

**MINUTES OF THE
CASE MANAGEMENT OPEN MEETING
NEW MEXICO PUBLIC REGULATION COMMISSION
February 20, 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
Milo Chavez, Acting Utility Director
Raj Solomon, Utility Division
Michael Ripperger, Telecommunications Bureau Chief
Carolyn Glick, Hearing Examiner

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 called the 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

There were no introductions.

3. CONSIDERATION AND APPROVAL OF THE AGENDA

Mr. Smith requested removal of two items from the agenda: Case 18-00374-TRM and #9, Closed Executive Session, which had the specifics left off.

MOTION: Commissioner Espinoza moved, seconded by Commissioner Hall to approve the Agenda as amended. The motion was approved by unanimous (5-0) voice vote.

4. CONSIDERATION AND APPROVAL OF THE MINUTES

- **Minutes of the Case Management Open Meeting for January 30, 2019**

MOTION: Commissioner Espinoza moved, seconded by Commissioner Byrd. to approve the January 30, 2019 open meeting minutes as presented. The motion was approved by unanimous (5-0) voice vote.

5. DIVISION DIRECTORS' REPORTS

Mr. Milo Chávez presented the Division Director's Report for the Utility Division. He said they are experienced, dedicated public servants who do high quality work for the Commission. Just looking at the number of FIRs they completed indicates the amount of work they do in utility cases. They are overworked due to the constraints from not being able to fill vacancies.

They are working in collaboration with NM Tech and the National Lab because the RPS requirements are changing and we need to be ready for surprise changes and be able to testify before the Commission and Hearing Examiners for what is necessary to be done. We have entered into an agreement with a software company and NM Tech who will provide an engineering intern and backup professors and some hardware we need to run operations. NM Tech will house the software to model RPS type requirements so we can achieve the new results needed. We also have grant from National Lab to provide additional data and hopefully can address these issues.

Commissioner Hall asked if the software will permit modeling.

Mr. Solomon said it does. The PRC will be using two NM Tech licenses and we use it under their permissions. A few graduate students will also give us free help.

Mr. Montoya added that the partnership with them will save \$200,000 through the MOA and he hoped the person at NM Tech might come to work at the PRC later.

Commissioner Hall asked if the software might be used for rate cases.

Mr. Solomon agreed and hoped for a long-term agreement with them. There is a lot of interest in these kinds of projects. Anyone getting hands-on experience with it will get a very good job.

Commissioner Fischmann was concerned they might sell the models to utilities.

Mr. Solomon described the company, Energy Exemplar, and said they would like to do more modeling.

Commissioner Fischmann thought we could come to shared modeling with utilities.

Mr. Chávez thought Energy Exemplar would then probably start charging for the software.

Mr. Solomon has been in contact with Enro and LANL on storage and have had initial discussions on a model which is not clearly public domain, but it is not done. We could work with them to do something similar with Dr. Pitts to seek economy and stability.

Chair Becenti Aguilar thought it is great to introduce interns who can work with us and would like another update in 90 days on that project. She asked Utility Division to please bring the agreement to the Commission when it is ready. She thanked Mr. Chávez and Mr. Solomon for the report.

Mr. Chávez promised to keep the Commission updated on staffing and agreements.

Mr. Chávez offered to go through the complaints received and Mr. Montoya asked him to cover that next time.

6. PUBLIC COMMENT

There were no public comments.

7. CONSENT ACTION

A. Transportation Matters:

None.

B. Utility Matters:

None.

8. REGULAR ACTION AND DISCUSSION

A. Transportation Matters:

- 1) ~~18-00374-TRM IN THE MATTER OF THE FORMAL COMPLAINT OF CRYSTAL C. WINTERS AGAINST SUPERIOR AMBULANCE SERVICE, INC. D/B/A SUPERIOR MEDICAL TRANSPORT~~
~~(Judith Amer)~~ POTENTIAL ORDER ASSIGNING TO HEARING EXAMINER AND REQUIRING ANSWER

This case was removed from the agenda under Approval of the Agenda.

