

**MINUTES OF THE OPEN MEETING
NEW MEXICO PUBLIC REGULATION COMMISSION
July 17, 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:

None.

Staff Present:

Michael Smith, Acting General Counsel
Jason Montoya, Acting Chief of Staff
Judith Amer, Associate General Counsel
Russell Fisk, Associate General Counsel
David Black, Associate General Counsel
Brad Borman, Legal Division Director
Danielle Jiminez, Executive Assistant to the Chief of Staff
Ashley Schannauer, Hearing Examiner
Frances Sundheim, Hearing Examiner

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

Mr. Ripperger introduced a new staff member, Mr. Tim Kelly, new economist in Telecommunications Bureau replacing Ken Smith.

Mr. Montoya recognized the Employee of the Month, Ms. Peggy Martínez-Rael, who worked in the Legal Division.

He also presented a Certificate of Retirement to Sammy Anaya in the Fire Marshal's Office for 50 years of service. At the gas outage, Mr. Anaya was very responsible for extra hours of work with all of us shut down.

Commissioner Espinoza mentioned the barn burning down incident when Mr. Anaya did a very good job with that family.

Mr. Anaya thanked the Commission for the recognition.

3. CONSIDERATION AND APPROVAL OF AGENDA

Commissioner Espinoza moved, seconded by Commissioner Fischmann, to approve the Agenda as published. The motion was approved by unanimous, 5-0 voice vote.

4. CONSIDERATION AND APPROVAL OF THE MEETING MINUTES

§ Minutes of the Regular Open Meeting for June 6, 2019

Commissioner Espinoza moved, seconded by Commissioner Hall, to approve the minutes of June 6, 2019 as presented. The motion was approved by unanimous, 5-0 voice vote.

5. RESOLUTION

This agenda item was inadvertently carried over from last agenda and to be deleted.

6. DIVISION DIRECTOR'S REPORT

§ Report from State Fire Marshal; Fire Support Bureau

Mr. Randy Varela presented the report and provided a printed copy of the Power Point Presentation to the Commissioners.

Mr. Varela showed the FY 20 Fire Fund Distribution and mentioned the amounts. He also reviewed the ISO ratings throughout the State. He noted that Taos had to revert \$123,000 which had not been spent. The fire grant distribution totaled \$10,193,871.35 to 115 different fire departments. It was larger because there was some carry over from the previous year.

Commissioner Fischmann said that Doña Ana County had a problem with raising the ISO rating from not having enough volunteers. He asked what was happening there.

Mr. Varela said they have corrected the problem and the insurance rates for Doña Ana County will be lowered on August 1. They are recruiting paid and volunteers which will improve their ISO further.

Commissioner Fischmann recalled a problem on their ability to inspect fire hydrants. It turned into a big confusion. He asked if there is still an issue with them.

Mr. Varela said there is a problem because they are not allowed to access the hydrants. The Fire Marshal's Office does not have much enforcement for private utilities. They need an agreement. When a new department is created we require such an agreement.

Commissioner Espinoza thanked Mr. Varela for a great presentation. She knew there was a backlog of inspections and asked what the turnaround time is now.

Mr. Varela said some of that depends on the fire department. We go every 18 months for inspections.

Commissioner Espinoza asked about training.

Mr. Varela said the Fire Marshal's Office advises departments on how to get training that counts towards their retirement and where they can get further training in the state.

Commissioner Espinoza hoped the agency will get the money back for that.

Commissioner Espinoza asked if his shop was part of the Socorro team.

Marshal Shainin said they are moving along with that, but it is a slow process. Getting contracts approved has been slow. We were to break ground in May but had delays. He did not know about the finances.

Mr. Montoya said he has confirmed that the budget is available, and they are proceeding with the new burn building

Marshal Shainin said the Expo is coming and he was not sure what companies have been invited to it. He added that on this year's grant amount to distribute, we are now allowing up to \$200,000 in grant money to help with station renovation or construction. We have waited a couple of years on vehicles. Administration can also apply for a grant. That opens the door for more help for equipment.

Commissioner Espinoza said that is great. The rural areas really need the equipment.

7. PUBLIC COMMENT

Mr. Parker had signed up for a comment.

Chairperson Becenti-Aguilar asked Mr. Smith if the comment was allowed.

Mr. Smith said it depends on whether Mr. Parker is speaking for himself.

