

**MINUTES OF THE
CASE MANAGEMENT OPEN MEETING
NEW MEXICO PUBLIC REGULATION COMMISSION
February 13, 2019**

TIME: 9:30 a. m.

**PLACE: PERA Building
4th Floor Hearing Room
1120 Paseo de Peralta
Santa Fé, New Mexico 87501**

A quorum was present as follows:

Members Present:

Commissioner Theresa Becenti Aguilar, Chairperson
Commissioner Valerie Espinoza, Vice-Chairperson
Commissioner Jefferson Byrd, District 2
Commissioner Stephen Fischmann, District 5
Commissioner Cynthia B. Hall, District 1

Members Absent:

Staff Present:

Jason Montoya, Acting Chief of Staff
Michael Smith, Acting General Counsel
Judith Amer, Associate General Counsel
Russell Fisk, Associate General Counsel
David Black, Associate General Counsel
Michael Ripperger, Telecommunications Bureau Chief
Carolyn Glick, Hearing Examiner
Cydney Beadles, Legal Division Director
Mark Cessarich, Telecommunications Bureau

Others Present

Carl Boaz, Stenographer

CALL TO ORDER

The Case Management Open Meeting was scheduled at 9:30 a.m., pursuant to proper notice under NMSA 1978, 10-15-1(c), and the Commission's Open Meeting Policy. Commissioner Theresa Becenti Aguilar, Chair, called the Case Management Open Meeting to order at 9:30 a.m., in the Fourth Floor Hearing Room, PERA Building, 1120 Paseo de Peralta, Santa Fé, New Mexico.

A copy of the sign-in sheet for the Case Management Open Meeting is incorporated herewith to these minutes as Exhibit 1.

A copy of the Agenda for the Case Management Open meeting is incorporated herewith to these minutes as Exhibit 2.

A copy of the Public Comment sign-in sheet for the Case Management Open Meeting is incorporated herewith to these minutes as Exhibit 3.

1. PLEDGE OF ALLEGIANCE/STATE PLEDGE

The Pledge of Allegiance and State Salute to the Flag were recited.

2. INTRODUCTION OF SPECIAL GUESTS

Commissioner Byrd recognized the presence of Senator Bill Sharer and welcomed him.

Senator Sharer introduced several other people from the Farmington area who were present, and the Commission welcomed them.

3. CONSIDERATION AND APPROVAL OF THE AGENDA

Commissioner Espinoza moved, seconded by Commissioner Byrd, to approve the agenda as published. The motion was approved by unanimous (5-0) voice vote.

4. CONSIDERATION AND APPROVAL OF THE MINUTES

- **Minutes of the Open Meeting for January 23, 2019**

Commissioner Espinoza moved, seconded by Commissioner Hall, to approve the minutes for January 23, 2019 as presented. The motion was approved by unanimous (5-0) voice vote.

Statement by Senator Sharer

Chair Becenti Aguilar invited Senator Sharer to speak before the next agenda item.

Senator Sharer said it was a pleasure to be able to address the Commission. His only concern was that the Commission consider anything they do as a Commission, and how that would impact the state. He knew there is a mandate to consider with rates, etc. when addressing utilities, but humbly asked that the Commission consider other things

like the people who are affected.

5. DIVISION DIRECTORS REPORTS

A. Mr. Avelino Gutierrez, Transportation Division Director.

Chair Becenti Aguilar explained because new Commissioners started last month, division directors are being asked to attend the meeting and report on what they are working on. The Commission wants to be informed and have everyone aware of what is being done at the Public Regulation Commission.

Commissioners have a duty to review the cases brought from the General Counsel's Office. That is what they concentrate on, but they sometimes need to go beyond and ask the division directors about the work of their departments. They inform the Commission on cases and provide ideas, recommendations and forecasts.

Mr. Gutierrez, the Director of the Transportation Division said he would start with staffing and vacancies.

- There are two vacancies in the Motor Carrier Bureau – one is a clerk. The other position was recently reclassified. The interviews were completed yesterday and the hope is to have a recommendation to the Chief of Staff this week.
- In the Applications Bureau there were 23 warrant applications and 5 certificate applications in the last week with one approved. All 23 warrant applications have been processed and now are approved.
- They have mailed over 3,200 UCR (Unified Carrier Registration) application postcards based on the start of the UCR period the first week of January. The UCR program has 41 states that are allowed to charge interstate motor carriers a fee based on their fleet size, paid to one agency in each state. The PRC is the agency in New Mexico and as a result of the fee, PRC collects \$3.2 million which is reverted to the State Road Fund. The UCR staff processed approximately 120 applications by phone and received/processed 25 payment vouchers.
- The Railroad Bureau Operating Practice Inspector has logged 20 inspection days in the past 30 days, finding one violation and one defect. The track inspector logged 13 inspection days with four violations and approximately 250 defects. The defects were on reconditioned tracks near a Carlsbad area that is under consideration as a temporary storage for high-level nuclear waste.

The inspector told him that often reconditioned tracks have errors and they need to return and fix them, such as a metal plate over a spike that could lead to a broken rail if not corrected. To find the defects, the inspector has to walk

the tracks.

- The Inspection Investigation Bureau in the last 30 days has conducted 10 inspections and 8 investigations broken into types of carriers. (Shown on the reverse side of the handout).
- The week of March 18-22, the Inspection Bureau will conduct a joint operation with the New Mexico State Police and Rio Rancho. Typically, the state police inspect the motor vehicles while the Inspection Bureau audits the motor carrier's paperwork. They have scheduled 167 vehicles for inspection.

Commissioner Espinoza noted that 10 inspections and 8 investigations were conducted in the last 30 days and asked if there was still a shortage of travel funding and was the reason 20 rail inspections were done in the same amount of time.

Mr. Gutierrez explained they no longer have a shortage of funding for travel and can respond to complaints and requests for inspections as needed.

Commissioner Espinoza asked if any of the investigations were related to the ambulance services across the state.

Mr. Gutierrez agreed they were. Jamie Martinez has a set a schedule for ambulance inspections and anticipates that he will accomplish one inspection each year for each ambulance carrier, as required.

Commissioner Espinoza said that Uber had contacted her office and set up a meeting. She asked how often Uber and Lyft were inspected. She knew they come to the PRC parking lot instead of staff going to them but was not sure why.

Mr. Gutierrez explained they inspect their compliance with drug and alcohol requirements under the Transportation Network Company Services Act. They had received word that Colorado had levied a number of fines against the Transportation Network Companies for noncompliance with drug and alcohol and criminal background checks.

The Transportation Division has concentrated their staff efforts on the drivers and accomplished background checks for all at Uber and Lyft vehicles and drivers last year.

Commissioner Espinoza asked Mr. Gutierrez to explain positive train control.

Mr. Gutierrez explained it has been a system in Federal law for about 10 years and was extended because the railroads were not ready to implement the system across the board. The system stops the train if the engineer should become incapacitated and can prevent the engineer from running red signals at required stops.

The system is a safety measure based on GPS and most railroads in New Mexico are on schedule to implement it with the exception of the New Mexico Rail Runner.

Commissioner Espinoza indicated they were working on temporary crossings in the Chama area.

Mr. Gutierrez offered to follow up on that if Commissioner Espinoza would identify the crossings for him.

Commissioner Byrd asked clarification on the investigations. He asked if, when the Bureau audits the motor carrier paperwork, if it is just in reference to the driver's logs.

Mr. Gutierrez replied they do look at logs but mostly look at compliance with drug and alcohol testing, annual vehicle inspections and the medical card required for the driver's file.

Commissioner Byrd asked how electronic logs had changed Mr. Gutierrez's job.

Mr. Gutierrez explained they had not at all transitioned because they are not allowed to stop trucks and have no field authority and do not station themselves at the ports. They rely on state police or other law enforcement personnel for that.

Commissioner Hall asked regarding railroad inspections, if the 250 defects he mentioned constituted a large number of those defects.

Mr. Gutierrez agreed. Most were found on reconditioned track where new ties, spikes and often new rail had been put in. The track inspector gave the superintendent of the BNSF 30 days to bring those into compliance and will check to be sure the defects were corrected.

Commissioner Hall asked what the frequency of the shipments of nuclear waste is.

Mr. Gutierrez explained there had been no shipments to date but there is anticipation. It has not been approved yet and is not yet built, but the railroad is getting prepared.

Commissioner Fischmann asked who inspects vehicles and how they are qualified.

Mr. Gutierrez explained mechanical inspections are performed by certified level I mechanics, as required by DOT, to allow the inspector to crawl under the vehicles, check brakes, etc. Typically between 8 and 12 vehicles are put out of service by the State Police until the vehicles are fixed.

Commissioner Fischmann asked if the inspectors actually work for State Police or were contracted.

Mr. Gutierrez explained his referral to State Police is actually the State Motor Transportation Division. They are state employees who were folded into the State
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Police Department.

In the other inspections, PRC audits the driver and vehicle files.

Chair Becenti Aguilar asked Mr. Gutierrez to explain regulations for towing services and fees when a vehicle breaks down on the roadside.

Mr. Gutierrez stated that happens often and when it does, the State Police call the tow company in the rotation, and it is a nonconsensual tow, i.e., the person could not shop for a tow truck. A motorist who calls a towing company for a tow is consensual.

The fees for nonconsensual must follow the statewide wrecker tariff and prices are on the PRC web site and also available in writing. The class of vehicle determines the price; a semi would be a higher rate than a passenger car.

Commissioner Fischmann indicated his office receives a number of calls regarding towing services. People are often so angry their messages are difficult to understand what their complaint is about. He asked if there were any issues the Commissioners should know about.

Mr. Gutierrez asked that Commissioners refer those people to the Transportation Staff because we want to investigate the complaints. The complaints are usually in regard to being overcharged from towing companies and wreckers. About 75% of the complaints are about cars that have been towed as nonconsensual tows.

Commissioner Fischmann suggested putting a message that people leave their phone number, because they often forget to do so.

Commissioner Espinoza asked Mr. Gutierrez to explain the letter she had requested that he send related to tow trucks not using straps when hauling.

Mr. Gutierrez explained the correct way to haul a car on a vehicle carrier - called a slider - is to have 3 points of contact with the carrier. One point is the front of the vehicle and the other are on the two back wheels. Commissioner Espinoza wanted to send a letter reminding wreckers of the rule to ensure they adhere to the three-point requirement.

Commissioner Espinoza recalled having been prompted with the idea when driving behind a tow truck that looked like the car was going to fall on her.

Chair Becenti Aguilar recalled a similar situation in a small town in New Mexico where the straps did not hold the beams it was carrying and that caused fatalities.

She commended Mr. Gutierrez on doing a great job as the first division director that reported. She asked all other division directors to follow his line of communication and relate the vacancies, pending applications, departments that fall under the division,

inspections, etc.

Chair Becenti Aguilar asked that staff keep a good summary of the complaints. She had requested the number of complaints that had been received from October through December 2018 and the answer was there were 64 complaints. She stressed the importance to the Commission to have good detail so they could address the issues.

Commissioner Fischmann thanked Mr. Gutierrez for his report. He found it very helpful and the paperwork was brief and to the point and he had set a good example.

Commissioner Espinoza asked if the Commission could hear only one report a week, given the amount of cases and number of people in the audience.

Commissioner Byrd recalled the Commissioners had agreed the reports would be spread over the quarter.

B. Legal Division - Cydney Beadles.

Ms. Beadles asked to report two brief developments.

A law professor at UNM Law School had asked her for relevant energy transition topics for one of his students to research and write about. A student had contacted her and has chosen to write about the issue of whether rate payers should pay for financial assistance to coal workers in communities, even if the workers are located outside of the utility service area.

Staff will direct her to pending legislation regarding the issues and potential resources. Her paper will be shared with the Commission once completed.

Ms. Beadles indicated another development was that Dr. Heidi Pitts applied for and received a technical assistance grant from the US Department of Energy [DOE]. She stated the credit should go to Milo Chavez's shop, even though PRC Legal staff had also worked on that.

The assistance requested will address four topics:

- 1- What is the optimal solar energy combination utility-owned, in customer DG, both residential and commercial, in a portfolio that will minimize excess backup capacity;
- 2- how do different types and levels of solar energy resources interact together and impact the grid;
- 3- what concurrent grid modernization should we be focusing on at different levels of solar resource deployment and;
- 4- what would be considered the optimal combination of solar resource installation at varying degrees or pace of deployment.

The goal is to develop an in-depth analytical tool to evaluate PNM's SJGS replacement plan and will start work with Pacific Northwest National Lab.

Ms. Beadles pointed out that if SB 489 passed, it would impose constraints on the Commission's review and approval of utility resource proposals. Also it could limit the use and benefit of the help.

Commissioner Fischmann asked, given PRC's budget constraints, if the grant would allow Dr. Pitts to bring in help.

Ms. Beadles replied Dr. Pitts had received a grant before and experts from the lab and the staff held a number of conference calls and staff developed analytical tools internally.

Commissioner Hall asked how assistance would be quantified; in dollars or hours. She thought the scope of study was ambitious.

Ms. Beadles recalled in the Dr. Pitts' previous award, the PRC received 35-40 hours of work from the Lab with several hours of telephone conferences. It did not consume a lot of Commission hours.

Part of the following section is verbatim at the request of Commissioner Espinoza.

6. PRESENTATION

- Joseph S. Fichera, NRRI Fellow and CEO-Saber Partners, LLC. Dean Criddle-Orrick, Harrington. Becky Klein - Klein Energy. Regarding Securitization Provisions of Senate Bill 489.

Commissioner Espinoza – to Commissioner Hall, you may introduce them, but my question is - I was wondering, Mike Smith, who put this on the agenda.

Commissioner Hall – I did.

Mr. Smith - Madam Chair, I believe [inaudible], Commissioner Hall...

Commissioner Espinoza - Oh okay, great. Thank you.

Chair Becenti Aguilar – Okay.

Commissioner Espinoza - That's all I wanted to know is who put it on the agenda, because it doesn't have... Usually we author the name just to know who put it on there.

Commissioner Hall - Oh.

Commissioner Espinoza - Thank you, Madam Chair.

Commissioner Hall - Oh, yeah.

So Commissioners, we have today a team from the Saber Partners, LLC, organization that our agency contacted over a year ago when Bob Hirasuna, assistant to Commissioner Jones, was still with us.

Bob had reached out to them because he'd heard about them. And it was in connection with the issue last year about this time, during the legislative session, when there was a bill before the legislature very, very similar to HB 489 is now.

And so, Mr. Hirasuna was trying to get some information. And then he introduced these folks to Cydney Beadles because she was tasked, along with I guess, Heidi Pitts, for writing the Fiscal Impact Report on the bill last year. And they were very helpful in providing essentially free advice to work on that FIR.

And that was something that turned into... that was attached to the bill, which is very unusual. And I guess the Legislative Counsel Service had written on it *this is a must read. This is something you have to read*, to all the legislators.

So, that was welcome. And so, more recently they've been in touch with us - my office and working with Cydney as well - in connection with understanding the meaning of provisions in the HB 489 concerning securitization.

And it's been quite an education for me. And I thought it would be worthwhile for the whole Commission to listen to a discussion of this topic because the bill is apparently supported, well, rather well supported, in the legislature and may well pass. And if it does it will have implications for our ability to, in my opinion anyhow, protect consumers to the extent we would like to.

Commissioner Hall - So, I'll just introduce the individuals before you. On the left we have Becky Klein. She is a former chair of the Public Utilities Commission in Texas. I was learning from her this morning they had six securitization events, if that's what you call them - processes - in Texas. Three of them on her watch as chairwoman.

Commissioner Hall - Next is Joseph Fichera. He's the CEO of Saber Partners, former managing director and principal at Bear Stearns Investment Banking Corporate Finance and... Who has developed this area of expertise. I don't know of many other people in the country who provide this expertise strictly to commissioners, commissions, so that they can understand securitization better.

And then finally we have Dean Criddle, who is senior counsel at Orrick, Herrington and Sutcliffe, LLP and also counsel to Saber Partners and provides legal advice.

So with that, I'd like to hand it over to Mr. Fichera to give us his presentation.

Chair Becenti Aguilar – Thank you.

Yes, who would like to go first?

[end of verbatim]

Mr. Fichera thanked the Commission for giving him an opportunity to explain a very complex product. He is also a member of National Regulatory Research Institute (NRRI) and recently, at their request, published a paper for Commissioners and staff on securitization. He is not today representing NARUC or NRRI and the figures are his own.

He and Ms. Klein and others wanted at their NARUC presentation, to give the context of what securitization is and ratepayer savings, or costs. Looking at SB 489 and SB 492 they focused specifically on the securitization bonding provisions and raising the capital in SB 489 of \$375 million or 150% of the book value. In SB 492, there are no dollar amounts but it provides a tool for future applications to determine future dollar amounts.