B. Utility Matters:

**2) 18-00218-UT IN THE MATTER OF THE ACQUISITION BY RRC UTILITIES, LLC
OF THE MEMBERSHIP INTEREST OF CDS RAINMAKERS
PARTNERS, LLC.**

**(Carolyn Glick)
(Michael Smith)**

**RECOMMENDED DECISION
POTENTIAL FINAL ORDER ADOPTING
RECOMMENDED DECISION**

Ms. Glick read from Section 2 of the RD starting on page 2 which was a summary of the approval and her recommendation for this transfer of ownership. She described the development which has 21 condos, some single-family residences and a golf course. There are 350 customers and the company is a fully owned subsidiary of Rainmakers - (CDS) which were created to manage 1,000 acres in Lincoln County. CDS seeks to sell the water utility and seek PRC approval to do so. They believe it is time to leave the business in New Mexico. Approval of the petition would bring a change of ownership and become a public utility subject to PRC regulation. Mr. Vaughn would manage it. There were no interveners.

Staff recommended approval as she did. She found it in the public interest because the current owner has no continuing interest in owning and managing the utility. The managers of the utility would not change as a result of the transfer.

Mr. Smith did not make a presentation on the order but said it would adopt the RD totally.

**MOTION: Commissioner Espinoza moved, seconded by Commissioner Hall to approve the order. The motion was approved on a unanimous 5-0 voice vote.
So Ordered.**

**3) 18-00368-UT IN THE MATTER OF THE APPLICATION OF SOUTHWESTERN
ELECTRIC COOPERATIVE, INC., FOR APPROVAL OF
METHODOLOGY OF DISPOSITION OF OVER-COLLECTION OF
FUEL AND PURCHASE POWER COSTS ADJUSTMENT
AMOUNT. SOUTHWESTERN ELECTRIC COOPERATIVE, INC.,
Applicant.**

(David Black)

**POTENTIAL FINAL ORDER APPROVING
APPLICATION**

Mr. Black presented information regarding this matter to the Commission. The Docket was opened December 7, 2018. Staff filed responses to the application after reviewing it and recommended approval. The application involves the FPPCAC to repay customers for overcollection of the FPPCAC costs in 2018. SWEC represents customers in Harding, Quay and Union Counties and has a few customers in Oklahoma and Texas.

The Coop filed the correct reports and responses. The coop filed supplemental testimony in the docket for the inadvertent over collection and they represented that a turnover in personnel caused it and staff wanted to make sure that in future coop staff turnover, that the coop provide information about how they will prevent that from happening again.

If the Commission approves the application through the drafted order, then the FPPCAC accounting mechanism has a two-month lag so the order includes looking again in two months to ensure the overage was repaid. The overage was based on estimates of sales which were not entirely accurate. Staff believes the report in two months should be sufficient.

Commissioner Fischmann asked if this error was brought to the Commission by the utility.

Mr. Black agreed - it was done voluntarily.

Commissioner Fischmann was concerned that there would be no notification to customers but would just be corrected in bills going forward. He asked why it was decided not to notify the customers what happened.

Mr. Black said Staff did address that specific question on notice. There is no existing Commission precedent to require a notice in cases like this. Mr. John Reynolds addressed that in his affidavit.

Commissioner Fischmann suggested avoiding a precedent by just asking the coop to let their customers know.

Mr. Reynolds did not recommend notice and read his affidavit.

Commissioner Fischmann thought it was great they came forward to ask for the correction, but we should be transparent.

Chair Becenti Aguilar thought Staff were coming from protecting customers. We would go at a higher level to ask them in their billing cycle to explain what had occurred. We are here to protect the customers and it should be a hand-in-hand coordination.

Commissioner Byrd saw it happened because of staff turnover and institutional knowledge was lost. He understood a recent merger of Union and Springer took place.

Mr. Dan Najjar clarified that there were talks about a potential merger than did not take place. They had a change of manager and the consultant inadvertently switched numbers

and then retired. That is what happened.

Commissioner Espinoza thought the Commission should not punish them for that mistake by forcing them to spend more money on notices.

