

**MINUTES OF THE OPEN MEETING  
NEW MEXICO PUBLIC REGULATION COMMISSION  
February 27, 2019**

**TIME: 9:30 a. m.**

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

A quorum was present as follows:

**Members Present:**

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

**Members Absent:**

**Staff Present:**

Jason Montoya, Acting Chief of Staff  
Michael Smith, Acting General Counsel  
Russell Fisk, Associate General Counsel  
David Black, Associate General Counsel  
Michael Ripperger, Telecommunications Bureau Chief  
Cydney Beadles, Legal Division Director  
Milo Chávez, Acting Utility Division Director

**Others Present**

Carl Boaz, Stenographer

**CALL TO ORDER**

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

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

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

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

## **1. PLEDGE OF ALLEGIANCE/STATE PLEDGE**

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

## **2. INTRODUCTION OF SPECIAL GUESTS**

There were none.

## **3. CONSIDERATION AND APPROVAL OF THE AGENDA**

Commissioner Espinoza requested Communications with Commissioners be heard before the Director's Report.

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

## **4. CONSIDERATION AND APPROVAL OF MINUTES**

**Commissioner Espinoza moved, seconded by Commissioner Byrd, to approve the minutes of February 6, 2019 as presented. The motion was approved by unanimous (5-0) voice vote.**

## **COMMUNICATIONS WITH COMMISSIONERS**

Commissioner Espinoza asked to read a prepared statement regarding recent media articles about Farmington and their announcement to keep open the San Juan Generating Station (SJGS).

She had a message for friends and supporters who continuously defend the environment. She said in light of the recent announcement made by the City of Farmington they may want to reconsider their support of SB 489.

Commissioner Espinoza read from her statement: Senate Bill 489 essentially gives PNM recovery of its unrecoverable investment in the San Juan Coal Generating Station. SB 489 does not guarantee that the SJGS will be shut down and does not guarantee the station will no longer be operated and SB 489 does not guarantee that the SJGS will no longer emit greenhouse gases.

Commissioner Espinoza said the City of Farmington has a contractual right to buy the interests of the other San Juan Coal Generating participants at zero cost. Thus, may be able to operate the SJGS for a long time. The New Mexico Public Regulation Commission regulates public utilities; the City of Farmington is not a public utility. The bottom line is if SB 489 passes, PNM could be bailed out and the SJGS could remain open and continue to emit greenhouse gases for a long time, perhaps until year 2053.

Commissioner Fischmann thanked Commissioner Espinoza for her comments. He said the bill is complicated and it is hard to know what to believe. He had reviewed the bill because of the situation in Farmington but did not fully understand some things and possibly, Staff could provide input.

He noted the restriction on what the plant would be able to do if they stay open regarding emissions but the restrictions theoretically, would be far cleaner than coal. On page 80 of the bill could cover Farmington, but he was not sure, but it is state-wide and enforced by the Environment Department.

Commissioner Fischmann thought it would be good to get clarity on that section of the bill and said Commissioner Espinoza's statement could be accurate. Or it could be that the facility would have to convert to gas to meet the restrictions if enforced by the Environment Department.

Commissioner Hall agreed with Commissioner Fischmann about the level of emissions from the plant. She thought that pertained to successors and is intended to exclude coal, but they would have to wait to see if there is a deal.

Chair Becenti Aguilar stated in reference to legislative bills, in particular SB 489, the bill would come before the Commission for action. She noted it crucial that Commissioners understand the rules and policies and procedures. Commissioners should not voice their opinions in the legislature if a case is pending or would be followed through the General Counsel's Office and come before the Commission.

She noted the number of staff members who go to the legislature but remain neutral. She cautioned Commissioners, unless approved by the full Commission, to stay aligned so they could work together moving forward.

Mr. Montoya reminded the Commissioners that staff had in response to SB 489 created a task force and spent several hours on an FIR to address their concerns. That was shared with the Commission and the task force was present and could talk with Commissioners now or after the meeting.

## **5. DIVISION DIRECTOR'S REPORTS**

Milo Chávez, Acting Director of Customer Relations Department (CRD) provided his monthly report and passed out a handout to the Commissioners.

Mr. Chávez explained the division follows up to ensure utilities are billed correctly and tariffs are followed. The report shows 148 complaints received since July 1 that were logged into the system. There are many more informal complaints staff follows up on through phone calls to the person or utility to ensure things were being done correctly.

Every complaint logged in the system requires both the utility and the customer to file a response. To date \$16,000 has been recovered and is possible another current complaint could add another \$16,000. There have been years when as much as \$300k to \$500k has been recovered from one or two large complaints. CRD personnel follows through with each complaint from start to finish and ensures the customer is content with the outcome.

Customers could also formalize a complaint, at which point the complaint would go to the OGC to decide whether to move the complaint further. The Utility Staff is involved by providing testimony or anything else that is necessary.

Mr. Chavez stood for questions.

Commissioner Fischmann asked the timeframe in which the complaints were received.

Mr. Chávez explained utilities have 10 days to respond once a complaint is logged, and once staff receives a response, they confer with the customer to work out an arrangement. The ten-day requirement is not a statute or in PRC rules, but should be solidified in the statute.

Commissioner Fischmann clarified he was questioning the period of time over which CenturyLink received 47 complaints; over a week, a month, a year, etc.

Mr. Chávez replied the total complaints spanned from July 1 to present day.

Commissioner Hall wanted to know the number of complaints a company received in relation to the number of customers.

Mr. Chávez agreed to provide that.

*Commissioner Espinoza and Commissioner Fischmann are out at 9:48.*

Chair Becenti Aguilar asked if possible, to streamline complaints for each company, utility, etc.

Mr. Chávez noted that on telecom complaints, CenturyLink was at the top with 47 complaints and Windstream with 9 complaints.

Chair Becenti Aguilar asked if Mr. Chávez had received complaints about Sacred Wind.

Mr. Chávez thought they had not received any but offered to follow up.

Chair Becenti Aguilar indicated that on Navajo land many of the customers did not have phone service and were unable to reach the office. That could be another reason PRC does not have statistics for Windstream.

Commissioner Byrd asked Mr. Chávez to elaborate about what would be needed on the ten-day response.

Mr. Chávez explained he had worked with the Public Utility Commission of Texas and they had a ten-day response in their statute and PRC does not. He thought that should be included in their rules and in statute so if utilities went over the 10 days, the PRC could enforce the rule.

Commissioner Byrd asked Mr. Chávez to work on that and bring it back to the Commission.

*Commissioner Espinoza returned to the meeting.*

Commissioner Espinoza asked if the complaints referred to were formal or informal.

Mr. Chávez explained they were informal.

*Commissioner Fischmann is back.*

Commissioner Espinoza suggested Commissioners start keeping a log because their offices receive many complaints the report does not take into account.

Mr. Chávez agreed. He noted CRD staff indicated one of the employees logged 200 phone calls and another 208 calls that were not included in the system.

Commissioner Espinoza suggested someone track the 800 number, although she was not sure the number still worked, and track every complaint received by Commissioners.

Commissioner Espinoza suggested on response time for staff to consider streamlining the response time from the fire marshal's office. In one situation, the Commission had to work with the fire marshal's office because a person had waited over a year to get the marshal's report so they could file insurance.

Commissioner Byrd clarified that the 850 calls referenced were in addition to calls mentioned by Commissioner Espinoza.

Mr. Chávez explained that he, staff and the Commissioners receive calls from customers and if the complaint is not logged, even though investigated, the complaint is

not part of the process. Logging the complaints is better because staff can track them and ensure they are resolved.

Commissioner Fischmann asked if there is a mechanism to alert staff when consumers are complaining about the same issue.

Mr. Chávez indicated staff can spot trends and becomes apparent when an issue is repeating, and the complaints are then elevated and followed up on immediately.

Commissioner Espinoza indicated a concern with the manner complaints were recorded for the report. The Commission uses the information in a rulemaking, and it is not accurate. A company could argue they are small with very few complaints during a rulemaking and that could hinder the Commission's ability to make decisions.

Mr. Chávez requested Commissioners help by passing complaints on to CRD to log in otherwise the division does not know about the complaint.

Commissioner Espinoza agreed.

Commissioner Hall also agreed the report should reflect the number of calls and accurate statistics, but also wanted to know how many informal complaints were resolved and if they rose to the level of a complaint. Her office always notifies CRD about complaints.

Mr. Chávez offered to provide that information.

Mr. Smith noted record keeping is addressed in the statute; section 888 established the Consumer Relation Division would record, for the purpose of determining general concerns of consumers, the quality or quantity of service and requires a report of consumers complaints and status in the Commission's annual report.

He pointed out secondly, that he had covered with Commissioners in the orientation session that they should not be involved in handling consumer complaints. One problem with that is the extent that a Commissioner is working with the complaint that may not be reported in the CRD ledger.

Another issue is that when a Commissioner handles a complaint, they do not know if the complaint would evolve into a more significant issue. Even if the complaint is not adjudicated, that could be the basis for a larger investigation by staff. A Commissioner's involvement early on, could result in their recusal in that case.

Commissioner Espinoza thanked Mr. Smith for his advice but indicated for the last six years she had been making that connection and delegating the person's name and number and it did not make sense not to make that contact. She had never been expected to recuse herself because she passed a complaint on to the consumer, or the company.

Commissioner Espinoza asked what Commissioners should do; what their role is if they could not help the consumer.

Mr. Smith replied the Commissioner would be serving in an adjudicative capacity.

Chair Becenti Aguilar asked to confirm hypothetically, if a complaint was called in from Albuquerque on a utility matter, the complaint must be given to the CRD Director.

Mr. Smith replied it would. That is the role of CRD to take care of the matter. There have been cases where complaints turned into an investigation and formal docketed case before the Commission. He advised as judges, the Commission should not be involved in the investigation, have contact with, or befriend the consumer.

He added there is a tendency for Commissioners to do that because they are politically elected officials and want to serve their constituents, but that could compromise their ability to hear the case.

