within regular business hours on the due date to be considered timely filed. Documents received after regular business hours will be considered as being filed the next business day. Regular business hours are Monday through Friday from 8:00 a.m. to 5:00 p.m. Mountain Time (MT).

All pleadings shall be served on all persons on the attached certificate of service and e-mailed to the Hearing Examiner at Tatiana.Perez-Valero@prc.nm.gov by no later than 5:00 p.m. MPT on the date of filing. Copies to the Hearing Examiner shall include Word or other native version of the filing (e.g., Excel or Power Point) if created in such format. Any filings not e-mailed to the Hearing

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Examiner in compliance with the requirements of this Order are subject to being summarily rejected and stricken from the record in the Hearing Examiner's discretion.

Interested persons should contact the Commission at (505) 690-4191 for confirmation of hearing dates, time, place because hearings are occasionally rescheduled or, if deemed not required or necessary, canceled at the discretion of the Hearing Examiner or Commission.

The Commission's Rules of Procedure under 1.2.2 NMAC shall apply in this case except as modified or varied by order of the Hearing Examiner or Commission. The Rules of Procedure and other NMPRC rules are available online at the New Mexico Commission of Public Records, State Records Center and Archives website at <https://www.srca.nm.gov/>.

PERSONS WITH DISABILITIES

IF YOU ARE AN INDIVIDUAL WITH A DISABILITY WHO IS IN NEED OF A READER, AMPLIFIER, QUALIFIED SIGN LANGUAGE INTERPRETER, OR ANY OTHER FORM OF AUXILIARY AID OR SERVICE TO ATTEND OR PARTICIPATE IN THE HEARING OR MEETING, OR FOR A SUMMARY OR OTHER TYPE OF ACCESSIBLE FORMAT OF PUBLIC DOCUMENTS, PLEASE CONTACT THE OFFICE OF DIRECTOR OF ADMINISTRATIVE SERVICES OF THE COMMISSION AT (505) 827-8019 AS SOON AS POSSIBLE PRIOR TO THE MEETING.

ISSUED at Santa Fe, New Mexico this 9th day of **July 2024**.

NEW MEXICO PUBLIC REGULATION COMMISSION



A handwritten signature in black ink, appearing to read "Tatiana Perez-Valero", written over a horizontal line.

Tatiana Perez-Valero
Hearing Examiner
Tatiana.Perez-Valero@prc.nm.gov