From: Peters, Jason
To: Director - FASB

Subject: File Reference No. 1840-100

Date: Monday, September 20, 2010 10:15:26 PM

September 20, 2010

Mr. Russell G. Golden, Technical Director

Financial Accounting Standards Board

401 Merritt 7

PO Box 5116

Norwalk, CT 06856-5116

Email: director@fasb.org

Re: Proposed Accounting Standards Update — Disclosure of Certain Loss Contingencies; File Reference No. 1840-100

Dear Mr. Golden:

PNM Resources, Inc. appreciates the opportunity to respond to the Proposed Accounting Standards Update, *Disclosure of Certain Loss Contingencies*.

PNM Resources, Inc. is a diversified energy company in the United States with approximately \$5.4 billion of assets, \$1.6 billion in annual revenues, and almost \$1.0 billion in market capitalization. Our subsidiaries and affiliates are involved in the generation, transmission and distribution of electricity, as well as energy management and other energy-related services primarily in New Mexico and Texas.

Overall, we support the Financial Accounting Standards Board (FASB) in its objective to develop accounting principles that enhance the transparency and relevance of financial statement disclosure. However, as many other companies have said in their comment letters, in general, we oppose the updates proposed. While we recognize the intent of this proposal, we do not believe the additional requirements will meet the intent. While the additional disclosure requirements will provide some additional information for users, it will not provide significant specific, useful, or relevant information that justifies the additional effort and expense involved. In addition to the additional burden on companies resources, the proposed update will further push the already tenuous boundaries of the established "treaty" between the legal counsel and external auditors for an unproven benefit. We believe that the current guidance provides adequate disclosure. We believe the FASB is currently dealing with many issues that are much more important to resolve than this one, and encourage that this issue not be pursued at this time.

We have provided brief responses below to certain of the questions raised by the FASB.

Question 1: Are the proposed disclosures operational? If not, please explain why.

We do not believe the proposed disclosures are operational. The preparation of the proposed disclosures will require significant assumptions and legal judgments that cannot be easily assessed by management or verified by auditors. Further, the proposed update does not address how, in practice, legal counsel can assist in making these types of judgments or provide sufficient audit evidence to independent auditors. We also believe that the proposed update significantly underestimates the costs of providing the information necessary to generate the proposed disclosures—both directly through increased legal and audit fees and indirectly through unintended consequences, such as the disclosure of prejudicial information adversely impacting the resolution of a loss contingency. In particular, the requirements for the tabular reconciliation of accrued amounts and the disclosure of certain remote contingencies are problematic. While the tabular reconciliation may not result in the disclosure of prejudicial information for large companies with numerous potentially large contingencies, in the vast majority of entities the reconciliation will disclose information that will be prejudicial to the entities position since they may only have one large item and the disclosure of the amount or description of activity will easily be identified with the specific The disclosure of remote contingencies that could have severe impacts introduces another level of legal assessment to the financial statement process that will be even more subjective than the current standards and will be even more difficult to support with evidence that is auditable. The existing disclosure requirements adequately cover these items. We also believe that the requirement to disclose contingencies without considering possible insurance or other recoveries, such as from joint and several arrangements, would result in the disclosure of misleading information concerning the magnitude of contingencies that would be misinterpreted by users of financial statements. We urge the FASB to not adopt any of these requirements.

Question 2: Are the proposed disclosures auditable? If not, please explain why.

Independent auditors will have difficulty verifying the proposed disclosures concerning litigation strategies and assessments of potential exposures and likely outcomes. Auditors primarily rely on information and judgments obtained from legal counsel as directed by the ABA Statement of Policy, which are subject to the attorney-client privilege and based on existing U.S. GAAP accounting and disclosure requirements. For instance, the ABA Statement of Policy does not contemplate that the audit letter from legal counsel would describe whether "remote" losses may be resolved in the near-term, or whether such losses could have a "severe impact" on the company. In fact, legal counsel is not required to provide any opinion on the outcome of a loss contingency or the range of loss to auditors unless the possibility that the lawyer's opinion is incorrect is "slight." The proposed disclosure suggests that legal counsel provide the precise opinion that the American Bar Association has already advised would be beyond the role of counsel. As such, we believe that attorneys will be unable to provide independent auditors with sufficient and appropriate audit evidence to corroborate the proposed disclosures.

In addition, the disclosures for remote contingencies will make it harder for users to discern credible information. Certain remote contingencies may already arise to the level of a risk factor inherent in business that results in disclosure in the "Risk Factors" section for public companies.