Chair Becenti Aguilar asked if appropriate to get information from the CRD Director, as requested by Commissioner Hall, on the outcome of a complaint.

Mr. Smith replied that would be appropriate.

Mr. Chávez indicated to the Commission that the Division is staffed appropriately.

Chair Becenti Aguilar asked that Mr. Chávez inform the Commission if they become overwhelmed with requests by the Commission or if the Commission could help. She was aware staff was asked to do more and to ensure statistics are correct and that takes more time and scrutiny.

She said the PRC values their service and work and would like feedback on how CRD organizes their work in consumer relations.

## **6. PRESENTATION**

- **PRESENTATION BY CYDNEY BEADLES AND MILO CHAVEZ REGARDING QUALITY OF SERVICE AND CONSUMER PROTECTION DRAFT RULES FOR CONSIDERATION BY THE COMMISSION (CASE NO. 17-00186-UT - IN THE MATTER OF THE PETITION OF CENTURYLINK QC TO INITIATE A RULEMAKING TO IMPLEMENT SENATE BILL 53 TO ADOPT EMERGENCY RULES)**

Ms. Beadles presented this information with Mr. Chávez at the table.

Ms. Beadles explained she had prepared a statement in the interest of time regarding the circumstances. She read from her statement that January 24, Commissioner

Espinoza's office requested she and Mr. Chávez do a presentation on the proposed telecom consumer protection and quality of service rules, February 6, in reference to SB 53 enacted in 2017 into law.

She and Mr. Chavez described and circulated drafts of the QOS rules in that meeting, and the Commission requested copies be sent to CenturyLink and interested parties for their review and feedback. Copies subsequently were sent to CenturyLink, Counsel for the Attorney General, the City of Albuquerque/Bernalillo County, and U.S. Department of Defense.

This morning she and Mr. Chavez were reporting as requested. Staff has met with Counsel for CenturyLink in the interim and Tim Goodwin asked that the Commission keep in mind the history of their company and the progression of the deregulation...

Commissioner Espinoza asked if the union had also been invited to the meeting with CenturyLink and Tim Goodwin.

Ms. Beadles replied not in that meeting, but she had talked with a representative of CWLA last night. She received his informal comments and advised him of staff's proposal and the opportunity to make formal comments.

On February 15, CenturyLink had indicated it would be more efficient and appropriate if the Commission waited until the second phase of the pending competition document to finalize. Staff responded they would not wait and planned to move forward with the consumer protection QOL rules. They requested CenturyLink provide feedback or offer alternatives, such as from a state jurisdiction that CenturyLink found practical.

Staff and CenturyLink and interested parties met as a group February 20 after the open meeting. She was not able to attend. CenturyLink proposed temporary adoption of the QOL mid-size carrier rules - meaning the rules would be in effect until the outcome of the competition docket. The issue was raised of whether temporary QOL rules could be adopted in the form of a plan.

Century Link proposed this be called a regulatory transition agreement and filed the proposal yesterday afternoon, which is now part of the case record in 17-00186.

Staff believes the use of mid-size carrier rules represented a good faith proposal and is encouraged and thought it made sense to maintain QOL rules in a plan submitted for Commission approval. Staff also thought the consumer protection rules should be separately promulgated in a rulemaking proceeding. Staff requested more time to review CenturyLink's proposal and to be given until March 11 (the customary 13 days) to file a response to CenturyLink's written comments. Staff would respond to any motions and include recommendations on how the Commission should proceed with the adoption of QOL and rules for CenturyLink or eligible carriers.



Ms. Beadles explained OGC provided the discussion drafts of consumer protection and QOL rules and it is in three font colors for comparison of existing and former rules. Staff believes the clearest approach with the most transparency is to have one set of consumer protection applicable rules for all providers of telecommunications services.

Ms. Beadles stood for questions.

Chair Becenti Aguilar asked if Staff had allowed enough time for response and comments from the companies, etc., prior to putting on the agenda.

Ms. Beadles noted that CenturyLink was in attendance, but she thought they would say they did not have enough time to respond to the details. She thought if the Commission issued a NOPR, CenturyLink, staff and interested parties have had sufficient working experience with the standards the Commission has incorporated over the years and everyone affected would have plenty of time for comments and responses, and everyone's rights and interests would be protected.

Chair Becenti Aguilar asked if possible, for the Commission to allow more time.

Mr. Chávez stated they have an ambitious schedule and could scale that back but are also working against the legislature timeframe. The more time for the Commission, the better.

Commissioner Fischmann confirmed he should bring his thoughts and comments on the work, to Mr. Chavez separately.

Ms. Beadles clarified that staff wanted to file responses to CenturyLink's written comments by March 11 and would include recommendations to the Commission in that. The Commission could then consult with the OGC to schedule the process to allow everyone time for comments and responses to the rules.

Chair Becenti Aguilar thanked Ms. Beadles and Mr. Chávez.

## **7. PUBLIC COMMENT**

There were no public comments.

## **8. CONSENT ACTION**

### **A. Transportation Matters:**

None.

## **B. Utility Matters:**

- 1) **18-00280-UT** IN THE MATTER OF THE APPLICATION BY ZIA NATURAL GAS COMPANY FOR APPROVAL OF ITS 2019-2021 ENERGY EFFICIENCY PROGRAM AND SECOND REVISED RATE RIDER NO. 2 IN ADVICE NOTICE NO. 59 PURSUANT TO THE NEW MEXICO PUBLIC UTILITY ACT AND THE EFFICIENT USE OF ENERGY ACT, ZIA NATURAL GAS COMPANY, Applicant.  
(Carolyn Glick) **RECOMMENDED DECISION**  
(David Black) **POTENTIAL ACTION OF RECOMMENDED DECISION**
  
- 2) **18-00064-UT** IN THE MATTER OF THE PETITION OF CENTRAL NEW MEXICO ELECTRIC COOPERATIVE, INC. FOR A VARIANCE FROM THE METHODOLOGY REQUIRED BY RULE 17.9.540.16 NMAC, DEBT COST ADJUSTMENT CLAUSE CENTRAL NEW MEXICO ELECTRIC COOPERATIVE, INC., Applicant.  
(Elizabeth Hurst) **RECOMMENDED DECISION**  
(David Black) **POTENTIAL ACTION ON RECOMMENDED DECISION**
  
- 3) **18-00353-UT** IN THE MATTER OF THE APPLICATION OF PACIFIC WIND DEVELOPMENT LLC FOR APPROVAL OF THE LOCATION OF THE LA JOYA WIND PROJECT AND 345 KV GEN-TIE LINE IN TORRANCE COUNTY, NEW MEXICO PURSUANT TO NMSA § 62-9-2; AND RIGHT OF WAY WIDTH DETERMINATION PURSUANT TO NMSA § 62-9-3.2  
(Judith Amer) **POTENTIAL ORDER REGARDING SCOPE OF HEARING**

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

Commissioner Espinoza said Sara Becker would be leaving soon. She thanked her for her work at the PRC Transportation.

## **9. PUBLIC HEARING**

At 10:21 a.m., the Commission went on the record. The proceedings in the public hearing were transcribed by a court reporter and are not part of these minutes.

### **Case No. 19-00001-TR-EN**

**IN THE MATTER OF THE REVOCATION OF OPERATING AUTHORITIES FOR FAILURE TO COMPLY WITH FINANCIAL RESPONSIBILITY REQUIREMENTS NEW MEXICO PUBLIC REGULATION COMMISSION, TRANSPORTATION DIVISION, PETITIONER**

**v.**

ABARIM HOME HEALTH CARE, INC., #56360; ACE TOWING & RECOVERY LLC, #55261; ADVANTAGE ENTERPRISES LLC, #57139; ANTHONY R. ULIBARRI D/B/A ALBUQUERQUE BUS TOURS, #57290; AM TRANSPORT LLC, #57032; BRANDON FAJARDO D/B/A BFAJARDO ENT, #55826; ROBERT C. BANOS D/B/A BIGHORN SPORTS & RENTALS, #1648; CAREGIVERS TRANSPORTATION INC., #56853; ACCA ENTERPRISES LLC D/B/A CLS TRANSPORTATION, #56956; DIGNITY AND PRICE CHARTER AND LIMO LLC, #56638; DURING THE NIGHT TRANSPORT LLC, #56312; EMCO OIL FIELD SERVICES LLC, #57295; JUSTO MORENO D/B/A FAST & SAFE TOWING, #56394; JAIME GOMEZ D/B/A GOMEZ TRANSPORTATION, #53081; HERNANDEZ E TRUCKING, #57097; HECTOR M. VILLARREAL D/B/A HV TRUCKING, #56098; JESUS GARCIA D/B/A J & A TRUCKING, #53148; JASED LTD LIABILITY CO, #56707; JESUS VALDEZ D/B/A JV TRUCKING, #55887; LEFLEUR TRANSPORTATION OF TEXAS INC., #56388; MIRIAM N. GASTELUM D/B/A LUMINARY TRUCKING OILFIELD SERVICES, #57267; MAIN EVENT TRANSPORTATION LLC, #25926; MARTINEZ & SON TRUCKING LLC, #57296; MCL SERVICES LLC, #56707; NARROW ROAD TRANSPORTATION LLC, #56654; NUNEZ TRANSPORT LLC, #57286; DAMACIO & EILEEN ORTIZ D/B/A ORTIZ TRUCKING, #54651; OUTLAWS OILFIELD SERVICE LLC, #56169; PAYLESS ROLLOFF LLC, #57249; RITEWAY TRANS LLC, #56619; SHOWBEAR TRANSPORT SERVICES LLC, #57184; SOONER TRUCKING LLC, #56022; TITAN RECOVERY LLC, #54651; TWO AMIGOS SERVICES LLC, #57275; BRADY NESS D/B/A UNIQUE TOWING, #56765; ROBERTO VELASQUEZ D/B/A VELASQUEZ TRUCKING, #55639; WILCA OILFIELD TRANSPORTATION LLC, #57272; YES WE CAN HAUL & MORE LLC, #57017; ZERO TN LLC D/B/A BOLT, #56944, RESPONDENTS.