Commissioner Hall asked Mr. Smith to give a thumbnail of the other bill referred to (sponsored by Senator Soules) because the Commission may not be aware of it.

Mr. Smith replied he had not focused on that bill. Senator Soules' bill, SB 492, is another securitization bill that would be a rival to this bill.

Mr. Fichera noted SB 492 is called the Ratepayer Relief Act of 2019 and SB 489 is the Energy Transition Act.

Mr. Fichera presented a PowerPoint presentation. He explained securitization is a bond offering process and a way to raise capital from private investors. The process has evolved since 1997.

Much of the legislation has expired and some states are discussing it. Colorado had a hearing yesterday and Missouri has a bill and discussions about using the process are in Utah and possibly South Carolina.

Mr. Fichera noted they are talking about \$50 billion in four transactions, over time.

As the product developed and the benefits to raise capital and lower rates for ratepayers was seen, the process began to be used for environmental cost, deferred power cost, storm recovery cost. It has weathered bankruptcy and actually helped one to get out and is now being discussed for energy transition of coal fire plants, etc.

Mr. Fichera said Ms. Klein will talk about the primary statute in 1999.

There is no single template for securitization, but they can look at best practices and they have identified states to do that. In Texas they issued over \$10 billion and Saber was the advisor to the Texas commission of about \$6 billion. On average the Texas transactions achieved lower rates at better interest costs and rates that were lower than other states. A study by City Group and Wisconsin, showed \$23 million of savings in just 3 transactions.

Looking at the bond offerings with SB 489 and SB 492, one fourth to one half percent difference in the interest rate over time could be about \$15-\$30 million in ratepayer savings. There is a lot of money on the table and ratepayer money at risk.

First, they should consider how this would be different from any other utility bond. The goal is to get a AAA rating for the utility. The normal rate is a much lower credit rating and they want to get investors to lend at lower rates by improving that rating.

They would get special authorizing legislation, as in the two bills, and create a non-buyback passable charge on all consumers, who would be responsible for paying the charge. The Commission would need to agree to the charge that would adjust true-up to the level necessary to ensure the bonds are paid.

Another essential component is that the Commission must give up any future review of that rate. That creates a property right that is transferred and the state must agree to never interfere with the bond holders' rights.

Mr. Fichera continued that in contrast to a traditional bond offering, which the utility sells debt to the markets and bond holders look to the utility for payments., there would be the risk of a utility's bankruptcy and access to their assets.

The utility also has to apply to the Commission periodically for rates, show costs and hold rate cases and rate reviews. The Commission would have continuous oversight of the rates but not be directly involved in the bond issue.

The utility's incentive is to get the lowest costs to maximize its return by reducing expenses. They would have a stake in the game.

Commissioner Fischmann asked the difference in interest rates for the bond holder between a securitized and traditional bond for, i.e., PNM, a BBB versus AAA.

Mr. Fichera replied it could vary a lot and go from one-tenth of a percent to three quarters of a percent or more depending upon market. But, that could also raise the cost of other debt because it is all in a pool.

In bond markets the spreads are sometimes very wide and in traditional bond offerings there is an equity component. When using this complex structure, the legislature is involved, giving authorization to the utility; special companies would be

created under the utility, and there are rights and cash flows associated. There is a lot of moving parts and different costs at risk.

When looking at the savings by using securitization as a debt financing, opposed to weighted average cost of capital for a utility, a lot comes from the fact that they would not be paying the revenue requirements that are dramatically lower. They would not be paying income tax on required revenue, would be able to level debt service, and eliminate all equity costs associated, in addition to having a lower interest expense.

Traditional charges have equity components with different costs and with securitization, they would give that up.

That is where PNM would say they were giving up their profit, the equity portion of the return. And that is correct, but other costs and expenses need to be taken into account. There are competing economic interest with the parties and is why an active Commission may be looking at best practices.

The utilities, underwriters, investors and the Commission are involved in the process. Each party should be looking at their own economic interest. The utility when responsible for costs, would seek to maximize their return. The investors would clearly seek the highest return and get the most return for the least amount of credit.

The underwriters and bankers seek the highest rates on the bond for the easiest sale and competing interest in negotiation. But their interests are not the same as the utility or the ratepayer. Each has their own economic interest and that works because the interest is balanced.

Mr. Fichera explained the difference with utility securitization is that the economic interests are not balanced because utilities are not responsible for any of the costs. Rate payers are responsible for all costs and every dollar is a ratepayer dollar. Investors would still seek the highest returns and underwriters would still look at their best deal.

So, now that they took the utility out of the equation and are borrowing directly on the ratepayers, who would represent them.

Given the fact that the Commission must give up all regulatory review and is not permitted to adjust rates, many state statutes require the commission to be involved. SB 489 does not authorize that and SB 492 does authorize them.

Commissioner Fischmann confirmed that once bonds are issued and market rates go down and could be refinanced to lower the cost to ratepayers, the parties may not have incentive to do that. Without commission participation or someone to represent the ratepayer, they may lose the opportunity to get them the best rate.

Mr. Fichera agreed. That is important because no one in the state has experience with these types of bonds and they usually have to hire advisors, etc. And, looking at the bankers, who are specifically underwriters, the relationship is clear.

In the language from an underwriting agreement, the utility specifically makes three specific representations: First, *absent the fiduciary relationship, we do not have to act in your best interest and this is an arm's length transaction to a counterparty* and the terms of the offering are your terms.

Second, they said, *"You have made your own independent investigation and appraisal of the transaction. We have no responsibility to you."*

Finally, they say, *"Any review of the structure, terms or transactions that we do will be performed solely for the benefit of the underwriters and not on the behalf of the issuer."*

Mr. Fichera noted understanding the role of the bankers, is an arm's length transaction – they need to understand they would be responsible for their own.

Commissioner Hall asked to confirm that was the underwriters statement to the utility.

Mr. Fichera agreed, noting that was required in the document and must be agreed to up front. In normal transactions the utility is responsible for cost and they balance those interest. But now when taking the utility's responsibility for the cost out, the question should be if someone should represent the person paying the costs.

He pointed to a chart of investor-owned utility securitization from 1997 who had active device with or without commission oversight. That showed the first \$21 billion out of \$50 billion were issued without a lot of commission oversight.

Mr. Fichera stated starting with Texas, more utility commissions became involved. The Texas 1999 statute language stated, *"The commission shall ensure that securitization provides tangible and quantifiable benefits to ratepayers greater than would have been achieved in the absence. The commission shall ensure that the structuring and pricing results in the lowest transition charges consistent with market conditions."*

Mr. Fichera played a recording of Senator Wirth's comments on the bill.

Senator Wirth noted the competition of the two bills regulatory oversight piece. He pointed out the Colorado bill left discretion to their PEC as to whether to approve the law. And to the commission, while giving them the tool, required the commission to perform "comprehensive due diligence" – the regulators - to perform due diligence.

The bill that introduced in Missouri specifically states its purpose is to *"encourage and facilitate the use of securitized ratepayer backed bonds as a method for enabling electrical corporations to lower the cost of financing. And to empower the commission to review securitization mechanisms to determine whether they are consistent with the public interest."*

Senator Wirth had commented that the last two things concerned him about this bill [SB 492]. He thought securitization needed to be in the mix but was worried about the competitive piece. Many people had said, *"this is an extraordinarily significant bill"*.

Mr. Fichera added that the Colorado legislation was defeated but was reintroduced and the Senate that rejected the bill is now democratic. The bill will likely pass.

Ms. Klein and Mr. Criddle will show point by point the terms of 489 and 492 and best practices, and what was omitted and should be changed. SB 492 looks a lot like the Colorado and Missouri bill.

He wanted to give them background and context of other states to help them understand the role of the utility, the underwriter, the investors. And why the commission should have oversight and why they might want advisors.

Mr. Fichera said he worked with the Texas Commission that established the framework of the financing and the pricing in the market. Ms. Klein was chairman of the commission at that time.

Commissioner Fischmann asked to clarify the reference to the commission's approval and involvement in the financing, etc. and the management on behalf of consumers. He asked if that included just the terms of the financing or also the dollar amount.

Mr. Fichera replied that in all other securitizations Saber has been involved in four other states, the legislature generally authorized categories that could be financed by securitizations. They left the amounts to be determined by the commission, and or, other proceedings related to the commission, and or, by settlement or joint stipulation of the various parties involved.

That is a unique provision of SB 489 to dictate a specific dollar amount opposed to a specific category and expands certain categories never done before. When they go through the details the Commission will be able to see things they may want to propose or not propose.

Ms. Klein thanked the Commission for having Saber come to discuss best practices for legislative provisions authorizing securitization and best practices for commissions in maximizing the lowest cost to ratepayers.

She is a member of the Advisory Board and lends her knowledge with senior management, particularly with regulatory issues, market structure issues, and state/federal public policy issues.

Ms. Klein noted she saw only the initial three transactions of securitization done in Texas. She apologized that the Commission would hear her talk a lot about Texas but wanted to share what they had done and learned, as well. She would talk about 1) some key elements in legislation and 2) what it means to be an active participatory commission.

Regarding the key aspects of legislation: one is that the legislation mandates the commission ensure securitization. They want to make sure securitization at the given time will provide the greater benefit. That is important because the Texas legislation, similar to SB 489 and 492, the utility has the discretion to apply for financing for securitization.

Texas, just like these two bills, did not authorize the commission to direct the utility to come in for securitization. Finding securitization as a greater benefit is an important backstop to validate that it is the financing method of choice and beneficial to the rate payers, not just the utility.

Second is the lowest cost standard: SB 492 has that provision. The standard is used as a proxy for a reasonable transition charge. The lowest cost standard also lends itself to securing a AAA rating and would be a lower interest cost as well as less risky. Less risk means more investment and liquidity, easier to sell.

Prior to securitizations being authorized in Texas, financing costs were under the utility's general costs of capital. They were subject to the commission review providing a check and balance.

Ms. Klein pointed out, however, ratepayer-backed securitization transactions were treated differently at the commission for a couple of reasons. One, they were required by legislation to issue a revocable finance order. Two, they had to do an adjustment, and three, the state and the commission pledged bondholders would not interfere in the right to the payment.

The combination of those three requirements and mandates is a strong state regulation. Also the commission treated the process differently because the normal incentives to minimize waste and inefficiencies are not there in securitization. The Commission is prevented from modifying financing and if problems, the commission cannot do anything.

Ms. Klein noted during the process of securitization for the structuring, the marketing and the pricing of the bonds, the rate payer is not present. Also the utility receives hundreds of millions of dollars in securitization revenue and has no obligation to repay that. Intrinsic to the process, the utility is already taken care of.

While utilities have general interest in keeping the overall rates low, in this instant they have a more compelling interest in getting the money as quickly as possible without regard to cost. They would not be paying any of the financing.

The Commission, therefore, has a vested interest and the Texas Commission enacted oversight and insisted on being a joint decision maker with the utility, with the expectation of a collaborative relationship in terms of the bonds.

They knew in a couple of ways that the Commission had been successful in maximizing benefits to ratepayers. One was to require the utility to provide and issue an advice letter in the financing order regarding pricing of the bond that documented benefits to the ratepayers. It established a procedure of active due diligence on the part of the commission staff and the commission's expert advisors.

Staff was required to present their review of the advice letter to the commission once filed, with their assessment of whether the bond achieved the lowest cost to ratepayers and consistent with market.

The Commission had two days after the meeting to get expert advice from advisors and counsel on whether they should stop the process. The financing order also required both the financial advisor and the utility to issue certifications to ensure structuring and pricing of the bonds from the utility, the underwriters, and independent experts with no conflicts of interest. Factors considered price relative to independent benchmark, amount of orders received and from whom, among other judgments, advisors deemed necessary.

Ms. Klein explained that the tools helped them see if they were making a difference to ratepayers and providing savings.

She summarized that the activities were specific and out of the expertise of the commission. That was why they hired a financial advisor and bond counsel that could ensure specific authorization in the legislation on the commission's findings and requirements.

Mr. Fichera added also a benefit is for the commission to be actively involved investors. It gives consumer groups impetus for new securitization and environmental groups are now seeing the benefit, but it has to be done right. Commissioner Fischmann asked if there have been issues with successor organizations wanting to renege on making payments.

Mr. Fichera said securitization survived a bankruptcy in Montana and with PGE and the takeover of Encore. The utility in California is currently proposing securitization on the wild fire aspect with a number of different factors. He explained Mr. Criddle would review the transition in Texas and the contrast and make comparisons.

Mr. Dean Criddle explained his background is not as a regulator for an investment banker or financial advisor. He is a lawyer and has worked on 20 securitization transactions in eight different states. His first was in 1997 with Pacific Gas & Electric, the first utility securitization in the country. And he has served as the issuers counsel, the underwriters counsel and as counsel to the financial advisor in various states.

Commissioner Hall asked if the issuer counsel was a separate structure.

Mr. Fichera explained it's often called the sponsoring utility that is a subsidiary of the parent. Both are involved, but usually with just one counsel.

Mr. Criddle continued that in each case the utility and its subsidiary are represented by a single law firm. He explained he had prepared a side by side comparison of key points of SB 489 and SB 492 and the Texas securitization statute for context. Texas has done more than any other state and he thought that a benchmark.

He touched on six components he thought key ratepayer protections.

- 1- What is the standard that should be used to protect ratepayers? Many statutes and financial orders have no standard, and most have at minimum that securitization will provide enhanced savings as compared to traditional ratemaking.
- 2- Regarding the two bills, SB 489 and SB 492, each focuses on *lowest cost objective, standard, maximized savings*. There is general agreement on the standard.
- 3 - In order to protect rate payers' interest, the Commission needs representation by its own counsel, vs. utility and underwriters / investors on the other. Both SB 489 and SB 492 specifically authorizes that.
- 4 - It is vitally important for the commission and ratepayers to be separately represented by an independent, experienced financial advisor. A financial advisor has a different role than the bond counsel and prepares an analysis of savings, the market status and where the market is headed.

SB 492 envisions an independent financial advisor, but SB 489 does not.

The financial advisor for the Commission should participate actively and visibly in all aspects: structure (i.e., 10 year vs 20 year bond issue, level amortization / principal); marketing (specialized materials of which markets to address); and pricing (what price actually is set). Pricing has never, in his experience had a lawyer in the room and is where a financial advisor would represent the Commission and be present in voice and authorized by the Commission to execute recommendations.

Last it is vitally important that those charged with achieving the lowest cost be able to certify that they had accomplished what they had been asked to do - to ensure confidence by the Commission and rate payers that their interests are represented.

5 - It is important that no artificial limits be placed on the scope of the activities or compensation to the independent counsel and the Commission needs commensurate resources.

SB 489 provides a cap for outside counsel, which might not be needed. A question is why should there be a legislative cap only on Commission expenses as opposed to other parties.

Mr. Fichera regarding SB 489 limits of Commission resources - Saber has never seen that in other legislation.

Commissioner Fischmann commented he saw a number of lawyers in the back smiling. He asked how they could prevent that from turning into a lawyer's fight for legal fees and if the Commission put a limit on all legal fees. If there was a limit, what are the drawbacks.

Mr. Criddle replied he has seen the utility propose a budget which the commission expects them to manage. And the commission would realize to the extent it authorizes its representatives to spend time, that thereby incurs cost, but that it would be done prudently.

Mr. Fichera added ultimately they need to come to an agreement, but he had seen an estimate of \$5 million for issuer's expense and Saber thought it would be around that even with an advisor. But, there is no process in SB 489 to review an estimate and could result in \$10, \$20 or \$30 million.

Ms. Klein provided perspective on how Texas did that. She asked what does "following the budget" mean quantifiably. On average the financial advisor and bond counsel compensation was about half a percentage point of the total amount securitized - about .48% in SB 489, which is much lower than half of a percentage point.

In the \$5 million financing costs codified in SB 489 it represents about 1.6% regarding the securitization amount and is much bigger than normal. That experience level in this type of securitization varies and there will be some counsel who want to fight the commission.

Mr. Criddle noted there are many statutes in other states that provide specifically for a post issuance review of financing costs including, legal costs, underwriters and trustees' fees, etc. SB 492 provides for a 120-day post issuance review of financing cost, which is more customary, and SB 489 does not have a similar provision.

6 - Finally and possibly most important - the commission should have the authority to include additional terms and conditions in the financing order, if they believe the conditions/terms will protect ratepayers, either by reducing costs or risks.

SB 492 clearly permits that; SB 489 does not provide that and as he interprets, may

have been drafted to preclude that. The utility will prepare an application that must include specified components.

