

**MINUTES OF THE OPEN MEETING
NEW MEXICO PUBLIC REGULATION COMMISSION
February 6, 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
Russell Fisk, Associate General Counsel
David Black, Associate General Counsel
Michael Ripperger, Telecommunications Bureau Chief
Frances Sundheim, Hearing Examiner
Cydne Beadles, Legal Division Director

Others Present

Carl Boaz, Stenographer

CALL TO ORDER

The 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, Chairperson, 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

Chair Becenti Aguilar introduced Mr. Joe Badal with Sacred Wind Communications

3. CONSIDERATION AND APPROVAL OF THE AGENDA

It was noted that the presentation is on the agenda twice. The presentation on the first page should be deleted and it should be considered with the case.

Commissioner Fischmann said he had spoken with the Hearing Examiner for the EPE case. It is a reconciliation but there were no numbers for the reconciliation. They will try to have the information ready for next week. So he requested to postpone that case to next week's meeting.

Commissioner Espinoza asked to remove discussion on 17-00186-UT for the CenturyLink rulemaking. She just wanted a presentation and not any action today.

Mr. Fisk said It should be on under the case number.

Commissioner Espinoza reiterated that she wanted it removed. She was not looking for action on that at all.

Commissioner Hall said it can be a presentation item and 18-00006-UT is removed.

Commissioner Espinoza moved, seconded by Commissioner Hall, to approve the agenda as amended. The motion passed by unanimous 5-0 voice vote.

4. CONSIDERATION AND APPROVAL OF MINUTES

- a. Minutes of the Case Management Open Meeting for December 27, 2018
- b. Minutes of the Case Management Open Meeting for January 10, 2019
- c. Minutes of the Case Management Open Meeting for January 16, 2019

Commissioner Espinoza moved, seconded by Commissioner Hall, to approve the minutes of December 27, 2018, January 10, 2019 and January 16, 2019 as presented. The motion was approved by unanimous (5-0) voice vote.

5. POLICY MATTERS

a. Revised Delegation of Authority for State Records Filings

Mr. Smith clarified this was requested in order to address the name of the meeting.

b. Proposed Name Change for Notice of Open Meeting and Agenda from Case Management Meeting to Open Meeting

The Commissioners discussed several possible names for the meeting and decided on Regular Weekly Open Meeting.

6. PRESENTATIONS

a. Ken Costello – Legislative Matters Related to the NMPRC

Mr. Costello was welcomed to the meeting.

Mr. Costello said his report was based on research he did in 2016 and, although the information is two years old, it is still relevant to the present for the issues it raises. The purpose of the report is to identify the challenges of the staff, particularly the technical staff and their very important functions. The report was based on interviews with 21 people between September and November 2016. The purpose was to evaluate the staff size, including technical staff size, to determine if it is adequate for the work of the PRC. He recommended more staff in the Utility Division. One finding was that they are overtaxed and at least need an electrical engineer and a water engineer.

He explained that this was not a detailed audit. It could have had more information but that would be costlier. We found challenges the Commission faces that should be addressed. The first part of the report, in evaluating, needs a benchmark. So we established some criteria for evaluating. A Commission serves the public interest. The Commission, in his opinion, needs to be well informed to make better decisions that are in the public interest. It is a long-term interest of the customers.

The job of Utility Division Staff is to provide information to the Commission for their decisions. But if staff cannot provide enough information due to lack of resources or skills, etc., it would not be in the public interest. That is a basic concept. Utilities need enough money to maintain their facilities and provide service.

The next part of the study dealt with advisory and technical staff when compared. You have a General Counsel. The Pennsylvania Commission has five assistants to General Counsel, who could be attorneys or economists. Typically, there are two technical advisors to a Commission. An advisor might write a 5-10-page memo to advise the Commission. They must read through all the material to be properly informed. Other Commissions might use a pool of advisors. So we felt the deficiency of advisors was important to point out.

He recommended to also bolster the Utility Division. While budgets have declined over the last few years, the ratemaking process has become more complex. These are relatively new tasks Commissions didn't have to follow as much in the past. Consequently, he also found that staff need more development training because the issues are so complex.

They must do a lot of reading and it is good to socialize with others who do the same kind of work. We felt it was lacking for the staff here.

Pay for engineers is low compared to the market. That is true with other Commissions also. Sometimes you have people work here a few years and leave for more money. They are very dedicated people. Those people could go elsewhere and make much more money, but they are dedicated to the public interest. Pensions are good, however. So we look at salaries for people who live in Santa Fe where the cost of living is high. Electrical and water engineers are vital for the PRC. Not enough money is offered for those positions. People bring high skills and motivation and it makes it harder to fill vacancies. Older employees often are mentoring the younger.