Mr. Parker agreed and came forward. Mr. Parker said he had been reading about PV and PNM and knew there was lot of pressure from the public regarding Palo Verde assets. There are community members actually opposed to it. He was hearing that renewable energy is now considered cheaper than nuclear power and solar and wind is

relying on the grid. Without the grid, using batteries is much more expensive. There is a lot of data published in journals about having a 100% renewable grid. The grid in Germany and France is much cheaper and relies on nuclear energy. Thanks for listening.

8. CONSENT ACTION

A. Transportation Matters:

- 1) **19-00179-TR-M** IN THE MATTER OF THE APPLICATION OF ALLIANCE TRANSPORTATION, LLC. FOR A CERTIFICATE TO PROVIDE NON-EMERGENCY MEDICAL TRANSPORT SERVICE
(David Black) POTENTIAL ORDER GRANTING NON-EMERGENCY MEDICAL TRANSPORT SERVICE CERTIFICATE

B. Utility Matters:

- 2) **19-00198-UT** IN THE MATTER OF THE APPLICATION OF GREAT DIVIDE WIND FARM, LLC FOR DETERMINATION OF RIGHT-OF-WAY WIDTH FOR THE GREAT DIVIDE GEN-TIE, GREAT DIVIDE WIND FARM, LLC, APPLICANT.
(Judith Amer) POTENTIAL INITIAL ORDER ASSIGNING HEARING EXAMINER
- 3) **19-00187-UT** IN THE MATTER OF PUBLIC SERVICE COMPANY OF NEW MEXICO=S APPLICATION FOR CONTINUATION OF A PLAN TO MANAGE FUEL AND PURCHASED POWER COSTS BY ENTERING INTO CERTAIN FORWARD MARKET TRANSACTIONS, PUBLIC SERVICE COMPANY OF NEW MEXICO, APPLICANT.
(David Black) PROPOSED INITIAL ORDER APPOINTING HEARING EXAMINER

Commissioner Espinoza moved, seconded by Commissioner Byrd, to approve the orders for the three consent cases. The motion was approved by unanimous 5-0 voice vote. So Ordered.

9. REGULAR ACTION AND DISCUSSION

A. Transportation Matters:

None

B. Utility Matters:

- 4) 18-00124-UT IN THE MATTER OF THE PETITION BY EPCOR WATER NEW MEXICO INC. FOR ADJUSTMENT OF WATER RATES FOR ITS CLOVIS DISTRICT
- (Ashley Schannauer)
(Judith Amer)
- RECOMMENDED DECISION
POTENTIAL FINAL ORDER ON
RECOMMENDED DECISION

Mr. Schannauer provided a handout for the Commissioners about the background of Epcor and shared details of their request for changes to the rates. Their last increase was in 2012. Epcor Water NM is one of four subsidiaries and the parent company is in Edmonton Canada. Here in New Mexico they have a water utility in Clovis and Edgewood (Thunder Mountain).

The Commission suspended rates until July 30 and then extended the suspension. A Hearing was conducted on April 15 and 16 and the City of Clovis was part of it.

Mr. Schannauer said a Recommended Decision was requested and he was assigned and followed up with the RD. He explained the revenue requirement determination and how they developed rates to meet that need. Overall, it came to a 5.73% increase in four classes of customers and one special contract.

He highlighted the more significant issues of which there were many. Mr. Schannauer recommended an adjustment of \$57,000 to fund that increase. Clovis had no position; staff opposed it. He pointed out that the salary increase request was more than \$57,000. They estimated a need of \$169,000 for increases and then \$145,000. His RD was to reject that much increase.

Part of the reason was that Epcor was trying to recover expense not for 12 months but for 16 months which Mr. Schannauer felt was not appropriate. Sixteen months is too long. They should look at other changes that might offset that.

The other issue was cost of capital. He referred to the ultimate cost and recommendations which were in the handout at approximately 6.9%. The issue there is cost of capital is based on cost of debt and here, cost of equity was the primary issue.

He listed the recommended rates from each source and for Clovis was 8.3%.

There was no disagreement about the current dividend yield and growth rate. So the first part of the formula is not at issue but what was at issue was what the cash flows would be to investors.

He referred to page 29 in the RD that showed how each witness arrived at the future cash flow rate. The way it is done is that parties look at growth rates estimated by analysts for the company. The company used only the highest and staff used a variety but excluded the highest. The City used all of them and arrived at the average that he used.

