

**MINUTES OF THE
CASE MANAGEMENT OPEN MEETING
NEW MEXICO PUBLIC REGULATION COMMISSION
January 16, 2019**

TIME: 9:30 a. m.

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

A quorum was present as follows:

Members Present:

Commissioner Theresa Becenti Aguilar, Chairperson
Commissioner Valerie Espinoza, Vice-Chairperson [telephonically]
Commissioner Jefferson Byrd
Commissioner Stephen Fischmann
Commissioner Cynthia B. Hall

Members Absent:

Staff Present:

Ernest D. Archuleta, Chief of Staff
Mr. Smith, Acting General Counsel
Judith Amer, Associate General Counsel
Russell Fisk, Associate General Counsel
David Black, Associate General Counsel
Mr. Michael Ripperger, Telecommunications Bureau Chief
Carolyn Glick, Hearing Examiner

Others Present

Carl Boaz, Stenographer

CALL TO ORDER

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

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

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

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

1. PLEDGE OF ALLEGIANCE/STATE PLEDGE

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

2. INTRODUCTION OF SPECIAL GUESTS

There were no introductions.

3. CONSIDERATION AND APPROVAL OF THE AGENDA

Mr. Smith requested two items be removed: Item 5 A 1 Consent action on the Fire Marshal rulemaking and 6 B 4 under Regular Action, Case # 239, the complaint of Danielle Dominic.

Commissioner Espinoza moved, seconded by Commissioner Byrd to approve the amended agenda and the motion passed unanimously 5-0 by voice vote.

Commissioner Byrd recognized the fire department that was present to show their support and thanked them for coming.

Commissioner Espinoza asked the number of those attending from the fire department and was told there were about 25 people. She apologized that the item would not be considered today and assured them it would come back.

4. CONSIDERATION AND APPROVAL OF MINUTES

- **Minutes of the Case Management Open Meeting for December 19, 2018**

Commissioner Hall moved, seconded by Commissioner Byrd to approve the minutes of December 19, 2018 as published. The motion passed on a unanimous 5-0 voice vote.

5. CONSENT ACTION

A. Transportation Matters:

- ~~1) 18-00323-FM IN THE MATTER OF AMENDING CERTAIN RULES PERTAINING TO THE~~

~~STATE FIRE MARSHAL INCLUDING REPEALING AND REPLACING THE 2003
INTERNATIONAL FIRE CODE WITH THE 2015 INTERNATIONAL FIRE CODE
(David Black) POTENTIAL ORDER REGARDING RULEMAKING DOCKET
AND NOTICE~~

- 2) 18-00381-TRM IN THE MATTER OF THE APPLICATION OF SHUTTLE RUIDOSO LLC D/B/A SHUTTLE RUIDOSO, FOR AMENDMENT TO ITS PERMIT TO PROVIDE NON-EMERGENCY MEDICAL TRANSPORT SERVICE
(David Black) POTENTIAL ORDER REGARDING AMENDED CERTIFICATE

B. Utility Matters:

- 3) 18-00252-UT IN THE MATTER OF THE STATE RURAL UNIVERSAL SERVICE FUND 2019 PER-CONNECTION CHARGE CALCULATION AND FUND SIZE
(Russell Fisk) POTENTIAL ORDER REGARDING CONTRIBUTING CARRIER
REPORTING INSTRUCTIONS AND FORM

Commissioner Fischmann noted that there were people last week who wanted to make public comment and had to wait until the end of the meeting. He asked, if possible, to move public comment to the beginning of the meeting to serve the public first.

Chair Becenti Aguilar said they could discuss that after action was taken on agenda item #5.

Commissioner Hall moved, seconded by Commissioner Fischmann, to approve Consent action Cases #18-00381-TRM and #18-00252-UT and the motion passed by unanimous 5-0 voice vote.

Commissioner Fischmann explained he thought it would be more respectful to give the public an opportunity to comment up front.

Commissioner Espinoza recalled that was tried in the past, but it did not work well, but we could try again.

Commissioner Hall agreed with Commissioner Fischmann to have public comments earlier in the meeting. There had been a few times with controversial issues there were a lot of comments, but the Commission is here to serve the public and hear what they have to say.

Commissioner Byrd moved, seconded by Commissioner Fischmann to amend the agenda to hear public comment directly after the consent action items today and going forward.

Commissioner Hall requested a friendly amendment to have public comment on the agenda, going forward, directly after the approval of the minutes.

Commissioner Byrd and Commissioner Fischmann accepted the friendly amendment and the motion passed by unanimous 5-0 voice vote.

7. PUBLIC COMMENT (Amended agenda order)

Mr. Paul Quairola the EMD for Otero County and chair of the New Mexico Counties Fire and Emergency Managers Affiliates said he had asked to speak today, but not having heard the presentations, was not sure all that he would want to comment on.