(Sarah Becker)

(Kevan Bay Borjorquez)

The Commissioner went off the record at 10:42 a.m.

## **10. REGULAR ACTION AND DISCUSSION**

### **A. Transportation Division**

- 4) 19-00001-TR-EN      IN THE MATTER OF THE REVOCATION OF OPERATING  
AUTHORITIES FOR FAILURE TO COMPLY WITH FINANCIAL  
RESPONSIBILITY REQUIREMENTS NEW MEXICO PUBLIC REGULATION  
COMMISSION, TRANSPORTATION DIVISION, PETITIONER  
v.  
ABARIM HOME HEALTH CARE, INC., #56360; ACE TOWING & RECOVERY  
LLC, #55261; ADVANTAGE ENTERPRISES LLC, #57139; ANTHONY R.  
ULIBARRI D/B/A ALBUQUERQUE BUS TOURS, #57290; AM TRANSPORT  
LLC, #57032; BRANDON FAJARDO D/B/A BFAJARDO ENT, #55826;  
CAREGIVERS TRANSPORTATION INC., #56853; ACCA ENTERPRISES LLC  
D/B/A CLS TRANSPORTATION, #56956; DIGNITY AND PRICE CHARTER AND  
LIMO LLC, #56638; DURING THE NIGHT TRANSPORT LLC, #56312; EMCO  
OIL FIELD SERVICES LLC, #57295; JUSTO MORENO D/B/A FAST & SAFE  
TOWING, #56394; JAIME GOMEZ D/B/A GOMEZ TRANSPORTATION, #53081;  
HERNANDEZ E TRUCKING, #57097; HECTOR M. VILLARREAL D/B/A HV  
TRUCKING, #56098; JESUS GARCIA D/B/A J & A TRUCKING, #53148; JASED

LTD LIABILITY CO, #56707; JESUS VALDEZ D/B/A JV TRUCKING, #55887; MIRIAM N. GASTELUM D/B/A LUMINARY TRUCKING OILFIELD SERVICES, #57267; MARTINEZ & SON TRUCKING LLC, #57296; MCL SERVICES LLC, #56707; NARROW ROAD TRANSPORTATION LLC, #56654; NUNEZ TRANSPORT LLC, #57286; DAMACIO & EILEEN ORTIZ D/B/A ORTIZ TRUCKING, #54651; OUTLAWS OILFIELD SERVICE LLC, #56169; PAYLESS ROLLOFF LLC, #57249; SHOWBEAR TRANSPORT SERVICES LLC, #57184; SOONER TRUCKING LLC, #56022; TITAN RECOVERY LLC, #54651; TWO AMIGOS SERVICES LLC, #57275; BRADY NESS D/B/A UNIQUE TOWING; #56765; ROBERTO VELASQUEZ D/B/A VELASQUEZ TRUCKING, #55639; WILCA OILFIELD TRANSPORTATION LLC, #57272; YES WE CAN HAUL & MORE LLC, #57017, RESPONDENTS.

(Judith Amer)

**POTENTIAL ORDER**

Ms. Amer noted the OGC proposed order would revoke the operating authorities for the non-compliant motor carriers as amended by deleting those who in the hearing were noted to be in compliance.

**Commissioner Byrd moved to approve the order as amended, seconded by Commissioner Hall and the motion passed unanimously (5-0) by voice vote.**

**B. Utility Matters:**

- 5) 18-00116-UT     IN THE MATTER OF EL PASO ELECTRIC COMPANY'S APPLICATION FOR APPROVAL OF ITS 2019-2021 ENERGY EFFICIENCY AND LOAD MANAGEMENT PLAN, UTILITY INCENTIVE AND REVISED RATE NO. 17 - EFFICIENT USE OF ENERGY RECOVERY FACTOR  
(Elizabeth Hurst)     RECOMMENDED DECISION  
(Russell Fisk)     POTENTIAL ORDER CONCERNING RECOMMENDED DECISION

Ms. Hurst and Mr. Fisk came forward.

Mr. Fisk stated he did not have a proposed final order and had not had a chance to review the exceptions filed to the RD. He recommended whether the Commission heard the RD today, they should consider the motion to strike responses filed to exceptions by the City of Las Cruces, EPE, and CCAE.

Mr. Fisk recommended the Commission rule today on a proposed order on the motion to strike and noted he was not ready to present his proposed final order. They could hear the RD today or wait until next week with the proposed final order.

Commissioner Hall suggested it would be worthwhile to have HE Hurst review her RD.

Commissioner Espinoza agreed. Commissioner Fischmann stated he would have suggested the opposite but was comfortable either way.

Ms. Hurst indicated that once she recommends the RD it is complete unless remanded back to her. There were contested issues in this case and exceptions were filed and responses filed to those exceptions, which Mr. Fisk would address.

The Commission at this point would decide whether to have one presentation next week to hear from she and Mr. Fisk at the same time. She was happy to provide an overview of the case and let Mr. Fisk address exceptions next week.

Mr. Fisk noted there may be an advantage to hear the RD at the same time as his final order which deals with the RD, but the Commission could hear it now.

The Commissioners preferred to hear the RD today.

Ms. Hurst recapped the hearing and noted different things were happening with existing preapproved programs, and changes proposed. There were 4 interveners; the CCAE, the City of Las Cruces, Ms. Soules and Mr. Sosa. Staff also participated with 6 witnesses in two days of hearings. There was also one applicable comment against spending more money for programs.

The RD starts with the procedural posture, filings and applicable statute and Commission rules on EEUA as well as the evidentiary standard requirements. Page 17 starts a section that covers compliance with prior PRC orders, specific filing requirements and how EPE should utilize the information. EPE addressed those items in its application and followed Commission Order in #16 - 00025.

Additionally, in overview, under EEUA, EPE has 5 residential and 2 commercial/industrial programs and a self-direct program that has no current takers. EPE has requested \$5.7 million budget, including an underage of \$609k not spent that was added to this year's budget, and has asked approval for a \$5.1 million budget for 2020 and 2021.

A UCT (utility cost test) is used to evaluate the programs; a standard required by statute and detailed on page 50. The standard gives the Commission a way to look at the cost effectiveness of the program in relation to the program costs spent by the utility in a present value manner. Statute requires the UCT standard to be met if the monetary cost incurred by public utility to develop, acquire and operate EE/LM resources on a lifecycle basis are less than the avoided monetary cost associated with developing, acquiring and operating the supply side.

Ms. Hurst explained the process for calculating a cost-effective program and noted the ratios on page 52 of the RD.

She highlighted the summary on page 25 and the following pages of tables for each program and explained some numbers are proposed projections.

Ms. Hurst reviewed the five programs, Living Wise; an educational program for fifth graders that provides kits with energy efficient faucet aerators, LED lights, etc.

The Residential Comprehensive Program includes energy-saving measures and high energy efficiency items like evaporator coolers, refrigerated air, etc. EPE did not propose modifications to the program, however, CCAE recommended four modifications. Their witness (Dr. Geller) recommended the addition of a ductless mini-split AC/Heat pump, heat pump water heaters, an Energy Star certified clothes washer, as well as a higher tier incentive if the electric dryer qualified as Energy Star.

EPE did not oppose the recommendations but noted that Dr. Geller did not provide detailed estimated savings for those measures. EPE recommended they work with the appointed M&V evaluator on appropriate incentives.

Ms. Hurst found the proposed modifications reasonable and sufficient to accept that into the record, as well as for EPE to work with the evaluator to quantify the correct numbers.

EPE recommended eliminating the Residential Lighting Program, which was controversial. EPE agreed the program was highly successful and would continue to be, even though decreasing in numbers over the next three years. The program offers discounts and coupons at retail locations for CFL and LED bulbs.

Ms. Hurst explained EPE discussed the potential saturation in the market and pointed to potential reduced efficiency because bulbs replaced are CFL and not LED light bulbs. EPE indicated the main reason they want to eliminate the program is reduced savings because of a new act in 2020, and legislation and rules would have less savings for lighting.

Staff and Las Cruces supported the elimination of the program but CCAE was opposed. Dr. Geller testified this had been the most successful EPE program with the highest participation rate ever and potential to remain successful and effective through 2021 with a UCT of 1.44 in 2019, a 1.99 in 2020 and 1.21 in 2021; well over the standard to be effective.

Dr. Geller also pointed out that the DOE has not promulgated the actual standards yet under the new legislation.

Ms. Hurst said it was hard to argue with success and the new standards have not been completed yet. She found the argument persuasive and recommended the program not be eliminated and continue, subject to an annual evaluation. She accepted CCAE's recommendations for the program to be evaluated annually and EPE could file to discontinue if the program ceases to be effective.

The fourth residential program was a program to recycle appliances; refrigerators/freezers which was discontinued but brought back by EPE. Staff supports the program but had concerns with some of the assumptions used to evaluate the program, such as the useful average life remaining [of the appliance] - EPE claimed 8-years and PNM 5 years.

Commissioner Fischmann asked for clarification of whether it was the remaining useful life of the appliance to calculate the amount of energy that would be wasted compared to a new appliance.

Ms. Hurst agreed, and is pertinent to know the UCT and the discount rates. The higher the number, the more savings is represented.

Commissioner Fischmann noted that would be pertinent to the age of the appliance to be eligible for the program. He asked how old the appliance could be to be eligible.

Ms. Hurst replied she was not certain that was brought up or had to do with eligibility. The main reason had to do with NPV calculation under the UCT and it is only an assumption when calculating savings, not an age of the appliance.

Commissioner Fischmann thought the program should specify the replacement of appliances of a specific date [of purchase].

Mr. Fisk agreed. He clarified there were two different issues of age. The RD states a \$50 incentive for EPE to remove and recycle "an old refrigerator or freezer", but how old is old. Staff could look into that.

The remaining useful life is a different question and is about evaluating the effectiveness of the program. Consumers who replace appliances with only five years of life left, has less benefit than the \$50 incentive. The benefit increases if the appliance has more life left.