Commissioner Fischmann found the cost of capital frustrating - to go through all that work and arrive at a fixed cost and if the market changes, either investors or customers get disadvantaged. He asked if there has ever been a study done about automatic adjustment mechanisms to address those changes in cost of capital. He understood how detailed the analysis is, but it is based on theories. Have we ever looked at indexes that are broadly available and keep it safe for everyone?

Mr. Schannauer said the short answer was no. He was not aware of any. There is a lot of controversy about automatic adjustment clauses occurring between rate cases. What was mentioned was one that has been proposed.

Commissioner Fischmann said the result would be that if the cost goes down, the utility will not bring a rate case because they are making more profit.

Mr. Schannauer said the ultimate issue here is with the salary increase. Which automatic adjustment would you use? And whether to focus on salaries, cost of capital, or fuel.

He went next to page 5 and rate design. Only Staff and Epcor had designs to propose. For most customers there is a fixed charge plus a variable for volumetric. Epcor staff recommended the fixed amount be increased at the average increase. Here, it had different proposals. He recommended 5%. And he proposed 5.73% for the revenue increase. So the charge would be a little less than 5%. He agreed to the average system increase.

He also explained how the fixed and the volumetric rates are treated differently, depending on how they are treated differently. All parties recommended zero percent for volumetric. 5% in the fixed charge. The reason for zero increase is that the city is looking at a reuse program for landfill and golf course. The city is spending money to develop that program, which is better use than a volumetric increase.

The other rate is Southwest Cheese, which had a special contract in 2004 and over the years, has had its own wells. It agreed to pay for water it might need in addition and

over the years has used more and more from the company. The result is that increase in rates has not covered all costs of serving Southwest Cheese. So Epcor first proposed an increase of 25% - Staff proposed 5% and finally came to 20% which was also his RD. That still left Epcor short in serving them but moves closer to the actual costs.

The rest on page 5 showed the impact on monthly changes for residential customers. The table on that page showed what an average customer would pay as a result. Those increases would be mitigated by a monthly bill credit that would minimize the impact to customers. Actually only 1.6 to 3.45% rather than 6%.

One big issue was heavily contested which involved the company's posting. Under the rules, before disconnecting, a 15-day notice and a 2-day notice must be provided. The 2-day notice must be by phone or in person. They have a charge with the two-day notice and when proposed and approved, the company said it was designed to change customer behavior. And that if they were charged \$15, they would pay on time. The other parties did not agree with that.

What they proposed and the Commission approved was a regular fixed billing to track that and determine in the next rate case (this one) whether to follow the same procedure. They collected about \$900,000 in these posting fees. So one issue was what to do with the \$900,000. There have been different proposals but most of it was a rebate to customers. He recommended such a refund every 4 years.

Secondly, he addressed what the posting fee would be from here on. They eventually agreed to propose a lower fee that is closer to their costs.

Staff recommended 7.82% for the fee. The City of Clovis took no position. He pointed out that the PRC rule does not apply to water utilities and the Commission only regulates coop rates if there is an appeal.

The company claims the posting fee has been successful in reducing delinquent bills but there are still about 7,000 now, and that has been at a very consistent level over the last two years. And he was not sure the fee was the reason. In his RD, he did recommend eliminating that fee.

Next, on page 7, customer assistance programs were proposed for low-income, customers, vets, etc. That is well intentioned, but it is not legal under The Public Utility Act. That was Staff's position. The Company argued that discrimination is reasonable to help those customers be able to pay their bills. But the Supreme Court did not find that to be the case.

The final issue was on page 8. The Commission directed the parties to address the

impact of 2017 Tax Reduction Act that was reducing the corporate tax rate.

In this case, there was no argument among any parties. They agreed a refund of any savings the company experienced from that tax cut should not be ignored. The company argued that the required refund would essentially be piecemeal retroactive rate making and the HE agreed with that. He could not find that the Commission had ordered a liability for that.

Commissioner Byrd said there is nothing more irritating than an agency denying a salary increase for its employees. He asked why the HE did not go along with what was proposed.

Mr. Schannauer said it seemed to them like a very big increase.

Commissioner Byrd suggested more compassion. He asked if that fully covered their expense.

Mr. Schannauer said it did not. In 2004, the party expected Southwest Cheese would rely on their own water and not use much Epcor water. Because they are using a lot more water, it affects the peak demand and the studies found they are not recovering.

Commissioner Byrd referred to his comment that on the posting fee only one coop was aware of that. But his water coop provides that benefit. It has a huge fee if customer is late - paying \$50 plus. He said, I don't like rewarding bad behavior. I would like to see in the RD a change on rate design to be 25% on Southwest Cheese. They did not take issue with 25%. I would like to see that changed.