He knew there were two concerns. The first was HB 124 which as presented through the New Mexico Finance Authority had some recommended changes. Specifically on page 2, item 24, line 24 they recommended changing "*shall not be expended without approval from the fire marshal*" and add a new section C with language: "*shall not be expended on any mutual domestic, cooperative or other type of water system of a potable water system for water delivery*".

Mr. Quairola explained they feel it critical that fire departments, especially rural fire departments, continue to be allowed to use fire protection funds to create water supply systems for firefighting use only. In the past the bill stated the Fire Marshal Fund could not be expended on the water systems and appears this could be eliminated completely and that is a major concern. This is a key component to ensure departments have adequate firefighting water to increase ISO ratings and protect citizens.

The second item was HB 177 and he wanted to know more about the fire and smoke damper inspection rules and SB 143, the PRC fire safety standards. He indicated he had not read the two bills and yet and wanted to hear the presentation and possibly comment later.

Commissioner Espinoza asked Mr. Quairola his opinion and concerns regarding the dampers.

Mr. Quairola explained the concern on the dampers was that they are more a mechanical than a fire code issue. There should be some responsibility on their part to ensure the dampers are working but they should not be responsible for enforcing the inspections.

He added he would also like to revisit the certificate of fitness process in New Mexico; process where companies are vetted and required to show they have the proper documentation from CID and the training and expertise to do inspections. They fear that only one company in New Mexico would be allowed to do inspections and would put an increased burden on citizens, taxpayers and owners.

Commissioner Espinoza agreed. That was also one of her concerns and a reason the fire code had not been approved and they want to be sure it is right.

She asked Mr. Quairola to keep her informed and send his concerns to her by email.

Commissioner Byrd indicated he had given Mr. Smith the two bills. He asked Mr. Quairola if he had the proposed changes he would like.

Mr. Quairola replied he did not.

Commissioner Byrd asked Mr. Smith whether he had enough information or if Mr. Quairolì should repeat his comments. He wanted the Commission to address the concerns and have the proper information.

Mr. Smith explained the process was for the Commission to receive the comments and then the issue would be discussed by the Commission.

Mr. Quairolì suggested it would be helpful for the Fire Departments to see some of the information ahead of time because they had to search for some of the information obtained recently. In the past there had been more communication from the Chief of Staff and the Fire Marshal's Office and often, as changes go through or are identified for action, they feel left out of the loop.

Chair Becenti Aguilar asked Mr. Quairolì to bring back the changes he would like introduced in the legislature and work with the Chief of Staff. The Chief of Staff has meetings, specifically with the Commission on the legislative bills.

Mr. Smith clarified that the bills were not generated by the PRC. The rule-making is a process undertaken by the Fire Marshal's Office at the agency and he was not familiar with the degree they confer with the fire departments.

Mr. Quairolì said he recognized that this is a legislative issue, however they would like to be involved and have comment on what the PRC would propose and rule on.

Commissioner Byrd asked if he was also addressing those who are drafting the bills.

Mr. Quairolì replied they would like to read the bills and redraft anything with the sponsors of the bills, but they do not know the PRC's position or the position of the State Fire Marshal's Office as they see these things come forward.

Commissioner Espinoza asked Mr. Smith if legislation was proposed because it sounded like what was proposed a couple of years ago that did not pass. She asked if they were trying to get this passed at the legislative level.

Mr. Smith was not sure if the bill was exactly the same as proposed through rulemaking at the PRC but seemed to address the same issues.

Commissioner Espinoza thought the issues were identical and wanted to share more from Mr. Quairolì. She asked that he in her office and email her.

Commissioner Hall noted if the bill impacted the PRC there was the FIR process where the PRC could express their opinion on the impact to the PRC and the Fire Marshal's Office. She noted that Mr. Quairolì apparently planned to talk to the author of the bill which would be the most direct recourse and that is something they could discuss with the Fire Marshal.

Mr. James Solis deferred to what Chief Quairola had talked about because his was the same topic.

There were no other public comments and the Public Comment portion was closed.

6. REGULAR ACTION AND DISCUSSION

A. Transportation Matters:

None

B. Utility Matters:

- 4) ~~18-00239-UT IN THE MATTER OF THE FORMAL COMPLAINT OF DANIELLE DOMENIC
AGAINST KIT CARSON ELECTRIC COOPERATIVE, INC.
(Judith Amer) POTENTIAL FINAL ORDER~~

This item was removed from the agenda.

8. LEGISLATIVE ISSUES DISCUSSION AND POSSIBLE ACTION

Mr. Archuleta asked that the Commission hear public comments from Senator Muñoz who just arrived.