Commissioner Fischmann thought his suggestion was similar if basing it on the eligibility year.

Ms. Hurst offered to check if that was specified in the program description.

She added staff also questioned zero-pre ridership, pertaining to the calculation of the projected energy efficiency savings. Staff found it troubling that the zero pre presumes everyone recycling the refrigerator under the program did so *only* because of the incentive.

PNM assumes a 32% pre ridership. Dr. Geller testified for EPE appliance recycling and the energy evaluator in 2014 the M&V was determined at 30%. So, zero was

troubling. Mr. Reynolds testified for Staff if EPE's assumptions were adjusted consistent with PNM, it would possibly lower the UCT of EPE's projections for the program.

Staff's testimony was that if the assumption was not true that EPE had based their numbers on, their projections would be lower. Staff still supported the proposal because it was a successful program with potential to be successful and EPE's conservative projection of the number of people that would take advantage of the offer.

CCAE also concluded the assumptions were inaccurate. The City had other issues, including that an RFP was not generated to select a contractor and the Texas reference manual was used.

Commissioner Hall asked if Ms. Hurst was referring to the 2014 evaluation.

Ms. Hurst clarified it was to the City's concerns - one that EPE had not looked at anyone else's programs in another state and that EPE had selected the provider they use in Texas for recycling and there were possible cost-sharing opportunities with that provider.

Ms. Hurst found the evidence to be mixed and the pre-ridership numbers to be suspect, and that the program could be negatively affected if the numbers fall short. She recommended because the appliance recycling programs could be cost-effective and provide a useful service, that the Commission find there is sufficient evidence for potential savings and cost effectiveness and conditionally approve the program subject to a yearly monitoring report and filing if the program is not successful.

Commissioner Fischmann noted the summary chart (page 28, table 3): annual administrative appliance recycling is three quarters of the cost of the program and incentive payments are one fourth. He thought the admin costs were high on all the recycling programs and wondered if Ms. Hurst could provide more information on administrative costs.

Ms. Hurst replied there is a rider that recovers the remaining costs and some of the administrative cost and a base-rate administrative cost that is not recovered.

Commissioner Byrd had read that the annual administrative cost is for someone to pick up the appliance, pay the recycler to receive and dispose of the hazardous waste, separate metals from plastics for disposal, are part of the administrative cost to implement the program.

Commissioner Fischmann had assumed that but thought it would be nice to require exhibits with line-items to better understand the program.

Ms. Hurst replied there may be an exhibit that details the cost and she would look for that. The cost also includes EPE personnel time, cost of promotion and instructional advertisement that goes with the promotion.



Commissioner Fischmann noted the individual programs, each with individual admin costs and program development could be an opportunity for more efficient implementation. The programs could have a standardized menu of options across all IOUs. He suggested that be considered as an option.

He also thought there could be an opportunity to have a very cost-effective product to help co-ops save money. He wanted to know if any of those options were available so the money could be used as efficiently as possible.

Commissioner Hall agreed and thought it an excellent idea. She also liked standardization and at least a menu, to better understand the opportunities described for costs, use, and a benchmark to compare utilities.

Commissioner Fischmann added, an economy of scale in manner of implementation.

Ms. Hurst was not aware of EE cases of comparisons between the IOUs and how they compared with the assumptions of costs, or anyone who kept that information.

Commissioner Fischmann thought from a management standpoint, if all three used the same program through the same vendor, there could be a savings opportunity for all of them worth looking into. And if they could nudge utilities in that direction, they would be more effective for their customers.

Ms. Hurst replied she was not aware of anyone who tracks that information because of the specificity and geographical locations of programs and vendors, but she would provide that if she finds the information.

Commissioner Espinoza referred to the memo and asked if they had prepared an order.

Mr. Fisk responded he planned to provide a proposed final order on the RD next week.

Ms. Hurst continued with her presentation. She noted a challenge in the case was not only to look at the recommendations under statute and rule but at all recommendations/oppositions made.

The next program, Energy Star New Homes Program, provides incentives for homebuilders to construct energy efficient homes. CCAE recommendations included an incentive tier for homes that achieve a certain energy ratings score. EPE did not oppose, however, there were not verifiable savings and they offered to work with the M&V evaluator to analyze savings and incorporate those into the program.

Ms. Hurst found the unopposed modification reasonable and promotes energy efficiency and recommended the Commission approve the change.

The New Mexico Energy Saver Program, the low-income program, has been successful. EPE has proposed adding new measures such as a domestic hot water pipe insulation, Energy Star SMART thermostat, domestic hot water tank insulation and LED bulbs.

The City of Las Cruces did not specifically oppose but provided significant testimony critical of how EPE collects and analyzes its data and promotes the program and of some offerings. They do not believe EPE's focus is on program measures that should be a holistic evaluation of program effects on customers, their bills and their quality of life. The City made specific recommendations on what the PRC should direct EPE to do regarding annual report data and sampling, prior to getting the measure and after, of what is useful.

In rebuttal, EPE asserted the City complaints were vague and unfounded and they wanted to meet informally with the City of Las Cruces to address the concerns.

Ms. Hurst found merit in the City's holistic information to measure qualification and helpful to provide input for better measure and programs. There is a disparity regarding what EPE is collecting and the City's indication of what they should be collecting.

She recommended the Commission order EPE and the M&V evaluator to meet with the parties to discuss and rather than meeting informally, the Commission order would be a stronger order for them to work collaboratively to get the information.

Commissioner Fischmann understood that the measures used by energy efficiency programs were formulas developed and not field investigation. He asked if that was the issue underlying the discussion.

Ms. Hurst thought part of the City's point was that EPE thought if they install into the home four of the five things offered, that quantified the savings the home would receive. They did not qualify if that would make a difference on the home's bill to have four of the five items and if there were still windows with air leaks, etc.

Commissioner Fischmann asked if this was a rulemaking issue or could be settled without that.

Ms. Hurst replied she could only make the recommendation and the rulemaking would be up to the Commission.

Mr. Fisk added the Commission approves an evaluator used in the various EE programs, but he was not sure if that made a difference in how they evaluate.

Commissioner Fischmann suggested it may be more efficient to specify as part of the evaluation, a statistical sample of 1% of the users as a cross check of their estimate of benefits.

Ms. Hurst indicated there is one statewide M&V evaluator, but she did not know the process to choose the evaluator. She thought it would be fine to include criteria the Commission wanted in the evaluator but cautioned they should be very specific regarding the measures to be used under the EEUA and the rule.

Commissioner Byrd pointed out in notes on page 51, Exhibit AGP2 at the bottom, the information is there for the purposes of testing.

Mr. Fisk thought the printing had been cut off on that page.

Ms. Hurst clarified Commissioner Byrd was referring to her footnote 170 of EPE's witness breakdown per cost for program. That unfortunately, was not to the level of detail Commissioner Fischmann wanted. The exhibit was customer incentives, administrative expenses, marketing, etc.

She continued with Commercial programs offered by EPE - the Commercial Comprehensive Program offers incentives for lighting retrofits and construction projects for customers with average or less than 100kw and includes Energy Star roofing, HVAC systems, window treatments, etc.

CCAEC recommended the Commission require EPE to remove halogen and fluorescent lights from the eligible rebates and direct EPE to consider LEDs with network lighting controls.

In rebuttal, EPE argued that halogen and fluorescent bulbs for commercial lighting exists in the State manual and would not be impacted by new standards if implemented. There was no reason to remove them. They agreed in their response brief to add an incentive on the recommended lighting with network controls but maintained their objection of removal of halogen and fluorescent bulbs.

Ms. Hurst recommended there was insufficient evidence the bulbs should be removed if compliant with the New Mexico Technical Manual and they would not be impacted.

Chair Becenti Aguilar indicated the Commission had a copy of Ms. Hurst's ROAD, and questioned the Commissioners whether they should proceed with questions next week.

Commissioner Espinoza agreed. The Commissioners had received the information well in advance with ample time to read through the information. She noted Ms. Hurst's presentation had been clear, but was the same information provided.

Chair Becenti Aguilar stated Commissioners could continue to read through the RD and ask additional questions next week.

Ms. Hurst asked if there were any questions at that time.

Chair Becenti Aguilar said the information was very detailed and very good, but her sense was Commissioners wanted to review the RD.

Commissioner Fischmann acknowledged the work presented by Ms. Hurst and thanked her for the balanced presentation.

Chair Becenti Aguilar also thanked Ms. Hurst.

Mr. Fisk asked that the Commission decide whether to strike the responses of EPE and CCAE's exceptions of February 20 to the City of Las Cruces' exceptions to the RD.

The City had argued the responses were not filed timely and exceptions to the RD were due within 13 days. The City had filed its exceptions early (February 8) making the question whether the responses were from when their responses were filed or from the time all of the exceptions were received.

The rationale of Las Cruces is based on the filing of exceptions by EPE which were late, because there had been more than eight days between the filing of exceptions and responses.

Mr. Fisk read the rule: "*unless otherwise ordered by the Commission or presiding officer, the responses to exceptions may be filed within eight days after the exceptions have been filed*" which becomes the question, is the exceptions referred to the particulars responded to, or once all of the exceptions are in.

He thought that CCAE and EPE reasonably said, in the context of the rule, a reasonable interpretation. They pointed to subsection C and the sentence "*except by prior written approval of the Commission or presiding officer, responses to exceptions shall be no longer than 35 pages*". He agreed as CCAE and EPE argued, that the 35-page limit applies to the response of any party and should be a response to *all* the exceptions to which they wish to respond. This interpretation was more in harmony with the rule.

Mr. Fisk said his proposed order denies the motion to strike. The Commission could consider the responses, including the City of Las Cruces' exceptions.

He noted that Commissioner Fischmann had pointed out that how he had drafted the order, paragraph 10 states *the Commission finds the motion is not well taken and should be denied. The Commission finds the positions of CCAE and EPE regarding the interpretation of the Commission role persuasive.*

Mr. Fisk indicated he would add a comment in section 10 that while the rule is not plain, the interpretation is more reasonable.

