

**STATE OF NEW MEXICO
BEFORE THE SECRETARY OF THE ENVIRONMENT**

IN THE MATTER OF:

**THE APPLICATION OF YUCCA
GROWTH INFRASTRUCTURE
LLC FOR AN AIR QUALITY PERMIT,
NO. NSR 10883**

No. AQB 26-57 (P)

SUA SPONTE ORDER

After due consideration I have determined that my Order of August 5, 2026 requesting that the parties brief New Energy Economy's (NEE) Motion to Show Cause as to why the above referenced application should not be dismissed was inadvisably filed, and my Order is hereby withdrawn and no responses to that order are to be filed. This Sua Sponte Order is based on a determination that NEE's motion is not ripe for adjudication in that NEE has not established the dispositive premises of its motion. NEE's dispositive theory under 20.2.72.208(G) depends on the proposition that the Green Chili Lateral is the only means by which the proposed source can receive natural gas, and the Commissioner of Public Lands has canceled and denied reconsideration of two requested rights-of-way that would allow Applicant to build the necessary pipeline to supply that gas. However, NEE's motion does not establish or even address the possibilities that affected segments cannot be rerouted, that a meter station cannot be relocated, that another interconnection is unavailable, or that another legally obtainable delivery arrangement does not exist. In other words, NEE's motion does not establish that other possibilities do not exist that would

allow the facility to be built within a reasonable time, making 20.2.72.208 (9) NMAC irrelevant.

My August 5 Order asks the parties to present facts necessary to evaluate that issue. However, I find that such facts should be developed through testimony presented under oath rather than through argument of counsel in briefs, and is, therefore, more appropriately adjudicated at the hearing on September 14, 2026. For these reasons I deny NEE's motion to show cause and withdraw my Order of August 5, 2026.

August 9, 2026

Max Shepherd
Hearing Officer

CERTIFICATE OF SERVICE

I hereby certify that on the 10th day of August 2026, a copy of the foregoing was sent to the following parties or counsel of record via electronic mail:

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