It falls on the Commission to determine whether those components have been addressed when approving the financing order. Without clear authority to add any other terms and conditions that might be consistent with general principles that might go beyond what was in the application. That is vitally important to protect ratepayer interest.

Mr. Criddle stated those were the six key points he thought important.

Mr. Fichera asked about the servicing fee in this transaction that would be paid to, in this case PNM, the utility, from the charges on ratepayers.

Mr. Criddle explained the bankruptcy lawyers, tax lawyers, etc. will be included and will look at whether the utility would have some continuing economic interest after the bonds are issued, other than ordinary business. It is in both the ratepayer and the bond holders interest to have the utility bill and collect the charge.

The bankruptcy lawyers will want to ensure the utility is not benefiting from that transaction and insist an arm's length fee be charged. That might provide revenue to the utility that exceeds the utilities out-of-pocket cost. A general practice is for the utility to charge approximately 5 basis points (one half of 1%) of the initial principal.

Mr. Fichera they have seen a range between 5 to 25 basis points and that could become a profit for the parent company. Saber usually requires the utility to rebate to the rate payer the amount over cost.

He noted in SB 489 it is very limited. There is a utility statement that they will use all "commercially reasonable efforts" to achieve the lowest cost that he has never seen before. Commercially reasonable is a very low standard. The standard above that is *best efforts*, and they could have used that.

There is no indication or place verifying that results they had achieved were commercially reasonable. Also the other aspects of cost besides legal, system set-up etc., should be audited. SB 489 does not include any audit procedures; SB 492 does.

In the financing process, which would be open, they would make application and staff testifies and the Commission would make a decision. This proposal is interesting with a longer maturity. SB 489 restricts maturity to 25 years, but the regulatory asset has a longer life and usually they want to match assets. SB 492 goes to 30 years.

Commissioner Espinoza added there is a difference in the bills in giving the utility the discretion to determine a maximum amount that should be securitized, also.

Mr. Fichera thought the most unusual cost is ratepayers paying for transition cost in the community. That is included in the Colorado bill and is calculated on the amount the ratepayer would save with up to 15% of that to be shared with the local community.

Commissioner Espinoza asked if securitization had ever been used for early retirement or the shutdown of a plant.

Mr. Criddle said the Crystal River III Nuclear Plant in Florida came to mind and was recovered by securitized bonds in 2016.

Mr. Fichera added that legislation offered the original amount of recovery after the plant broke and was determined no longer useful. The utility proposed and received a settlement to absorb certain costs and take a reduced return on the remaining amount over a 20 year period. After the initial settlement, the utility proposed securitizing the remaining amount.

Mr. Criddle pointed out using securitization was a term of the settlement and the utility had agreed to use securitization if they could recover that amount.

Mr. Fichera indicated SB 492 had a provision to allow the Commission to require securitization in specific circumstances.

Mr. Criddle noted in the Texas statute, their Commission could order the utility to apply for securitization financing under certain conditions.

Mr. Fichera said the rules changed in 2008 during the major hurricanes. Florida and then Texas adopted legislation with a statement that the commission/or any aggrieved party could require the utility to file an application, if it could show securitization ensured the lowest cost. In both cases the commission could ensure the lowest cost of funds.

He noted that was for the nuclear plant but to his knowledge there had been no coal plants closed using securitization.

Commissioner Espinoza indicated she saw a lot of red flags, especially in the ability to protect ratepayers. This process would leave the Commission out of not only the review process, but the responsibility in the ratemaking. And the oversight and authority they should have would be removed completely. It throws out public interest altogether.

Commissioner Fischmann asked about the formula for the Colorado ratepayers that would provide transition relief.

Mr. Fichera said that was only a consideration at this point. The financing technique has morphed and the innovation was to share a portion opposed to adding costs.

Commissioner Fischmann thanked Commissioner Hall and Ms. Beadles for inviting Saber. He was happy the PRC was pursuing legislation and they are learning that there

is still a lot of work to be sure consumers are represented fairly.

He asked that the Commission be invited into the process and thought everyone wanted legislation to go well, and the coal plant to go well, and to take care of Farmington.

Commissioner Fischmann agreed with Commissioner Espinoza that to this point they have not done a good job to protect consumers because there had not been a group to represent them at the table. The PRC's goal is to get something good passed in the most constructive way possible way. He wanted to see good legislation and environmental legislation, and this is heading in that direction.

Mr. Fichera stated they have drafted proposed amendments to SB 489 that incorporate the positive things of SB 492.

Commissioner Fischmann offered to get with Saber afterward and acknowledged environmentalists had done a lot of the work to get them where they are today. He wanted fair legislation and was confident that could be done.

Commissioner Byrd thought Commissioner Espinoza's question had two parts - one was coal, but the other was useful life. They mentioned the nuclear plant in Florida but that had failed.

Mr. Fichera explained useful life was West Virginia. They put pollution control equipment on their plants to make it cleaner and use more coal from the state.

California's regulatory assets getting them back to AAA rating was not a capital investment. In New Hampshire, above market purchase contracts were securitized for divestiture to sell the plant.

Mr. Criddle pointed out that the storm recovery costs in California have now been authorized by legislation but has not yet been issued.

Commissioner Byrd confirmed the answer to both parts of Commissioner Espinoza's question had been 'no'.

Chair Becenti Aguilar thanked Saber and thanked Commissioner Hall for inviting them.

7. PUBLIC COMMENT

Ms. Virginia Ballinger stated she is a Navajo Chapter Official for Red Rock and would speak on behalf of Sacred Wind Communications (SWC). Wanda Johnson is SWC's House Representative and they have a House bill to put SWC on equitable grounds with other telecommunication companies.

In her experience with SWC as a first-time chapter official, she became aware of them when they came into their community to assist them. The chapter officials became aware of two young men living on a flatbed trailer west of the chapter house. They wanted to help them and mentioned them to SWC, who offered to help. Through a donation, they teamed with the chapter and a home was built for the men.

She knows SWC's heart is in improving conditions on the reservation through their efforts to provide broadband and telecommunications to a remote area.

New Mexico is known to lag behind in so many areas and they need to help the native youth by giving them more opportunities. They need the ability to catch up with the rest of the students in their school. They could be safely at home accessing the Internet instead of in a parking lot or coffee shop.

She asked for everyone's support - those at the Roundhouse and those serving on the PRC - to help SWC get much needed service to the Navajo community. The service would allow them to uplift their grassroots people and at the same time, uplift the State.

Mr. Tico Charley thanked the Commission. He said they are hearing what Sacred Wind is doing on the reservation and much of it is with the Commission's support. They can accomplish a lot of this together and with the Commission moving forward, a lot of their chapter areas would get broadband.

Commissioner Espinoza asked if the area had only a few households receiving broadband and Mr. Charley wanted to expand and support the bill because they need more.

Mr. Charley answered yes, there should be more broadband there.

Commissioner Espinoza stated she was aware of millions in federal funding in addition to what Sacred Wind was asking for and he should be aware of that. He could look at that with Sacred Winds.

There were no other speakers from the public and the Public Comment was closed.

8. CONSENT ACTION

A. Transportation Matters:

None.

B. Utility Matters:

- 1) 19-00034-UT IN THE MATTER OF THE APPLICATION OF NEW MEXICO GAS COMPANY, INC. FOR A VARIANCE FROM 17.10.640 NMAC FOR ITS FEBRUARY 2019 GAS COST FACTOR STATEMENT - NEW MEXICO GAS COMPANY, INC., Applicant.
(Judith Amer) POTENTIAL ORDER ON APPLICATION FOR VARIANCE
- 2) 19-00041-UT IN THE MATTER OF THE APPLICATION OF HENRY G. COORS AND JORIE GNIOTCZYNSKI TO TRANSFER 100% OF THE ISSUED AND OUTSTANDING STOCK IN SOUTH HILLS WATER COMPANY FROM HENRY G. COORS TO JORIE GNIOTCZYNSKI
(Judith Amer) POTENTIAL INITIAL ORDER
- 3) Undocketed IN THE MATTER OF THE APPLICATION OF U.S. TELEPACIFIC CORP, D/B/A TPx COMMUNICATIONS FOR A CERTIFICATE OF REGISTRATION TO PROVIDE COMPETITIVE LOCAL EXCHANGE TELECOMMUNICATIONS WITHIN THE STATE OF NEW MEXICO
(Mark Cessarich) POTENTIAL ORDER REGARDING APPLICATION TO
(Russell Fisk) PROVIDE COMPETITIVE LOCAL EXCHANGE SERVICE

Commissioner Espinoza moved, seconded by Commissioner Byrd, to approve the orders by consent on Cases #19- 00034 UT, #19-00041 UT and the Undocketed U.S. Telepacific Corp Certificate as submitted. The motion passed by 3-0 voice vote. Commissioner Hall and Commissioner Fischmann were not present for the vote.

9. REGULAR ACTION AND DISCUSSION

A. Transportation Matters:

None

B. Utility Matters:

- 4) 18-00006-UT IN THE MATTER OF THE APPLICATION OF EL PASO ELECTRIC COMPANY FOR CONTINUED USE OF ITS FUEL AND PURCHASED POWER ADJUSTMENT CLAUSE
(Frances Sundheim) RECOMMENDED DECISION
(David Black) POTENTIAL FINAL ORDER ADOPTING

**RECOMMENDED DECISION WITH
MODIFICATIONS**

Ms. Sundheim and Mr. Black came forward.

Commissioner Fischmann returned at 11:37.

Ms. Sundheim shared an errata sheet with the Commissioners. She explained this happens when they find things that are not correct while reviewing cases.

She failed to include the reconciliation sheets as part of her RD and they will be added as attachment C, "Documents and Evidence." The two citations are self-explanatory and otherwise, the RD is as written.

The application is the reconciliation for the FPPCAC included in the period paid by the customers, January through December 2016. The actual reconciliation is attachment C and does not set or change the factor for fuel charged to the customer. Reconciliations are made monthly to the Commission and there is a quarterly filing and an annual filing.

All of the documents are submitted to Commission staff on a regular schedule. She explained that if Staff or the company found something incorrect they could file an updated report, so it is reconciled for each year. There is also a two-year reconciliation required by statute and Rule 550.

The two-year reconciliation does not change the charges to the customer. The reconciliation puts forth that they have appropriately accounted for the applied statute, the Commission's Rule and various prior commission orders accurately, and accounts that all aspects of transactions took place appropriately.

Ms. Sundheim indicated on March 21, 2018, she issued a scope and procedural order after a lengthy prehearing conference. Issues had been raised by the parties and many of the issues had been brought to Staff's attention prior to Staff's memorandum with recommendations to the Commission. She described the process and explained that some of the issues have been incorporated in the memorandum to the Commissioners [Attached as Exhibit A of her RD.]

[Commissioner Hall returned to the meeting at 11:41.]

Ms. Sundheim stated she limited the scope of the case to the issues delineated in the statute and Rule 550, as well as the recent decisions made by the PRC in final orders in rate cases and other documents.

Attachment B is a further evidentiary order regarding the issues because of confusion or issues from the parties, where they believed they should be able to include testimony or briefing. Some issues were ruled out of scope and there is an additional

order on those issues. The Commission decided not to hear the appeal of the parties, making the appeal null.

The scoping order was in effect for the balance of the process, there were six days of public hearings and there was no written or public comment.

Her statement on page 12 clarified her understanding, the parties' stand, the arguments and interest. And that the parties were free to raise issues in the appropriate dockets where fact-finding and consideration is available.

In a case such as this, the company puts together all filings, including those things based on statute and regulations. Generally they do not include filing that includes previously litigated issues or that have been ordered for review in a subsequent docket.

Ms. Sundheim indicated it is important that issues brought forward match the requirements of the statute and regulations to be presented to the Commission. They should avoid repeated litigation on the same issue.

Ms. Sundheim indicated that was the purpose of this order and she had delineated where the issues should be brought and why.

She clarified there had been no violation of due process and there is a time and place to raise all of the issues she had ruled as out of scope. No one had been excluded and all of the issues were still open for consideration, as stated in her RD.

Ms. Sundheim indicated the issues in the scope were on pages 15-25 of her RD and covered the filing requirements and the company's information filed in compliance.

She noted the importance of remembering that while the company has the burden of proof and verification of its application, counter arguments raised must be accompanied by evidence supporting the contrary opinion. Opinion testimony and arguments of prior orders of the Commission are not proof. The details were on pages 3-5 of the issues ruled out of scope and the supporting reasons for the decision.

On pages 25-47 the interveners' contribution is addressed and she had not found in FF/CL proof of a problem with the reconciliation put forth by the company.

Ms. Sundheim stated at the conclusion of the hearing Charles Gunter, witness on behalf of staff, testified there was no issue raised to change staff's recommendation to approve the application.

There is one policy issue brought to the attention of the company by the City of Las Cruces and arguments were raised by interveners regarding the FPPCAC methodology/application. They showed by doing the reconciliation monthly, there was a spiking of cost which the interveners felt should be smoothed.

She indicated the testimony in rebuttal had suggested replacing the current fuel cost estimate component of the monthly FPPCAC with a moving 12-month rolling average. The attached exhibit (JS1-R) suggested the change could eliminate customer bill fluctuations - the issue the City of Las Cruces had raised.

EPE stated they would work with staff and the parties to develop the change if the Commission was interested in having that changed. The Commission could include in its final order an endorsement of the suggestion and order any interested staff and interveners to explore that implementation. They could provide the Commission with the results of the review and their opinions of whether it best to include it in the next filing.

That is within the discretion of the Commission and if all agree, something the Commission should consider.

Ms. Sundheim noted that the case became difficult because the many parties ignored the scoping order. There were numerous documents, including testimony to review, beyond anything she had seen. She had wrestled with it and tried to report to the Commission on the actual reconciliation, however, could not include any of the issues ruled beyond scope in her RD.

On page 48, she detailed her FF/CL and concurred that EPE's application met the requirements of the ACT and Rule 550 and the Commission's orders.

Ms. Sundheim recommended the Commission approve.

Commissioner Fischmann thanked Ms. Sundheim and said the case was emotional and heated and was one-third of the consumer's bill. He would have expanded the scope if he had been on the Commission. He thanked Ms. Sundheim for her openness about discussing the case and how to avoid this issue in the future and they made changes in the final order to take advantage of some of the positive developments.

Commissioner Fischmann wanted to look at the issues more carefully when looking at the rate case and thought opportunity had been lost to handle some of the issues. He said they would continue to work through it. He thanked everyone for their efforts.

Chair Becenti Aguilar asked Commissioner Fischmann on his comment of making changes to make it a better process, if he would describe those.

Commissioner Fischmann replied he would leave that to counsel to describe.

Mr. Black noted in the proposed order, decretal paragraph B encapsulated the changes except in the final edit. The first two words should be removed and it should read: *EPE should include in its next rate case, a proposal to replace the monthly FPPCAC fuel cost estimate component and its FPPCAC accounting with a moving 12-month average of actual fuel costs component in EPE's next rate case. And the applicant should present the issue of 'proxy pricing' for EPE's use of energy from Palo*

Verde Nuclear Generating Station, Unit #3, and the issue sharing of off-system sales margins, in EPE's next rate case.

Commissioner Fischmann indicated the advantage is that they can get the rates taken care of in the next rate case rather than wait four years.

He thanked EPE and Mr. Shustal for making that suggestion because the numbers had spiked dramatically.

Mr. Black stated he had changes to the proposed order, footnote five; typographical errors related to the RD that should have referenced the scoping order.

Chair Becenti Aguilar indicated she had also read the testimony. She said Ms. Sundheim did a good job because there were numerous appeals that had been filed six-hours after testimony.

Commissioner Espinoza moved to approve #18-00006-UT as presented, seconded by Commissioner Hall and the motion passed by unanimous (5-0) voice vote.

**5) 18-00018-UT IN THE MATTER OF ZIA NATURAL GAS COMPANY'S
APPLICATION FOR REVISION OF ITS RATES, RULES, AND
FORMS UNDER ADVICE NOTICE NO. 57, ZIA NATURAL GAS
COMPANY, Applicant.
(Ashley Schannauer) RECOMMENDED DECISION
(David Black) POTENTIAL FINAL ORDER ADOPTING
 RECOMMENDED DECISION**

Mr. Schannauer and Mr. Black came forward to present.

Mr. Schannauer distributed handouts that help in his presentation and started with a high-level view of what a rate case is and what had been done in this one. He would address some of the specific issues and had pulled the biggest issues with the most impact to talk about.

He clarified what a rate case involves and stated there were two steps:

First, is the revenue requirement and how much the company is entitled to earn in revenues. The handout illustrates revenue requirements - expenses incurred + the cost of capital x the rate base (the amount of investment the utility has in its plan).