Commissioner Fischmann agreed, noting if the rule had been plain language, it would have been written as 8 days *after* the last exceptions are received.

Commissioner Hall thought it is a plain meaning but is also correct to interpret the whole section of the rule and she accepted Mr. Fisk's interpretation.

**Commissioner Espinoza moved, seconded by Commissioner Hall to accept Mr. Fisk's order denying the City of Las Cruces the motion to strike the responses, as amended, and the motion passed by majority (4-1) voice the vote. Commissioner Fischmann voted against.**

*A 30 -minute break was taken from 12:10 to 12:40 p.m. Commissioner Hall, Commissioner Byrd and Chair Becenti Aguilar were present. At 12:40.*

**6) 19-00046-UT     IN THE MATTER OF THE COMMISSION'S REPORT AND  
RECOMMENDATIONS TO THE LEGISLATURE REGARDING THE STATE  
RURAL UNIVERSAL SERVICE FUND PURSUANT TO THE 2017  
AMENDMENTS TO THE RURAL TELECOMMUNICATIONS ACT OF NEW  
MEXICO  
(Russell Fisk) POTENTIAL PROCEDURAL ORDER AND ORDER OPENING  
DOCKET**

Mr. Fisk said he brought a proposal to open a docket for amending the RUSF Act. He brought up the fact that we are close to the \$30 million cap and need to determine how we could deal with that. He also mentioned the annual report requirement.

The proposed order would set a round of initial comments and responding comments to be made by staff or any interested person who might wish to make a comment about the specific issues requested by Legislature in the 2017 Act. These will cite the issues that need to be reported. It would evaluate the amount of the cap set by the Legislature in the 2017 amendment and what needs to be set by June 30.

In addition, in the amended RTA, the status of the fund related to implementing broadband and expanding through the state and any recommendations on size of the fund and its structure must be completed by December 31, 2019. The legislature wants a report by end of year on the two RTA amendments. The legislature wants the evaluating of the cap done by June 30. So the order would open a docket to do that and set a schedule for first comments.

Commissioner Espinoza returned at 12:43.

Mr. Fisk suggested a schedule for March and April. He proposed inviting comments from those who pay into the fund, those who receive payments from the fund, Commissioners, Staff and others. They should focus first on the cap.

Commissioner Hall thought the approach for starting with comments is a good one. The more information we can get, the better.

Commissioner Espinoza recalled Commissioner Fischmann had proposed an amendment on the allocation of RUSF to prevent it from becoming an unfunded mandate. "I thought when we addressed the legislature to not support the bill, someone from the audience said it must be changed at the legislature. I thought we should stop handing it out as we have."

Mr. Fisk noted that no matter what is done with Sacred Wind (SWC), the act requires the PRC to make this report. He brought it up in the SWC bill, Commissioner Fischmann asked how we would approach the legislature on it since we are bumping up against the cap, so he brought up the reporting we have to do anyway.

Commissioner Espinoza asked how the Commission can change things.

Mr. Fisk suggested that could be discussed in this report.

The Commission should talk about this in our report and recommend which uses might be more beneficial to the public than others. And the Commission should be working with the Legislature.

Commissioner Espinoza asked how the SWC allocation is spent, how it could possibly cost \$680,000 and what kind of expenses they were referring to.

Mr. Fisk said SWC claimed they spent that much in liability expense.

Commissioner Espinoza asked if they could come before the Commission us to explain why it costs so much money.

Mr. Fisk said he cannot analyze that.

Commissioner Espinoza noted that it is public money, and everyone pays into it. They don't contribute the same payments that others are forced to pay.

Mr. Fisk clarified that this is just opening the docket for comments from people and then a report will be made.

Commissioner Espinoza asked if the Commission has the ability to deny the payment to them.

Mr. Fisk said no, but he assumed there would be a proration of the funds available.

Commissioner Fischmann suggested when the Commission gets to that report, it should include a recommendation about the current fiscal legislation because there is so little accountability. Mr. Harris sent a report that was done on who got the funds and the correction was negative 4.6. The report compared it with the federal USF, so it means we really need to change the legislation. He pointed out that when the law was written, VoIP

was much different. Right now, it seems everyone needs broadband and all the service it provides, and the Commission should determine how to push the legislation and have a standard for that. And we should push how it is addressed at the legislature.

Commissioner Espinoza added that SWC only has about 3,500 customers and that should be a consideration.

Commissioner Fischmann agreed. "We don't need to modify what exists but propose new legislation.

Commissioner Espinoza pointed out that each carrier has an executive being paid so much. She wanted to know if there is a way to figure out how much goes to operations or if that is confidential information.

Mr. Fisk said the Commission does receive reports on the use of USF funds. We are not yet to the legislative portion and he would like to have Mr. Ripperger present that when we talk about that legislation.

**Commissioner Hall moved, seconded by Commissioner Espinoza, to approve the order as presented by Mr. Fisk.**

**7) 18-00261-UT     IN THE MATTER OF PUBLIC SERVICE COMPANY OF NEW MEXICO'S  
REQUEST FOR A COMMISSION ORDER GOVERNING THE ACCOUNTING  
TREATMENT OF COSTS RELATED TO JOINING THE WESTERN EIM  
(David Black)                     POTENTIAL ORDER ON REHEARING**

Mr. Black recapped the history of the EIM request. In December, the Commission approved an order that on February 6, the Commission vacated and ordered a new study. An emergency order was filed and that is where we are today.

Commissioner Fischmann said he thought the proposed order on rehearing was more than we needed to do. It was too robust. There was a lot of testimony and we have about all we need. He thought it would make more sense to just do a re-consideration of the record that already exists. That would eliminate a lot of duplication and reduce the amount of Staff work and could do that next week.

Commissioner Espinoza was aware of the issues in working with Mr. Black and asked about anything else that needs to be addressed by the intervenor Albuquerque Bernalillo County Water Utility Authority on changes that were made.

Mr. Black said if assigned to a Hearing Examiner, a Hearing Examiner could expand the work to include other matters in the scope and could refer to evidence that was already in the record.

Commissioner Espinoza asked if there was an issue on dates.

Mr. Black said the emergency motion for an expedited order by Western Resource Advocates and the Coalition for Clean Affordable Energy was said to have an April 1 deadline for membership in EIM. But he researched it and found there is no such deadline. He understood PNM could join EIM any day of the year.

Mr. Black said the proposed order attached was for discussion only.

Chair Becenti Aguilar recapped Commissioner Fischmann's and Commissioner Espinoza's requests.

Mr. Black offered to prepare a draft for the Commission later today.

Commissioner Fischmann was not sure that he and Commissioner Espinoza were on the same page because what he requests would not require a hearing. The Commission could then reconsider the decision. There were many things that were in full agreement but also some issues were not thought through. He asked if the Commission needed to vote on that.

Commissioner Espinoza said they are both on the same page except for a minor change.

Mr. Smith commented that terminology has different meanings. Our rehearing rule includes taking additional evidence to be heard in an evidentiary hearing or in terms of Commissioner Fischmann's view, means without taking additional evidence but to re-review the pleadings and reconsider the original decision. He read the rule that includes the option of no new evidence to be considered. The Commission could also open for new evidence and new presentation and cross-examination of that. Those are the options. Commissioner Espinoza preferred to have a Hearing Examiner determine if it should be reopened for a hearing on the issues or just fill in the gaps.

Commissioner Espinoza said she would go along with that with minor new wording.

Mr. Black clarified that Commissioner Fischmann is not moving to send it to a Hearing Examiner.

Commissioner Hall did not think there would be a problem with sending it to a Hearing Examiner.

Commissioner Byrd noted that the reason the Commission vacated the original order was because of ABCWUA's concern for the rate payers. He thought the Commission should send that to a Hearing Examiner to see what other utilities have done when they entered the EIM. It was fairly short and just to make sure we are consistent with that.



Commissioner Fischmann clarified a Hearing Examiner would just reexamine the existing evidence and he found that acceptable. He did not know that the April 1 time constraint was real and whether PNM would follow up on it. But it is fair to all to handle this fairly quickly. "If we take this course, can we set a time frame for a Hearing Examiner's decision? There is a tome of evidence in there."

Mr. Black pointed out that if a Hearing Examiner issues a Recommended Decision, the PRC rules require exceptions to Recommended Decisions that would extend the time frame. It is normally 13 days; then responses in 8 days. But those limits can be shortened. So if the Hearing Examiner did a Recommended Decision by March 20, 13 plus 8 days would take it into April. He was told April 1 is an important date, but in his research, he read it simply as a preferred date. There is nothing in the record that says every utility must go into the California ISO on April 1, but it is a preferred date.

Chair Becenti Aguilar asked if Mr. Black needed a vote on it.

Commissioner Espinoza thought there was a motion and second to assign it to a Hearing Examiner and bring a Recommended Decision to the Commission in 13 days.

Mr. Smith said he would have to talk to the Hearing Examiners, but if the Hearing Examiners find there is not sufficient evidence in place, it should be reopened, and the scope of the assignment should include the ability for the Hearing Examiner to make that recommendation.

Commissioner Hall thought she heard that language. She asked if anything else had been filed since the emergency motion.

Mr. Black said no.

Commissioner Byrd asked if the Commission could have a report next week. Maybe they would have an answer.

Mr. Smith said they are not asking for permission to join the EIM. They are asking permission to book a regulatory asset.

Commissioner Hall asked if two weeks is plenty of time.

Mr. Smith thought if the Commission contemplated no reopening, a Hearing Examiner can use shortened response times and would have time to review the record and make a Recommended Decision about whether the record is sufficient. He agreed this is a strange situation.

Chair Becenti Aguilar asked to get feedback next week for a Recommended Decision deadline. We are not reviewing the record but the Hearing Examiner is.

Mr. Smith would say yes to the extent they can render the Recommended Decision with what is there now, but other things could blow the April 1 deadline.