**MOTION: Commissioner Espinoza moved, seconded by Commissioner Byrd, to approve the order. The motion was approved on a unanimous 5-0 voice vote.
So Ordered.**

**~~9. EXECUTIVE CLOSED SESSION PURSUANT TO NMSA 1978, SECTION 10-15-1
(H) (7)~~**

This item was removed from the agenda under Approval of the Agenda.

10. LEGISLATIVE ISSUES:

Mr. Montoya went through the new bills. There are a couple with important new language that the Commission should consider. SB 565, removal of the Fire Marshal from the PRC, seems to supersede HB 269 and get momentum that moves the Fire Marshal into an executive branch. The bill has been assigned to a couple of committees but no schedule yet.

He moved on to the bills previously discussed.

Commissioner Hall mentioned HB 541 regarding cramming and slamming in telecommunications and was concerned that the added language weakened the cramming and slamming. She mentioned how it allows other billings to be added to phone bills.

Mr. Ripperger said either the company that puts the charge on the bill, if someone other than the owner of the bill authorized the charge, our experience is that it is pretty effective over time. This seems like it would weaken those and right now we get very few and that practice could increase if this bill is approved.

Commissioner Hall thought the Commission should address it. It just looks like someone trying to mess with the bills.

Commissioner Espinoza commented on SB 652 that she liked the way Staff wrote the FIR - we can all read between the lines. She was glad it was brought to our attention. And she thanked Commissioner Hall for identifying it.

MOTION: Commissioner Espinoza moved, seconded by Commissioner Byrd to oppose HB 541 and let sponsors know. The motion was approved on a unanimous 5-0 voice vote.

Commissioner Fischmann asked if we got the bill for revised printing requirements, SB 537 by Senator Neville and Senator Wirth which allows training requirements for Commissioners to be expanded to more than just NARUC.

Commissioner Hall was in support. They included university and nonprofits but not businesses. RTO organizations were not included and that happens regularly. Notwithstanding, she still supported it as very helpful.

Commissioner Fischmann thought there will be ample opportunity to add things.

Commissioner Byrd asked about the section where the education courses shall be endorsed by NARUC. It says "shall" and if they don't endorse them, they give us nothing.

Commissioner Fischmann agreed that needs to be changed. He will send a note over to Sen Neville and will meet with Commissioner Hall for a couple of amendments and share them before going over.

Mr. Montoya said we need to do the FIR and can request proposed amendments with that.

Chair Becenti Aguilar mentioned HB 385, access to USF, which is the Sacred Wind Communications bill. She had a huge concern with all the money given to them and that hasn't produced good service happening from the money spent. There was a committee hearing where it passed and is due to be heard at Indian Affairs Committee. She would like to take action on it next week, if possible.

Mr. Montoya said he will monitor it.

Mr. Montoya went next to SB 489, Energy Transition Act, and reported the FIR was sent yesterday to Commissioners and asked for comments. It is scheduled for Saturday 10 am before the Conservation Committee and he would be there.

Mr. Solomon said this bill allows for abandonment of coal fired units and that the utility can recover all costs up to \$375 million depreciated - Stranded costs or 150% of undepreciated assets. It increases the RPS to 80% by 2040 and 100% by 2050 for coops and requires the PRC to promulgate rules and reporting requirements.

Commissioner Fischmann said the coops have stayed neutral on the bill which surprised him. He was basically saying they were okay with requirements to 2030 and

beyond that and staying out of the discussion.

Mr. Solomon said among the key points is that it takes away PRC authority to evaluate abandonment costs and the other is financing order type. It allows for a bond counsel to serve the Commission, but it appropriates no money for the financial advisor. And it does not allow any review of the bonds for lowest cost. And requires us to work with Environment Dept and Energy and Minerals to assure reasonable progress and reports to the Legislature. So it requires lots of work. He estimated for those tasks, the PRC would need three CPAs, one economist, two engineers, one staff counsel and one associate general counsel at a cost of about \$895,000 per year. The bill also conflicts with some other bills including SB 275.