There are two parts to their work: revenue requirements and rate design. Wisconsin uses the staggered rate cases in order to lighten the load on staff.

Those are the major recommendations. He also recommended retention of utility fees with the agency instead of going to the General Fund. The rationale is that you are protecting the customers. The fees should pay for the activity of the Commission instead of returning them to the Legislature. It was not part of our core study but to deal with finances was important.

Commissioner Espinoza agreed with the report recommendations, especially retention of the fees. She noted that yesterday at LFC we were at their mercy for the money. She didn't know why the PRC has not been able to train staff more. Professional development is very important. The University of Michigan State is willing to come here to train staff but for some reason, we've never chosen to do that. We often have former staff members sitting here working for a utility company who get paid much more than we are able to pay. The way the State has written the job description affects retention. We also don't have as much jurisdiction over telephone service as once we had.

She agreed that the Commissioners' job is more complicated. Maybe with fee assessments, we could pay staff more commensurate rates. Please continue communicating with us.

Commissioner Fischmann read through this report and agreed with a lot of the findings. There are morale issues tied to that. We all want to move forward and give staff a sense of purpose and not just be buried. He asked what other Commissions have done to help with those work burdens.

Mr. Costello said they have done several things, including one training series in the 1990's in New Mexico when a group of us went for 3-4 days to have sessions that staff were mandated to attend. NMSU or Michigan State can be used but it all requires money. It is probably cheaper to have teachers come here. Webinars are successful to deal with a relevant issue and sometimes gets 300-400 people attending.

Commissioner Fischmann noted that when there are times of significant change, new tasks arise, and the old tasks don't have the same importance. He asked if his Institute has seen examples to identify activities that don't have the payoff they once had.

Mr. Costello said with electricity there is more deregulation going on and the changes that have happened with the telecommunications industry. And Commissions still need to protect customer interests.

Commissioner Hall pointed out regarding the fee situation, that a task force met last year to put together a set of recommendations for the PRC and collection of fees was one of them. That might be included in some legislation. She thought the PRC should ask for that for the agency. It is something to consider. And it is good to affirm it from an outside assessment.

Commissioner Espinoza said this Commission never got to see that audit. She was not sure what kind of audit Mr. Costello was talking about. When she first became a Commissioner, she had advocated for election of Commissioners. But now she was having a change of heart. I think we are only one of eleven states that don't have them appointed.

Mr. Costello said that was not part of the study, but they heard from some people that they were more professional when they are appointed. The biggest criteria is to work hard at it. You don't really have to have certain qualifications but to do your homework and you can become a very good Commissioner. Either way, Commissioners should be accountable to the people.

Chair Becenti Aguilar thanked Mr. Costello for the presentation and said we might call on you again down the road.

Commissioner Fischmann understood only the Commission Chair can see the Audit but understood that the Chair has no special privilege above the other four.

Mr. Smith said this is the first time he has heard of it.

Commissioner Espinoza thought it might have been a policy by staff, but it was not shared with others.

Mr. Montoya had four copies of the audit and shared them with Commissioners. He also extended an invitation to the exit interview with the auditor at the conclusion of the audit.

Commissioner Fischmann said all information regarding the Commission needs to be available to all Commissioners. And he has been pleased with how information is being shared after his first month. Openness is the policy- not secrets.

Chair Becenti Aguilar thanked Commissioner Espinoza and Commissioner Hall for going through the challenges of the past few years and doing what was needed to be responsive to constituents. And after the hearing yesterday, she was pleased with the professional nature of our Commissioners.

b. Cydney Beadles and Milo Chavez - Proposed telecommunication consumer protection and quality of service rules

Ms. Beadles said the proposed rules are robust. We didn't draft them; they were in final form and there are some interveners in the case - customers of CenturyLink. They were unable to reach full joint conclusions.

Commissioner Espinoza noted Leo Baca is here and a couple of the CWLA members for the rulemaking and to respond to what is working.

Ms. Beadles handed out the rule's compilation. And Mr. Chávez said it is hand in hand with CenturyLink, who are regulated. We have worked with them on quality of service and tried to address the draft. Hopefully we can get that going for rulemaking.

Chair Becenti Aguilar concluded that quality of services is what you want to have us focus on.

Mr. Chávez pointed out that the bill eliminated the reporting function, so we don't have any metrics with which to measure quality of service now. It is important to do but there are no reporting requirements at this point.