Commissioner Fischmann asked if the Commission could expect a Recommended Decision next week.

Chair Becenti Aguilar said no. Next week is when a Hearing Examiner can make the decision about the existing record.

Commissioner Fischmann reasoned that the Commission could hear from a Hearing Examiner next week whether the evidence would need to be expanded.

Mr. Smith asked to give them at least two weeks.

**The motion passed on a unanimous 5-0 voice vote.**

## **11. CLOSED EXECUTIVE SESSION**

·PURSUANT TO NMSA 1978, SECTION 10-15-1(H)(2) - Discussion of Limited Personnel Matter

·PURSUANT TO NMSA 1978, SECTION 10-15-1(H)(7) - THREATENED AND PENDING LITIGATION MATTERS

·*Great Divide Wind Farm 2 LLC v. Theresa Becenti Aguilar, Cynthia Hall, Commissioner Jefferson Byrd, Commissioner Valerie Espinoza, and Stephen Fischmann, in their official capacities as the Commissioners of the New Mexico Public Regulation Commission; Federal District Court No. 1:19-cv-99-LF-CG City of Las Cruces v. NMPRC; Supreme Court No. S-1-SC-37458*

**Motion - Commissioner Espinoza moved, seconded by Commissioner Fischmann to go into closed executive session to discuss the items listed on the agenda. The motion passed by unanimous roll call vote with Commissioner Byrd, Commissioner Hall, Commissioner Fischmann, Commissioner Espinoza and Commissioner Becenti-Aguilar voting in favor and none voting against.**

The Commission went into executive session at 1:30 p.m.

At 2:36, the executive session ended.

**Commissioner Espinoza moved, seconded by Commissioner Fischmann to return to open session. The motion passed by unanimous 4-0 voice vote. Commissioner Hall was not present for the vote.**

Chair Becenti-Aguilar stated for the record that during the executive session, no actions were taken, and the only matters discussed were those listed on the agenda.

## **12. CONSIDERATION AND POSSIBLE ACTION REGARDING ADVICE NOTICES**

- **Advice Notice No. 236 - EL PASO ELECTRIC COMPANY**

John Reynolds explained that the first two advice notices deal with Rule 17.9.0 regarding cogeneration. The rule applies to utilities and avoided costs that apply to qualifying facilities and deals with rates paid to the facilities. EPE is in compliance regarding their annual filing. Advice notice 263 deals with that, and a series of rates are listed in the notice. Mr. Reynolds recommended the rates not be suspended and the notice be allowed go into effect by operation of law.

Commissioner Hall returned at 2:39 p.m.

- **Advice Notice No. 555 - PUBLIC SERVICE COMPANY OF NEW MEXICO**

There were no exceptions filed for this advice notice. It applies to everyone for qualified facilities and PNM provided a list of rates. Staff recommended it not be suspended and be allowed to go into effect by operation of law.

- **Advice Notice No. 11 - WESTERN FARMERS ELECTRIC COOPERATIVE**

Mr. Reynolds explained this is for the DG rider. This applies to the three coops under Western Farmers. Before the infrastructure is available, it applies to oil and gas production. Based on the statute, for hearings, more than 3 protests must be received and there were no protests received. He recommend not to suspend this and allow it to go into effect by operation of law.

- **Advice Notice No. 64 - MORA-SAN MIGUEL ELECTRIC COOPERATIVE**

- **Advice Notice No. 65 - MORA-SAN MIGUEL ELECTRIC COOPERATIVE**

Staff explained that Notice No. 64 allows a seasonal disconnect and reconnect for those customers to not pay a customer charge. Notice 65 is to institute more on meter reading with an advanced metering infrastructure to cut down on costs.

Commissioner Espinoza thanked the Staff for bringing these notices to the Commission's attention.

No action was taken on these Advice Notices.

## **13. LEGISLATIVE ISSUES**

## NEW BILLS

Commissioner Espinoza asked if the Commission could focus only on the bills that are most important for the PRC to deal with.

Mr. Montoya said the only problem was the 72-hour notice so they could not do the list after Friday.

He reported that SB 489 got a 5-2 do pass and is now at Transportation. HB 175 is the regional water authority which the Commission discussed at length last week and worked on possible amendments to introduce. He had a hard copy today, it is on today's calendar and he could not get over in time to be considered. It is a lengthy bill. Within the last 24 hours it was scheduled at the House Judiciary Committee.

Mr. Solomon said he brought his concerns last time about small water systems becoming political subdivisions of the State. To address those concerns, he proposed a definition of a non-joining water provider. So it cannot be compelled to connect with the regional system. He read the definition.

Commissioner Hall left the meeting at 2:50 p.m.

Mr. Solomon said any water authority can be condemned so this prohibits nonjoining a water company from being condemned.

On page 8, he struck language and for compelling sections 12 and 14.

On page 13, subsections 1 and 2, he added language which he read for extensions not more than 5 miles from a regional authority when both want to grow up to 5 miles away, so they don't encroach on each other's service territory.

Then on page 21, he added a section subsection c, which he read. Any encroachment claim or dispute can be heard by the PRC Commission for resolution.

Mr. Montoya said the concern expressed last week was about taking away PRC authority. He would like to see about getting more amendments to provide safeguards for users. If Commissioners agree, we should try to get these amendments placed. Last week a majority of the Commission would give to the PRC the authority to regulate.

**Commissioner Byrd moved, seconded by Commissioner Espinoza, to ask staff to attempt to get them added to the Bill. The motion passed by 4-0 voice vote. Commissioner Hall was not present for the vote.**

Mr. Montoya reported that SB 143 - Fire Standards, passed through Senate and now is at House Veteran's and being heard. HB 385 was discussed earlier. It has passed the House and is at the calendar for assignment to Senate committees.

Chair Becenti Aguilar said she went across the street to testify on the \$1.4 million to SWC each year automatically. She opposed the bill in one committee after getting consensus from the Commission to stand against it. If possible, they will introduce a joint memorial, so the bill does not go through but to do serious work on the USF and see how everyone is on board with that issue.

Commissioner Fischmann was confused how a memorial would prevent that bill from happening and Chair Becenti Aguilar gave the reasons.

Chair Becenti Aguilar said the representative from Bernalillo just made the recommendation to us that we should work on it internally. What would someone do at this late stage to counter it?

Mr. Montoya thought there was not a deadline for a memorial. He recommended looking for a senator to sponsor it. It would allow the PRC to conduct a study for the need. It doesn't block the actual bill, but it would need to be tabled or do not pass.

Commissioner Byrd understood SWC was left out of the legislation. So they took it out of our hands in 2014 and now just doing another bill to put it in. It was the oversight in 2014. They named the company specifically. The company did not exist at that time.

Commissioner Fischmann explained that this agency in the past has found it difficult and a lot of people across the street are upset with us.

Commissioner Espinoza suggested the way to change this is to present a plan and be proactive. A joint memorial is not going to happen, and a single memorial would not do it. With that kind of reactive decision making, it just sounds like we are protecting our agency. So we need to avoid appearing vengeful. It looks reactionary and protective.

Commissioner Espinoza said the economics of the bill grants us a little authority. But Chair Becenti Aguilar was also here a long time ago. It looks good on the surface but when people don't get their way here, so they go across the street.

Commissioner Fischmann was not sure how productive the efforts of our staff would be.

Mr. Ripperger was not really sure what strategy would be best. Commissioners should express their concern. And clarify the uses of the fund. But we might be too far along in the process. When that happens, a study memorial is proposed.

Mr. Fisk said he was only here if the Commission wants to do a memorial - a study paper.

Mr. Montoya said if the Commission wants a memorial, he would find a sponsor and work with them to draft the language and get it introduced to move forward.

Commissioner Espinoza suggested a rational for allocation.

Mr. Montoya agreed with it.

Commissioner Byrd thought the Commission should shoot for the stars.

Commissioner Fischmann said the memorial would just point out there is a different way to do this. He said an SJR is fine with him.

Mr. Fisk said it would have the Commission study this and determine whether a more comprehensive accounting would be required for using the fund. There are also potential constitutional issues since it pertains only to SWC. But that argument often fails. He asked if he should include only the general issues.

Chair Becenti Aguilar pointed out that SWC has received over \$109 million and has only 3,100 customers. She would like for them to get an audit and be held accountable for infrastructure with details on locations, and areas covered, as well as an itemized expense accounting of their business for the last 15 years.

Mr. Fisk agreed to incorporate that.

Commissioner Espinoza asked how the legislature will find the money to give them.

Commissioner Fischmann asked if there is anything to prevent us from doing a NOI.

Mr. Fisk said we need something to address the bigger issue - broadband - that the money is spent on specific projects. He was not sure that will work well at the legislature.

Chair Becenti Aguilar agreed to have a more comprehensive look.

The Commissioners made several other suggestions to Mr. Fisk about it.

Mr. Montoya said the Commission opposed HB 541 last week as it was stated then. The sponsor attempted to address our concerns. He had a copy of the bill as amended. He added that it passed at Public Affairs yesterday. Definitions were a small change.

Commissioner Espinoza said the Commission does not want to put anyone in bad position for changes we are not even aware of. We try to get the information beforehand, but we didn't qualify for the emergency meeting on this one.

Commissioner Fischmann said with the amendments that went through, he had lost track of what it does now.

The expert witness from Verizon was present and stated that New Mexico is the only state that prohibits any other charges on their bill and Verizon customers say they don't

want those charges. We take compliance very seriously and we are prohibited from billing for that.

Commissioner Hall returned to the meeting at 3:28.

The expert witness said Verizon believes cramming is not something we want to have happen, but customers can choose to add other things to their bill. And some are using our billing platform as a way to make other bill payments. So it adds "without the customer's consent." We would like to give New Mexico customers the same option they have in every other state in the country. It is to provide an offer that other states offer.

Commissioner Fischmann said he has seen a lot of people burned and did not want to open a door that might create a whole other set of problems. He said he was a tough sell. He asked where the protections were in this bill.