In this case he recommended a revenue requirement of approximately \$30 million, which represents about \$26 million of expenses and \$4 million of return.

The second part is to assign the revenues to the various classes of customers. On the handout Zia has 6 classes: residential, small commercial, large commercial, contract customers and REET for a resale customer, the City of Las Vegas.

Zia is proposing two additional classes; an irrigation class and an industrial class. Their primary users of almost 38k customers is about 34.5k residential; 2200 are small commercial and 600 are large commercial customers in four service areas. The biggest areas are in Ruidoso, Dona Ana and the Hobbs/Jal area and Maxwell district that includes Springer, Cimarron and Maxwell.

Revenue requirement issues are on the next page. A big issue in the case was expenses with Federal income taxes the biggest.

Different amounts of federal income tax were requested: Zia at a 29.6% rate; staff proposed 21% and the difference was based on the different rates that apply to types of corporations, which are not all the same.

Most investment type corporations are called C corporations and the tax rate is applied to the net income of the corporation itself. Zia is part of a larger corporation - Natural Gas Processing - an S corporation which is taxed on the tax rate of the owners at 29.6%. Staff proposed a rate of 21% because it would be in the interest of ratepayers to have a lower tax rate.

He did not recommend the tax rate that Zia proposed. He disagreed because it is not consistent with what the Commission has done in the past. The 29.6% rate was a large dollar amount and staff's adjustment would have reduced the company's revenues by about \$1.2 million.

The second issue under revenue requirement is the cost of capital.

Commissioner Fischmann asked if the 21% C corporation rate was the most recent rate and what the rate was prior to that.

Mr. Schannauer replied it was 35 percent. He added there was a related issue about potential refunds of savings the company may have experienced since the lower C corporation rate took effect.

Commissioner Fischmann suggested they discuss that later. He wanted to clarify that Zia would need to change their incorporation papers to experience the C Corp rate.

Mr. Schannauer agreed, and Zia had argued that they should have a right to organize their company as they believe and not have to change their form of organization every time a different tax law passed.

Zia raised the question of future changes in tax rates with each new administration and argued it is not easy, and it is expensive to change forms of incorporation. It was not reasonable to give them a tax not based upon their actual tax rate.

Mr. Schannauer said he agreed.

Commissioner Fischmann thought the Chair had handled this well. Zia was not doing tax avoidance by not being a C Corp and they would actually have paid more. It was not a case of manipulation.

Mr. Schannauer noted the tax rate was actually reduced by the tax legislation as an S Corp. and in any event Zia wanted to pay the lowest tax rate, and that is in the interest of ratepayers. They tried to defend its position as an S Corp and did not want to be treated unfairly as a C Corp.

Mr. Schannauer addressed cost of capital which was a large issue in terms of dollars. The difference between the cost of capital recommended by Zia at 9.38% and staff's 7.09% translated into about \$853k.

He had recommended 7.98% and staff filed an exception to that. Staff had issues with the way he had developed his recommendations.

Mr. Schannauer noted on the next page were the different proposals of the parties from page 31 of the RD. Typically the cost of capital is debt and equity and they look at how the company raises its money and what the cost is to get a return on investment.

Zia is a special case because it has no debt and only has equity. The result is that commissions across the country have imputed debt. The cost of debt is lower than the cost to borrow money. The thought is that ratepayers should not be penalized because a company runs solely on the owners money. Traditionally imputations have ended up lowering the cost of capital.

Chair Becenti Aguilar asked if the company went into solar, at what point would ratepayers be able to express whether they approve of the project or not.

Mr. Schannauer explained the company would have to come to the Commission for a CCN (Certificate of Public Convenience) for projects of a certain size, and they would have to identify how much they expect to spend. They would have to show it is the lowest cost of the available resources. There would be an opportunity for the interveners / public to question the company's assumptions and the Commission would then make a final decision.

Mr. Schannauer said with return on the cost of capital, normally parties look at similar companies. In this case they looked at 11 natural gas companies. They made recommendations to the Commission on the appropriate relationship between debt and equity; what the cost of debt is, and the cost of equity is, based on the comparable

companies.

Commissioner Hall asked how the 11 companies were chosen.

Mr. Schannauer explained they were picked because there are very few natural gas companies publicly traded. Unless there was a reason to exclude one, they select them all. The companies must be publicly traded to look at stock prices.

Mr. Schannauer recommended that the debt and equity numbers for Zia should be based on the averages of comparable companies. One element was that staff recommended 50/50 - 50% debt / 50% equity. The company made a recommendation based on the projections of the 11 comparable companies. He chose what he thought made the most sense.

He thought there was not enough support for staff's 50/50 recommendation and could not understand going with a future debt / equity relationship projection.

Another element was what the cost of debt should be and since the company had no debt, he looked at the Commission's decision in the last rate case with Zia on this issue. The Commission had looked at the prevailing cost of two other utilities and added a percentage point to that amount because of Zia's small size and potential for risk.

Zia proposed a rate (6.17%) that was more involved and different from the Commission's past decision. Staff's rate was based on New Mexico Gas in its current rate case at 4.65%. His rate was 5.65% with a percentage point added to the rate staff had proposed.

The last element was the cost of equity. The Commission consistently used the *discounted cash flow* method (DCF). He used the method approved in the last Commission case and chose 10.06%, versus staff's 9.53% and 12.05% for Zia.

Mr. Schannauer said ultimately his recommendation was 7.98%; staff's was 7.09% and Zia's was 9.38% as the cost of equity.

The second major topic in a rate case is rate design – how the company assigns revenues to the various customer classes. Zia proposed to collect more of its costs through the fixed monthly charges. Page 5 shows current rates and customer classes, proposed rates and the rates he recommended.

Zia's rates have three elements; a fixed monthly charge, a transmission charge and a distribution charge. The fixed customer charge ideally is to recover the fixed costs. Transmission should recover costs incurred in transmission lines and the distribution charges recover costs for the smaller lines through service areas.

Zia proposed increasing the fixed charges and keeping the transmission charges the same and reducing some. The reason is that not all of the company's fixed costs are

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recovered through customer fixed charges; some are through transmission distribution charges. When there is a warmer winter Zia does not expect to recover all of its fixed cost. When energy efficiency measures are implemented and customers use less gas, the company would not recover all of its fixed costs.

Zia, among other utilities, are proposing to remove some of the cost recovery out of the variable rates and into the fixed customer charges. Staff agreed but thought the fixed charges should not be increased as rapidly as proposed.

Mr. Schannauer said he agreed with staff. He recommended that most of the revenue increase go to the fixed charge but because he is recommending less revenues than the company requested, there would be less going into the fixed charges.

The second issue seemed to be more controversial, the establishment of the new industrial and irrigation classes. Zia expanded in 2011 and acquired the service area outside of Las Cruces and into Hatch where there is a lot of irrigation. Zia thought it made sense to establish the irrigation class.

Customers were removed from the small and large commercial class service area into the new class. In addition they established a new industrial class and took some of the large commercial class and special contract customers and folded them into their own class.

Mr. Schannauer said both he and staff agreed with that, but his only issue was with the monthly bill impact that resulted.

Zia's proposal to consolidate irrigation customers and industrial customers into a single class would result in the irrigation customers experiencing a 74% increase in their monthly winter bill. The transfer of customers from large commercial classes into irrigation and industrial classes could cause those customers to experience decreases in bills.

That is not a good idea in terms of rate design principals. First you want to avoid sharp increases and second, when there is a rate case that involves a revenue increase, customers should not experience rate decreases. He recommended to avoid sharp increases and monthly bill decreases they should moderate that. The handouts showed the increases under the rates he recommended. He noted that Zia filed an exception to his recommendation that will be discussed by Mr. Black.

Also thrown into the case was a potential rate rider to refund savings that Zia may have experienced as a result of the tax cuts effective January of last year. That was made an issue by the Commission after the initial hearings. The Commission directed SPS to issue refunds for the savings they experienced between January 2018 and the effective date.

Their orders stated the issue should be addressed in this case as well as the pending case of New Mexico Gas. The handout shows Zia's argued they had no savings and there should not be any refunds issued.

Staff was mixed in their recommendation. Initially at the hearing, staff's witness was lukewarm about the refunds for a number of reasons, in part because SPS had actually appealed the refund requirement to the Supreme Court. Staff said the Commission should make that decision whether that would be fair.

Staff's witness changed his mind at the hearing saying it would not be fair to Zia to require the refund. He pointed out Zia's rates were determined in its last case and a 34% tax rate was applied as S Corp. In 2013 the federal tax rate was increased to 39.6% and in January 2018 went down to 29.6%.

That was different from the situation of SPS, which is a C Corp with a tax rate of 35% since 1995 that went down to 21% in January. The Commission thought it clear that there were savings by the company that customers should be entitled to.

Zia is different. They had their last rates established in 2008 and in 2013 they went to 39.6% and had to eat the increase until 2018 when the rate was reduced. Based on that, staff's witness stated he did not think it would be fair to order Zia to issue the refunds.

But in Staff's brief they thought a determination should be made about the amount of savings and that they should not issue an order now. The money would have to be returned back to Zia if the SPS prevailed in the Supreme Court case.

Mr. Schannauer stated his recommendation was for no refunds. The motivation for the Commission's order in SPS was based on what had happened with the C Corp rates.

Commissioner Fischmann summarized that they were not charging customers more to compensate Zia's rates when they went up, so they should not force money to be returned when that is reversed. The basic argument is to leave it alone in either case.

Mr. Schannauer agreed. He continued with the next issue involving hanging door tags on customer doors. The company's policy was to hang door tags on doors of customers who are late paying their bill and proposed a \$10 charge for each tag. Staff agreed with the charge, but he disagreed.

The \$10 fee represents a late fee and Commission rules limit the amount of late fees to 8% percent per year. This fee would be about 20% per month. There is no other investor-owned utility with a similar fee in New Mexico. Zia pointed to a co-op that has the fee, but PRC does not regulate co-ops as closely.

In 2011, Zia acquired a system that serves Hatch and outside Las Cruces down the Rio Grande that at that time had system-wide rates. The question was what rates should apply to the newly acquired land in Doña Ana County.

The Commission's decision was that the same rates should be applied as other districts. They added they would look at whether having the same rates in Doña Ana district was being subsidized by the other districts.

Zia presented evidence that there might be some small subsidization but would be temporary. After the acquisition of the system, Zia invested a lot of money to improve district facilities in that area, which caused recovery costs to be greater in Doña Ana than in other districts.

Staff took no position on the issue. He recommended the company's proposal be approved because the investment in Doña Ana area benefitted customers and those that benefited the most are in the smaller areas like Maxwell.

Commissioner Espinoza commended Mr. Schannauer. She remarked that he was stellar and had broken down the residential and small commercial and explained what had been proposed. She was now hearing how Zia had no debt - only equity - and she could not understand how staff disagreed with his RD.

Since coming to the Commission she has trusted his judgment had seen over and over his thoroughness and fairness, especially to the consumer and to the company. He is meticulous and the breakdown of the different categories was very useful and must have taken a lot of work and effort.

Commissioner Espinoza added on the \$10 charge – that is wrong. She said it takes more time and gas to hang a tag and just adds injury to insult.

Commissioner Byrd indicated Mr. Schannauer's highlighting of the irrigation proposed increase when breaking up the small and large, what stood out was the one who could afford it the least would be hit the hardest. There would be an almost 75% increase and Mr. Schannauer's recommendation leveled that out. He appreciated that, because he *is* the small guy. He said the little guy is set by the market and cannot demand a price where the big guys have economy of scale and the convenience factor for purchasers. So, he appreciated Mr. Schannauer looking at the proposal and making it fair and now everyone would pay a little.

Commissioner Hall agreed. The presentation was very clear and she appreciated the visuals and the tables and that helped them compare.

Commissioner Fischmann echoed the Commission's thoughts that the summary of data helped them immensely. He said he had talked with Mr. Schannauer and others about that being a regular practice in roads. It would help the Commission do a better job and ask the right questions. Mr. Schannauer highlighted key issues instead of the

Commissioners trying to go through 80 pages and figure it out and this was terrific.
Thank you.

Chair Becenti Aguilar added that Mr. Schannauer had also included the community and indicated that Commissioners should weigh in on how the company works with the community and she also appreciated the details he included.

Mr. Black pointed out in the final order introductory paragraph, he would change the wording about attaching the RD as exhibit A because the RD is now available on the docket.

In paragraph 15, he mistakenly referred to the RD as recommending irrigation classes be broken into large and small subgroups. *Small and large* will be removed to read *will be broken into subgroups*.

Between paragraphs 30 and 31 *rate design* would be added and paragraph 34 the last sentence will be reworded to read: "*Zia's exceptions argue that increases and decreases for various customers are almost always inevitable when combining customers formally served under different rates, and that it is not reasonable to maintain separate rates for only six affected customers that would see a decrease under the application.*"

In paragraph 35 he will remove the preposition after *that*, and in paragraph 37 remove the phrase *large and small*.

Mr. Black also brought to the Commission's attention three exceptions filed by Staff that appear as Roman numerals.

Staff's exception I is about return on equity. The RD recommends a 10.06% return and staff recommends 9.53%, and Zia 12.05%. The HE relied on an analysis provided in Zia's 1997 rate case, #2745. Staff believes they should rely on Raton Natural Gas because it is more recent.

The HE explained Zia as an S corporation, owned by husband and wife, etc. for many reasons is not comparable to Raton Natural Gas.

Zia's responses to Staff exceptions argued that Staff had mis-characterized the RD analysis because the RD considered Staff and Zia's discounted cash flow calculation arguments, and the analysis in both Raton Natural Gas and Zia's last rate case. There was substantial testimony to support the RD 10.06% return on equity.

Zia's response to Staff exception was it did not accept Staff's recommendation in the interest of resolving this rate case. They do not object to the 10.06%.

Staff exception number II regarding capital structure of the ratio of 52.88% of equity and 42.12% was based on applied analysis used in the last rate case and Staff did not

object that analysis.

The RD considered staff's argument in detail but accepted the RD decision on the determination on the capital structure. Staff provided conclusory justification for its argument during the hearing but was not persuasive.

Staff exception III goes to cost of debt. Staff indicated the cost of debt should not be included adding 100 basis points as the HE recommended.

Commissioner Fischmann confirmed the amount was 1% because it was smaller and more risky but were there other considerations.

Mr. Schannauer replied size and related to the size is that it is not a publicly traded company, either.

Mr. Black continued that in paragraph 30, the Commission found the RD's percentage was based on a thorough analysis and is reasonable and should be adopted and that staff's exception III was not well taken and would not be adopted.

Paragraphs 30-31 are the rate design paragraphs.

Commissioner Byrd asked to confirm that in every exception, either Staff agreed or Zia agreed with the RD.

Mr. Black replied yes.

Commissioner Espinoza asked if it was correct that the potential final order adopting Mr. Schannauer's RD in its entirety, is what was before the Commission.

Mr. Schannauer replied he had not seen the final order but that was correct.

Commissioner Espinoza moved, seconded by Commissioner Hall, to adopt the final order that accepted the RD. The motion passed by unanimous (5-0) voice vote. So Ordered.

Chair Becenti Aguilar stated the Commission would take a 30-minute break at 1:02 p.m.

The Commission reconvened at 1:32 p.m.

10. EXECUTIVE CLOSED SESSION

- **PURSUANT TO NMSA 1978, SECTION 10-15-1(H)(2)**

- **Personnel Matters – Appointment and Selection of Interim Chief Hearing Officer**

Commissioner Fischmann moved, seconded by Commissioner Hall, to go into executive closed session, pursuant to NMSA 1978, Section 10-15-1(H)(2) to discuss limited personnel matters. The motion passed on a 4-0 roll call vote with Commissioner Hall, Commissioner Becenti-Aguilar, Commissioner Espinoza and Commissioner Fischmann voting in the affirmative and none voting against. Commissioner Byrd was not present for the vote.

The Commission went into closed executive session at 1:40 p.m. and it ended at 1:52 p.m. with all Commissioners returning.

Chair Becenti-Aguilar announced to the public that during the executive session, no actions were taken, and the only matters discussed were limited personnel matters.

Commissioner Hall moved, seconded by Commissioner Fischmann to return from executive session and the motion passed by unanimous (4-0) voice vote. Commissioner Espinoza was not present for the vote.

11. LEGISLATIVE ISSUES POSSIBLE DISCUSSION AND POSSIBLE ACTION

Mr. Montoya provided an update on bills the Commission has watched closely: HB 269 seems to have lost momentum. The sponsor is trying to draft an amendment or a new bill. Commissioner Dow is concerned with her areas and possibly the bill may no longer need oversight.