Question 3: The June 2008 FAS Exposure Draft, Disclosures of Certain Loss Contingencies, had proposed certain disclosures based on management's predictions

about a contingency's resolution. The amendments in this proposed Update would eliminate those disclosure requirements such as estimating when a loss contingency would be resolved and the entity's maximum exposure to loss. Do you agree that an explicit exemption from disclosing information that is "prejudicial" to the reporting entity is not necessary because the amendments in this proposed Update would: a. Not require any new disclosures based on management's predictions about a contingency's resolution b. Generally focus on information that is publicly available c. Relate to amounts already accrued in the financial statements d. Permit information to be presented on an aggregated basis with other similar loss contingencies? If not, please explain why.

If the Board intends to pursue this update, we believe that an explicit exemption from disclosing prejudicial information is necessary. The amendments in the proposed update, and specifically surrounding the tabular reconciliation, compel management to disclose prejudicial information. For example, the proposed disclosures concerning litigation strategies and assessments of potential exposures and likely outcomes will require management to make predictions about a contingency's resolution based on information that is confidential in nature and not publicly available. The proposed disclosures, especially assessments of potential exposures, do not always relate to amounts already accrued in the financial statements—such as in the case of reasonably possible claims. Further, we believe that aggregation of prejudicial information does not provide adequate concealment of prejudicial information for individually material loss contingencies since depending upon the size, nature and number of the claims and the company size, matters may easily be discerned. These proposed disclosures could place enterprises at a disadvantage in legal proceedings by extending leverage to opposing parties, thereby adversely affecting the resolution of loss contingencies.

We also have the same concern regarding revealing specific insurance or other related recoveries as other companies do, in that it may reveal sensitive company information as well as potentially cause an increase in the number or amount of claims when this type of information is known by the claimant. The disclosure of insurance information that is "discoverable" may, in many cases, require entities or their legal counsel to make assessments of what ruling a court may ultimately make, which is well beyond the purpose of financial statement disclosure.

Ouestion 4: Is the proposed effective date operational? If not, please explain why.

As the proposed update is currently drafted, a new standard would be impossible to implement by the stated effective date. Even a new standard that was scaled-back drastically would be extremely difficult to implement for 2010. If the Board intends to pursue this update, we believe that deferral of the proposed effective date for at least one year is necessary given the significant increase in the amount of required disclosures and the considerable administrative burden required by the reporting entity's staff, legal counsel and external auditors to comprehend and implement the guidance. The need for adequate coordination between reporting entities, their legal counsel, and their auditors is paramount and could not be done in the time frame proposed.

Question 5: Do you believe that the proposed disclosures will enhance and improve the information provided to financial statement users about the nature, potential magnitude, and potential timing (if known) of loss contingencies?

We do not believe that the proposed disclosures will meaningfully assist financial statement users in assessing the amount and timing of loss contingencies. In general, we believe that the existing disclosure requirements in current authoritative guidance provide adequate information regarding potential loss contingencies to investors and other users of financial statements. Disclosure is currently required for the nature, magnitude and other relevant qualitative information related to loss contingencies that are at least reasonably possible, and we do not believe that additional qualitative and quantitative disclosures will provide incremental benefits to the users of the financial statements. We also do not believe that entities will accelerate their disclosure of material contingencies as a result of the proposed guidance.

Question 6: Do you agree that nonpublic entities should be exempt from the tabular reconciliation disclosures required in the amendments in this proposed Update? If not, please explain why. Are there any other aspects of the amendments that should be applied differently to nonpublic entities? If so, please identify and explain why.

Yes, the additional disclosure requirements are not needed or useful for nonpublic companies.

Question 7: The amendments in this proposed Update would defer the effective date for nonpublic entities for one year. Do you agree with the proposed deferral? If not, please explain why.

Yes, in general, nonpublic companies do not have the staffing and resources on handthat most public companies do and therefore may need additional time to implement the new requirements.

In closing, PNM Resources, Inc. appreciates the opportunity to comment on the FASB's Proposed Accounting Standards Update, *Disclosure of Certain Loss Contingencies*. In light of the concerns expressed above, we believe that the disclosure requirements provided by current authoritative guidance provide a sufficient level of relevant and reliable information to financial statement users and are well understood by reporting companies, investors, auditors and attorneys. We urge the FASB to withdraw the proposed update.

Sincerely,

Henry A. Ingalls

Director, SEC Reporting and GAAP Analysis

PNM Resources, Inc.