Commissioner Fischmann was comfortable with that change. They are still substantial changes and they still have a long way to go to pay their fair share.

Commissioner Fischmann asked if there were two separate orders.

Ms. Amer agreed there are two. The first adopts RD in todo and second was by Commissioner Fischmann.

Commissioner Espinoza asked for the changes made by Commissioner Fischmann.

Commissioner Fischmann said his biggest concern was water supply. Wells are less productive, and the aquifer is being lowered substantially. So in the long-term, it is an issue and potentially a big water project might delay it in the future. But in the RD, he did not see with that whole situation on water scarcity getting worse. That was not an increase for incentives by customers.

He acknowledged that EPCOR runs a responsible shop. But we need to

acknowledge the potential shortages in the future and look at conservation measures. So no changes in rates but in their annual conservation report to get a better handle for the future. He drafted it along with Mr. Schannauer and agreed it was a sensible way forward.

Commissioner Espinoza wanted to make sure the changes would not harm the company or users and would encourage customers to conserve their use.

Commissioner Fischmann agreed.

Chairperson Becenti-Aguilar asked for the proposed order recommendations from Ms. Amer.

Ms. Amer said there are two proposed orders; one to adopt RD in todo unchanged and second would still adopt the RD unchanged except to add more reporting requirements and Epcor is already making the annual conservation report. So in a decretal paragraph (#4), it would state that additional material - an analysis on increased block rates and introduction of conservation surcharge and new conservation programs that would be incentives for conservation. PRC Staff shall read the report and advise the Commission of any proposed action or changes.

Ms. Amer clarified that the Epcor report is not as detailed as Commissioner Fischmann proposed. She didn't know if any other water companies are required to do such conservation measures.

Commissioner Fischmann understood it is not being asked of other water companies but here is a rapid decrease of aquifer and less conservation going on. They are pulling away some of their water conservation programs. Because this has a depleting resource, the idea that we would have a rate plan that does not consider conservation that would save consumers money down the road. So he saw it as very important with the specific problem they face, and other water companies might not face.

Commissioner Espinoza thought conservation was each individual's effort.

Commissioner Fischmann pointed out that declining block rates were left the same in this RD. That is done here in Santa Fe also. About 35-38% is the fixed charge which is pretty high. Utility companies lower the fix rate volume and charge more on volumetric. That was not done in this rate case. He agreed a lot went into it in this case so he just felt it would be appropriate to push the conservation a little more to address the future problems. Conservation saves people money by not having to build more infrastructure. That was the motivation behind it. This felt like a fair way to look at it in the future.

Commissioner Espinoza felt that using Epcor as a test case was not appropriate.

She favored the original order with Commissioner Byrd's amendment.

Ms. Amer said there were three exceptions by Epcor and one by Clovis. The RD was issued on June 14 and on June 27 Epcor filed three exceptions: 1 - Board increases for Epcor employees which were implement in June 2019 at \$57,000. They stated there were no measurable changes and due to change over cost, will allow them to retain employees that are qualified.

The second exception was that Epcor approval of a 10% ROE. They argued the evidence supports it as conservative and they must have an adequate ROE to attract investment so they can operate and without it, would not be able to provide safe and reliable service.

The third exception was rejection of the customer assistance program. They maintained it is not unreasonably discriminatory. Epcor, said it was fair and reasonable to support customer classes with their billing.

Clovis filed one exception - that they believed the salary increase was reasonable. According to Clovis - it is not too far from the end of the test year. Epcor needs to retain highly skilled employees and the increase of salaries also benefits Clovis.

Ms. Amer said her proposal would reject those three exceptions. And for the salary increase, she read 9 reasons for rejecting it that were given by the HE.

Commissioner Espinoza said this is a tough one. You want to have quality staff. What happens since the increase for staff already happened?

Mr. Schannauer said increases would not be approved. And it would increase their revenue requirement.

Commissioner Byrd, on that issue, said the issue was about not getting enough money to pay employees and the only intervenor agreed with them. The PRC Staff are the only ones opposing. Regarding Commissioner Fischmann's added line, he thought it was thoughtful and appropriate, but the requirement might cause them to have to hire consultants or experts to finish the task. Analysis of rate methods would push rates up. The water situation has been greatly damaged by Texas as they have a lot of pumps right on their state line. He liked where it was headed but did not know this is the right place for it. Let's see if we can do that whole house.