Commissioner Espinoza returned to the meeting at 1:54.

SFR 4 and 14: PRC versus election appointment – continues to be worked on by Senators Wirth and Neville to develop mutual language.

Commissioner Espinoza having just returned to the meeting, asked to confirm the item Mr. Montoya was reviewing.

Commissioner Fischmann stated he had talked with Senator Neville about a bill that would allow PRC to do more than a training requirement and the Senator told him the latest version of the bill was for three appointed commissioners.

Commissioner Espinoza asked Mr. Montoya if there had been further momentum on that discussion.

Mr. Montoya explained the bill had not been scheduled in the first committee, but Senators Neville and Wirth were working to try to find a compromise.

Commissioner Espinoza asked to be apprised of the status.

She asked the status of the Fire Marshal's Bill.

Mr. Montoya explained the bill did not have a lot of momentum. He heard Representative Dow's concerns and thought the PRC could address that internally, not try to amend the direction of the fire marshal.

Commissioner Espinoza thought it appeared the Fire Marshal would not go to Homeland Security but was discussed to go to be an adjunct agency under Executive. She did not think the bill would not go anywhere this year.

Mr. Montoya said there was a comment on the possibility of a study as a joint resolution rather than a bill. He offered to keep the Commission updated.

HB 385 - Access to Telecom Rule Service Fund (Sacred Wind Bill: SWC): Commissioner Fischmann's office drafted an amendment that was shared with the Commissioners via email.

Commissioner Fischmann said it was Brian Harris' work.

Mr. Montoya noted Chair Becenti Aguilar and Commissioner Espinoza had been keeping a close watch on the bill and they have discussed the bill.

Chair Becenti Aguilar noted nothing had been brought up about the grant money or \$1.4 million of funding the company had already received and what was presented was not the full truth.

Mr. Montoya stated the bills he was discussing were somewhat controversial and action may need action by the PRC and he would look to them for more direction.

Commissioner Fischmann wondered if Mr. Harris could talk briefly about the amendment he suggested.

Chair Becenti Aguilar said she would allow that but wanted to clarify that she had been tracking SWC closely. The company has received a \$75 million loan from USDA in 2006; an SW net of \$2,038,738; a USDA-RUS loan of \$13.8 million to cover Navajo land and \$75 million to be expended over five years to build out infrastructure.

Approximately \$100 million has been received to this point and SWC is asking for more across the street. Many of the customers on Navajo land are not happy. The microwave equipment installed worked for a few months but fell to the ground and the copper wiring is not underground and after time, had to be fixed.

Chair Becenti Aguilar indicated she had many of her constituents come in because the SWC bill is moving through the legislative process.

She opposed the bill during the first committee meeting in the legislature because their lack of accountability or transparency. Serving as a Commissioner from 2010-2014 and starting a new term last month, other telephone companies would voluntarily come to her office. They brought maps of where they built infrastructure and provide service and of their work with other communities. That has not happened with Sacred Wind.

Chair Becenti Aguilar clarified when she referred to transparency, she wanted SWC to come in and tell the Commission how much money they used in counties and communities.

She indicated when talking about a telephone company that has received \$100 million for infrastructure that is still lacking on Navajo Land, that raises a red flag. She thought PRC is probably the only office that would hold them accountable for the money they continue to seek.

Chair Becenti Aguilar said she wanted to bring that to everyone's attention.

Mr. Brian Harris said the Chair was correct. The amount of money received not just for SWC, but every telecom carrier in the state since 2005 is over \$300 million. Carriers are required to report and that is reviewed by staff but there is no independent accountability.

Mr. Harris explained the amendment he drafted and circulated was an attempt to get accountability for all rural carriers. It would allow PRC to take one tenth of one percent of the annual fund for audits and evaluation of the program and fund about \$300,000 a year for contracts for random audits. This is rate payer money and they want to keep an eye on it.

He pointed out that he had worked with the Utility staff on the amendment and after Friday's hearing, both Chair Becenti Aguilar and Commissioner Espinoza indicated their interest.

Mr. Harris said the question now is whether they can get a sponsor and get the bill into the next committee hearing.

Commissioner Espinoza stated she appreciated his effort on the amendment, but she was against the bill. Telecom received a lot of money and used that for specific projects and what more money would they need. Over the last six years since she has been on the Commission it had been difficult for them to demonstrate how they used the money.

She knew there had been publicity about a couple of houses that received broadband, etc., but she was aware of only two. She stated she would not support this even if they made amendments. There is legislation in place that was not brought up last week and this bill was crafted just for Sacred Wind.

Commissioner Espinoza stated she was aware of a fee to the other rural electric co-ops. She asked why they were not included and why Sacred Wind was trying to get more money.

She asked Mike Ripperger to help explain the money Sacred Wind had received in the legislation that was imposed on the other rural co-ops.

Mr. Ripperger explained the legislation was passed when the State USF was created in 2004 that the USF would be repurposed so intrastate access rates could be reduced. The rates are what each carrier charges another carrier to move their in-state long distance telephone traffic around. The revenue is reduced by reducing the rate for instance from 25 cents a minute, to half a cent.

He noted the legislature stated to allow that reduction in rate, they would reimburse the carriers for lost revenue (called access reduction payments). The Commission under guidance of the legislation, created a rule for an administrator for a fund to return the money to the carriers. There was about \$24 million and that was completed in 2005 or so. SWC did not exist until after that was not eligible for reduced rates or reimbursement.

The carriers that charged the lower intrastate access rate – all rural carriers and Wind Stream received those amounts every year. The amount has been adjusted to about \$18.5 million. Since SWC was never eligible for the money in order to receive the money from the State USF fund they requested money from USF under a Petition for Need.

Commissioner Espinoza noted that SWC now cannot demonstrate the need and so wants to bypass the Commission.

Mr. Ripperger agreed. SWC has a history of requesting money based on need. Once their original \$75 million was exhausted for buildout, they asked for more money and the Commission denied their request. SWC returned in 2015 to ask for money to build out a specific area and the Commission awarded \$1.4 million over five years.

The funds will be exhausted in late 2020 and this legislation is a permanent placeholder for that funding. In the interim, SWC has received over \$13 million from the USDA to build a network connection to a faster broadband after being awarded the money.

Mr. Ripperger added now they would like to be treated like all of the carriers who receive money permanently.

Mr. Harris indicated he saw an opportunity that was not aimed specifically at Sacred Wind, but at every rural carrier who had received subsidization from ratepayers since 2005.

Commissioner Espinoza understood. She said this bill applies specifically to CenturyLink because they are a unique category; they do not compete the same and if the bill passes, they would be granted the money in perpetuity.

Commissioner Fischmann stated he heard nothing about a sunset on giving the money out. He asked if there had been a study of whether the same conditions for giving the money still exists.

Mr. Ripperger explained originally the subsidies were done when there was a lot of long distance plans and toll traffic and a lot of calls made through land line phones. Long distance was in the process of migrating to wireless. The logic of reimbursement for lost access revenue may be suspect because it would go away anyway because of wireless.

Commissioner Fischmann suggested supporting a study to determine if the subsidy is still necessary. This could be an opportunity to look at the policy and whether taxpayers should be subjected to a subsidy that no longer serves a purpose.

Commissioner Hall agreed a study was a good idea because it appeared there was no longer a lost revenue issue or the need for compensation.

Chair Becenti Aguilar also agreed.

Commissioner Fischmann pointed out the Commission should not support adding someone else to the subsidy if there was a need to examine whether to continue the subsidy.

Commissioner Espinoza thought that a good point but noted the subsidy had been crafted for broadband. Broadband should be the focus but that is not how the subsidy is being used.

Mr. Ripperger asked to address Commissioner Espinoza's question. His understanding was that anyone investing in networks was going to a form of broadband because the switch-telephone system was atrophied. The Federal government is pushing that and the legislation to modify the State USF for broadband also agrees there should be a percentage invested in broadband.

The bigger picture aside from loss of access revenue, is a lot is happening in the telecommunications marketplace and with funding. That should be factored into the equation.

Commissioner Espinoza asked about petitioners like Virgin Mobile and Tracfone. She said there will be nothing left.

Mr. Ripperger replied that the SUSF is very popular and many people would like to participate and there are demands on the fund. The fund is almost capped out at \$30 million because Tracfone and Virgin Mobile had petitioned to augment their lifeline offerings in New Mexico.

Commissioner Espinoza asked if they would receive the money regardless of whether they invest anywhere.

Mr. Ripperger explained the two carriers only provide Life Line and supply life-line free cell phones to customers through the Federal low-income program for those who qualify.

Chair Becenti Aguilar asked to clarify that the Commissioners wanted to file an amendment or introduce a memorial.

Commissioner Fischmann thought the Commissioners wanted to oppose the bill. He indicated they may have to wait until next year to get a memorial, since Valentine's Day was the last day. He suggested the Commission support a study of this.

Commissioner Byrd said he thought it seemed logical because the 2004 bill had exclusionary language and draw up a new bill to correct the language so existing and maybe future companies within the category comply with the regulations instead of subsidizing one company. The companies should be on the same footing. This has kept Sacred Wind in a position to have to ask for more money to stay competitive, a cost to the taxpayers, rather than the rate payers.

He thought the legislation that should have been proposed at the time was to propose changes to the bill so future companies would be qualified to those standards. He asked why that was not considered rather than give them a check.

Mr. Ripperger explained all Local Exchange Carriers (LECs) receive ongoing support currently and the bill theoretically makes SWC on par with the other providers. The Commission has to consider whether this is the proper way to do that.

He noted SWC has the ability to come before the Commission at any time to request funding.

Commissioner Byrd pointed out this did not put Sacred Wind on equal footing or correct the initial problem. The legislature had exclusionary language because SWC was not created at the time of the legislation.

Commissioner Espinoza indicated that was not the case. Sacred Wind is different and unique and the rural ILECs get the money based on a formula and were forced to reduce their access charges by the legislature. Sacred Wind has not been forced to reduce and why they are being treated differently. That is why this is specific to them.

Mr. Ripperger explained that the best legislation could propose is a proxy for a per access line basis. SWC could not reduce their interest rates to the lowest intrastate level like other carriers and is why they asked to be reimbursed, similar to comparable size and network carriers on a per access line basis. But it is a rough approximation.

Commissioner Espinoza stated but they have never had to justify those subsidies.

Mr. Ripperger agreed and pointed out that now, the mechanism is not available to them.

Commissioner Byrd asked why the legislation could not make that available.

Mr. Harris explained that the Sacred Wind bill was intended to correct the situation, but he was hearing that some Commissioners did not want to support the bill. His hope was that all of the companies had accountability in the form of audits and evaluation and need. He saw HB 385 as an opportunity to get industrywide accountability, but there were other ways.

Commissioner Espinoza appreciated the efforts, but that was not what she meant. The carriers must be accountable to the Commission regardless. There is a process where they have to return and report where they spent the money.

Commissioner Fischmann suggested moving on because he thought the Committee had fleshed out the issue and he had heard a couple of points of view.

Chair Becenti Aguilar asked the last day that an amendment could be filed.

Mr. Montoya replied new legislation had to be filed by tomorrow.

Mr. Ripperger indicated an amendment was put on the bill in the last committee, the FIR request came to the Commission and Staff did their analysis and the bill was slightly changed. The Commission, before the analysis gave them de facto support under the criteria of the bill.

He said, now the bill states they must meet a cost threshold based on comparable carriers before they can enter the fund. An entry mechanism is built in based on the average cost of a comparable carrier. The Commission would have to make that determination before they show how they calculate their per line support.

Commissioner Espinoza thought that did not change the bill much but as Mr. Ripperger noted, still allowed access to the fund under that mechanism. The Commission would have to determine how that could be calculated under the parameters of the legislation.

Commissioner Hall asked if carriers would have to show need or cost.

Mr. Ripperger replied it was the average cost of a comparable carrier and the parameters were loose and would be up to the Commission to interpret. He indicated even before with the de facto process, he could not see how this could be determined without a Commission case.

Mr. Montoya continued with the next legislative item SB 143: PRC Fire Safety Standards or Damper Inspection bill. He brought this to their attention because of the unfunded mandate for additional FTEs, and there would be no financial impact to the PRC. This is on the Senate floor calendar and has been through two committees and would go to the House for consideration.

Commissioner Hall asked if the Commission had mentioned the need for the unfunded mandate as a fiscal impact.

Mr. Montoya explained the reason he brought it to the Commission's attention now was because of the debate about the need for the ANSI certification. The Fire Marshal had been doing that without the certification. Mr. Montoya thought it seemed like a revenue source.

Commissioner Hall agreed.

Mr. Montoya stated SB 489 dropped last Thursday and Staff created a task force to look at all 85 pages. Staff has looked at past legislation and the bill is completely different from anything ever pre-filed. This would basically be starting from scratch and about six staff members have been working on the FIRs and there is concern that could lead to opposition in the bill.

Commissioner Espinoza asked to clarify that staff had been working on the bill for hours.

Mr. Montoya replied since the bill was filed Thursday. They put a team together.

Commissioner Espinoza asked if they were working with Legal Counsel, because she had received a copy of the summary this morning and six pages is a lot of work.

Mr. Smith indicated he had worked with Staff but this is a memo from him to the Commissioners. He explained he reduced the 85 pages to five pages. The Speaker's summary talked about the difficulty to discuss the bill because it is very disjointed and he wanted to put it in a logical form.

Commissioner Espinoza asked if he was saying it was attorney/client privilege and very confidential.

Mr. Smith replied it was not that confidential.

Commissioner Espinoza said she did not want legal counsel to go out of their way and have more work. There were already six staff members and now him, working on it. She thanked Mr. Smith and said that was fine if he had done that on his own.

Mr. Montoya also thanked Mr. Smith for his input and the hours of research.

Mr. Smith acknowledged that Marc Martinez had also participated and had good insight. The securitization they discussed this morning is only a portion of the bill that had emerged on the issue of HB 289.

Mr. Smith noted that this is a large omnibus bill that reshapes the generating portfolio requirements for utilities in the state that will have enormous economic impacts on the State if it goes through. The revisions to the renewable portfolio standards are the most significant impacts long-term - not to minimize the other impacts. He wanted to share that with the Commissioners without getting into the bill.

Mr. Montoya indicated the areas Mr. Smith alluded to included stranded costs, the RPS and zero carbon generation language. The number one concern for Staff is the removal of PRC authority that puts ratepayers at risk and is the umbrella of all other areas. Staff felt there are other equally or more important components of the bill that should be addressed than securitization. Staff was still working on the FIR and would get that to Commissioners as soon as possible.

Commissioner Hall thought the Commission should let Staff finish and review the FIR before the Commission discusses it.

Mr. Montoya added discussions with Staff, Legal, etc. could be an opportunity for the Commission to take a position because there are a lot of components.

Commissioner Espinoza stated she has always been against supporting / endorsing any bill because they might make it back to the Commission. She believes it is their privilege to go across the street to express their opinion directly instead of saying the Commission endorses it. She noted they never state that 3 Commissioners supported the bill and 2 others did not - just that "the Commission supports this bill."

Commissioner Espinoza said that is her opinion and is what she would do with this bill as well.

Commissioner Fischmann thought the direction was correct and after talking with all of the Commissioners felt they were all concerned that consumer protection is being stripped away. The bill should have a lot of exploration to ensure it is in the form that would not do that.

Chair Becenti Aguilar asked Commissioner Fischmann for his opinion on supporting or opposing legislation.

Commissioner Fischmann saw a lot of push behind the bill. He thought the right way to work on the bill is to take a flawed bill and collaborate to make it a workable bill for the consumer.

Commissioner Espinoza wished him good luck.

Commissioner Fischmann thought that would be the most pragmatic way to proceed.

Chair Becenti Aguilar agreed.

Commissioner Byrd agreed with Commissioner Espinoza that the Commission as a body, should remain neutral.

Chair Becenti Aguilar voiced that the Commission had decided to remain neutral and those who would like to voice their individual opinions were welcome to share their concerns in the legislature in the committee meetings.

