

# **Appeal of the Bernalillo County Planning Commission Recommendation of December 3<sup>rd</sup>, 2025**

**TO:** Bernalillo County Board of County Commissioners

**REGARDING:** Request for Repeal/Reversal of Bernalillo County Planning Commission's December 3, 2025, Recommendation of Approval of a Special Use Permit/Sector Development Plan Amendment for PNM's Proposed Substation on Paseo del Norte. Additional detail supporting the Sandia Heights Homeowners Association (SHHA) appeal of the Bernalillo County Planning Commission Notification of Decision for cases SPR2025-0006 and CSU2025-0009.

**APPELLANT:** Sandia Heights Homeowners Association (SHHA)

Representing more than 2,000 residential homeowners

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**REPRESENTATIVE/AGENT OF APPELLANT:** W. James Stewart, SHHA Board of Directors President

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## **I. Introduction and Statement of Standing**

The SHHA, as Appellant, submits this appeal to the Bernalillo County Board of County Commissioners (BCB) pursuant to the County's established procedures for appeals of County Planning Commission (CPC) decisions (BernCo Ordinance 2016-32). This appeal challenges the December 3, 2025 decision of the CPC to recommend approval of the Public Service Company of New Mexico's (PNM) proposed Amendment to the North Albuquerque Acres (NAA) Sector Development Plan (SPR2025-0006) and request for a Special Use Permit (SPR2025-0009) in support of PNM's proposal to construct an electric power substation on Paseo del Norte between Browning and Lowell Streets and an associated 115,000-volt transmission line route along approximately 1.9 miles of Paseo del Norte and Tramway Boulevard through the southwestern heart of Sandia Heights. This appeal is being filed within the required 15-day time period following BernCo Planning Department's Notification of Decision issued on December 16, 2025.

It should be noted that the CPC previously denied a PNM application in 2021 to build a substation at the intersection of Paseo del Norte and Browning. PNM appealed the Commission's decision and was denied. But, as of December 3, 2025, CPC completely reversed its 2021 decision by approving the siting of a substation 628 yards farther east on Paseo del Norte.

Appellant possesses standing as the officially recognized homeowners' association representing more than 6,000 Bernalillo County residents and the approximately 475 homeowners most directly affected by the proposed project and integral electrical transmission corridor. A clear and inseparable nexus exists between the proposed substation and transmission lines. PNM clearly makes this connection in the permit application (page 57) stating:

*“The location and site plan for the project and transmission line are the subject of this Special Use Permit Application to Bernalillo County as required by the Comprehensive Zoning Ordinance of Bernalillo County, New Mexico, Ordinance No. 213 Section 18.”*

PNM consistently included the placement of transmission corridor on Tramway Blvd. as an integral part of its permit application documents (pages 21, 23, 47, 48 (three references), 52, (two references), 53 (two references) and 59).

Bernalillo County Planning and Development Department staff, on July 22, 2025, correspondence to PNM (12/3/25 Agenda Packet page 133) identified **SHHA** as “*a neighborhood association that covers or is adjacent to the project site*” apparently recognizing the transmission corridor as part of the project covered by the SUP application.

The recommended substation location and associated transmission infrastructure pose significant and quantifiable impacts to substantial portions of North Albuquerque Acres, the Sandia Heights community, the High Desert community, and all citizens' enjoyment of the heavily used Tramway bike/walking pathway. The transmission lines will be placed directly above the bike/walking path and at least 37 homes which lie within 100 feet of the lines. These impacts include but are not limited to electric and magnetic field (EMF) effects to sensitive receptors; environmental degradation; property value diminution; aesthetic and visual impairment of the designated scenic corridor; noise impacts from transmission line sparking; measurable risks of wildfire; risk of loss of homeowner fire insurance; and overall degradation of long-established neighborhood character.

Our standing is further reinforced by the fact that PNM misrepresented its methodology for selecting the Tramway Blvd. transmission corridor. At the CPC hearing on September 3, 2025, PNM testified that the alternative route down Eubank had five sensitive receptors consisting of one school, one daycare center and three churches. This same claim regarding sensitive receptors on the Eubank transmission corridor is repeated frequently in their permit application. But the City of Albuquerque and Bernalillo County 2010-2020 Electric Facility Plan (EFP) require consideration of “*schools, child care centers and residential areas*” and does not include churches as potential sensitive receptors (page 11 EFP). PNM did not consider at least 37 residences along Tramway Blvd. within 100 feet of the proposed transmission lines, while there is only one home within 100 feet of a Eubank transmission line route.