Commissioner Fischmann was not quite sure how to do it all at once. His thought was that if we send the signal now, it works for all future rate cases and did not see it in a rate making. Not every water company faces the same water shortage problem.

He remarked that we would not having these coming here if it were not unique. And

we need to protect the public interest which is what our authority is. It is not a huge deal and would not ask that we consider changes, if it gets voted down.

Commissioner Espinoza said this forces one company to be treated differently but we have to treat them equally. She saw that everyone in the audience is from a utility company.

Commissioner Hall noted there are a number of water companies that struggle with getting any money to hire people who are qualified. She would support the salary increase despite being outside the test year. That is a technicality. In our state, it is difficult for water companies to operate well and they need to go forward. So she was in support of allowing those increases. Regarding Commissioner Fischmann's language, we don't want it to be a fourth costly burden to them. They need to understand what is going on. They are required to provide an annual conservation report. It may be they can get information regarding actual as they go forward. The analysis is what a consultant or the Commission would do.

Commissioner Byrd moved, seconded by Commissioner Hall, to approve with amending Commissioner Espinoza's amended language that Southwest Cheese be 25% and include \$57,761 for salary increases. The motion was approved by unanimous 5-0 voice vote. So Ordered.

**5) 18-00038-UT IN THE MATTER OF THE APPLICATION OF NEW MEXICO GAS COMPANY, INC. FOR REVISIONS TO ITS RATES, RULES, AND CHARGES PURSUANT TO ADVICE NOTICE NOS. 70 AND 71. NEW MEXICO GAS COMPANY, INC., APPLICANT
(Frances Sundheim) RECOMMENDED DECISION
(Michael Smith) PROPOSED FINAL ORDER**

Ms. Sundheim presented her Recommended Decision. She felt the best approach was to look at the two parts of the case. In February, NMGC filed and she issued a bifurcation of phase 1 and phase 2. Phase 1 was filed November 18, 2018 and included their annual report. A Certificate of Stipulation was included. Phase 2 was an evidentiary hearing on tax cuts from the recent tax act and possible refunds to customers.

At the time of bifurcation, they agreed to allow extended time and is now a year later that you are hearing it.

Page 2 of the Certificate of Stipulation listed what the company originally applied for, which she identified, reading from the document. She pointed out that these are not precedential so none of them can be used in a future rate case. The total revenue

requirement basically shows the percent of changes on revenue under each class schedule. The only change in the costs - to the various rate classes have to do with two rates. One is residential and the other an irrigation rate and staff analysis showed overcollecting.

Commissioner Byrd did not believe Commissioners have received the Certification of Stipulation.

Mr. Smith said it was emailed on Friday and if needed, he could print copies. The Commission recessed at 11:21 for the printing and reconvened at 11:34 a.m.

Commissioner Byrd asked to postpone this item to August 1 since none of the Commissioners have had time to read the RD.

Ms. Sundheim said she would not be in New Mexico on August 1. She said she had filed it with e-doc, and it did not occur to her that no one had read it.

Mr. Fisk said the meeting on Friday, July 16 would be a telecom meeting and could include this, as well.

Mr. Tom Domme, with NMGC, pointed out that we settled this case in September 2018 and it has now been almost a year since. It is not that complicated. We need to get it resolved as quickly as possible. There is no opposition to it.

Commissioner Espinoza recommended proceeding and be as clear as possible.

Commissioner Hall supported that.

Ms. Sundheim said the Certification of Stipulation has no opposition. It takes the change across two years. On page 7 it says the parties agreed on the recommendation for the revenue increase that was stipulated. A variety of numbers could have been used but they agreed upon the numbers and she mentioned the NMAG support of this certification. There is no disagreement on phase 1.

The one item in here that is outside of ordinary is on page 9 for the pilot program and staff was very supportive of it. They talk about fluctuations, in the winter particularly, that have affected customer bills. The leveling mechanism is not intended to provide any guaranteed earnings but a reasonable recovery in a rate proceeding. On pages 10 and 11, parties agreed on a yearly report by the company about how the mechanism has worked and a Commission proceeding to discuss the operation of the mechanism and result of the mechanism and agreed to by parties in the case. Pages 10 and 11 talk about how they would do the cycling and which periods would be used and on page 11 - the gas adjustment cost mechanism.

If required, staff and company would provide the agreement and use an independent accounting firm. Staff was very interested in this because in prior electric cases they have rejected that because electric companies are much less affected by weather and wanted to see if it would benefit customers too.