Mr. Smith added that the Commission has the discretion to allow public comment.

Senator Muñoz explained he was drafting legislation on Right-of-Way (ROW) issues and easements. They are trying to have disclosures on those and the request could only be done through the Commission.

Commissioner Espinoza suggested Senator Muñoz be allowed to speak as part of public comment.

Chair Becenti Aguilar invited the Senator to speak.

Senator Muñoz explained he wanted the PRC to disclose the ROW payments and easements that are negotiated in New Mexico. There is a condemnation law in the State that should be adjusted and people should know what others are paying for other easements so they are treated fairly.

Senator Muñoz explained they have looked at this in the legislature and the only way he could get the disclosures ...

Mr. Ryan German, in-house counsel for PNM, apologized for the interruption but stated that a hearing was scheduled as the last item on the agenda. The issues being addressed would be before the Commission shortly in an adjudicative proceeding and he objected to the issues being addressed in public comment.

Commissioner Hall said what the Commission just learned was important and the Commission should not be hearing the public comment at this time. Possibly the Commission could consider it after the hearing. She asked for guidance from General Counsel.

Mr. Smith explained this was nebulous, but to the extent the information was requested for a legislative purpose, the most appropriate would be a formal request from the legislative office. He added he would have to see the nature of the request.

Senator Muñoz indicated that according to their Legislative Counsel, they could only make the information public by making a formal request to the PRC.

Commissioner Hall stated she was not clear that the basis of the request pertained to what the Commission does. She heard the Senator say there needs to be transparency in the ROW fees that the Commission negotiates, but the Commission does not negotiate those, the parties do.

She thought it superfluous and unnecessary for the Commission to hear the comments now if the basis for the Senator's comments were erroneous and that should be fleshed out with General Counsel. There is no urgency for the Commission to hear the comments before the hearing and a risk of compromising the proceeding or at least a basis for bias to hear the comment before the hearing.

Commissioner Hall suggested waiting to hear the comments until after the hearing.

Commissioner Espinoza confirmed with Senator Muñoz that he had already drafted the bill. She said this is already public record and his comments were taken on the record and the Commission probably has a copy of the draft.

Senator Muñoz explained that he had not sent the draft to the PRC and they were putting the pieces in place for legislation and condemnation.

Commissioner Espinoza asked if the draft included tribal lands.

Senator Muñoz replied tribes are sovereign nations and can negotiate on their own but trusts and private lands could have different rates than the state gives to a private individual.

Commissioner Espinoza thought because the bill is in draft form, it would be better to wait. And closing the public comment before the cases are heard is a problem. They end up having to take public comment again. She thanked Senator Muñoz for taking the time to inform the Commission and what he is trying to do and expressing his interest.

Chair Becenti Aguilar addressed the Senator and explained when legislators come to the Commission they welcome hearing their concerns. She understood Senator Muñoz would introduce possible legislation soon and the General Counsel's office directed him to make a formal request and then that would be distributed to all of the Commissioners.

Senator Muñoz apologized and explained they deemed this appropriate during public comment and he did not realize the conflict and it was on the agenda at the end of the hearing.

Commissioner Fischmann thanked the Senator for coming and wished him good luck with the bill. He thought there were things they could work out to avoid problems that would allow early public comment.

- **Century Link legislative bill presentation**

Mr. Leo Baca and Mr. Johnny Montoya presented the issues to the Commission.

Mr. Montoya welcomed the new commissioners. He explained he is the State Government Affairs Director for New Mexico and he introduced Leo Baca, the State Legislative Director.

He noted they would talk about two bills HB176 and SB 208 which are almost identical and then answer questions.

Commissioner Espinoza welcomed Mr. Baca and Mr. Montoya. She asked to confirm if they would cover the outage that affected New Mexico for a couple of days that they had discussed last week.

Chair Becenti Aguilar explained Mr. Baca contacted her and she asked to put them on the agenda to discuss the two legislative bills. She asked if amenable to discuss the Century Link outage upon Commissioner Espinoza's return.

Commissioner Espinoza agreed.

Mr. Baca congratulated the new Commissioners. He explained that Representative Jim Trujillo sponsors HB 176. He hoped CLWA would also be given opportunity to discuss the other bill SB 208 sponsored by Senator Michael Padilla. Both bills are almost identical.

HB176 proposes a GRT and compensating tax deduction for Broadband telecommunications facilities component for the deployment of broadband in New Mexico. The benefits include more, better and faster broadband in urban and rural areas and enhance economic development and job opportunities.

Mr. Baca explained the tax deduction applies to all providers of broadband; incumbent local exchange carriers - all phone companies, all wireless companies, all cable companies providing broadband and all electric coops providing broadband as well as the Competitive Local Exchange Carriers (CLEC). No one is excluded.