Commissioner Fischmann asked if they put a fiscal requirement on it.

Mr. Solomon agreed - just under \$900,000.

Mr. Montoya went to HB 275 - regional water authority act. Mr. Solomon drafted the FIR and he spoke to two who operate water systems now. This would prevent some water utilities from expanding and there are no limits on size of the area for regional water authorities.

Mr. Montoya mentioned multiple efforts to reduce PRC authority.

Commissioner Espinoza concluded it was obvious no one would be left to look out for consumer rights if those bills were approved. Sacred Wind is one of those bills that strips all authority from PRC. They don't even have to come to ask for the \$1.2 million. The Commission might be left without anything at the end of the session.

Mr. Montoya said HB 275 is very important and the Commission should allow Staff to communicate with the sponsors.

Commissioner Hall got a call from a constituent about the consequences of that bill and also discussed it with Mr. Solomon yesterday. It sounds very concerning for eminent domain for new water companies who could take over other water companies without approval.

Chair Becenti Aguilar thought the Commission should act next week.

Commissioner Espinoza thought we should today.

Mr. Montoya went next to SB 143, which passed the Senate and now going to the House. It is an unfunded mandate that would require four more staff members in the Fire Marshal's office. They currently perform the damper inspections, but it would require an

inspector qualified by ANSI in NYC. Our staff have the training and qualifications to be the inspectors. The bill wants a company instead of fire marshal staff to do that.

MOTION: Commissioner Byrd moved, seconded by Commissioner Espinoza, to oppose SB 143. The motion was approved on a unanimous 5-0 voice vote.

Mr. Montoya went back to HB 385, the Sacred Wind Communications bill.

Commissioner Espinoza said she testified against it.

Chair Becenti Aguilar said she stood up to oppose it along with Commissioner Espinoza.

Commissioner Espinoza asked Mr. Ripperger to explain why they are trying to bypass the PRC.

Mr. Ripperger said when the current permutation of USF was created, carriers who had high access costs had them reduced down to in-state rates and those revenues lost were added to the USF payments. But Sacred Wind Communications was not in existence then. It is about \$18 million now, down from \$24 million. Sacred Wind Communications came and asked for support based on need and the Commission voted to support that payment to them. It was \$6 million over five years and expires in 2020 and at the end, Sacred Wind Communications could come back to the PRC for more permanent support

Commissioner Hall asked what the basis was for the support.

Mr. Ripperger said it gives the PRC discretion to determine what comparable carrier amounts would be. Because of the amendment in the last committee hearing. If they can prove comparable costs, then the PRC would have to provide comparable support.

Commissioner Hall said that was the part she did not understand. What is the rational for comparable support? Is there some legal authority that says they all must have a certain level of support?

Mr. Ripperger said with passage yes - with failure - no. In the original version, the PRC would have to determine the number of lines to support and there were three criteria for similar carriers that received funding. But the amendment said they first have to prove they have costs similar to other carriers to get compensation. They serve in a rural area, so he guessed costs were similar.

Commissioner Espinoza pointed out that they have received \$1.4 million each year for four years and they are running out of money, but they have received millions from other

sources, too. The rural ILEC is based on a formula. The rural companies are forced to retain their access charges and trying to have it into perpetuity.

Mr. Ripperger said the legislation was passed in 2004 and the PRC began acting then and into 2005.

Commissioner Espinoza understood Sacred Wind Communications could not demonstrate the need. And they had a problem in how they used the money. Who is lobbying heavily for this?

Commissioner Fischmann clarified the reason Sacred Wind Communications has not been eligible is because they did not exist when the law was put in place and it was only for existing carriers.

Mr. Ripperger agreed.

Commissioner Fischmann added that Sacred Wind Communications said they faced same problems and deserved to have the benefit. He was not sure any carriers deserved the benefit. What the legislation says is that carriers coming in after that date must meet the same criteria to be eligible for those same benefits.

Mr. Ripperger agreed. Sacred Wind had no loss of revenue like other carriers because the access rates were already very low when they came into existence. Any carrier under the similar circumstance - a local exchange carrier could be created because there is much activity going on, but it is pretty rare to happen.