PNM included a child care center and a school in its list of sensitive receptors, but neither facility is within 100 feet of the proposed Eubank route. By its own admission, PNM believes that there is no additional risk of exposure to EMF at distances of greater than 100 feet from 115,000-volt transmission lines. PNM's unwillingness to correct its information is critical because the number

of sensitive receptors appears to be the only claimed technical basis for selecting the Tramway Blvd. transmission route.

The proposed PNM project will have virtually no positive benefit for the Sandia Heights, High Desert, and NAA communities, since PNM has officially and often declared that the proposed substation's distributed power is designed to serve existing and growing residential and commercial demand for electric service in areas located miles to the west of Sandia Heights (i.e., in the vicinity of Paseo del Norte and San Pedro/Wyoming), the planned site for Substation Project #12 in the EFP (Table 5).

## **II. Procedural History**

On July 24, 2025, PNM submitted a revised application to Bernalillo County seeking approval of a Sector Plan Amendment and Special Use Permit (SUP) for construction of (1) a new electrical substation adjacent to the Paseo del Norte access road immediately west of the Bernalillo County Fire Station #35 and (2) a 1.9 mile high-voltage transmission line consisting of double-circuit, three-phase, 115,000-volt transmission lines atop approximately twenty 90-foot tall towers running parallel to or within the vicinity of Paseo del Norte, Tramway Boulevard, and the associated Tramway pedestrian walkway/bike pathway.

The County issued public notice of the project and conducted a public hearing before the CPC on September 3, 2025, at which numerous residents and community groups, including Appellant, provided testimony raising concerns about environmental, health and safety impacts, greater construction cost, sensitive receptor populations, substantial wildfire risk, increased fire insurance cost or cancellation, impact inequity, scenic/visual degradation, and property value degradation.

At this hearing, the CPC issued a ninety-day continuance of the application process to provide time for PNM and various neighborhood groups to meet in an effort to reach a common ground. Appellant, through its Board of Directors appointed a Chair of a PNM Special Task Force (TF) to lead the effort on behalf of the SHHA. The PNM TF met on four occasions with PNM representatives and then concluded its efforts with a public meeting (attended by some 150 residents), in an unsuccessful effort to influence PNM to not place the transmission lines along Tramway Blvd. Despite substantial evidence and community testimony demonstrating the project's deficiencies, the CPC voted on December 3rd to recommend approval of PNM's application.

## **III. Grounds for Appeal**

Appellant requests that the BCB reverse the CPC recommendation for approval of the proposed substation and transmission corridor project on the following grounds:

### **A. Errors made in applying adopted county plans, policies, and ordinances in arriving at the decision**

1. **Inconsistency with Bernalillo County Zoning Ordinances and NAA Sector Development Plans** The CPC's decision fails to demonstrate compliance with applicable zoning requirements, including standards regarding utility infrastructure planning studies, placement, scenic protection, neighborhood compatibility, and potential wildfire impacts on surrounding residential properties. The NAA Sector Development Plan specifically requires maintenance of the area's *rural character*, which is at considerable variance to construction of a substation and high-voltage transmission lines.
2. **Substantial Lack of Conformance with the BernCo Electric Facility Plan (EFP)** The EFP, negotiated between PNM, Bernalillo County and the City of Albuquerque, and adopted in 2011 by the BCB under Resolution No. 69-2011, states "New electric facilities must comply with the Plan" (last line, Page 1). Among the EFP requirements to which PNM's applications fail to conform are the following:
  - a. The PNM permit application, as well as the CPC December 16, 2025, Notification of Decision letters, state "*This project has long been identified as Project 12 (La Cueva Substation) in the (EFP) to provide substation capacity to serve the residential and commercial growth in the area surrounding Paseo del Norte and San Pedro/Wyoming*" The proposed NAA Substation location is 3-1/2 miles east of and far from the residential and commercial growth that the La Cueva substation was intended to serve.
  - b. A change of location for a Project identified in the EFP requires an application from the Utility, CPC review and BCB consent. PNM's application states that the proposed transmission lines for the current project represent Project 11 in the EFP described as "*Build a 115 kV line from Eubank and San Antonio NE to La Cueva Substation*". The PNM applications state numerous times that "*the transmission lines...will be along Tramway and Paseo del Norte*" although no engineering study has been completed to support this change in Project 11, no application has been made to the County, and no BCB approval granted. In fact, the permit application (page 21) states that "*PNM heard and responded to the NAA Community Association's...preference that the transmission line route be along Tramway Blvd.*" A siting decision that was hardly scientific, supported by engineering criteria, or permitted by the EFP.
  - c. The EFP requires that "*the utility's (SUP) application will include...a siting study for transmission corridor alignments*" (EFP page 8 Project Review Processes) and includes an "*Outline for a Typical Siting Study (for a) Transmission Facility*" (EFP Appendix A). Further, the EFP requires CPC review and BCB consent for substation projects and transmission projects including siting studies for each (EFP Table 4).
  - d. Additional environmental considerations (EFP Page 5) which are not adequately addressed in PNM's applications include the following: "*New transmission line alignments shall minimize Visual, Ecological, and Land Use impacts. Angles in transmission lines shall be avoided or minimized. Placement of electric transmission structures in front of residential lots shall be avoided. Height, size, and number of electric transmission structures shall be addressed when considering land use and visual impacts.*"