At the end of five years, or any time in between, if the Commission felt it needed to be changed, the pilot would be discontinued during that time and if changes to implementation, the Commission could stop the mechanism in a called meeting with expression of their concern and stop it. And once concerns were resolved, could go forward again. Staff will work with the company on the mechanism and a third party would analyze and certify the results. That was really the only portion of the stip that was different from most black-box stipulations.

Two rate classes had a decrease: residential and irrigation. The AG worked with Staff and found those two were over funding and supporting other customer classes but since it is such a small increase, the various schedules attached are the plug used to support the \$2.5 million being approved. The one schedule she talked about just showed very small changes with a total of 0.82% overall increase. AG and Staff felt this would be a good test and give the Commission information and since the Commission has complete control of how long it would go, they felt comfortable with the pilot.

Those were the main items and the Certification of Stipulation was a complete stipulation because of the new tax situation. This case was filed with going forward rates with the tax reduction. So the differential has the tax rate included.

The only issue in phase 2 was whether there should be a refund or not. Her reasoning was similar to Mr. Schannauer's - several cases have gone before where Commission said a refund would be appropriate so with this rate change, Staff felt there should not be a refund.

Commissioner Fischmann understood the reasoning behind that and supported it but wanted anyone of public watching to understand. He asked why a regulatory account was to be set up. This is a once in a generation huge event. It seems to me that a reasonable response would have been for the prior Commission to put in place these regulatory liability accounts. So could Mr. Smith or Russell give us an account of what happened?

Commissioner Espinoza pointed out this case was postponed several times and none of us here had requested that.

Commissioner Fischmann said the same issue has occurred across a number of cases and he hoped we would step up when we see it come up. He had no problem

The Commission took no action.

11. ADVICE NOTICES

§ Zia Natural Gas Company's Advice Notice No. 61 and Direct Testimony of K. Marit Coburn

Mr. Anthony Sisneros reported and explained that the advice notice is a reconciliation related to energy efficiency programs. The good news is that customers will get a credit on their bill going forward from 47 to 53 cents each month. The programs are new for this utility and the credit will go into effect on August 1. They have a budget for what they actually collected, and the surplus will be refunded back.

Commissioner Espinoza said she had asked Mr. Sisneros to provide her ratemaking lessons. She also thanked Mr. Martínez.

§ AV Water Co., LLC, Advice Notice No. 2 (related to Case No. 19-00181-UT B In the Matter of AVE Water Co., LLC, Advice Notice No. 2)

Mr. Tim Martínez presented the Advice Notice for AV Water - Rule 575. AV Water filed the advice notice in May for an increase of water service rates effective August 1. He said rates 1, 3, and 4 would be changed.

On June 17, they provided notice of an error in the filing in an email. They requested permission to withdraw Advice Notice #2. We believe the best method going forward was to withdraw it and file a clean application. They are going to do that and request the Commission to allow it.

Their CPA has made several filings and Mr. Martínez believed the CPA would help them get it right. The biggest issue was the big users got no increase. So the notice was misleading.

Mr. Martínez explained what changed was the operator's proposal. He has operated AV Water now for 1.5 years and will follow the correct process. If there are enough protestors, it will go to a hearing.

Commissioner Espinoza thanked him for staying on it.

Mr. Martínez said it was a nightmare. He has been in contact with NMED on it throughout.

Mr. Fisk clarified this notice is actually for Morningstar, which is under receivership and they are looking for someone to take over the whole operation. Morningstar is much larger and not regulated by the PRC any longer.

Mr. Martínez said the rate increase is just on the Morningstar system.

Mr. Fisk explained that the receiver inherited debts from AV Water. When they hooked up to Farmington, they quit paying. It is an old system. Ordinarily we would allow any Advice Notice to just go into effect. But this has a motion to withdraw. He also recommended they be allowed to have a motion permitting them to withdraw.

The Commission recessed at 12:00, to reconvene at 1:00 pm.

The Commission reconvened at 1:03 pm with Commissioners Byrd, Fischmann and Becenti-Aguilar present.

Chairperson Becenti-Aguilar asked if we could do the communications first.

13. COMMUNICATIONS WITH CHIEF OF STAFF

Mr. Montoya reminded the Commissioners of the August 1 meeting in Rio Rancho. He would update the Commission with Task Force status and the Fire Fund Committee.

Mr. Montoya asked for an update from Mr. Borman on the Tri-State application to FERC.

Commissioner Hall arrived at 1:06.