Ms. Beadles explained that, although we don't have detailed regulations in place right now, it relates to cooperation of CenturyLink to come to us. SB 53 was passed in 2017 and went into effect on July 1, 2017.

Commissioner Hall asked for a copy of SB 53.

Mr. Montoya went to get copies.

Ms. Beadles said the Act still recognizes the authority of PRC has been preserved, including resolving complaints and recognizing authority for issues of consumer protections and not of pricing. PRC can establish standards of quality.

Commissioner Espinoza asked if anything has been developed.

Ms. Beadles said it is in the drafts were just distributed to Commissioners by Mr. Smith.

Commissioner Espinoza said CenturyLink has always been helpful to us, but they are not the only provider.

Ms. Beadles agreed but they are the only provider this applies to. They are the only ones with more than 50,000 phone lines. And CenturyLink has filed for effective competition in all districts.

Mr. Chávez went to page 3 of 9 in the draft regulations and agreed that is basically for CenturyLink in reporting requirements and trouble reports. These are the metrics the Commission asked for and reporting requirements for CenturyLink.

Ms. Beadles said they are offering this work product to the Commission, if you wish to issue a NOPR of this or a slightly revised product. We might make some adjustments, but it would be more expeditious if the Commission issues a NOPR and invites companies affected to respond with filings.

Commissioner Espinoza asked what Staff worked on to prepare for the rulemaking.

Chair Becenti Aguilar would also like time to review these documents and come back next week for the proposal. So she would like to hear the highlights.

Ms. Beadles said these are consumer protection rules that were developed from many sources. They selected the sections that conform to the language in SB 53. So it was drawn from multiple sources. In August 2017, the PRC filed an order to commence rulemaking workshops. CenturyLink and staff did not get together but did have six phone conferences to work on it. The consumer protection part covers several topics regarding telecommunications services. That includes things like disconnections, a record of customer complaints and competitive services. It provides fair marketing practices. The rule requires a company to provide certain information in English and Spanish and goes into disruption of service, etc. They are similar to how we approach consumer complaints and they are robust rules. Of course we would expect others to weigh in besides the company.

Commissioner Espinoza noted these are draft rules but is there another report? Has CenturyLink done any reporting?

Mr. Chávez said, as far as we know, they have not.

Commissioner Hall said that for the draft rule content in the quality of service, that there are certain things included and she described some of them. She pointed out that there should be some mechanism not only for setting standards but also for monitoring. There have been many complaints about service and some who have complained they cannot get phone service in their homes. So maybe that can be looked at. For those not getting a certain level of service we need to have some reporting.

Ms. Beadles said Staff could look into the technology to see what is involved. Perhaps someone could visit various areas to monitor the level of service.

Commissioner Hall said beside reports, anecdotal information comes in periodically.

Commissioner Espinoza asked if she meant to monitor service reception.

Commissioner Hall agreed.

Commissioner Fischmann was a little confused. He thought they were talking about basic land line regulation so when we talk about cell regulation, that is something very different.

Commissioner Hall apologized.

Commissioner Byrd said he was also confused. But doesn't CenturyLink cover a lot of the Navajo Nation?

Mr. Ripperger agreed they do, but not as much as they once did after Sacred Wind began to cover some areas.

Commissioner Byrd thought the language requirement should be English and the native language; not English and Spanish.

Commissioner Fischmann wanted to know for today while Mr. Baca was here from CenturyLink if he had any thoughts about the rulemaking.

Mr. Baca said this is the first time he has seen the rules, so he had no comments today.

Commissioner Espinoza asked for details about the conversations that were mentioned.

Ms. Beadles said after the workshop in October 2017, there were six conference calls with interveners, including the AG, City of Albuquerque and DOD.

Commissioner Espinoza asked if they had enough time with that.

Ms. Beadles said she didn't participate in them. They tended to last at least an hour and drafts were circulated and after each conference call, revisions were made to the drafts. The discussion draft circulated to you today has those. This is not formal. She understood that process was not concluded because of other pressing telecom cases. This is not officially supported by Staff, but they took all the feedback from the conference calls and integrated it into this draft. She understood the feedback was constructive.

Commissioner Espinoza asked about feedback with the legislative sponsor.

Ms. Beadles said they don't ordinarily do that. But it can be done. She does usually reach out to the sponsor to make sure that is in accord with them.

Ms. Beadles was thinking of a third path they could follow: to offer these drafts to the company and have them respond. She wanted to do that before doing anything formal.

Commissioner Espinoza thought they would probably come back with more information

Chair Becenti Aguilar asked Ms. Beadles to explain how they would follow that path - workshops or what - and the realm of telecom staff.