He explained this has been a multi-year effort from the broadband industries in New Mexico and versions of the bill have come before the Legislature in previous years. This has received support from the broadband community, broadband providers, the business community, Chambers of Commerce around the State, Real Estate Developers Associations, economic development associations like New Mexico IDEA and rural counsel and consumer groups like AARP.

Commissioner Hall questioned the process. The bills were placed on the agenda in case the Commissioners wanted to discuss them. She was not given copies of the bills and was not able to read them first and is a departure from the usual.

She wondered about the Commission entertaining extensive comments at this point because they had not been able to read the bills and whether that was how they wanted to proceed. She thought there seemed to be no process and asked that Mr. Smith provide guidance.

Mr. Smith indicated the Commissioners could ask the presenters to come back after reading the bills or could hear this as public comment and ask them to return to ask additional questions.

The process was one of the things he wanted to talk about because the legislative process usually is that the Chief of Staff follows the bills. He understood Mr. Archuleta planned to review each bill today and possibly the Commission should do that first before hearing additional comments on the bills.

Commissioner Hall understood that this was not public comment and they had moved past that to a different agenda item. Presentations do not have a three minute limit as public comments do.

She suggested in light of the Commission's lengthy hearing today, presenters should either stick to three minutes or wait until after the hearing. She was aware that a number of people were present for the hearing but thought it made sense to ask the presenters to wait or stick to three minutes.

Chair Becenti Aguilar asked Mr. Archuleta if he had copies of the bills in his office.

Mr. Archuleta explained he went through the list they talked about last week about the pre-files submitted through the bill finder and hoped to provide the Commission a high level review of the bills and how he would track them through the session. He had summarized each bill and would update the database daily, track the bills and then submit all of the bills to the Commissioners and their staff.

Commissioner Hall asked Mr. Archuleta what he advised and whether they should hear the comments. She thought he intended something more time efficient.

Mr. Archuleta explained his intent was just to summarize the bills and thought it more appropriate to have comments afterward. He would not ask the Commission at this point to support one bill or another and at the point of decision-making it would be appropriate to have the industry come in to comment.

Mr. Smith added the Commission should decide whether to take a position on bills because over the years some Commissioners have endorsed certain bills. Other Commissions preferred to let the Commissioners individually participate in the process.

Chair Becenti Aguilar opened the discussion to the Commissioners.

Commissioner Fischmann asked if there were others who wanted to present any of the bills today.

There were none.

Commissioner Fischmann asked if Chair Becenti Aguilar had requested the item to be placed on the agenda with the understanding it would be discussed.

Chair Becenti Aguilar indicated she had asked General Counsel to put the bills on the agenda.

Commissioner Fischmann suggested out of consideration they should allow a brief presentation and beyond that he agreed with Commissioner Hall, they should move on. They would not consider the remaining until they get the Chief of Staff's input.

Commissioner Byrd agreed they should be courteous and provide presenters the opportunity.

Commissioner Espinoza suggested they move on with the agenda and make no decisions today in terms of supporting or not supporting them.

Chair Becenti Aguilar said her understanding is that the Commission allows individuals, industries with pre-legislative bills to contact the Commission about making a presentation. She requested in the future that they provide copies to the Chief of Staff for the Commissioners.

She asked Mr. Montoya and Mr. Baca to proceed with their presentation.

Mr. Montoya said they appreciated the comments. He noted the importance of the bill to Century Link and the industry and to broadband in New Mexico.

They asked the Commission to give serious consideration to the support of the legislation.

He indicated they brought copies of the legislation.

Chair Becenti Aguilar thanked them.

- **HB 116 - Wastewater System Financing**

Mr. Archuleta provided a summary of the bills and passed out a tracking sheet. He would track the bills daily and meet with Staff. They usually receive a request from LFC to develop a FIR and make Staff assignments. The reports have a 24 hour turn-around and will be tracked and submitted to the Commission and staff and then track the schedules for committee assignments.

HB 116 makes appropriation for wastewater system financing and is endorsed by the NMFA Oversight Committee. The bill appropriates \$1.5 million from the General Fund to the Wastewater Facility Construction Loan Fund in fiscal year 2020 and subsequent years, to provide State matching funds from the federal government.

Mr. Archuleta stated he put this on the agenda because PRC has some authority over some of the private developers and is appropriate to track, although it may not have direct impact to the PRC.

There were no questions.

- **HB 124 - Fire Protection Fund Changes**

Mr. Archuleta explained there were comments on this earlier. The bill relates to fire protection and makes changes to statutes and clarifies that money for the Fire Protection Fund may be used for the purchases of land for fire stations and substations and allows the Fund Protection awards that have outstanding obligations associated with prior Fire Protection Fund awards.