Mr. Borman reported that to be placed under FERC's jurisdiction, Tri-State claimed it would eliminate the inconsistent regulations of the State of New Mexico. Each member of Tri-State is a coop with generation that qualifies for the exemption. Tri-State is a utility and exempt from 205 and 206 because it meets the statutory exemption. Tri-State believes FERC is preferable and now wants to add a member that is not exempt. Tri-State's rates would be preempted by federal regulations.

Mr. Milo Chávez said that in 2014, Tri-State refinanced their last debt and on July 9, 2019, the Board of Tri-State voted 40-3 to be a FERC regulated utility. All New Mexico coops voted in favor of FERC regulation and that eliminates the jurisdiction of PRC over the coops. 11 coops were listed. Three coops will continue to be under the jurisdiction of the PRC. Kit Carson is also not under our jurisdiction, but several coops in neighboring states with New Mexico customers will be under PRC.

Commissioner Fischmann had heard that a protest of customers of proposed rate increases by coops under FERC jurisdiction is much more burdensome and costly to file the protest. So from the consumers standpoint, it might give them much less influence in what they partially own.

Mr. Borman agreed that is a concern. He did not have a lot of experience in that but could vouch that the cost is much greater for the attorneys.

Commissioner Fischmann said he did not mind passing jurisdiction on but if customers don't have appropriate recourse; he would like to find a solution.

Mr. Borman was not sure what the solutions might be. It depends whether Tri-State does have the prerogative to do this.

Commissioner Fischmann surmised that when they decided to go to FERC directly and FERC could say they have that jurisdiction.

Mr. Borman was not aware of any steps to follow here.

Mr. Montoya said he drafted a Certificate of Service for Ms. Sundheim. She went to lunch but there is a certificate for her and recognition of her service.

Chairperson Becenti-Aguilar agreed to present it to her when she arrives.

Mr. Montoya announced a contract to use Mr. Gutierrez as contracted Director of Transportation Division not to exceed \$50,000.

Chairperson Becenti-Aguilar asked Mr. Montoya if we could invest in a better speaker system. She thought everyone could hear them better with speaker phones.

Mr. Montoya had another commitment outside of the building and excused himself.

Chairperson Becenti-Aguilar went to oral argument.

12. ORAL ARGUMENT AT 1:00 P.M.

7) IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE COMPANY OF NEW MEXICO FOR REVISION OF ITS RETAIL ELECTRIC RATES PURSUANT TO ADVICE NOTICE NO. 513. PUBLIC SERVICE COMPANY OF NEW MEXICO, APPLICANT.

(Michael Smith) ORAL ARGUMENT ON FUTURE PROCEEDINGS ON REMAND AND POSSIBLE ORDER

**POSSIBLE ORDER ON PNM MOTION FOR ORDER TO
SHOW CAUSE AGAINST NEW ENERGY ECONOMY**

The Commission went on the record at 1:15. The oral argument portion was transcribed by a court reporter and is not a part of these minutes.

The oral argument was concluded at 2:47.

14. COMMUNICATIONS WITH GENERAL COUNSEL

Mr. Smith had as a possible action item, but he advised that nothing be done today, and the Commission would have a chance to review the transcription and to review the final order that addresses this issue and the Hearing Examiners recommended decision on it. He promised to bring it back up. He had no other communications.

15. COMMUNICATIONS WITH COMMISSIONERS

Commissioner Byrd said he would be out of the state next Wednesday through Friday for NARUC. He would try to make the July 26 meeting on that Friday.

16. ADJOURNMENT

The meeting was adjourned at 2:55 p.m.

ATTEST:

TELEPHONICALLY APPROVED

Carl Boaz, Stenographer

APPROVED: 8/21/2019

Theresa Becenti Aguilar
THERESA BECENTI AGUILAR, CHAIRPERSON

Valerie Espinoza
VALERIE ESPINOZA, VICE CHAIRPERSON

Cynthia B. Hall
CYNTHIA B. HALL, COMMISSIONER

Jefferson Byrd
JEFFERSON BYRD, COMMISSIONER

Stephen Fischmann
STEPHEN FISCHMANN, COMMISSIONER

NEW MEXICO PUBLIC REGULATION COMMISSION

OPEN MEETING: CASE MANAGEMENT MEETING

Date: July 17, 2019

SIGN-IN SHEET

NAME	COMPANY NAME (if any)	PHONE NUMBER
Nicole Strasser	NMGC	505-697-3809
Brian Havenly	for NMGC	505-346-4646
DARY JESSICA	NMGC	505-697-3809
Tom DUNNE	NMGC	505 250419
Rebecca Carter	nmgc	505-697-3832
Stacy Goehin	PNM	505 241 4927
John Kopperman	sfmo	
Mike D'Arzono	xcel	505-681-0946
Carey Salas	PNM	241-4733
Leo Baca	Centurylink	505-250-4393

Thank you for attending this meeting.