Ms. Beadles said she would provide the draft to Tim Goodwin from both drafts and give them a couple of weeks to look it over and find out what they could live with and what was consistent for them. Maybe we need to set a schedule for reporting.

Commissioner Espinoza suggested two weeks.

Mr. Baca said he would need to get with the attorney who also has not seen these drafts in order to say if two weeks was sufficient.

Ms. Beadles thought they would prefer three weeks.

Commissioner Espinoza said she would prefer two weeks.

Commissioner Byrd said it is pretty short, so she agreed with Commissioner Espinoza.

Commissioner Fischmann asked, in regard to past and current regulations, if there have been problems with CenturyLink the PRC has had to deal with and any fines levied.

Ms. Beadles said it depends on how far back you go.

Mr. Ripperger said over the last several years (the last 2 years) there has been no reporting. Back further, CenturyLink had good metrics but then went below the mid-sized maximum lines. Windstream also did and quit reporting a couple of years ago. There are some things that don't come through Consumer Relations Division.

Ms. Beadles said when Staff draft an FIR, they don't have direct communication with the legislator.

Chair Becenti Aguilar thanked Mr. Chávez and Ms. Beadles for their work. She indicated some people in northwest New Mexico don't know how to file their complaints. She said she would share this information with those people.

Commissioner Fischmann said she makes a really good point. Too many customers don't know how to make a complaint and if that is on the bill, it could be very helpful. We do have a means of communicating it.

Commissioner Byrd said we also discussed that with the electric utility companies and their contact information is required to be in the telephone book and with the PRC phone number on it.

Commissioner Espinoza thought it might be a good idea to have a complaint form enclosed.

Commissioner Byrd thought a phone number is enough. Requiring a complaint form in every bill would raise the costs in several ways.

7. PUBLIC COMMENT

Mr. Jeffrey Albright spoke. He said he had made comments yesterday at the Legislature in support of staff at PRC and wished he had heard Mr. Costello's statements before. He did not speak on behalf of the PRC. These comments today are not on behalf of anyone else. He said he was not as well prepared yesterday and expressed some pent-up frustrations over the years. He hoped it was not embarrassing.

Commissioner Espinoza said there was no need to apologize. She was grateful for his presence there and that we need funding for technical staffing.

Mr. Albright thanked the Commissioners. He felt more time should have been given for PRC Staff and Commissioners. Next time, he said he would be better prepared.

Chair Becenti Aguilar agreed that he did not need to apologize. "You have every right to speak on issues that concern you."

8. CONSENT ACTION

A. Transportation Matters:

None.

B. Utility Matters:

None.

9. REGULAR ACTION AND DISCUSSION

A. Transportation Matters:

None.

B. Utility Matters:

- 1) **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 ORDER ON RECOMMENDED DECISION

This case was postponed under Approval of the Agenda.

- 2) **18-00261-UT** IN THE MATTER OF PUBLIC SERVICE COMPANY OF NEW MEXICO'S
REQUEST FOR A COMMISSION ORDER GOVERNING THE ACCOUNTING
TREATMENT OF COSTS RELATED TO JOINING THE WESTERN EIM
(David Black) POTENTIAL ORDER ON MOTION FOR REHEARING

Mr. Black presented information regarding this matter to the Commission. It comes on an application/motion filed on Jan 17, 2019 by ABCWUA to rehear this case. PNM filed the matter in 18-000261 on August 22, 2018. The procedural order established a schedule for a hearing to act before December 31, 2018 and asked for filing of any opposition. ABCWUA filed nothing in the docket, nor did they file any public testimony. The hearing was presided by Commissioner Hall on December 12, 2018 and a 127 page transcript was filed in 2018. PNM and Staff filed a joint proposed order. ABCWUA filed a post-hearing brief after the hearing concluded in December. An order was issued by the Commission on December 19, 2018.

The rehearing motion before the Commission now, if not acted upon, with no action, would be considered denied.

Objections were filed by Interwest Energy Alliance and PNM. They both objected to a rehearing.

Commissioner Espinoza moved to request the case be reheard.

The motion was not seconded immediately but was later on.

Commissioner Fischmann asked Commissioner Espinoza what her major concern was.

Commissioner Espinoza thought the hearing was finished.

Commissioner Hall said it was finished and there is an order with a memo from General Counsel today that denies the rehearing request for the two changes they sought. One was for the company to provide further reports.

Commissioner Espinoza thought they objected to the way the hearing was conducted.