This was not addressed and is for clarification. They had been asked about the purchase of land for fire stations in the district and the language clarifies that. The PRC Fire Marshal's Office will develop a FIR.

- **HB 176 - Broadband Telecomm Facility Gross Receipts**

There was discussion on this bill earlier regarding to create gross receipts and compensating tax deduction for broadband.

- **HB 177 - Fire & Smoke Damper Inspection Rules**

This bill directs the PRC, the State Fire Marshal's Office to issue rules regarding inspection of fire/smoke dampers inspection standards to bring them in line with the national association standards.

- **SB 67 - Engineering Internship Program**

This bill is more a tracking element for the PRC. They discussed bringing engineers into PRC staff for training and this allows a nonrecurring appropriation for an internship program at New Mexico State University. This would be a good bill to track and try to get engineers, specifically into the PRC.

Commissioner Hall asked if there was another person sponsoring the bill since Senator McSorley is no longer a senator.

Mr. Archuleta was not sure but offered to follow up and get back with Commissioners.

- **SB 99 - Appointment of PRC Members**

The bill removes references to the election of Commission members and provides for a delayed effective date contingent on changing the New Mexico Constitution to provide for appointment of Commission members from the state at large. The bill makes technical conforming changes and changes under sections of the State Statute 1978.

- **SB 143 - PRC Fire Safety Standards**

This is the Senate version of dampers in HB177 with almost the same requirements and making PRC responsible for generating rules regarding fires and smoke dampers.

- **SB 161 - Renewable Energy Transmission Authority Funds**

Provides an appropriation for the New Mexico Renewable Energy Transmission Authority.

- **SB 208 - Broadband Facility Component Gross Receipts**

This bill was discussed this morning.

- **SJR 4 - Transfer PRC from Elected to Appointed**

This bill would transfer the PRC from elected to appointment, amend Article 11 of the New Mexico Constitution and repealing section one and adding a new section to provide for the transition to a five full-time regular PRC Commission appointed from the state at large.

They will begin developing FIR reports and as those are approved, send them to the appropriate parties in the legislature and their offices.

Mr. Archuleta suggested it may be best to hold meetings outside the regular Commission meetings in the Chief of Staff's office to provide updates.

Chair Becenti Aguilar thanked Mr. Archuleta. She clarified if he had indicated there should be a meeting of Staff and Commissioners in the Chief of Staff's office to discuss the bills in detail.

Mr. Smith thought it may be appropriate with possibly a biweekly forum on Friday afternoon to keep them informed of activity in the legislature. He was open to the Commissioners comments.

Commissioner Fischmann asked if there was a requirement on Commissioner's discussions of their thoughts on the bills or if that had to be in a public setting.

Mr. Smith explained the Commissioners have individual discussions about the bills with Mr. Archuleta but they should not engage in a rolling quorum. Also they should not seek feedback on what preferences other Commissioners may have indicated to the Chief of Staff. That should be discussed in a public forum.

Commissioner Hall indicated it appeared Mr. Archuleta had said he would meet with staff, not with Commissioners, but that raised the question regarding an educational session for Commissioners. She

thought having a session as a separate meeting, although open to the public that was just to educate the Commissioners on the bills would be of value.

Mr. Smith indicated the Commission could always call special meetings to conduct business activities that are not part of the normal case management. They are doing one on statutes and rules and regulations tomorrow. Staff produces the FIR which are limited in scope, but the Commission has the ability to question the authors of the FIR to appear before them and discuss. The time restraint prevents them from scheduling a meeting before the Fir goes to the legislature because of the short turnaround.

Mr. Archuleta asked Mr. Smith if appropriate to have a deeper discussion tomorrow.

Mr. Smith replied they could discuss how the Commission wanted to conduct their business and the policies adopted, but not go over actual bills. They could discuss how to proceed with the Commission and Staff as long as the Commission was not making actual decisions.

He planned to discuss tomorrow the previous decision of the PRC to adopt a resolution on legislative matters.

Commissioner Byrd indicated he and Mr. Archuleta had discussed having a roundtable discussion for the Commissioners to have common knowledge on issues. He would like to see that so they all understand the bills and how they would affect the PRC similar to a seminar than a public debate.

Commissioner Espinoza stated she had expressed already that she is adamantly opposed to SB 53 and her opinions about adopting bills. She was opposed to SB 53 and does not want to repeat the same actions they have been doing because it is not a good idea for the Commission to endorse some of the bills that relate heavily to the PRC.