Commissioner Espinoza asked what is in the amended version. She didn't know about the amendments.

Mr. Ripperger said Commerce put on an amendment and he got an FIR request. The amendment was a calculation change with criteria that in order to show need, they needed to show their costs were the same or greater than a comparable carrier and then to calculate a per line amount.

Commissioner Hall asked if Sacred Wind Communications came to the PRC for relief.

Mr. Fisk explained that Sacred Wind Communications is the only carrier receiving need-based support for a specific build out they were going to do. And they received \$1.4 million per year over five years. This only would apply to Sacred Wind. The Commission should consider that \$30 million is the cap and there are demands on the fund now that would take it over the cap. So you are balancing it with other carriers.

Commissioner Hall noted the statute for using USF funds and if this passed, it would

conflict with a statute in place because it would come from USF.

Mr. Fisk said the bill proposes to amend the statute.

Commissioner Hall pointed out that this is for the relief of only one party. And it would compromise our ability to follow that process.

Commissioner Espinoza asked Mr. Fisk to explain how it would be done into perpetuity.

Commissioner Hall agreed that is the issue. Maybe we should open a docket - perpetuity is a long time.

Commissioner Espinoza asked if it is supposed to be used for broadband.

Mr. Fisk said the access reduction support to rural ILECs is in perpetuity. But Sacred Wind Communications would receive this average in perpetuity after the \$1.4 million is gone.

Commissioner Hall thought the idea of ratcheting down made her think that, since the value is ratcheted down, then the Commission could pull the money back over time.

Commissioner Fischmann thought the PRC could not necessarily open a docket but could decide to engage with the Legislature a bill to address it.

Mr. Fisk said he planned to bring another telecom docket next week. With CenturyLink, there was a docket opened from a legislation requiring the Commission to study the impact on the cap. And there is also the report at end of year to the Legislature about the impact of the bill.

Commissioner Fischmann said he hated subsidies. We just have to have discipline about not letting them go on forever. He was a little reluctant to say we should weigh in on this. It might give the appearance that we are prejudicial against Sacred Wind Communications. So I'm struggling with that personally.

Mr. Fisk agreed because the legislation is for only one company.

Commissioner Fischmann said he might speak individually on it.

Commissioner Hall opined that we don't have a case and the bill doesn't actually name the company. Our duty is to try to ensure the statutes work as well as they can for us. We should be concerned about the effect on the cap. We have to look at what is in front of us and their assertion of bias we would face at the time.

Commissioner Espinoza pointed out that Chair Becenti Aguilar sees what progress or lack of progress is going on there. This company works in her district and trying to circumvent the PRC process. There has already been a statement made.

Mr. Fisk mentioned a constitutional provision that prohibits laws that would benefit a single company or person. He could research that issue.

Chair Becenti Aguilar asked him to do that.

Commissioner Byrd saw this would allow one company to be granted funds without showing need and another company with a greater need be denied.

Mr. Fisk agreed that is a potential. There are two petitions for lifeline support. That is targeted to the customer himself or herself to get the benefit. One is from T-Mobile and one from Tracfone - and we could not grant both of them without going over the cap.

Commissioner Byrd added that this fund is funded by ratepayers. He agreed with Commissioner Fischmann and did not like the idea of giving money to any company. We should scrutinize every company that asks for funds. He believed this legislation is not in the best interests of the people.

MOTION: Commissioner Fischmann moved, seconded by Commissioner Espinoza, to oppose HB 385. The motion was approved on a unanimous 5-0 voice vote.

Mr. Montoya went to HB 175. On Monday, the Senate Rules Committee passed the SJR that would substitute on the bill that would strip transportation from the PRC in its entirety. He said the bill doesn't place the work any place else. So, he is asking Mr. Gutierrez to help with the FIR. And it is also in conflict with 8-8-6, the statute identifying the PRC as over the Transportation Division. It was concerning to him since the Pipeline Safety Bureau is in the Transportation Division.