NEW MEXICO PUBLIC REGULATION COMMISSION

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

Wednesday, July 17th, 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**
 - **Employee of the Month**
- III. CONSIDERATION AND APPROVAL OF THE AGENDA**
- IV. CONSIDERATION AND APPROVAL OF THE MEETING MINUTES**
- V. RESOLUTION**
- VI. DIVISION DIRECTORS REPORT**
 - **Report from State Fire Marshal; Fire Support Bureau**
- VII. PUBLIC COMMENT**
- VIII. CONSENT ACTION**

A. Transportation Matters:

1)	19-00179-TR-M David Black	IN THE MATTER OF THE APPLICATION OF ALLIANCE TRANSPORTATION, LLC FOR A CERTIFICATE TO PROVIDE NON-EMERGENCY MEDICAL TRANSPORT SERVICE
		<u>POTENTIAL ORDER GRANTING NON- EMERGENCY MEDICAL TRANSPORT SERVICE CERTIFICATE</u>

B. Utility Matters:

2)	19-00198-UT Judith Amer	IN THE MATTER OF THE APPLICATION OF GREAT DIVIDE WIND FARM, LLC FOR DETERMINATION OF RIGHT-OF-WAY WIDTH FOR THE GREAT DIVIDE GEN-TIE, GREAT DIVIDE WIND FARM, LLC, APPLICANT. <u>POTENTIAL INITIAL ORDER ASSIGNING HEARING EXAMINER</u>
3)	19-00187-UT David Black	IN THE MATTER OF PUBLIC SERVICE COMPANY OF NEW MEXICO'S APPLICATION FOR CONTINUATION OF A PLAN TO MANAGE FUEL AND PURCHASED POWER COSTS BY ENTERING INTO CERTAIN FORWARD MARKET TRANSACTIONS, PUBLIC SERVICE COMPANY OF NEW MEXICO, APPLICANT. <u>PROPOSED INITIAL ORDER APPOINTING HEARING EXAMINER</u>

IX. REGULAR ACTION AND DISCUSSION

A. Transportation Matters:

NONE

B. Utility Matters:

4)	18-00124-UT Ashley Schannauer Judith Amer	IN THE MATTER OF THE PETITION BY EPCOR WATER NEW MEXICO INC. FOR ADJUSTMENT OF WATER RATES FOR ITS CLOVIS DISTRICT <u>POTENTIAL FINAL ORDER ON RECOMMENDED DECISION</u>
5)	18-00038-UT Frances Sundheim Michael Smith	IN THE MATTER OF THE APPLICATION OF NEW MEXICO GAS COMPANY, INC. FOR REVISIONS TO ITS RATES, RULES, AND CHARGES PURSUANT TO ADVICE NOTICE NOS. 70 AND 71. NEW MEXICO GAS COMPANY, INC.,

		APPLICANT.
		<u>PROPOSED FINAL ORDER</u>

X. DISCUSSION AND POSSIBLE ACTION

6)	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 REPORT TO LEGISLATURE</u>
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XI. ADVICE NOTICES

- Zia Natural Gas Company's Advice Notice No. 61 and Direct Testimony of K. Marit Coburn
- AV Water Co., LLC, Advice Notice No. 2 (related to Case No. 19-00181-UT – In the Matter of AV Water Co., LLC, Advice Notice No. 2)

XII. ORAL ARGUMENT AT 1:00 P.M.

7)	15-00261-UT Michael Smith	IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE COMPANY OF NEW MEXICO FOR REVISION OF ITS RETAIL ELECTRIC RATES PURSUANT TO ADVICE NOTICE NO. 513 PUBLIC SERVICE COMPANY OF NEW MEXICO, APPLICANT. <u>ORAL ARGUMENT ON FUTURE PROCEEDINGS ON REMAND AND POSSIBLE ORDER</u> <u>POSSIBLE ORDER ON PNM MOTION FOR ORDER TO SHOW CAUSE AGAINST NEW ENERGY ECONOMY</u>
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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.prc.state.nm.us/PRC/PRC.html.

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

Thank you for attending this meeting.