Commissioner Espinoza said she expects that the meetings will go on longer than expected as everyone gets adapted to one another. They should regroup and decide how they want to proceed with proposed legislation and whether they should support or not support as a Commission some of the bills that impact ratepayers, consumers or the SB 53, that deregulated the telecommunications industry, etc.

Commissioner Espinoza thought they may want to lobby individually, but they do need to come up with a plan.

Commissioner Hall echoed Commissioner Espinoza's comments on past experience where the Commission had made an effort to achieve full or a majority Commission support. It became time-consuming and upsetting and divisive. She agreed that was probably something the Commission should not do as a group and better left to the individual because it consumed a huge amount of time.

She thought the educational sessions could be valuable but trying to reach consensus was probably not a good idea.

Chair Becenti Aguilar apologized that the Commission was taking time from their agenda to decide how the commission would conduct their business. She would leave that to Chief of Staff and General Counsel

to tell the Commissioners what the process would be and to give them guidelines.

Mr. Smith pointed out this meeting was an aberration because a public hearing is at the end of the agenda and generally they go from the action items. Sometimes presentations on legislative issues is formal but is really discussion that segues into Commissioner discussion and discussion with General Counsel, Chief of Staff, etc.

The last part of the agenda is meant to be informal where they get business out of the way and people could leave if not interested. The Commission has an opportunity to do separate educational sessions and they could schedule special meetings keeping in mind the 72-hour notice. Also if they have a specific bill they have interest in they could schedule a staff member with special expertise to attend and be part of the discussion.

Chair Becenti Aguilar noted that General Counsel would like to pursue on an individual basis and that the 72 hour notice is in advance. Commissioners will contact his office to review bills they are interested in.

9. CONSIDERATION AND POSSIBLE ACTION REGARDING ADVICE NOTICES

- **El Paso Electric Company - Advice Notice No. 262**

Mr. John Reynolds, the Economics Bureau Chief with the Utility Division came forward to present EPE Advice Notice 262. He explained the purpose and the process of advice notices and that this is a proposed change to a form by EPE. The form is the standard interconnection application for customers who want to interconnect their generation facility, such as solar facility, commercial operation, etc.

In this case the application provides the technical data to the utility to ensure the connection is as reliable as possible (DG). EPE is requesting that the range of facilities covered by the application be extended beyond 1 MW to 10 MW to cover a customer's request for interconnection.

Mr. Reynolds recommended the advice notice become effective by operation of law.

Commissioner Hall confirmed the 1 MW limit is in existence and this would extend to 10 MW.

Commissioner Fischmann clarified if this asked customers for more data than they were required to submit before.

Mr. Reynolds explained this would only create a formal process for the large customer to provide technical data. The form as written now has no application for facilities larger than 1 MW and accommodates the customer. This simply changes the title of the form.

Mr. Smith indicated advice notices does not need a motion if accepted, only to suspend.

10. COMMUNICATIONS WITH GENERAL COUNSEL

There were no communications with General Counsel.

11. COMMUNICATIONS AND POSSIBLE ACTION WITH CHIEF OF STAFF, MR. ARCHULETA D. ARCHULETA, P.E.

- **Selection of Independent Evaluator for Utility EE/LM Programs**

Mr. Archuleta invited Acting Utilities Director, Milo Chavez to present this.

Mr. Chavez explained this was basically a renewal of the contract. The Utilities Division Staff recommended the Evergreen Economics contract be renewed for another two-year term.

Evergreen is an independent evaluator of the IOUs, EPE, PNM, SPS and New Mexico Gas and they measure the energy and demand savings attributed to their EELUA and EE programs. They were not present because annually the utilities provide their reports to the PRC. They are required to ask permission to continue their EE programs or after independent evaluation, to add new programs or end a program.

The cost is \$800,000 and paid from the IOUs EE rider (at 1.7%) and that is shown on the utility bills. They were selected by a team of Utility Division Staff, an independent program and IOUs who issued an RFP and selected Evergreen Economics.

The team asked that the Commission renew Evergreen Economics contract.

Mr. Archuleta added that the program was approved in 2017 by the Commission.

Commissioner Fischmann asked if the Commission had checked with the utilities and possible interveners that are interested in efficiency issues to ensure they were comfortable with the evaluator.

Mr. Chavez replied they had and they supported the renewal.

Commissioner Hall confirmed the renewal would be for another two years. She asked if other competitors had expressed interest.

Mr. Chavez did not know but said Mr. Reynolds would as part of the evaluation team.

Mr. Reynolds explained that Evergreen was selected and given a two year contract with an option to renew for another two years.

To his knowledge, there was no interest from competitors, and he was confident he would have heard if there had been.

Commissioner Hall recalled that Evergreen was the most cost-effective.