- e. PNM has not properly considered the number of sensitive receptors along the Tramway Blvd. vs. Eubank Blvd. transmission routes. EFP specifically lists the sensitive receptors that shall be considered as “schools, child care centers and residential areas” (page 11). In its permit application, PNM redefined sensitive receptors as “schools, childcare centers and the elderly” and ignored significant residential areas along the Tramway Blvd. route. In testimony at the December 3, 2025, CPC meeting, PNM added one new category, churches, to its list of sensitive receptors and again failed to consider residential areas as sensitive receptors.

## **B. Procedural Errors and Deficiencies**

1. **Failure to Consider or Address Public Concerns.** Significant issues raised in public testimony—including fire risk, health and safety impacts, property devaluation, recreational disruption, and scenic degradation—were not substantively addressed in the decision. In addition, the CPC questioned PNM directly on transmission line planning, undergrounding of transmission lines, and the appearance of the transmission towers, but these issues were not addressed by PNM or by the CPC in its recommendation for approval of PNM’s proposed project.
2. **Failure to Address EFP Requirements for Transmission Corridor Siting.** Clearly a substation cannot exist without transmission lines providing high-voltage electricity, meaning that the substation and transmission lines are inexorably linked as part of a unified project. The CPC Chair and the County Counsel announced at the beginning of the December 3rd hearing that no consideration should be given to the routing of transmission lines since they were not a part of the project’s requested substation Sector Plan Amendment and SUP. It was procedurally incorrect to ignore transmission line routing as a part of the proposed project and reject testimony relating to the siting and significant adverse and negative impacts of the transmission lines.
3. **Insufficient Review of Alternatives.** PNM failed to provide a comprehensive alternatives analysis and siting study for the transmission corridor as required by the EFP, and in fact, ignored the substation siting study that they commissioned from its technical expert consultant, Burns & McDonnell. The substation siting study itself was submitted in draft form as an attachment to the PNM application and was incomplete and contained errors. The CPC recommended approval of the Tramway transmission line route despite the absence of complete siting studies and disregarding the existence of feasible, less damaging alternatives which were not adequately studied or considered.
4. **Reconciling differences in CPC provided information.** Members of the Appellant group were told by the CPC that the appropriate forum for public comment on the transmission route would be with the NM Department of Transportation (NMDOT) and the Public Regulation Commission (PRC) and only after the County approval of the Sector Plan Amendment and SUP decisions.
  - a. This information was originally presented in the Planning Department Staff Report dated December 3, 2025 (page 18) and repeated in the CPC Notification of Decision letter dated December 16, 2025): “*The Public Regulation Commission is the regulating agency that approves the location of transmission lines (Section*

62-9-3 NMSA 1978). ” The cited statute clearly states that the PRC’s regulatory authority is limited to “*electric transmission line(s) ...designed for or capable of operations at a nominal voltage of two hundred thirty kilovolts or more*”. The transmission capacity for this project is 115 kilovolts.

- b. When a utility company, such as PNM, wants to place infrastructure within or near state-owned rights-of-way, the NMDOT’s involvement is limited to technical safety and physical integration rather than the high-level planning of where those lines are routed.