A. NEW BILLS

- HB 15 - Rural Electric Coop Renewable Standards
- HB 426 - Renewable Energy Transmission Authority Study
- HB 432 - Affordable Solar Energy Act
- HB 491 - Immobilizing or Towing of Certain Vehicles
- SB 416 - Redistricting Act
- SB 456 - Electric Utility Resource Procurement
- SB 468 - Clean Energy for New Generation Facilities
- SB 232 - Public Record Requests Costs and Procedures
- SB 285 - IPRA Failure to Permit Inspections
- SB 489 - Energy Transition Act

B. BILLS PREVIOUSLY DISCUSSED AND CURRENTLY BEING TRACKED - MAY BE SUBJECT TO FURTHER DISCUSSION AND ACTION

- HB 162 - Insurance Premium Tax Provisions
- HB 175 - Regional Water Utility Authority Act
- HB 244 - Minimum Train Operating Crews
- HB 300 - Rural Electric Co-Op Proxy Voting & Quorums
- SB 336 - Electricity Distribution for Certain Vehicles
- SB 281 - Community Solar Act
- HB 283 - Increase Renewable Portfolio Standards
- SB 275 - Increase Renewable Portfolio Standards
- HB 291 - Renewable Use of Energy Act Changes
- SB 233 - Broadband Access Unfair Trade Practices
- HB 116 - Wastewater System Financing
- HB 124 - Fire Protection Fund Changes

- HB 176 - Broadband Telecomm Facility Gross Receipts
- SB 99 - Appointment of PRC Members
- SB 143 - PRC Fire Safety Standards
- SB 161 - Renewable Energy Transmission Authority Funds
- HB 38 - ALBUQUERQUE-Bernalillo Water Authority Water Rights
- HB 210 - Community Solar Act
- SB 136 - Efficient Use of Energy Act Amendments
- SB 165 - Municipal Revenue For Bond Repayment
- HB 269 - Separation of Fire Marshal from PRC
- HB 385 - Access to Telecomm Rural Service Fund
- HB 406 - PRC Transmission Line Jurisdiction
- SB 208 - Broadband Facility Component Gross Receipts
- SB 357 - Generation & Transmission Rate Protests
- SB 374 - Local Choice Energy Act
- SB 376 - Utility Eminent Domain Rights of Way
- SJR 4 - Transfer PRC from Elected to Appointed
- SJR 1 - PRC Election and Appointment

Highlights of some of the above bills were discussed.

12. COMMUNICATIONS WITH CHIEF OF STAFF

Mr. Montoya introduced the process used on vehicle check in /check out. Typically the Division Director or Bureau Chief is asked to maintain the keys and binders for accessibility to the vehicles. The request process remains the same and would continue to be done through email. Fleet manager Gabe Cisneros would retain a copy of requests.

One question last week was regarding individuals on-call. There is no restriction on their access to vehicles for that day and there are only two departments who are on call - Pipeline Safety and the Fire Marshal.

Mr. Montoya noted the agreement of the Commission with what he had proposed as the internal process. He added that individuals would be responsible and held accountable for the state vehicle once given the keys.

The building security had been discussed.

Commissioner Espinoza explained they learned there was not enough funding available for OSI - insurance, but they have taken action and have their own safety measures.

Commissioner Byrd stated that his goal had been to strike the language from the current policy prohibiting concealed carry both in vehicles and the building with PRC employees.

Mr. Smith pointed out that is policy #10 in the Code of Conduct, adopted in 2017 prohibiting the possession of weapons or firearms by employees in the agency, or while conducting official business on the premises.

Commissioner Byrd clarified he wanted to strike the language of the code because the building is open to the public. Someone could indiscriminately come in knowing there is no protection in the building.

Mr. Smith explained the building is a GSD building and the GSD Rule 15.24-16 states *persons carrying a concealed weapon in state buildings are required to be in compliance with the New Mexico Concealed Carry Act of 2003.*

He further explained that GSD did not have a ban against persons carrying concealed weapons, however, the Commission adopted a policy restricting its employees and banning the carrying of weapons. The Commission policy does not have jurisdiction over the public.

Commissioner Espinoza clarified the Commissioners are included as employees and the rule will apply across the board.

Mr. Smith pointed to the Commissions Code of Conduct and Rules of Procedure that state that Commissioners are bound by the rules that apply to the employees. The Commission has noted because they have a contract with the union this item would require them to notify the union before the Commission could take action.

Mr. Smith said he understood when this was adopted, the union did not object but he did not know their stance at this time.

Commissioner Byrd thought that might depend on the employees. Mr. Smith agreed and noted that at least the union employees were under collective bargaining.

Commissioner Espinoza said she had heard this would be acceptable as long as the person has a concealed carry permit.

Mr. Smith pointed out that was under GSD rules. The Commission rules are different.

Commissioner Hall questioned the rationale for the Commission's rule.

Mr. Smith thought there had been concern about weapons in the workplace.

Commissioner Espinoza stated there had been concern about employees bringing guns on the premises and carrying them in the vehicles, not so much a concern of Commissioners or the Commission. She thought there could have been an episode.

Commissioner Fischmann asked if this was in place because employees complained

they did not feel safe.

Commissioner Byrd thought the concern was employees carrying weapons in the Commission or while performing job duties - not from Commissioners.

Mr. Smith acknowledged there was concern about employees carrying guns and taking them on inspections and there were complaints from the public. He offered to find out the specifics.

Commissioner Fischmann indicated he was not willing to remove the rule until he understood if there had been circumstances. He wanted to hear the perspective of those who thought the rule made sense before voting to change the rule.

Chair Becenti Aguilar recalled the incident happened around 2012 to 2014.

Mr. Fisk recalled Ms. Amer working on the issue. He suggested she could talk with Commissioners, but he vaguely remembered the incident.

Mr. Smith recommended that even if the Commission was inclined to take action, they should not do so because under the collective bargaining they would need to speak to the union first.

Commissioner Espinoza confirmed that the union had been notified when the policy was changed. She suggested talking with the person notified.

Commissioner Espinoza said she heard Commissioner Byrd state that he would like to revise the policy. They need to clarify what is permissible if a person has a license to carry for a vehicle and in the building.

Chair Becenti Aguilar asked for more information to be given to the Commission and they would review the rule and possibly ask Ms. Amer to discuss the incident that occurred in closed session.

Commissioner Espinoza requested the following dialogue be verbatim.

Commissioner Fischmann - You know on SB 489, we probably didn't close the discussion - take it as far as we needed to. We had counsel here who was presenting on things we could do to improve consumer protections if we go through a securitization process.

After that a number of folks who were involved in that bill descended upon them and was very interested in putting together amendments to SB 489 to get in the appropriate protections.

The issue for the attorneys is, well, they've been doing a lot of work with Cynthia and with Cindy and without pay. For them they've been, what - doing this for a year, as kind

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of a business development proposition. But now we've got a very specific situation here where I think everybody's on board with doing - including bill sponsors - doing amendments to be sure that the securitization process at least, just that piece, is fair to consumers and gets them the lowest price.

But if they're going to do that work, we need to come up with some way to give them some compensation to work with these folks. So, I wanted to...

Commissioner Espinoza - [inaudible]... I think that's absurd.

Commissioner Fischmann - Hang on.

Commissioner Espinoza - I'm sorry. I'll sit tight.

Commissioner Fischmann - Okay, sit tight 'till I finish. If we want to improve this bill and it's not us taking a position pro or con, it's just us saying let's get in the game and improve it where we can. I feel we should find some way to compensate counsel so that we can get this stuff done before a really ill-conceived piece of legislation gets pushed through. So, anyway I'm throwing it out there.

Mr. Smith - Madam Chair, Commissioners, just to clarify, my understanding is Commissioner Fischmann when he is saying counsel, he is not referring to General Counsel or ...

Commissioner Fischmann - I'm referring to uh, what was the name of the firm?

[Inaudible] several commissioners speaking at once.

Mr. Smith - You're right, the advisors.

Commissioner Fischmann - The advisors.

Mr. Smith - Right.

Commissioner Espinoza - But you want to compensate them for their work?

Commissioner Fischmann - If they're going to the State to draft rational rules for securitization - rational legislation - yes. I think that's absolutely fair.

Commissioner Espinoza - Okay, so, a vendor is a vendor. And when you invest that much money and then you expect us as a Commission to step up to the plate and compensate them? When they're working on legislation or, ... I mean just educating us in coming here?

I just don't see that as appropriate because of the nature of what's happening at the legislature. Why should we compensate them? That's what they want. That's why

they're lobbying us. That's why I'm not talking to them. And I don't think it's appropriate at all, one iota, to start trying to compensate them for their services. That would even be worse.

And if PNM's in the audience, I'm sure they're going to agree that this is sort of a conflict of interest all the way, any way you slice it. We shouldn't even be talking to anybody right now.

And that's just my opinion. But, that's all I have to say, but I don't support compensating anyone.

Commissioner Hall - Madam Chair?

Chair Becenti Aguilar – Yes, Commissioner Hall?

Commissioner Hall - Just to clarify; they've been providing, intentionally providing assistance for the past year free of charge. And they came here on their own dime. And I don't - I'm not contemplating that we should compensate them for what they've already done. But I think, I think going forward, especially with the complexity of this bill, that we really need their help in navigating the next few weeks through the legislature to make sure that however the final language comes out, it will help us be in a position to best protect the ratepayers.

I thought what they were saying was very, you know, very concerning that we could be on one side of the argument without appropriate knowledge of finance, underwriting, and not be able to even stand up to the arguments that are going to be made by the parties who are going to be in the room on the side of trying to get as much money in their interest as possible.

Commissioner Hall - So, I think at this point we need some, some additional skills, knowledge and ability and we don't have it on our staff. So, you know. That's just my opinion.

Commissioner Espinoza – Madam Chair.

We do have the skill set in our own staff, and they came here, yes, on their own dime, but that was because you invited them to be here. You mentioned that this morning when I first asked, right before the introduction. And the appropriate knowledge is in the pudding.

And if we're going to be in a better position to protect the ratepayers, we, I don't think we should be commingling in any of this...

Commissioner Fischmann – Madam Chair.

Commissioner Espinoza – I'm already talking...

Commissioner Fischmann – When you're done.

Commissioner Espinoza – Okay, I, I've got to go get my granddaughter, so you guys - I've got to go.

Commissioner Fischmann – So, I, I just wanted to give the counterpoint to that, is that as a Commission we're allowed to, and in fact do, retain outside experts for many of our cases. And we do it with the recognition that there's certain areas of expertise that are not resident in our staff.

And, while this happens to be legislation, we've got the same situation here where clearly we don't have securities experts, or market experts, or securities attorneys on our staff.

And it is a securitization bill. If we want it to happen right we need to acknowledge where we don't have the expertise and bring it in, provided we, you know, have some level of agreement that that's going to help ensure that we don't end up having to live with legislation that puts us behind the eight ball in terms of serving consumers in the future.

Commissioner Fischmann - So, that's essentially my rationale for saying *hey this, this is an opportunity for us to be sure things don't go the wrong direction* and that we end up having to deal with it in future years.

Mr. Montoya - Madam Chair, if I may, real quick, I just don't want to extend any longer if you don't want to but there is a, what we're referring to as a clean securitization bill, which is SB 492 and was also mentioned earlier this morning in the presentation.

So, there's kind of been some legislation already drafted and introduced this year. And so we are actually, during the meetings we've had, have said this is the good securitization bill that is more favorable.

Commissioner Fischmann – Than staff? Sure.

Commissioner Byrd - Well, when I ..., I believe Saber could base on the pros and cons, were more in favor of 492 than they were of 489.

Commissioner Fischmann – Correct... Madam Chair. I'm sorry...

Chair Becenti Aguilar – Yes, Commissioner Fischmann.

Commissioner Fischmann – And I suspect what's going to happen here, having served in the legislature - what I would certainly do if I was a committee chair - I would take the two bills and say let's consider them together and work out how we take the best of both.

So, it's a little bit hard to say, oh, we're one bill or the other. It's getting involved in the process and being sure that the process comes out with the right compromise that serves consumers.

So, I'll leave it at that.

Chair Becenti Aguilar – Okay. Any more discussion? Cydney do you have anything to add?

Ms. Beadles - Chair Becenti Aguilar, Commissioners, I would like to offer some background information.

Chair Becenti Aguilar – in reference to?

Ms. Beadles - In reference to the assistance that this firm, Saber Partners has provided to staff over the last 15 months. And also to report to the Commissioners that just since our presentation I have about - five or six emailed to me requesting from legislative analysts - requesting their side-by-side comparison.

And also any proposed amendments that could incorporate consumer protections into 489, or what makes 492 the superior public interest work product.

Ms. Beadles - And I, I just wanted to add. Can I add one more thing Chair, Commissioners...?

Chair Becenti Aguilar – Sure.

Ms. Beadles - When we first contacted Robert Hirasuna, who was the advisor to Commissioner Jones; Chairman Jones, I think he was at the time. It was late 2017. It was when Legislative Finance Council gave us a pre-filed copy of last year's PNM bill - Senate Bill 47. And so they wanted to give it to us in advance because it was a short session. It was a long bill and they wanted to give us some time to develop our analysis.

It was a separate bill, not just an amendment to the Public Utility Act, and it was securitization financing. It is a highly specialized financing, so internally we did not have the expertise.

So, I said, I told Bob Hirasuna that I had been to a regulatory energy conference at Colorado State University earlier that year. A presenter said securitization financing is being discussed in the context of early retirement: *state regulators if you have - many states were there - if you have any questions contact Saber Partners.*

I gave Bob Hirasuna Saber Partners' contact information. He reached out to them. He said, "This guy really knows a lot." He gave the information to me. So as we

read the bill, as we analyzed it, as we developed our 18, 20-page FIR last year, it was based on a lot of like, give-and-take with Mr. Fichera and his firm.

Of course PNM and other bill proponents of the Senate Bill 47 of last year's session said, *Well, he has an interest in this*. And so I looked at every single securitization transaction and saw who provided assistance to state commissions in this type of financing. And there were three firms, one of whom, Bear Stearns, is no longer in existence.

So, there are two firms in the country that are left. So this is really a unique, highly specialized form of advice and assistance. We have learned a lot and we do have some internal expertise now. But in terms of figuring out the provisions that conform to the credit quality of these bonds and the uniform commercial code criteria that may apply - I don't know that we do.

And it is, it has been very useful and we do have a lot of interest already from across the street, wanting to know what we have to say. And I don't know that we could develop that work product internally without the support. So, I just wanted to give you the feedback.

There are options. We could do a short-term legislative support contract and then if securitization gets passed, then get letters of interest or whatever. But you know, I, I did confirm there really is not that much - this particular kind of expertise in the country.

So, does that, do you have any questions or is that pretty much cover it?

Chair Becenti Aguilar – Thank you. Thank you.

Discussion? No comments?

Commissioner Fischmann – Well, Madam Chair, and just following up on what I'm saying before, I really do think... And I don't for the short term of the legislative session, I don't think this is going to be a ton of money. 'Course they hate to hear - Saber hates to hear that. But I think it's that piece that just takes us from potentially making a big mistake to getting it right.

And as I said before, this is my personal assessment only, is from the governor's office on down, this - what is it 492? – 489? It's on TV, it's just everywhere you go it's getting pushed. And the ..., I think the reality is, there's something that's going to pass. We don't know exactly what it's going to be, but let's be sure we are in the game and that what gets passed doesn't get us in a load of future trouble.

And so I think this, this investment is very much worthwhile and that we should probably follow up on one of Cydney's suggestions; maybe a legislative temporary contract.

We can talk with the Saber folks. Get a sense of, you know, what that might entail.

What the cost might be. We don't have to make it a long term, if we're making it a

legislative contract it's just that and nothing more. And this is a case where I think the benefits are just so huge, you just don't want to forgo.

Chair Becenti Aguilar – No comments?

Commissioner Hall - Madam Chair I have another comment too. I think the fact that all the people who flocked around them this morning wanted the information, is really clear evidence that this is something not only we need, but other parties at the legislature. And, I just think we'd be doing a disservice to not be able to get this kind of help.

I mean, this is the first time anything like this has happened. And if we, if we don't fully know what we're doing and - and I'm not saying staff doesn't know anything, but I know that they're highly pressured. And they, we just heard from Cydney they have some expertise but not, not all that they feel they need.

Commission Hall - I just think it would be really unwise to go without the kind of support that we really do need in this circumstance. And that not only we need, but obviously other people, other analysts across the street are hungry for.

So, I think it would be kind of, I think it would be quite irresponsible not to try to acquire the resources we need, especially in this critical short-term.

So, that's my opinion. That's the responsible thing to do in my view.

I mean, I've been with this issue for... ever since last year and there are threats to our ability to protect repairs. Real, present threats in this proposed legislation. There's nobody between the ratepayers and the parties who want to make them pay for everything they want paid for in that bill, except us.

And if we don't arm ourselves with the best information, I think, we're derelict in our duty, frankly. And I think it makes sense to do a short-term contract. I don't know. We can see what we can work with Saber Partners about, but I think it would be irresponsible if we just said, "Nah, we can handle it by ourselves." Because I don't believe we can.

So, so that's my opinion. And I don't think there's a conflict here at all. There's a real clear path.

Chair Becenti Aguilar – Michael Smith, what's your advisement?