Commissioner Hall said no. It was the Water Authority who wanted to get reports and Staff did not want it to be required by the company. The vote came down to approve the company's entering into the EIM and did not specify quarterly reports and allowed the company to have the regulatory asset.

Chair Becenti Aguilar asked if it was already voted on.

Commissioner Espinoza said the vote was done before the present Commission was installed.

Commissioner Hall said she didn't do it, but the Commission voted on it.

Commissioner Espinoza said, "You did the hearing. I wrote nothing. General Counsel wrote a proposed order."

Mr. Black said OGC wrote the order.

Commissioner Fischmann asked what the size of the regulatory asset is and how long does it stand.

Mr. Black explained that the regulatory asset was not granted. It was \$11.4 million.

Commissioner Fischmann asked how long it would depreciate.

Mr. Black said until the next rate case.

Commissioner Fischmann asked if any research was done for this asset. He was very much in favor of PNM joining the EIM.

Commissioner Hall thought they would be in the best position to answer that. She could not remember which staff member it was. She did not recall if there was any comparison with another state. It was for the cost of joining EIM.

Commissioner Fischmann seconded Commissioner Espinoza's motion for rehearing.

Commissioner Hall suggested reviewing the results of the hearing.

Commissioner Byrd asked if there is a timeline.

Mr. Black said the deadline for the motion is today at close of business.

Commissioner Hall noted the hearing was open to all Commissioners.

Commissioner Espinoza resented the criticism as she was not able to be present.

Chair Becenti Aguilar asked Mr. Smith if the effect of granting a rehearing is that it would vacate the previous order and would reset the schedule.

The motion to rehear the case was approved by majority voice vote with Commissioners Byrd, Espinoza, Fischmann and Becenti Aguilar voting in favor and Commissioner Hall voting against. So Ordered.

Mr. Black agreed to prepare an order.

Mr. Smith asked about arranging for a procedural order, now that the rehearing is set in motion.

Commissioner Fischmann asked Commissioner Hall about the transcript. He suggested that Commissioners could take next week to review the record.

Commissioner Espinoza thought it should be sent to a HE right away.

Mr. Black said the Commission could take additional evidence, but he recommended a review for pleadings, etc and could then issue a procedural order.

Mr. Smith said the rule gives 20 days to decide the rehearing motion.

Commissioner Byrd observed it was not a long transcript and the reason to reopen was not evident. But let us review all the materials again and decide.

Commissioner Fischmann agreed with Commissioner Byrd - Let's look it over and then decide.

Mr. Smith thanked Commissioner Byrd for reminding him. Because you are new Commissioners, you do have an obligation to read the transcript.

Commissioner Byrd asked Mr. Smith when a Commissioner is the HE, if there is no need for an RD.

Mr. Black said the presiding officer might have issued a recommended order, but he was not sure.

Commissioner Hall said she did not issue an oral RD.

Mr. Smith explained that the transcript obviates the need for a Recommended Decision.

Chair Becenti Aguilar said the Commission has a week to review the transcript from the hearing last year. She asked Commissioner Fischmann to communicate with General Counsel for when to put it back on the agenda for open meeting.

Commissioner Fischmann asked for the transcript to be sent.

Mr. Smith clarified that it is on the eDocket system.

Mr. Black asked if he should fashion an order that the rehearing is granted -

Mr. Smith recommended Mr. Black draft the order, subject to a future order.

**3) 17.00174-UT IN THE MATTER OF PUBLIC SERVICE COMPANY OF NEW MEXICO'S 2017
INTEGRATED RESOURCE PLAN**

**(Michael Smith) POTENTIAL ORDER ON MOTION FOR
REHEARING**

Mr. Smith said this filing relates to another filing for rehearing with the same 20-day period and the 20th day falls tomorrow. He sent a memo to Commissioners last night but did not know if everyone has reviewed it. It is the same kind of issue with three non-participants in that case. It was a long, involved case and had no opportunity to hear the HE on it. The IRP is to be filed every 3 years to evaluate renewable energy provided by the company.

This is a procedural issue on the Commission's authority, filed in January, as well as an appeal to the Supreme Court by the City of Farmington. Ordinarily, it would transfer the authority from the PRC to the Supreme Court. But there are several positions taken

on this issue. San Juan County said it was not to prevent NEE's motion for rehearing. Rule 12-2-1 (Supreme Court) allows that. WRA thought NEE's motion should not be considered since it is a motion for reconsideration instead of a motion for rehearing. PNM opposes it on principle. NEE responded that their motion relies on the two rules from before.