Mr. Reynolds agreed. He indicated there had been trepidation because Evergreen was a small firm, but the Utility Division felt there was value. There were other factors as well like having more access to senior people in the firm.

Commissioner Hall moved, seconded by Commissioner Byrd to approve the renewal of the Evergreen Economics contract as presented and the motion passed by unanimous 5-0 voice vote.

12. COMMUNICATIONS WITH COMMISSIONERS

Commissioner Byrd said an email was received from constituent Paula Devlin. He brought Commissioner Hall into the matter and they referred the email to Staff, who took care of it. Ms. Devlin gave him credit for the resolution, but he wanted to pass the credit on to the Staff.

He thanked Staff for doing a great job.

Commissioner Espinoza asked if the Fire Marshal group was represented because she understood several people would be present. She wanted to be sure everyone had an opportunity to be heard.

Chair Becenti Aguilar replied there was one representative, Paul from Otero County who touched on concerns with legislative bills in public comment and about 15 firefighters were in the building. They were welcome to visit individual Commissioners.

Commissioner Espinoza indicated she just wanted to be sure they had an opportunity to be heard.

Commissioner Byrd added that John Garcia, the Fire Marshal Investigator for Rio Rancho, wanted to make a comment about the damper issue and had left his card. He asked Mr. Garcia to come back next week and Mr. Garcia was fine with that.

Commissioner Espinoza thought this would not be on the agenda next week but definitely would be ready in two weeks.

Chair Becenti Aguilar told the Commissioners that she had a chance to visit with them individually and had attended ethics training with them as well as the opening of the Legislative session where they sat together and talked about important issues.

She is happy to be part of the team at the PRC and is looking forward to a good year.

The meeting recessed at 11:04 a.m.

13. PUBLIC HEARING

18-00243-UT

**IN THE MATTER OF PUBLIC SERVICE COMPANY OF NEW MEXICO'S
APPLICATION FOR APPROVAL OF A 345 KV TRANSMISSION LINE AND
ASSOCIATED FACILITIES PURSUANT TO THE PUBLIC UTILITY ACT**

The Commission resumed at 11:24 a.m. with Commissioner Byrd, Commissioner Fischmann, Commissioner Hall and Chair Becenti Aguilar present.

The hearing was presided by HE Carolyn Glick and Judith Amer represented the PRC.

The minutes of the hearing were transcribed by a court reporter and are not part of these minutes.

The Hearing was briefly recessed at 12:40 p.m. and resumed at 12:50 p.m.

At approximately 1:25 p.m., the Commission discussed possible continuance of the case and waiving the deadline.

The hearing was recessed at 1:40 and reconvened at 2:00 p.m.

The Commission went off the record at 2:03 p.m. and returned to the Open Meeting.

14. DISCUSSION AND POSSIBLE ACTION

5) 18-00243-UT

**IN THE MATTER OF PUBLIC SERVICE COMPANY OF NEW MEXICO'S
APPLICATION FOR APPROVAL OF A 345 KV TRANSMISSION LINE AND
ASSOCIATED FACILITIES PURSUANT TO THE PUBLIC UTILITY ACT
(Judith Amer)**

Commissioner Fischmann moved, seconded by Commissioner Espinoza, to appoint and designate Carolyn Glick as HE to conduct hearings in this case as necessary and make a Recommended Decision.

Ms. Amer stated that a stipulated procedural schedule would be established by May 10 and parties no longer needed to submit FF/CL because Ms. Glick would make FF/CL.

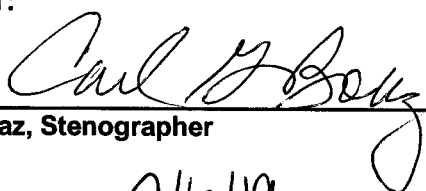
The motion was approved on a 6-0 unanimous voice vote.

15. ADJOURNMENT

Commissioner Espinoza moved, seconded by Commissioner Fischmann to adjourn the meeting and it passed by unanimous 5-0 voice vote.


The meeting ended at 2:17 p.m.

ATTEST:



Carl Boaz, Stenographer

APPROVED: 2/6/19


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: January 16, 2019



NAME	COMPANY NAME (if any)	PHONE NUMBER
Dennis Wallin	Bill King Ranch	505-832-6363
Alisa Lauer	"	"
Anne Wall/Hagerman		303 880 1180
John Mohler	SJCFD	505-793-5020
Matteo Santillanes	NEW MEXICO EXCHANGE	505-270-0602
Jay Santillanes	NM Exchange Carrier Group	505-440-6119
Don Shawing	NM FMO	
Bill King	—	505 220-9909
Mark Fenzler	FNM	505 241 2498
Roch Austin	McKinley County Fire	505-804-0811
Pau-Amaral	Otero Co / NMC FDEM	575-491-5942
Jonathan Garcia	RREFD	505-238-7097
Jay Cordova	NMCC	505-697-3559
Gray Thefford	Ruidoso Fire	575 937 6110
Michael Salazar	CWA Local 7037	505-204-6037
Luke Medina	CWA Local 7037	505-819-1135
Carlos Araya	Morley Fire	505-450-2217
A. Brian Culp	Valencia County Fire	505-573-1704
Janine Gonzales	Valencia Cnty Fire	

Thank you for attending this meeting.