Elizabeth said they are the same as the ones in the statutes today against cramming. This bill does not affect that authority in any way - just to offer a customer consent option. Verizon meets the FCC rules against cramming and does allow customers to choose to be billed for other services through Verizon's bill. We have instituted very comprehensive protections for our customers. And, if our practices had shown a huge uptick, it would come to FCC attention.

If it doesn't pass, Verizon will continue to say they are not eligible for that billing because Verizon follows the law. We are not changing the protections that are already there. We just want to give the customer the choice for other charges. Right now the statute does not allow the customer to opt for charges other than phone service.

Commissioner Fischmann was still suspicious. He asked if there weren't other ways that sticking it into a long customer bill, like allowing paying on line.

Elizabeth said they would not be able to do that, with the way the New Mexico statute written is now. No other services could be paid through their phone bill.

So we alerted customers to contact Apple. Most carriers are now required to list those charges separately from their phone bill. Our customers have not complained about having the option but have complained about not being able to pay that way. And they like Verizon standing between them and a third party to make sure they are not charged for something they did not authorize.

And it is a very safe and secure way to pay. That can open an opportunity for some people.

Commissioner Fischmann asked if she could explain some of the others.

Elizabeth read them from the law. She said she went through the customer training while preparing for this hearing. It is not something the customer is stuck for hours on the phone. They take the complaint and then do the research and then report back.

Commissioner Fischmann asked if there is any required complaints report.

Elizabeth said there is nothing in the FCC requirements, but Verizon does report on an annual basis to the FCC.

Commissioner Fischmann asked if Verizon could report state totals to this Commission, and then we could work to fix it.

Elizabeth said Verizon would not want to place an additional burden on the Commission. She didn't think it at a state level would have a lot of impact. It is generally an outlier case you have authority to apply a penalty.

Commissioner Fischmann wondered how we would know the impact on New Mexico customers. After Elizabeth replied, Commissioner Fischmann surmised they could see the positive impacts but not the negative impacts. Even a number would help on both sides of the ledger. That would certainly add some comfort.

Commissioner Espinoza thanked Elizabeth for being present at this meeting.

Mr. Montoya said for SB 537, last week we talked about Commissioner Fischmann having prepared a small amendment.

Commissioner Fischmann thanked Commissioner Hall for helping to put it together and will present it as a substitute bill next week. It changes the educational requirement.

Mr. Montoya recalled there was a clarification for one small section that we discussed last week.

Commissioner Espinoza asked if it had been submitted across the street.

Commissioner Fischmann said no.

Chair Becenti Aguilar said a draft will get to all Commissioners by email.

Mr. Montoya reported that SB 565, to remove Fire Marshal from the PRC is pending at Senate Rules.

A second committee substitute was handed out and showed what was eliminated from PRC jurisdiction. He went to page 4, which was the last page of the handout and explained that since last week's meeting, the strike out parts are new. They have now struck everything except public utility so it would require a constitutional amendment. I



cannot predict but applaud Senator Crantes. The voters vote on the title so they may not know what they are voting on. That is a concern.

Commissioner Hall had a copy of the bill and offered to share copies of it.

Mr. Montoya said SB 99 was tabled as unconstitutional.

Commissioner Fischmann pointed out that there is no definition of what a public utility is and somehow, we need that definition to know what we are looking at here. As it is, it would leave it to future legislation for what is called a utility in the law. By including the language, it puts those items into play in the future.

Mr. Montoya referred to page 3, lines 7 and 28, which are very specific about what is regulated. Pipeline Safety has jurisdiction over things not charged to the public.

Commissioner Espinoza thought the message across the street is to remove most things from our jurisdiction. Even the coops have a bill out there for no regulation here. She felt from the legislature, we should look at that further. New Mexico is one of the few states left where Commissioners are not appointed.

Chair Becenti-Aguilar felt that bill was developed by groups in Santa Fe and Albuquerque and that they did not understand how that would affect people in other more rural areas, like Shiprock, etc.

Commissioner Fischmann agreed. With appointments, it would not be assured that rural parts of New Mexico would be fairly represented. It is something to consider. Commissioner Hall agreed.

Chair Becenti-Aguilar thought it would not hurt to submit a possible amendment.

Mr. Montoya acknowledged that the Commission has proposed amendments even when not taking a stand on a particular bill in the past.

Chair Becenti-Aguilar thanked Mr. Montoya for his diligence regarding the legislative bills.

#### **14. COMMUNICATIONS WITH CHIEF OF STAFF**

Mr. Montoya commented about photos and bios. He found a vendor to assist with that and would prepare a P.O. to take care of it. He asked each new Commissioner to prepare a bio for the website and a picture to use.

#### **15. COMMUNICATIONS WITH GENERAL COUNSEL**

There were no communications with General Counsel.

## 16. COMMUNICATIONS WITH COMMISSIONERS

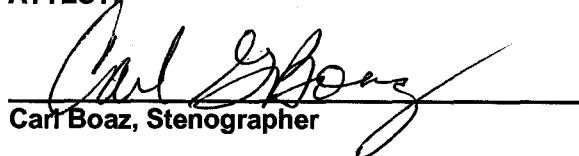
Commissioner Hall said she would call in next week as she would be at a conference.

There were no other communications with Commissioners.

## 17. ADJOURNMENT

Having completed the agenda, the meeting was adjourned at 4:15 p.m.

ATTEST:

  
Carl Boaz, Stenographer

APPROVED: 4-3-19

  
THERESA BECENTI AGUILAR, CHAIRPERSON

TELEPHONICALLY APPROVED

\_\_\_\_\_  
VALERIE ESPINOZA, VICE CHAIRPERSON

  
CYNTHIA B. HALL, COMMISSIONER

  
JEFFERSON BYRD, COMMISSIONER

  
STEPHEN FISCHMANN, COMMISSIONER

# NEW MEXICO PUBLIC REGULATION COMMISSION

## OPEN MEETING: CASE MANAGEMENT MEETING

Date: February 27, 2019

STEN-11-11-11

NAME	COMPANY NAME (if any)	PHONE NUMBER
Maudie Grantham-Richards	Tri-State GAT	505-221-1745
Mark Fench	PNM	505 241 2498
Ruth Sakya	SPS	806 677 4512
J. H. Albright	Lewis Rocca Rothgaler	764-5435
Ryan Jarrow	PNM	241-4864
Bill Templeman	CH2M Lawfair	982-4600
Don Jarr	NMCC	798-3376
Elizabeth Gray Nuñez	Verizon	404-295-9892
Robert E. Cahill	CDEC	505-285-6656

Thank you for attending this meeting.



**NEW MEXICO PUBLIC REGULATION COMMISSION**

**NOTICE OF OPEN MEETING  
OPEN MEETING: REGULAR WEEKLY MEETING  
Wednesday, February 27, 2019  
9:30 a.m.  
PERA Building, 4<sup>th</sup> Floor Hearing Room  
1120 Paseo de Peralta, Santa Fe, NM 87501**

**AGENDA**

- I. PLEDGE OF ALLEGIANCE/STATE PLEDGE**
- II. INTRODUCTION OF SPECIAL GUESTS**
- III. CONSIDERATION AND APPROVAL OF THE AGENDA**
- IV. CONSIDERATION AND APPROVAL OF THE MINUTES**
  - Minutes of the Regular Open Meeting for February 6, 2019
- V. DIVISION DIRECTORS' REPORTS**
- VI. PRESENTATION**
  - Presentation by Cydney Beadles and Milo Chavez regarding quality of service and consumer protection draft rules for consideration by the Commission (Case No. 17-00186-UT - IN THE MATTER OF THE PETITION OF CENTURYLINK QC TO INITIATE A RULEMAKING TO IMPLEMENT SENATE BILL 53 TO ADOPT EMERGENCY RULES)
- VII. PUBLIC COMMENT**
- VIII. CONSENT ACTION**
  - A. Transportation Matters:**

**NONE**
  - B. Utility Matters:**

1)	18-00280-UT David Black Carolyn Glick	IN THE MATTER OF THE APPLICATION BY ZIA NATURAL GAS COMPANY FOR APPROVAL OF ITS 2019-2021 ENERGY EFFICIENCY PROGRAM AND
----	---	---

		<p><b>SECOND REVISED RATE RIDER NO. 2 IN ADVICE NOTICE NO. 59 PURSUANT TO THE NEW MEXICO PUBLIC UTILITY ACT AND THE EFFICIENT USE OF ENERGY ACT</b></p> <p><b>ZIA NATURAL GAS COMPANY,</b></p> <p><b>Applicant.</b></p> <p><b><u>POTENTIAL FINAL ORDER ADOPTING RECOMMENDED DECISION</u></b></p>
2)	<p><b>18-00064-UT</b>  <b>David Black</b>  <b>Elizabeth Hurst</b></p>	<p><b>IN THE MATTER OF THE PETITION OF CENTRAL NEW MEXICO ELECTRIC COOPERATIVE, INC. FOR A VARIANCE FROM THE METHODOLOGY REQUIRED BY RULE 17.9.540.16 NMAC, DEBT COST ADJUSTMENT CLAUSE</b></p> <p><b>CENTRAL NEW MEXICO ELECTRIC COOPERATIVE, INC.,</b></p> <p><b>Applicant.</b></p> <p><b><u>POTENTIAL FINAL ORDER ADOPTING RECOMMENDED DECISION</u></b></p>
3)	<p><b>18-00353-UT</b>  <b>Judith Amer</b></p>	<p><b>IN THE MATTER OF THE APPLICATION OF PACIFIC WIND DEVELOPMENT LLC FOR APPROVAL OF THE LOCATION OF THE LA JOYA WIND PROJECT AND 345 KV GEN-TIE LINE IN TORRANCE COUNTY, NEW MEXICO PURSUANT TO NMSA § 62-9-2; AND RIGHT OF WAY WIDTH DETERMINATION PURSUANT TO NMSA § 62-9-3.2</b></p> <p><b><u>POTENTIAL ORDER REGARDING SCOPE OF HEARING</u></b></p>