Mr. Smith discussed the matter, read the rules regarding rehearing, and the implications for the Commission. He explained that he was asking for a consensus that the Commission not oppose the transfer of authority to the Supreme Court instead of taking action.

Commissioner Espinoza agreed it is their battle, not ours.

Commissioner Fischmann asked if the Commission said we did want to have a hearing, whether that would put the Commission at risk of having to get involved in court actions.

Mr. Smith explained that if jurisdiction is returned from the court, the Commission could make a determination at that time.

Chair Becenti Aguilar said it appears the Commissioners all agree with Mr. Smith's recommendation.

**4) 17-003133-UT IN THE MATTER OF A PETITION TO OPEN UP A DOCKET FOR
THE FILING OF DATA BY LARGE ILECS TO ALLOW
COMMISSION REVIEW IN COMPLIANCE WITH PROVISIONS
OF SENATE BILL 53**

**(Russell Fisk) POTENTIAL ORDER REGARDING INFORMATION FOR
COMMISSION REVIEW AND REPORT TO LEGISLATURE;
POTENTIAL PROCEDURAL ORDER**

Mr. Fisk provided information regarding this matter, which is closely related to the rulemaking and also out of SB 53, section 7, and effect of the bill. The Commission would report by July 31, 2019 from Section 7 on the impact of the legislation. A lot of progress has been made in the docket to get this done. He shared the five points to be reported and said that, in December 2017, the Staff filed a petition to open a docket and that was granted in March 2018.

This is gathering information for use in reporting on July 31 and attaching exhibits. At this point we don't know what data the companies have. We are trying to find out how to gather the information. The proposal would be directed to CenturyLink. Interveners will have things to say about effects on employment. But we must start with information from CenturyLink.

Commissioner Espinoza thought this is very timely since they are also concerned about job loss.

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

10. DISCUSSION AND POSSIBLE ACTION

- 5) 17-00186-UT IN THE MATTER OF THE PETITION OF CENTURYLINK QC TO INITIATE A RULEMAKING TO IMPLEMENT SENATE BILL 53 AND TO ADOPT EMERGENCY RULES
(Cydney Beadles and Milo Chávez)

Commissioner Espinoza moved, seconded by Commissioner Byrd to initiate the rulemaking and adoption of emergency rules. The motion passed by unanimous (5-0) voice vote. So Ordered.

11. EXECUTIVE CLOSED SESSION

- a. PURSUANT TO NMSA 1978, SECTION 10-15-1(H)(2)
 - Personnel Matters - Interim Utility Division Director
- b. PURSUANT TO NMSA 1978, SECTION 10-15-1 (H) (7) - PENDING LITIGATION MATTERS
 - *City of Las Cruces v. NMPRC*; Supreme Court No. S-1-SC-37458
 - *SPS v. NMPRC*, Supreme Court No. S-1-SC-37248

Commissioner Espinoza moved, seconded by Commissioner Byrd to go into executive session. The motion was approved on a unanimous (5-0) roll call vote with Commissioner Byrd, Commissioner Hall, Commissioner Fischmann, Commissioner Espinoza and Commissioner Becenti Aguilar voting in the affirmative and none voting against.

The Commission went into executive closed session at 12:11 p.m.

The Commission ended the executive session at approximately 12:45.

Commissioner Fischmann moved to return to open session. Commissioner Byrd seconded the motion and it passed by unanimous voice vote.

Chair Becenti Aguilar announced to the public that during the executive session no actions were taken, and the only matters discussed were those listed on the agenda.

12. LEGISLATIVE ISSUES POSSIBLE DISCUSSION AND POSSIBLE ACTION

a. NEW BILLS

- **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**

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**
- **SB 208 - Broadband Facility Component Gross Receipts**
- **SJR 4 - Transfer PRC from Elected to Appointed**
- **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**
- **SJR 1 - PRC Election and Appointment**

13. COMMUNICATIONS WITH CHIEF OF STAFF

Mr. Montoya announced that the appropriation request at LFC yesterday was approved at approximately one million less than the PRC request at \$14.8 million. The request had been \$15.9 million. He said for FY 19, the operating budget was \$14.2 million. The next step is to put that into HB 2, and it will go to the Senate Finance Committee, that is scheduled for February 14 at 3:30 p.m.

He said he would continue to work on the presentation for that hearing and be more prepared.

Commissioner Fischman made comments that were not audible.

Mr. Montoya understood there was confusion at the hearing with a large amount not allocated to contracts but moved to personnel. That was an internal transfer to fund existing personnel. That was apparently misunderstood at the hearing. He pointed out that they only reverted \$14,000. In his opinion, that has now been resolved. He invited all Commissioners to the Finance Committee hearing.