Mr. Smith - Madam Chair, Commissioners, with respect to the issue. The only... The issue that I'm going to respond to is the, at least General Counsel's ability to provide the specialized legal expertise that I think is raised by these issues.

done some securities litigation in Los Angeles, again through a few years. Nothing even remotely approaching the issues that were dealing with here today.

And, my advice to you as counsel would be, to the extent that this Commission has an interest in providing a view to the legislature with regard to the effects of this bill on the functioning of the agency, and on the public-interest and whatnot, the Commission would - I would say - the Commission does require access to specialized legal advice.

Commissioner Hall – And finance advice.

Mr. Smith – Correct.

Commissioner Hall - Not just legal advice. It's, it's the whole range...

Mr. Smith - [simultaneously] We obviously, in our office cannot provide any kind of financial advice. So I'm only speaking to the legal advice and obviously the financial, the advice that a financial advisor can provide is also very significant.

Commissioner Hall - Right.

Chair Becenti Aguilar - I'm going to excuse myself. I just don't like the way it was presented today. It was listed as a presentation like any other organization before the PRC Commission and now, at the end of the meeting we're looking for a contract. It doesn't look good; it doesn't smell good. That's not the way to carry a Public Regulation Commission. So, I'm going to excuse myself.

Chair Becenti Aguilar - Thank you.

[Chair Becenti-Aguilar left the meeting at 3:15 p.m.]

Commissioner Byrd - So, just so I ... if it was purely about the interest of the ratepayers, we would not be asking them to take a \$300 million debt to close a plant that isn't ready to close. That plant still operates. This is an unprecedented bill and they said so, that we're proposing to close a plant that still has a useful life until 2052 on paper. Maybe less, but on paper 'till 2052. So we're closing down this plant, regardless of how this bill passes and we hope that if it does pass, the language is such that we have some say in how it happens.

But the reality is, this bill passes – ratepayers - rates are going to go up because they have to pay back the debt. That's part of the bond system is they have to pay back the debt. So PNM will get the money to close it – well, the people who gave the money want the money back. And that's what the interest rates are about and so they're going to get a little bit of return on their money in 20, 10 or 20 years, but the ratepayers are the ones that are stuck with the bill. The rates are going to go up.

So, in that interest, I'm opposed to doing this altogether, because we're not even

considering the financial impact to the San Juan County area. Those guys that's losing jobs, you can retrain them all you want, but unless we bring in new jobs, they don't have a job.

The financial impact to the county and to the cities on the rate base is going to be huge and we can't give fill payments forever. Maybe we're going to give 'em a little bit of money. Say, "Hey sorry about your bad luck, you know, wish you well." But the reality is we're putting a lot of people in harm. We're putting everyone who works out there in a position that is not right for something, for a plant that is still useful.

Having said all that, I will move a motion - and Valerie will be pissed at me - I will move a motion that we compensate Saber Partners to the end of, to the end of the FIR at least.

Commissioner Byrd - Do you guys need more?

Commissioner Hall - Cydney? And Mike, he wants to know if we need more time than just the end of the FIR, more assistance. I thought, I thought you were saying through the length of the legislative session.

Commissioner Fischmann - Commissioner Hall, may I call you Madam Chair, because you're the prior vice chair so you've got the mantle now. Is ... My thought is that if we're going to do it we need to take it through the whole, to the end of the legislative session for the amendment process. Otherwise, we're losing the value.

Commissioner Fischmann - There's no sense in doing it for a FIR, because my experience is in the legislative process - they'll go through this, they'll be sitting down, they put the change on, they'll have a discussion similar to what we have. Four issues will arise and nobody will know how to answer the questions if we don't have appropriate counsel there.

So my suggestion would be to take it through the end of the legislative session for all amendments that may occur to the legislation.

Mr. Smith - Commissioners we don't have a Chair or a Vice Chair, so I'm just going to address you directly.

But, with respect to the FIR, I just want to clarify that the FIR process is very different than the possibility of going over, when we go over and actually take a position on a bill and provide, you know possibly send experts from our agency or whatnot, over to express views and point out holes in bills and things of that nature.

The Fiscal Impact Report is supposed to be directed primarily at the fiscal, fiscal impact of the bill; the proposed legislation on the functioning of the agency. And, to that degree it's also digested, what we write is digested by the Legislative Council Service. They basically take out little chunks of it and they put it in a separate FIR

that conglomerates all the different FIRs that they've gotten from the different agencies. Ours is probably the primary FIR in this instance, but you've got to get a telephone, so you're not necessarily getting your message across.

Chair pro tem Hall - do you have an opinion about whether we need to engage their services through the end of the session?

Mr. Smith - I - that's what that comment was directed to. I think that's your decision.

Chair pro tem Hall - Oh well I, I think we need their - for the reasons explained by Commissioner Fischmann, I think so too. I think we - Things happen at the last minute and we need to be able to have the expertise at our side, because we can get, you know, we can get sandbagged at the end and not even know what we're saying. So.

Mr. Smith - We have a limit on the amount we can enter into a contract on, as well.

Chair pro tem Hall - Say that again.

Mr. Smith - I believe it's -

Chair pro tem Hall - What did you say Mike?

Mr. Smith - We have a limit from DFA as to the amount that we can contract for.

Chair pro tem Hall - I'm sure there is. Yeah.

Mr. Smith - Have they upped the limit?

Mr. Montoya - Madam Chair, I believe it's like \$50,000.

Mr. Smith - Right, the statute actually authorizes \$60,000, but the DFA has not changed their regulations.

Mr. Montoya - ...without some special additional paperwork and approval...

Commission Fischmann - [simultaneously] If I may,

Commissioner Fischmann - Go ahead.

Mr. Smith - We're getting away [inaudible-simultaneous speakers]...

Mr. Montoya - If I may, [simultaneous speakers], just something to - just a couple of points here real quick.

familiar with the bills that we've been analyzing internally. But there has been a lot of effort internally and we believe we could have a FIR by the end of the week. An extensive FIR. Now it's going to be lengthy obviously. That could be something you all consider submitting for review and comment, adding, subtracting before filing with across the street counsel.

Mr. Montoya - The other thing that to make sure we keep in mind is if the bill is amended, we are going to be asked to file an FIR amendment. But there's additional FIR opportunities, I guess, if you want to call them that, that we will be asked to file on.

So, just wanted to point those out. So, [inaudible]

Commissioner Fischmann - [simultaneously]...Okay. And what can we, since we're chair-less here, but I'm still going to call Commissioner Hall, Madam Chair - I ... What mechanisms can we put in place to make sure as we get into this, the bills don't run up.

I love Commissioner Byrd because he hates to waste a buck, and that's a great quality to have in government. So, are there things that we can do to just kind of keep track of it on a weekly basis and be sure this is not getting out of hand?

Cydney or Mike?

Mr. Smith - As I said, I generally have not dealt with many of these contracts in administering them. Cydney do you have...

Mr. Montoya - Commissioner let me see if I can get somebody that deals with the contracts up here real quickly.

Commissioner Fischmann - Okay.

Mr. Montoya - ...that kind of knows what our limitations are with the, the internal contracts.

Chair pro tem Hall - Oh, internal contracts.

Commissioner Byrd - Come on up.

Chair pro tem Hall - You call them... Okay, good.

Mr. Fichera - I think - I don't think you should be worried about it ... I think you should... We understand in terms of the limitations of working, we understand there are... we did have discussions, I thought with staff. And there are really three phases to a possible consultancy to you.

The legislation phase if there is ...what the legislation would be and then, if legislation is passed, there's a financing order and all those other things... But that's down the road and that would be really more a financing cost, it would not be a budget.

Mr. Fichera - So, we always thought that the initial phase would be some sort of fixed fee contract associated with, you know, the procurement rules and regulations. And not an hourly that's then going to go to a hundred thousand. That's just not how we would work.

And obviously we've spent - we've given you samples of our work and think that we can do, and we have been asked by a number of ... Senator Montoya and other people who have just been - said they wanted to see us. And so were sort of in a bind as to whether we can - what we should do.

And I'd like... But, so, there'd... We think you shouldn't worry about a bill coming out of the blue. I think you should do, is something for the - you think is reasonable for a fixed fee on this. And let's see whether there is legislation or there isn't legislation and then look at all of the other compensations and - to get a market. That's the way it should be.

Commissioner Fischmann - Okay. And so is there a range that we'd be talking in - for... We've taking it potentially through the end of this session to be sure we can handle all amendments and that kind of stuff. Do we have ability to consult with you? Do you have a sense of what that number would be?

Mr. Fichera - I don't think that would exceed \$50,000.

Commissioner Fischmann - Okay. Would it be less than \$50,000? [Laughter]

Mr. Fichera - Would you like it to be? [Laughter]

Commissioner Fischmann - Yes. [Laughter]

Mr. Fichera - Is it more?? [Laughter]

Commissioner Fischmann - Yes. [Laughter]

Mr. Fichera - It should be fair compensation for work, but you see our services before us. So, ... I mean.

Commissioner Fischmann - So, okay. But you're comfortable with a cap of 50k?

Mr. Fichera - Yes, we're comfortable with, with that. and the relationship is important and if we... if we, as you know, we do believe securitization is a valuable tool for the Commission, either in 492 or 489; 489 has got a lot of other issues that we are not as strong on, but we could provide assistance on. But this is what we've been doing

for 20 years, so...

Mr. Fichera - I'm sorry that some people think that that's a conflict.

Commissioner Fischmann – Well, I'll just make one other comment, and Commissioner Becenti Aguilar, you know I thought her comment - I think there was a lot of common sense to it. Unfortunately we're just in a really, you know, we're in a time crunch guys. And if we're going to do this right we have to recognize we're in a time crunch.

And so I do not want in any way diminish the comments that Commissioner Becenti Aguilar had there. They're perfectly appropriate. I just think we're in a time crunch and we just need to move on this.

Chair pro tem Hall – So?

Commissioner Fischmann – So, does the motion still stand?

Chair pro tem Hall – Okay, okay...

Commissioner Byrd – I move it.

Mr. Smith - [simultaneously speaking] ... compensated through the legislature process.

Chair pro tem Hall – Okay. Do I have a second?

Commissioner Fischmann – Yeah, I'll second.

Chair pro tem Hall - All those in favor say aye.

Commissioners Fischmann, Hall and Byrd – Aye.

Chair pro tem Hall – All opposed? Any opposed? No.

Mr. Smith – So, I just want to clarify that – So...that we would have to initiate the contract. We would have to - we can't bind the Commission at this moment with this vote. We have to go and get a contract drawn up and then proposed and we would have to bring it back for you to authorize.

Mr. Smith – I think we we're operating in good faith and I believe the Commission and we ... And Brad, well I'm just going to tell you, Brad do you have, - do you want to give us some clarification on the process that's involved in, in getting a contract approved by DFA?

Mr. Matthews – Sure.

Mr. Smith – Yeah, come on up. Cydney's dealt with this much more recently than I

have. Cydney, you can chime in.

Mr. Matthews - So what's the specific question in general?

Mr. Smith - The process that we needed to go through to get a contract approved for services.

Brad - So, it requires the best obtainable price, with one bid for \$50,000, not including gross receipts tax.

Mr. Smith - And does it require an hourly rate, or does it - is a lump sum contract permissible?

Brad - A lump sum contract is permissible, but the amount of the contract can't be paid until all the services are vendored, under a lump sum contract. So, an hourly contract can bill as the work has been completed hourly.

Commissioner Byrd - Why can't we do an hourly rate not to exceed that ...

Mr. Fichera - The legislative session ends in March, right?

Chair pro tem Hall - Right.

Mr. Fichera - We're talking about six weeks.

Commissioner Byrd - Yeah, but you'll potentially put in 80 hours a week. I mean...

Mr. Fichera - [inaudible] ... but I'm just saying

Commissioner Byrd - An hourly rate not to exceed ...

Mr. Fichera - But...

Mr. Smith - He may not know an hourly rate right off the top of his head -

Commissioner Fischmann - And at the state minimum wage is that what you're talking about?

Mr. Fichera - Well we rarely go with, we rarely negotiate contracts in open meetings but we believe in full transparency in such. Be happy to show you our other companies. Have many things in our records of other commissions that we've worked for before. This is a little different, this is more of consulting prior to actual - The securitization that we'd drawing upon those experiences.

So, I think in good faith, we will understand - because somebody did tell me in the hallway "don't trust government", but I said we operate in terms of good faith and

provide our services. We're here today. I think if you want us to meet with people and such, we can do that. And that would be most efficient rather than flying back and have back and forth.

And we can discuss with the amendments that we've been looking at 'em. Because we have had some discussions in the response to inquiries from staff about the two bills. And we've been tracking the other bills as well. So, I think we can work efficiently for you and I think you'll be happy in terms of the services and the cost.

Mr. Montoya – Okay, Commissioners, if I may...

Mr. Fichera - You liked 4995 that's fine. That's fine.

Commissioner Byrd? – Could go with Santa Fe's minimum wage.

Mr. Fichera – I'm willing to go with Santa Fe's.

Mr. Matthews? - We'll go with Earl Shive as for the money that...

Commissioner Byrd - That will have to be negotiated and figured out and a contract drawn for us to vote on.

Commissioner Fischmann – Well, thank you.

Mr. Fichera – We only ate one meal today.

Commissioner Fischmann – Well, thanks for putting up with ... with our obnoxious banter here.

Mr. Montoya – Commissioner, one meal is more than we have had today.

Commissioners - [Laughter] – That's right. [Everyone talking simultaneously]

Mr. Fichera – The out of town consultant once again is just blowing the budget – alright.

Mr. Montoya - If I may comment though, I think I am being directed to bring a contract back to the Commission for consideration and action. Next week is the next opportunity. That is going to need to have the detailed services, professional services that this vendor is going to be providing.

And I don't know that we've really have heard what that is, number one. Number two, is staff have been instructed to stay neutral, which means we aren't across the street really lobbying, or showing our position. How does that transfer over to a vendor working on behalf of the agency? Question. So that's...

Commissioner Byrd – So, they'll be over there protecting the interest of the PRC to
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make sure that is as much authority that can be retained and decision making be made, here at this body, and leave that bill somewhat open.

I think Commissioner Klein was very - had a very good point that they were given the authority to determine whether the bond issue would even start - was left at the Commission's feet, it was not immediate because of the pass of the bill. And those are the kinds of things we expect, because they presented it to be put into the language.

Mr. Fichera - I would say that...

Chair pro tem Hall - Absolutely.

Mr. Fichera - That's right. I mean I would see our consulting services at this stage are, is analyzing the, of the various bills, as we've sort of done already. Looking at them within the context of other legislation. Show the pros and cons - some of the things we've done. And then to the extent that there are specifics of 492 that should be substituted for 489, the proposal should show how those could, would work to assist people in drafting.

Because, I think that's where a lot of people are sort of saying we'd like to provide more consumer protections; we didn't really understand this; we didn't know that. And give them the language that, that does, so that the legislature could consider those.

Mr. Fichera - We would also make ourselves available either in person or on the phone to legislative staff and to legislators to answer any of their questions that they may have concerning the functioning and operations. How these would work under various "what if" scenarios, I think as you get into this process. And to answer any questions that have come up even from the company or others, you know, about previous transactions; what examples to follow, things like that.

So, I think we're trying to provide - to be the trusted advisor. To advise - to give you the perspectives that we've had where we have been employed by other commissions to assist in protecting ratepayer interest in the actual structure and marketing.

And in order to do those, there were certain condition precedents that needed to be in the, in legislation - or no prohibitions, or all that. Which then brings us back to best practices and things without having to - have to say 'yes or no' for the whole bill, but just saying well look at these provisions. What are you really trying to do here? Do you realize that this has this effect, or you could do this and it would not have the effect but it would still allow the, you know - Yes? That's what I thought we would be doing.

Commissioner Fischmann - So, Jason, I'm sure that we have some sample professional services contracts that we've done. And that if we get together with the

Saber Partners, they can simply use the format to list the services that are being provided under this contract, and we could get some of the definition that you're searching for. I don't see that as a huge hurdle. So if you could please do that. I would very much appreciate it.

Mr. Montoya – Commissioner Fischmann, I will work with ASD on getting that template. There are a couple of templates for professional services and I'll make sure we get the right one in place.

Mr. Fichera - I still want to know who will provide protection for me back to the airport.

[Laughter].

Commissioner Fischmann – Do you have a concealed carry permit?

Mr. Fichera – I don't have.

Commissioner Byrd - You're on your own.

Mr. Fichera - I mean I'm not trying to be adversarial with PNM but there are certain things that seem to be overreach in that bill that aren't absolute. But anyway...

Commissioner Byrd - Yes sir?