Commissioner Hall said a joint memorial does not impact a statute. Maybe that is something that would not be addressed in this document and pertains only to the constitution, to implement the constitutional provisions when it comes up. She guessed that is why it is something that is misguided.

Mr. Fisk said both underlying bills, SJR1 and SJR4 and the Senate Rules Committee substitute amendment would require that Act to be changed. And there are other acts that would have to be changed. He thought SJR 4 only dealt with appointment vs election and then it struck out transportation.

Mr. Montoya said Staff is developing the FIR. The intent here is to remove the transportation division.

He went back to HB 175 as the last bill he wanted to highlight.

The Commission briefly discussed the regional water authority bill and its impact on existing water systems.

Mr. Solomon said it pertained to Section 4-C-11 and could result in once filed with the Secretary of State, any existing water systems in that area could not connect any new customers. That restriction conflicts with the statute and, once it is prohibited from adding new customers, would inspire condemnation and could compel connections to new developments. It would impact 125,000 customers under PRC regulation.

Mr. Smith did not think it would be limited but could create a brand-new governmental entity dealing with water. It is almost on the same basis as mutual domestics and sewage systems that can amalgamate themselves into a larger entity.

Mr. Solomon said over a period of time, capitalization with no future growth, the company would become financially constrained and cause existing companies' trouble. They would become a political subdivision and would have a right to issue bonds and enter condemnation proceedings.

Commissioner Fischmann said he tended to agree for a local government entity to form to regulate the water. Even if the local jurisdiction takes the authority to regulate from the PRC. There is a lot going on behind the scenes here. He would not be in favor of taking a position on this bill.

Mr. Solomon said the potential for abusing is that a sanitary sewer company could decide to become a drinking water company and drive a good water company out of business. And once a water system is formed by districts, a board of directors is formed who can do whatever they want. The PRC regulates reasonable rates and that would be out of our regulation, so they might not care. There are no potential checks and balances in the bill.

Commissioner Espinoza said that is what happened in Farmington with a Board who didn't know what they were doing. When you speak about eminent domain, you talk about property rights and treading on them.

Mr. Solomon said it means they get a lot of power without regulatory oversight.

Commissioner Byrd pointed out the agreement between the federal government and

tribes to grant water and near Española and near Taos, that resulted in wells being closed. This bill allows them to acquire property that might include a water system currently regulated and their fear is that it could be condemned by an unregulated entity. It is a legitimate fear.

She asked if it included previously constructed infrastructure.

Mr. Smith was not making a legal advisory on it. This is a far more complex bill and a hornets' nest of issues. And affects all underlying water rights.

Mr. Solomon shared an example of a condemnation. When it happened, it was taken away from our regulation and that was his biggest concern. Second, where the regional water authority is formed, they can siphon money to subsidize a certain portion of the region. The intent was to allow small water companies to consolidate but it opens for other abuse.

Commissioner Fischmann acknowledged this is very complicated but he was in favor of proposing amendments and supporting those.

Chair Becenti Aguilar asked to bring it back next week for further consideration.

11. COMMUNICATIONS WITH ACTING CHIEF OF STAFF

There were no communications with Acting Chief of Staff.

12. COMMUNICATIONS WITH GENERAL COUNSEL

There were no communications with General Counsel.

13. COMMUNICATIONS WITH COMMISSIONERS

Commissioner Espinoza said, "I just wanted to go back to January 13th (she meant February) when we heard - that was Wednesday - from Saber Partners, who were invited to Santa Fe by Commissioner Hall, to talk about securitization. Afterward, the Commission said it would remain neutral. That was my understanding. That was no position on Senate Bill 489. Yet, on that Wednesday a couple of Commissioners decided to retain Saber Partners to possibly provide advice and go across the street to meet with legislators. So, we called an emergency meeting February 14th, that would be the next day, to clarify that we did not want Saber to continue performing work on behalf of the Commission, especially when they would not be paid for it. The decision to pursue a

contract was not consistent with our decision on Wednesday to remain neutral on the legislation, like we did today, and what resulted in miscommunication about Saber Partners' interest in getting a contract with the Commission. I have to thank Commissioner Fischmann for apologizing for the confusion or whatever it was that occurred. But back to the miscommunication, people should not infer that Saber did anything improper by responding to Commissioner Hall's invitation to present before this Commission. Although they had and have an interest and gave authority material to Commissioners and Legal Counsel, I just wanted to be clear on that and all that occurred last week."