### **C. Arbitrary Decision-making or Insufficient Evidence to Support the Planning Commission’s Decision**

1. This project was previously proposed by PNM and rejected by Bernalillo County in 2021. PNM submitted an almost identical substation project for Sector Plan Amendment and SUP in 2021 for a site a few hundred yards to the west, with transmission lines routed along Eubank. This proposal was rejected by unanimous vote of both the CPC and the BCB four years ago, so it should be even more substantially rejected now when the transmission line follows an even longer route east on Paseo del Norte and south on Tramway to the existing PNM 115,000-volt lines on San Antonio, a proposed route that is substantially more impactful on residents, recreational users of the Tramway Bike/Walk Pathway, and the natural environment than the previously proposed plan.
2. Environmental and community impacts were consistently understated. The record lacks credible studies addressing potential impacts, including:
  - a. Electrical discharge noise and potential EMF impacts on at least 37 residences located within 100 feet of proposed high-voltage transmission lines along Paseo del Norte and Tramway Blvd.;
  - b. Increased wildfire risk in a high-risk wildland–urban interface;
  - c. Potential loss or substantial increased cost of homeowner fire insurance;
  - d. Property value loss; and
  - e. Degradation of protected view corridors.
3. With specific regard to wildfire, PNM staff dismissed the concerns of Tramway Blvd. communities that the area represents a higher wildfire risk than the initially proposed Eubank Blvd. transmission route. At the December 13, 2025, PNM community meeting, PNM representatives stated that the wildfire risk on both corridors were the same. However, the June 2022 Bernalillo County Community Wildfire Protection Plan (CWPP) provides a significantly different assessment of the wildfire risk in these areas, identifying the entire Sandia Heights neighborhood as a “*Community at Risk*” for wildfire, from Tramway Blvd. East. The area comprising the Eubank Blvd. transmission route is not covered by such a wildfire risk designation.

### **IV. Exhibits and Supporting Materials (incorporated by reference)**

In support of this appeal, Appellant cites the following documents/references:

- The administrative record, including the full agenda packets for the September 3, 2025, and December 3, 2025, CPC meetings, including:
  - a. PNM application for SPR2025-0006 and CSU2025-009
  - b. BernCo Planning Commission staff reports
  - c. CPC meeting transcripts
  - d. Public comments submitted in writing prior to, and statements from residents, engineers and environmental scientists at, the September 3, 2025, and December 3, 2025, CPC meetings.
  - e. Bernalillo County Planning and Development Department staff July 22, 2025, correspondence to PNM regarding notification of homeowners' associations.
  - f. CPC December 16, 2025, Notification of Decision letters for SPR2025-0006 and CSU2025-0009.
- Bernalillo County's 2010-2020 Electric Facility Plan (EFP) adopted in 2011 by the BCB under Resolution No. 69-2011.
- Bernalillo County Zoning Ordinance No. 213.
- Paseo del Norte/North Albuquerque Acres Sector Development Plan, November 2008, adopted by BCB on 11/25/08 under Ordinance No. 2008-12.
- Bernalillo County Community Wildfire Protection Plan (CWPP), SWCA Environmental Consultants, June 2022.

Appellant reserves the right to supplement the record as permitted if new evidence and information emerge.

## V. Conclusion

For the reasons stated above, Appellant maintains that the CPC's decision was unsupported by consistent substantial evidence, was contrary to Bernalillo County's adopted land use and electrical facility plans, was procedurally deficient/biased in favor of PNM, and harmful to the Sandia Heights community's right to environmental and health/safety protections, as well as protection of property rights and financial interests.

Accordingly, appellant respectfully requests that the BCB:

- **Reverse** the CPC's recommendation of approval of the PNM substation and transmission corridor Sector Plan Amendment and SUP applications; or
- **Remand** the case to the CPC with instructions to conduct additional analysis, correct procedural and factual errors, and require compliance with applicable county plans and regulations; or
- **Impose** enhanced mitigation measures and alternative transmission line routing to reduce the substantial adverse impacts on the Sandia Heights community and users of the Tramway bikeway/walkway.
- Appellant further requests any other relief the Board deems appropriate to ensure compliance with County regulations and protection of our community's environment and general welfare.

## **Certificate of Service**

I hereby certify that a copy of this appeal and the required appeal fee of \$100.00 have been delivered to the:

- Bernalillo County Planning & Development Services Department
- Bernalillo County Board of Commissioners on this 29th day of December 2025.

**Signature:** \_\_\_\_\_

**Name:** W. James Stewart

**Title:** President, **SHHA** Board of Directors

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