14. COMMUNICATIONS WITH GENERAL COUNCIL

Mr. Smith commented on the education requirements. He had drafted a memo to Commissioners about using Fred Nathan and about the requirements and got feedback from one Commissioner but not the others. He was looking for direction and would put the memo in final form.

Commissioner Espinoza thought it was fine. She asked what had brought the memo to be written.

Mr. Smith said Commissioner Lovejoy asked him to share the expanded opportunities for Commissioners.

Commissioner Espinoza said Mr. Nathan had been helpful in the past. She didn't realize the nature of the memo and thought everyone was familiar with the educational requirements. She thought the memo should be directed to the AG instead of Mr. Nathan.

Commissioner Byrd said we are missing the educational and training opportunities such as with NARUC and he wanted it broadened to include any that would be appropriate and recognized as part of their training opportunities.

Commissioner Espinoza said they had to be approved by the State Legislature.

Commissioner Byrd thought any certified course should be acceptable to them. It should not just be to one person.

Commissioner Hall agreed with that. It should include nonprofits and university conferences. She described some opportunities she thought should be counted as meeting the requirement.

Some of this discussion was not audible because Commission Hall and Commissioner Fischmann's microphones were turned off.

Commissioner Espinoza commented that the ethics courses from NMSU were good but some of the technical utility courses were not as helpful. She felt the legal training should be counted.

Mr. Smith said for those who are attorneys, it is counted.

Chair Becenti Aguilar said there is consensus that it should be broadened and asked Commissioner Fischmann to follow up with the Legislature.

Mr. Smith pointed out the confusion regarding NARUC endorsed courses. Whether Michigan Stated wanted to be endorsed by NARUC was unclear. How to calculate credits was also in his letter and he proposed to contact NARUC to get some sort of clarification in writing from them.

Mr. Smith said Commissioner Fischman had asked him about the issue with the audit. There are some documents that require the Chairman of the Commission to participate in audit matters as the representative of the agency. The Commission can bring that up. He had never heard before that other Commissioners could not see the audit. It just had not come up before. It is proper for the Commissioners to see the audit.

Chair Becenti Aguilar said the problem would be fixed.

Mr. Smith said the motion to rehear, he had not touched on the opportunity to study the documents.

15. COMMUNICATIONS WITH COMMISSIONERS

Commissioner Hall mentioned some confusion regarding a task force and asked for some clarification on it. Most of her statement was not audible.

Commissioner Byrd said on a Monday morning, a Fire Marshal Staff member was met in the hall and he was on his way to respond to a fire emergency and wanted it to be included in the policies that any of them could be subject to being on call. He had to come here first to retrieve an agency vehicle to make the call. Commissioner Byrd felt that was an unnecessary waste of time and that those who were on call should be able to have their vehicle with them at their home to save time and extra expense.

Also, on the Code of Conduct, page 2, section B, 4, regarding other protective devices to be implemented. That was not done, and he would like to strike that section until those protective licenses were put in place. It was about weapons by employees in the workplace and that guards would be stationed downstairs. He said he did not like this in the policy and should be removed until it is properly addressed.

Commissioner Fischmann responded to it but his statement was inaudible.

Mr. Montoya felt the policy for vehicles did not prevent an employee from taking the vehicle home.

Chair Becenti Aguilar asked Mr. Montoya to present some options for the Commission's consideration and he agreed to do that.

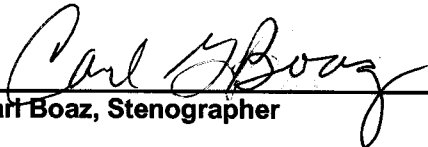
Commissioner Espinoza agreed with Commissioner Byrd on his concerns. She also supported active security in the building.

Commissioner Hall also agreed with the vehicle policy.

16. ADJOURNMENT

The meeting was adjourned at approximately 1:20 p.m.

ATTEST:


Carl Boaz, Stenographer

APPROVED: 2-27-19


THERESA BECENTI AGUILAR, CHAIRPERSON


VALERIE ESPINOZA, VICE CHAIRPERSON


CYNTHIA B. HALL, COMMISSIONER


JEFFERSON BYRD, COMMISSIONER


STEPHEN FISCHMANN, COMMISSIONER

NEW MEXICO PUBLIC REGULATION COMMISSION

OPEN MEETING: CASE MANAGEMENT MEETING

Date: February 6, 2019

STICKER IN REDACTED

NAME	COMPANY NAME (if any)	PHONE NUMBER
Mark Fenton	PNM	505 241 2498
Rebecca Carter	nmbl	505-697-3832
Luke Medina	Centurylink	505-819-1135
Michael Sclanar	Centurylink	505-983-1210
Anastasia Stevens	Stevens Law LLC for Christopher Stevens	505-795-3505

Thank you for attending this meeting.