Chair Becenti Aguilar received a request in a call about electricity problems with Continental Divide in Grants and asked General Counsel to contact the coop and see if they could provide some answers. She wanted to get an explanation to the Commission why the Coop doesn't see anything wrong, with power outages and lights blinking during the night and why they think it is not their problem.

Mr. Smith said he would follow up and Mr. Chávez nodded.

Ms. Amer said Commissioner Byrd requested a revision to HR policy #10, code of conduct.

She provided two versions - one more detailed and one more summarized. She said, "If you approve the change, we are required to give the union one month to come in and comment on it. Through provision of the CBA.

Commissioner Byrd went to page 3 where the changes were to be made. They both state the same thing. The short just cites the legislation and the long version includes the legislation. It is about allowing those who are permitted to carry fire arms to carry them. He liked the long version because it is explicit in what is expected and doesn't require a person to look it up. He asked the Commissioners to support it.

MOTION: Commissioner Byrd moved, seconded by Commissioner Espinoza, to approve the long version.

Commissioner Espinoza said this has been brought up now for the third time. Where did the four weeks come from?

Ms. Amer explained we needed a written version.

Commissioner Fischmann said he was not a big handgun guy. In the interest of public safety, he didn't own a gun and he was sympathetic that in New Mexico that is the law and should be applied equally. What is happening now in our current rule, is that any visitor or person not part of the PRC can carry a concealed handgun within the building.

Ms. Amer said they need to comply with the concealed carry law. But our rule does not allow employees, even those with concealed carry permit to come into the building.

Commissioner Fischmann understood that the rule was put in place and one he asked for why it was put in place. He did not see that here now.

Ms. Amer said there was a personnel action and she would prefer not to go into detail, but a decision was made by State Personnel. Two fire marshal employees had weapons in their vehicles and went to an event and the investigator had a weapon. There was ensuing disciplinary action and it went to State Personnel. There is a GSD rule that prohibits weapon in state vehicles unless they are a law enforcement officer. During that case, there was lots of anecdotal testimony at the hearing that routinely PRC employees had concealed weapons.

Commissioner Fischmann reasoned that even before the restriction, they were violating state code and was why they were disciplined.

Ms. Amer agreed. But in the hearing, that was not what the hearing was about, and it was disclosed that other employees had concealed weapons in the building.

Commissioner Fischmann agreed. So the Commission voted on that change. He asked if the vote was in response to some individuals.

Ms. Amer said the Chief of Staff asked for the policy and brought it to the Commission who voted on it.

Chair Becenti Aguilar asked when that happened.

Ms. Amer said it was last year.

Commissioner Byrd for clarification, said this State Law says it is okay to carry in state buildings and not in a state vehicle. This only applies when they are in this building and not in a state vehicle. It was selective and then broad-brushed to everybody. That is why he would like to change it back. It talked about the state law, and in a state vehicle, it would still be a violation.

Mr. Smith explained we cannot restrict the public's right to carry a concealed weapon in a state building. On the other hand, the state has the right to regulate state vehicles which are not public spaces.

Commissioner Fischmann personally did not like our concealed weapons law in New Mexico but it is our job to uphold the state law.

Ms. Amer said there are two GSD rules cited - one of the rules pertains to use of leased buildings and we have some where it would be subject to the GSD rules.

The motion was approved on a unanimous 5-0 voice vote.

14.ADJOURNMENT

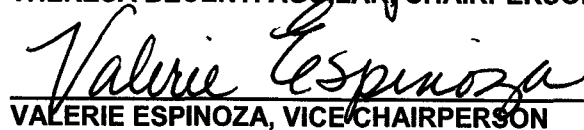
The meeting was adjourned at 12:15 p.m.