Randy Villa Grant County
John Kondranch NM Sfm
JP Kenmore Lincoln Co. OES

575-574-0070
505-406-EXHIBIT 1
PRC - January 16, 2019
575-808-1381



NEW MEXICO PUBLIC REGULATION COMMISSION

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

Wednesday, January 16, 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 MINUTES**
 - **Minutes of the Case Management Open Meeting for December 19, 2018**
- V. CONSENT ACTION**
 - A. Transportation Matters:**

1)	18-00323-FM David Black	IN THE MATTER OF AMENDING CERTAIN RULES PERTAINING TO THE STATE FIRE MARSHAL INCLUDING REPEALING AND REPLACING THE 2003 INTERNATIONAL FIRE CODE WITH THE 2015 INTERNATIONAL FIRE CODE <u>POTENTIAL ORDER REGARDING RULEMAKING DOCKET AND NOTICE</u>
2)	18-00381-TRM David Black	IN THE MATTER OF THE APPLICATION OF SHUTTLE RUIDOSO LLC D/B/A SHUTTLE RUIDOSO, FOR AMENDMENT TO ITS PERMIT TO PROVIDE NON-EMERGENCY MEDICAL TRANSPORT SERVICE <u>POTENTIAL ORDER REGARDING AMENDED CERTIFICATE</u>

B. Utility Matters:

3)	18-00252-UT Russell Fisk	IN THE MATTER OF THE STATE RURAL UNIVERSAL SERVICE FUND 2019 PER- CONNECTION CHARGE CALCULATION AND FUND SIZE <u>POTENTIAL ORDER REGARDING CONTRIBUTING CARRIER REPORTING INSTRUCTIONS AND FORM</u>
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VI. REGULAR ACTION AND DISCUSSION

A. Transportation Matters:

NONE

B. Utility Matters:

4)	18-00239-UT Judith Amer	IN THE MATTER OF THE FORMAL COMPLAINT OF DANIELLE DOMENIC AGAINST KIT CARSON ELECTRIC COOPERATIVE, INC. <u>POTENTIAL FINAL ORDER</u>
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VII. PUBLIC COMMENT

VIII. LEGISLATIVE ISSUES DISCUSSION AND POSSIBLE ACTION

- Century Link legislative bill presentation
- HB 116 - Wastewater System Financing
- HB 124 - Fire Protection Fund Changes
- HB 176 - Broadband Telecomm Facility Gross Receipts
- HB 177 - Fire & Smoke Damper Inspection Rules
- SB 67 - Engineering Internship Program
- 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**

IX. CONSIDERATION AND POSSIBLE ACTION REGARDING ADVICE NOTICES

- **El Paso Electric Company - Advice Notice No. 262**

X. COMMUNICATIONS WITH GENERAL COUNSEL

XI. COMMUNICATIONS AND POSSIBLE ACTION WITH CHIEF OF STAFF, ERNEST D. ARCHULETA, P.E.

- **Selection of Independent Evaluator for Utility EE/LM Programs**

XII. COMMUNICATIONS WITH COMMISSIONERS

XIII. PUBLIC HEARING

IN THE MATTER OF PUBLIC SERVICE COMPANY OF NEW MEXICO'S APPLICATION FOR APPROVAL OF A 345 KV TRANSMISSION LINE AND ASSOCIATED FACILITIES PURSUANT TO THE PUBLIC UTILITY ACT

Case No. 18-00243-UT

XIV. DISCUSSION AND POSSIBLE ACTION

5)	18-00243-UT Judith Amer	IN THE MATTER OF PUBLIC SERVICE COMPANY OF NEW MEXICO'S APPLICATION FOR APPROVAL OF 345 KV TRANSMISSION LINE AND ASSOCIATED FACILITIES PURSUANT TO THE PUBLIC UTILITY ACT
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XV. ADJOURNMENT

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

NEW MEXICO PUBLIC REGULATION COMMISSION

OPEN MEETING: CASE MANAGEMENT MEETING

Date: January 16, 2019

PUBLIC COMMENT SIGN-IN SHEET

[illegible]

Thank you for attending this meeting.

EXHIBIT 3
PRC - January 16, 2019