Mr. Boaz – Could I ask, do you want that in the motion; the condition of the approval of the contract next week?

Mr. Fichera - I think we'd like to work in good faith. If the contract doesn't get signed, we'll take the risk that you have all taken, and I should have listened to the guy in the hall. [Laughter] But I don't believe that. I don't believe that. This is the great state of New Mexico.

Commissioner Fischmann – Well. Anything more that we need to do here?

Thank you very much.

Mr. Fichera – Thank you. Well, we'll be standing around ready to go.

Chair pro tem Hall – Okay. Let's see. Jason. Yes, Jason.

Mr. Montoya - We were on communications with Chief of Staff still.

Chair pro tem Hall – Okay.

Mr. Montoya – I just want to remind you all that we have a Senate Finance Committee meeting tomorrow at 3:30 in Room 322. This is the follow-up to the House

appropriations that - a finance hearing we had last week - a couple of weeks ago now. I'll be working closely with Brad Matthews again to tweak the presentation just slightly, not much different.

And all I was going to ask of the Commission is if - how we wanted to approach that presentation.

Now, the last time we had Madam Chair, which I, you know, I would think that'd be the same. And then transition over to give the technical presentation. I'm prepared to do that. And I'm also prepared to address and delegate questions where I see fit where the technical expertise in-house. And they'll be available at tomorrow's hearing.

Chair pro tem Hall - I... Jason, I have a question. What time does that begin, and where are we on the agenda?

Mr. Montoya - So okay, Madam Chair, that begins at 3:30, if you can bear with me - let me take a look at the agenda.

Chair pro tem Hall - Perfect.

Mr. Montoya - In the Capital Room, 322.

Chair pro tem Hall - Okay.

Mr. Montoya - Starting at 3:30.

Mr. Montoya - Madam Chair, Commissioners, the ...tomorrow's agenda has not been published. I'll send out a notice via email, if that's okay with you.

Chair pro tem Hall - Sure.

Mr. Montoya - and when it does, I'll be more experienced about the date. It's not available now. They're still hearing legislation today.

Chair pro tem Hall - And that's Senate Finance?

Mr. Montoya - Senate Finance Committee, Room 322.

Chair pro tem Hall - Okay, and I think the way that you were staffed up was really excellent. You know, you had General Counsel was there, other commissioners were there, Cydney was there, you know, so if there was a need to field questions there were the proper people there to delegate to. So I assume, Rog was there and I think we had and Miguel, I don't recall. You weren't there last time Miguel? Okay.

So, I think if we just go through the same drill we'll be in good shape. And I plan on

New Mexico Public Regulation Commission February 13, 2019 Page 65

being there so...

Mr. Montoya – Commissioners that's all I have for communications.

End of verbatim.

Chair pro tem Hall – Okay.

13. COMMUNICATIONS WITH GENERAL COUNSEL

Mr. Smith had nothing to report.

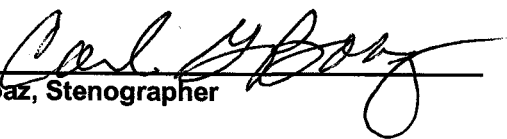
14. COMMUNICATIONS WITH COMMISSIONERS

There were no communications with Commissioners.

15. ADJOURNMENT


The meeting was adjourned at 3:45 p.m.

ATTEST:

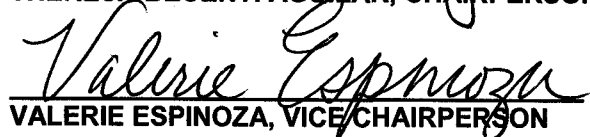


Carl Boaz, Stenographer

APPROVED: 3-6-19



THERESA BECENTI AGUILAR, CHAIRPERSON



VALERIE ESPINOZA, VICE CHAIRPERSON

TELEPHONICALLY APPROVED

CYNTHIA B. HALL, COMMISSIONER



JEFFERSON BYRD, COMMISSIONER



STEPHEN FISCHMANN, COMMISSIONER

NEW MEXICO PUBLIC REGULATION COMMISSION

OPEN MEETING: CASE MANAGEMENT MEETING

Date: February 13, 2019



| NAME | COMPANY NAME (if any) | PHONE NUMBER |
|---------------------|--------------------------|--------------|
| Charlie Jones | CCSD Board Mem | 505-860-9167 |
| Rashad Thomas | CCSD Board Mem | 505-486-0598 |
| Randy Manning | CCSD Counselor | 505-330-7361 |
| Bill SHARPER | State Senate | 505-486-5272 |
| Alexander B. Todaro | San Juan County | 505-258-1896 |
| Norman Johnson | SWIROCK Resident | 505-516-7068 |
| Merrilee Soules | Legislature | 575-635-2225 |
| Ingrid Kelley | " | 608-442-6968 |
| Kathleen Gys | " | 505-231-7616 |
| Lynne Canary | " | 505-577-1654 |
| Catherine Nicolaou | Sacred Wind Comm | 505-573-6849 |
| Leslie Graham | Zia Natural Gas | 575-378-4277 |
| Becky Klein | Klein Energy | 512-751-0003 |
| Joe Fishera | Saber Perches | |
| Dean Criddle | " | |
| Cary Salaz | PNM | 241-4733 |
| Randy Bartell | SSC Entities | 505-986-2504 |
| Rosetta Carter | NMERC | 505-697-3832 |
| Don Shaw | NM SFCMO | 505-476-0165 |

Thank you for attending this meeting.

Ken Hughes
Pete Gaud

EMN (C)
NM IEC

476 3320

690 - EXHIBIT 6
PRC - February 13, 2019



NEW MEXICO PUBLIC REGULATION COMMISSION

**NOTICE OF OPEN MEETING
OPEN MEETING: REGULAR WEEKLY MEETING
Wednesday, February 13, 2019
9:30 a.m.
PERA Building, 4th Floor Hearing Room
1120 Paseo de Peralta, Santa Fe, NM 87501**

AGENDA

- I. PLEDGE OF ALLEGIANCE/STATE PLEDGE**
- II. INTRODUCTION OF SPECIAL GUESTS**
- III. CONSIDERATION AND APPROVAL OF THE AGENDA**
- IV. CONSIDERATION AND APPROVAL OF THE MINUTES**
 - **Minutes of the Case Management Open Meeting for January 23, 2019**
- V. DIVISION DIRECTORS' REPORTS**
- VI. PRESENTATION**
 - **Joseph S. Fichera, NRRI Fellow and CEO-Saber Partners, LLC. Dean Criddle-Orrick, Harrington. Becky Klein- Klein Energy. Regarding Securitization Provisions of Senate Bill 489.**
- VII. PUBLIC COMMENT**
- VIII. CONSENT ACTION**
 - A. Transportation Matters:**

NONE
 - B. Utility Matters:**

| | | |
|----|----------------------------|---|
| 1) | 19-00034-UT Judith Amer | IN THE MATTER OF THE APPLICATION OF NEW MEXICO GAS COMPANY, INC. FOR A VARIANCE FROM 17.10.640 NMAC FOR ITS FEBRUARY 2019 GAS COST FACTOR STATEMENT |
|----|----------------------------|---|

| | | |
|----|--|--|
| | | <p>NEW MEXICO GAS COMPANY, INC.,</p> <p>Applicant.</p> <p><u>POTENTIAL ORDER ON APPLICATION FOR VARIANCE</u></p> |
| 2) | <p>19-00041-UT</p> <p>Judith Amer</p> | <p>IN THE MATTER OF THE APPLICATION OF HENRY G. COORS AND JORIE GNIOTCZYNSKI TO TRANSFER 100% OF THE ISSUED AND OUTSTANDING STOCK IN SOUTH HILLS WATER COMPANY FROM HENRY G. COORS TO JORIE GNIOTCZYNSKI</p> <p><u>POTENTIAL INITIAL ORDER</u></p> |
| 3) | <p>Undocketed</p> <p>Russell Fisk</p> <p>Mark Cessarich</p> | <p>IN THE MATTER OF THE APPLICATION OF U.S. TELEPACIFIC CORP, D/B/A TPx COMMUNICATIONS FOR A CERTIFICATE OF REGISTRATION TO PROVIDE COMPETITIVE LOCAL EXCHANGE TELECOMMUNICATIONS WITHIN THE STATE OF NEW MEXICO</p> <p><u>POTENTIAL ORDER REGARDING APPLICATION TO PROVIDE COMPETITIVE LOCAL EXCHANGE SERVICE</u></p> |

IX. REGULAR ACTION AND DISCUSSION

A. Transportation Matters:

NONE

B. Utility Matters:

| | | |
|----|--|--|
| 4) | <p>18-00006-UT</p> <p>David Black</p> <p>Frances Sundheim</p> | <p>IN THE MATTER OF THE APPLICATION OF EL PASO ELECTRIC COMPANY FOR CONTINUED USE OF ITS FUEL AND PURCHASED POWER ADJUSTMENT CLAUSE</p> <p><u>POTENTIAL FINAL ORDER ADOPTING</u></p> |
|----|--|--|

| | | <u>RECOMMENDED</u> | <u>DECISION</u> | <u>WITH</u> |
|----|---|---|------------------------|---------------------|
| | | <u>MODIFICATIONS</u> | | |
| 5) | 18-00018-UT David Black Ashley Schannauer | IN THE MATTER OF ZIA NATURAL GAS COMPANY'S APPLICATION FOR REVISION OF ITS RATES, RULES, AND FORMS UNDER ADVICE NOTICE NO. 57, ZIA NATURAL GAS COMPANY, <p style="text-align: right;">Applicant.</p> | | |
| | | <u>POTENTIAL</u> | <u>FINAL</u> | <u>ORDER</u> |
| | | <u>ADOPTING</u> | | |
| | | <u>RECOMMENDED DECISION</u> | | |

X. EXECUTIVE CLOSED SESSION

- **PURSUANT TO NMSA 1978, SECTION 10-15-1(H)(2)**
 - **Personnel Matters – Appointment and Selection of Interim Chief Hearing Officer**

XI. LEGISLATIVE ISSUES POSSIBLE DISCUSSION AND POSSIBLE ACTION

- **NEW BILLS**
 - **HB 15 - Rural Electric Coop Renewable Standards**
 - **HB 426 - Renewable Energy Transmission Authority Study**
 - **HB 432 - Affordable Solar Energy Act**
 - **HB 491 - Immobilizing or Towing of Certain Vehicles**
 - **SB 416 - Redistricting Act**
 - **SB 456 - Electric Utility Resource Procurement**
 - **SB 468 - Clean Energy for New Generation Facilities**
 - **SB 232 - Public Record Requests Costs and Procedures**
 - **SB 285 - IPRA Failure to Permit Inspections**
 - **SB 489 - Energy Transition Act**
- **BILLS PREVIOUSLY DISCUSSED AND CURRENTLY BEING TRACKED - MAY BE SUBJECT TO FURTHER DISCUSSION AND ACTION**
 - **HB 162 - Insurance Premium Tax Provisions**
 - **HB 175 - Regional Water Utility Authority Act**
 - **HB 244 - Minimum Train Operating Crews**
 - **HB 300 - Rural Electric Co-Op Proxy Voting & Quorums**

- SB 336 - Electricity Distribution for Certain Vehicles
- SB 281 - Community Solar Act
- HB 283 - Increase Renewable Portfolio Standards
- SB 275 - Increase Renewable Portfolio Standards
- HB 291 - Renewable Use of Energy Act Changes
- SB 233 - Broadband Access Unfair Trade Practices
- HB 116 - Wastewater System Financing
- HB 124 - Fire Protection Fund Changes
- HB 176 - Broadband Telecomm Facility Gross Receipts
- SB 99 - Appointment of PRC Members
- SB 143 - PRC Fire Safety Standards
- SB 161 - Renewable Energy Transmission Authority Funds
- HB 38 - ABQ-Bernalillo Water Authority Water Rights
- HB 210 - Community Solar Act
- SB 136 - Efficient Use of Energy Act Amendments
- SB 165 - Municipal Revenue For Bond Repayment
- HB 269 - Separation of Fire Marshal from PRC
- HB 385 - Access to Telecomm Rural Service Fund
- HB 406 - PRC Transmission Line Jurisdiction
- SB 208 - Broadband Facility Component Gross Receipts
- SB 357 - Generation & Transmission Rate Protests
- SB 374 - Local Choice Energy Act
- SB 376 - Utility Eminent Domain Rights of Way
- SJR 4 - Transfer PRC from Elected to Appointed
- SJR 1 - PRC Election and Appointment

XII. COMMUNICATIONS WITH CHIEF OF STAFF

XIII. COMMUNICATIONS WITH GENERAL COUNSEL

XIV. COMMUNICATIONS WITH COMMISSIONERS

- Proposed revision of NMPRC Policies regarding use of state vehicles and workplace safety [Code of Conduct, NMPRC Human Resources Policy No. 10 and Commissioner Code of Conduct]

XV. ADJOURNMENT

To obtain a copy of this agenda please log in the Commission's website at www.prc.nm.gov.

The Commission will make reasonable efforts to post the agenda on the Commission's website at least 72 hours before the open meeting, but the inability to do so within the 72 hours prior, will not require the Commission to delay the meeting or to refrain from taking action on any agenda item on which it otherwise could act.

At any time during the Open Meeting the Commission may close the meeting to the public to discuss matters not subject to the New Mexico Open Meetings Act. The Commission may revise the order of the agenda items considered at this open meeting.

Notice is hereby given that the Commission may request that any party answer clarifying questions or provide oral argument with respect to any matter on the agenda. If the Commission makes such a request, any party present at the meeting, either in person or by telephone, shall have an equal opportunity to respond to such questions or argument. In the event a party whose case is on the agenda chooses not to appear, the absence of that party shall not cause such discussion or argument to become ex-parte communications.

PERSONS WITH DISABILITIES

ANY PERSON WITH A DISABILITY REQUIRING SPECIAL ASSISTANCE IN ORDER TO PARTICIPATE IN THIS PROCEEDING SHOULD CONTACT THE OFFICE OF DIRECTOR OF ADMINISTRATIVE SERVICES OF THE COMMISSION AT (505) 827-4042 AS SOON AS POSSIBLE PRIOR TO THE COMMENCEMENT OF THE OPEN MEETING.

PUBLIC COMMENT

All members of the public wishing to provide public comment must sign a sign-up sheet prior to the start of the meeting and identify their name and the name of the organization they represent (if any), and the topic or issue on which they desire to comment. The portion of the agenda allocated for public comment at any one open meeting shall be limited to a maximum of 30 minutes for all persons wishing to provide comment. The order of speakers will be based on the order in which speakers sign up, but public officials may be taken out of order. If a speaker is not present at the time he or she is called to provide comment, that speaker shall forfeit their opportunity to speak. Public comment by an individual or entity shall be limited to no more than three (3) minutes unless the Commission acts to extend the period. If the number of individuals on the sign-up sheet desiring to provide comment would exceed the allotted 30-minute period, the Chairman may limit individual remarks to a shorter time period. Individuals represented by or representing a common organization or association may be asked to select one individual to act as spokesperson to speak for the group. Individuals who sign up to comment, but either fail to do so or choose to speak for less than their allotted time, may not cede or yield their time to another speaker. Written comments of individuals who cannot be physically present may not be read aloud at the meeting but may be submitted to the

Commission.

The subject matter of public comments shall be relevant to matters within the Commission's jurisdiction. Public comment will not be permitted on matters that should be addressed appropriately as the subject of an informal or formal complaint before the Commission or on pending rulemaking proceedings before the Commission once the opportunity for public comment in those proceedings has closed. Public comment by parties to a proceeding or adjudication pending before the Commission will not be permitted where the comment concerns matters at issue in such proceeding. The Chairman shall retain the right to stop any speaker who raises an issue that is not under the Commission's jurisdiction or is subject to the restrictions above. Public comment will be received without Commission comment or response. However, individual Commissioners may at their option seek clarification or additional information from speakers through the Chairman. No speakers will be accommodated after the public comment portion of the agenda has closed. The Chairman retains the right to exercise discretion in the implementation of this policy and may override the above rules in case of emergency or other unforeseen circumstances.

Speakers providing comment shall at all times conduct themselves in accordance with proper decorum. Profane or vulgar language or gestures will not be tolerated. Audience members shall not disrupt an open meeting by speaking without being recognized by the Commission and shall not incite others to do so. The Commission retains the right to remove disruptive attendees and individuals who fail to conduct themselves in accordance with these provisions from the Commission meeting.

OPEN MEETING: CASE MANAGEMENT MEETING

RECEIVED COMMERCIAL SECTION - WASHINGTON

[illegible]

EXHIBIT 3
PRC - February 13, 2019