ATTEST:


Carl Boaz, Stenographer

APPROVED: 3-20-19

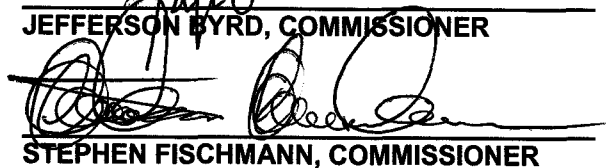

THERESA BECENTI AGUILAR, CHAIRPERSON


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 20, 2019

SIGN-IN SHEET

NAME	COMPANY NAME (if any)	PHONE NUMBER
Mark Fowler	PWM	241 2498
Ruth Sakya	SPS	906 677 4512
Sharon Cordova	UMCC	505-697-3559

Thank you for attending this meeting.



NEW MEXICO PUBLIC REGULATION COMMISSION

**NOTICE OF OPEN MEETING
OPEN MEETING: REGULAR WEEKLY MEETING**

Wednesday, February 20, 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 30, 2019**
- V. DIVISION DIRECTORS' REPORTS**
- VI. PUBLIC COMMENT**
- VII. CONSENT ACTION**
 - A. Transportation Matters:**

NONE
 - B. Utility Matters:**

VIII. REGULAR ACTION AND DISCUSSION

A. Transportation Matters:

1)	18-00374-TRM Judith Amer	IN THE MATTER OF THE FORMAL COMPLAINT OF CRYSTAL C. WINTERS AGAINST SUPERIOR AMBULANCE SERVICE, INC. D/B/A SUPERIOR MEDICAL TRANSPORT POTENTIAL ORDER ASSIGNING TO HEARING
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		<u>EXAMINER AND REQUIRING ANSWER</u>
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B. Utility Matters:

2)	18-00218-UT Michael Smith Carolyn Glick	IN THE MATTER OF THE ACQUISITION BY RRC UTILITIES, LLC OF THE MEMBERSHIP INTEREST OF CDS RAINMAKERS PARTNERS, L.C. <u>POTENTIAL FINAL ORDER ADOPTING RECOMMENDED DECISION</u>
3)	18-00368-UT David Black	IN THE MATTER OF THE APPLICATION OF SOUTHWESTERN ELECTRIC COOPERATIVE, INC., FOR APPROVAL OF METHODOLOGY OF DISPOSITION OF OVER-COLLECTION OF FUEL AND PURCHASES POWER COST ADJUSTMENT AMOUNT SOUTHWESTERN ELECTRIC COOPERATIVE, INC., Applicant. <u>POTENTIAL FINAL ORDER APPROVING APPLICATION</u>

IX. PURSUANT TO NMSA 1978, SECTION 10-15-1 (H) (7) - PENDING LITIGATION MATTERS

X. LEGISLATIVE ISSUES POSSIBLE DISCUSSION AND POSSIBLE ACTION

- **NEW BILLS**
 - **HB 512 - Firefighter Retirement Service Credit**
 - **HB 521 - PRC Application for Vehicle Electricity**
 - **HB 541 - Telecommunication Cramming & Slamming**
 - **HB 604 - Utility Securitization Bond Act**
 - **HB 637 - Presumed Life of Electric Generating Plants**
 - **SB 492 - Utility Securitization Financing**
 - **SB 528 - Passenger Rail Maintenance & Service**
 - **SB 537 - PRC Commissioner Continuing Education**
 - **SB 565 - Remove Fire Marshal from PRC**
 - **SB 597 - Rural Electric Coop Rate Change Protests**

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

XI. COMMUNICATIONS WITH CHIEF OF STAFF

XII. COMMUNICATIONS WITH GENERAL COUNSEL

XIII. COMMUNICATIONS WITH COMMISSIONERS

- Commissioner Jefferson Byrd - Revision to HR Policy No. 10, Code of Conduct, and Possible Action

XIV. ADJOURNMENT

To obtain a copy of this agenda please log in the Commission's website at www.nmopenmeetings.org.

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.

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PUBLIC COMMENT SIGN-IN SHEET

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