NEW MEXICO PUBLIC REGULATION COMMISSION

**NOTICE OF OPEN MEETING
OPEN MEETING: CASE MANAGEMENT MEETING**

Wednesday, February 6, 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 December 27, 2018
 - Minutes of the Case Management Open Meeting for January 10, 2019
 - Minutes of the Case Management Open Meeting for January 16, 2019
- V. POLICY MATTERS**
 - Revised Delegation of Authority for State Records Filings
 - Proposed Name change for Notice of Open Meeting and Agenda from Case Management Meeting to Open Meeting
- VI. PRESENTATIONS**
 - Ken Costello - Legislative matters related to the NMPRC
 - Cydney Beadles and Milo Chavez - Proposed telecommunication consumer protection and quality of service rules
- VII. PUBLIC COMMENT**
- VIII. CONSENT ACTION**
 - A. Transportation Matters:**

NONE
 - B. Utility Matters:**

NONE
- IX. REGULAR ACTION AND DISCUSSION**

A. Transportation Matters:

NONE

B. Utility Matters:

1)	18-00006-UT David Black Frances Sundheim	IN THE MATTER OF THE APPLICATION OF EL PASO ELECTRIC COMPANY FOR CONTINUED USE OF ITS FUEL AND PURCHASED POWER ADJUSTMENT CLAUSE <u>POTENTIAL FINAL ORDER ON RECOMMENDED DECISION</u>
2)	18-00261-UT David Black	IN THE MATTER OF PUBLIC SERVICE COMPANY OF NEW MEXICO'S REQUEST FOR A COMMISSION ORDER GOVERNING THE ACCOUNTING TREATMENT OF COSTS RELATED TO JOINING THE WESTERN EIM <u>POTENTIAL ORDER ON MOTION FOR REHEARING</u>
3)	17-00174-UT Michael Smith	IN THE MATTER OF PUBLIC SERVICE COMPANY OF NEW MEXICO'S 2017 INTEGRATED RESOURCE PLAN <u>POTENTIAL ORDER ON MOTION FOR REHEARING</u>
4)	17-00311-UT Russell Fisk	IN THE MATTER OF A PETITION TO OPEN UP A DOCKET FOR THE FILING OF DATA BY LARGE ILECS TO ALLOW COMMISSION REVIEW IN COMPLIANCE WITH PROVISIONS OF SENATE BILL 53 <u>POTENTIAL ORDER REGARDING INFORMATION FOR COMMISSION REVIEW AND REPORT TO LEGISLATURE; POTENTIAL PROCEDURAL ORDER</u>

X. DISCUSSION AND POSSIBLE ACTION

5)	17-00186-UT Cydney Beadles Milo Chavez	IN THE MATTER OF THE PETITION OF CENTURYLINK QC TO INITIATE A RULEMAKING TO IMPLEMENT SENATE BILL 53 AND TO ADOPT EMERGENCY RULES
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XI. EXECUTIVE CLOSED SESSION

- **PURSUANT TO NMSA 1978, SECTION 10-15-1(H)(2)**
 - **Personnel Matters - Interim Utility Division Director**
- **PURSUANT TO NMSA 1978, SECTION 10-15-1 (H) (7) - PENDING LITIGATION MATTERS**
 - *City of Las Cruces v. NMPRC*; Supreme Court No. S-1-SC-37458
 - *SPS v. NMPRC*, Supreme Court No. S-1-SC-37248

12. LEGISLATIVE ISSUES POSSIBLE DISCUSSION AND POSSIBLE ACTION

- **NEW BILLS**
 - **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**
- **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**
 - **SB 208 - Broadband Facility Component Gross Receipts**
 - **SJR 4 - Transfer PRC from Elected to Appointed**
 - **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
- SJR 1 - PRC Election and Appointment

XIII. COMMUNICATIONS WITH CHIEF OF STAFF

XIV. COMMUNICATIONS WITH GENERAL COUNSEL

XV. COMMUNICATIONS WITH COMMISSIONERS

XVI. ADJOURNMENT

To obtain a copy of this agenda please log in the Commission's website at www.nmrc.state.nm.us.

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

PUBLIC COMMENT SIGN-IN SHEET

[illegible]

EXHIBIT 3
PRC - February 6, 2019