**IX. PUBLIC HEARING**

**Case No. 19-00001-TR-EN**

Sarah Becker  
Kevan Bay-Borjorquez

**IN THE MATTER OF THE REVOCATION OF OPERATING AUTHORITIES FOR FAILURE TO  
COMPLY WITH FINANCIAL RESPONSIBILITY REQUIREMENTS**

**NEW MEXICO PUBLIC REGULATION COMMISSION, TRANSPORTATION DIVISION,**

**PETITIONER**

**v.**

**ABARIM HOME HEALTH CARE, INC., #56360; ACE TOWING & RECOVERY LLC, #55261;  
ADVANTAGE ENTERPRISES LLC, #57139; ANTHONY R. ULIBARRI D/B/A ALBUQUERQUE  
BUS TOURS, #57290; AM TRANSPORT LLC, #57032; BRANDON FAJARDO D/B/A  
BFAJARDO ENT, #55826; ROBERT C. BANOS D/B/A BIGHORN SPORTS & RENTALS,  
#1648; CAREGIVERS TRANSPORTATION INC., #56853; ACCA ENTERPRISES LLC D/B/A  
CLS TRANSPORTATION, #56956; DIGNITY AND PRICE CHARTER AND LIMO LLC, #56638;  
DURING THE NIGHT TRANSPORT LLC, #56312; EMCO OIL FIELD SERVICES LLC, #57295;  
JUSTO MORENO D/B/A FAST & SAFE TOWING, #56394; JAIME GOMEZ D/B/A GOMEZ  
TRANSPORTATION, #53081; HERNANDEZ E TRUCKING, #57097; HECTOR M.  
VILLARREAL D/B/A HV TRUCKING, #56098; JESUS GARCIA D/B/A J & A TRUCKING,  
#53148; JASED LTD LIABILITY CO, #56707; JESUS VALDEZ D/B/A JV TRUCKING, #55887;  
LEFLEUR TRANSPORTATION OF TEXAS INC., #56388; MIRIAM N. GASTELUM D/B/A  
LUMINARY TRUCKING OILFIELD SERVICES, #57267; MAIN EVENT TRANSPORTATION  
LLC, #25926; MARTINEZ & SON TRUCKING LLC, #57296; MCL SERVICES LLC, #56707;  
NARROW ROAD TRANSPORTATION LLC, #56654; NUNEZ TRANSPORT LLC, #57286;  
DAMACIO & EILEEN ORTIZ D/B/A ORTIZ TRUCKING, #54651; OUTLAWS OILFIELD  
SERVICE LLC, #56169; PAYLESS ROLLOFF LLC, #57249; RITEWAY TRANS LLC, #56619;  
SHOWBEAR TRANSPORT SERVICES LLC, #57184; SOONER TRUCKING LLC, #56022;  
TITAN RECOVERY LLC, #54651; TWO AMIGOS SERVICES LLC, #57275; BRADY NESS  
D/B/A UNIQUE TOWING; #56765; ROBERTO VELASQUEZ D/B/A VELASQUEZ  
TRUCKING, #55639; WILCA OILFIELD TRANSPORTATION LLC, #57272; YES WE CAN  
HAUL & MORE LLC, #57017; ZERO TN LLC D/B/A BOLT, #56944,**

**RESPONDENTS.**

**X. REGULAR ACTION AND DISCUSSION**

**A. Transportation Matters:**

<b>4)</b>	<b>19-00001-TR-EN Judith Amer</b>	<b>IN THE MATTER OF THE REVOCATION OF OPERATING AUTHORITIES FOR FAILURE TO COMPLY WITH FINANCIAL RESPONSIBILITY</b>
-----------	---------------------------------------	---

	<p><b>REQUIREMENTS</b></p> <p><b>NEW MEXICO PUBLIC REGULATION COMMISSION, TRANSPORTATION DIVISION,</b></p> <p><b>PETITIONER,</b></p> <p><b>v.</b></p> <p><b>ABARIM HOME HEALTH CARE, INC., #56360; ACE TOWING &amp; RECOVERY LLC, #55261; ADVANTAGE ENTERPRISES LLC, #57139; ANTHONY R. ULIBARRI D/B/A ALBUQUERQUE BUS TOURS, #57290; AM TRANSPORT LLC, #57032; BRANDON FAJARDO D/B/A BFAJARDO ENT, #55826; ROBERT C. BANOS D/B/A BIGHORN SPORTS &amp; RENTALS, #1648; CAREGIVERS TRANSPORTATION INC., #56853; ACCA ENTERPRISES LLC D/B/A CLS TRANSPORTATION, #56956; DIGNITY AND PRICE CHARTER AND LIMO LLC, #56638; DURING THE NIGHT TRANSPORT LLC, #56312; EMCO OIL FIELD SERVICES LLC, #57295; JUSTO MORENO D/B/A FAST &amp; SAFE TOWING, #56394; JAIME GOMEZ D/B/A GOMEZ TRANSPORTATION, #53081; HERNANDEZ E TRUCKING, #57097; HECTOR M. VILLARREAL D/B/A HV TRUCKING, #56098; JESUS GARCIA D/B/A J &amp; A TRUCKING, #53148; JASED LTD LIABILITY CO, #56707; JESUS VALDEZ D/B/A JV TRUCKING, #55887; LEFLEUR TRANSPORTATION OF TEXAS INC., #56388; MIRIAM N. GASTELUM D/B/A LUMINARY TRUCKING OILFIELD SERVICES, #57267; MAIN EVENT TRANSPORTATION LLC, #25926; MARTINEZ &amp; SON TRUCKING LLC, #57296; MCL SERVICES LLC, #56707; NARROW ROAD TRANSPORTATION LLC, #56654; NUNEZ TRANSPORT LLC, #57286; DAMACIO &amp; EILEEN ORTIZ D/B/A ORTIZ TRUCKING, #54651; OUTLAWS OILFIELD SERVICE LLC, #56169; PAYLESS ROLLOFF LLC, #57249; RITEWAY TRANS LLC, #56619; SHOWBEAR TRANSPORT SERVICES LLC, #57184; SOONER TRUCKING LLC, #56022; TITAN RECOVERY LLC, #54651; TWO AMIGOS</b></p>
--	---

		<p>SERVICES LLC, #57275; BRADY NESS D/B/A UNIQUE TOWING; #56765; ROBERTO VELASQUEZ D/B/A VELASQUEZ TRUCKING, #55639; WILCA OILFIELD TRANSPORTATION LLC, #57272; YES WE CAN HAUL &amp; MORE LLC, #57017; ZERO TN LLC D/B/A BOLT, #56944,</p> <p>RESPONDENTS.</p> <p><u>POTENTIAL ORDER--</u></p>
--	--	---

**B. Utility Matters:**

5)	<p>18-00116-UT Russell Fisk Elizabeth Hurst</p>	<p>IN THE MATTER OF EL PASO ELECTRIC COMPANY'S APPLICATION FOR APPROVAL OF ITS 2019-2021 ENERGY EFFICIENCY AND LOAD MANAGEMENT PLAN, UTILITY INCENTIVE AND REVISED RATE NO. 17 - EFFICIENT USE OF ENERGY RECOVERY FACTOR</p> <p><u>POTENTIAL ORDER CONCERNING RECOMMENDED DECISION</u></p>
6)	<p>19-00046-UT Russell Fisk</p>	<p>IN THE MATTER OF THE COMMISSION'S REPORT AND RECOMMENDATIONS TO THE LEGISLATURE REGARDING THE STATE RURAL UNIVERSAL SERVICE FUND PURSUANT TO THE 2017 AMENDMENTS TO THE RURAL TELECOMMUNICATIONS ACT OF NEW MEXICO</p> <p><u>POTENTIAL PROCEDURAL ORDER AND ORDER OPENING DOCKET</u></p>
7)	<p>18-00261-UT David Black</p>	<p>IN THE MATTER OF PUBLIC SERVICE COMPANY OF NEW MEXICO'S REQUEST FOR A COMMISSION ORDER GOVERNING THE ACCOUNTING TREATMENT OF COSTS RELATED TO JOINING THE WESTERN EIM</p> <p><u>POTENTIAL ORDER ON REHEARING</u></p>

**XI. EXECUTIVE CLOSED SESSION**



- **PURSUANT TO NMSA 1978, SECTION 10-15-1(H)(2) - Discussion of Limited Personnel Matter**
- **PURSUANT TO NMSA 1978, SECTION 10-15-1(H)(7) - THREATENED AND PENDING LITIGATION MATTERS**
  - *Great Divide Wind Farm 2 LLC v. Theresa Becenti Aguilar, Cynthia Hall, Jefferson Byrd, Valerie Espinoza and Stephen Fischmann, in their official capacities as the Commissioners of the New Mexico Public Regulation Commission; Federal District Court No. 1:19-cv-99-LF-CG*
  - *City of Las Cruces v. NMPRC; Supreme Court No. S-1-SC-37458*

**XII. CONSIDERATION AND POSSIBLE ACTION REGARDING ADVICE NOTICES**

- **Advice Notice No. 236 - EL PASO ELECTRIC COMPANY**
- **Advice Notice No. 555 - PUBLIC SERVICE COMPANY OF NEW MEXICO**
- **Advice Notice No. 11 - WESTERN FARMERS ELECTRIC COOPERATIVE**
- **Advice Notice No. 64 - MORA-SAN MIGUEL ELECTRIC COOPERATIVE**
- **Advice Notice No. 65 - MORA-SAN MIGUEL ELECTRIC COOPERATIVE**

**XIII. LEGISLATIVE ISSUES POSSIBLE DISCUSSION AND POSSIBLE ACTION**

- **NEW BILLS**
  - **HB 28 - Resource Sustainability and Security Act**
  - **HB 631 - Use of Flashing Lights by Recovery Vehicles**
- **BILLS PREVIOUSLY DISCUSSED AND CURRENTLY BEING TRACKED - MAY BE SUBJECT TO FURTHER DISCUSSION AND ACTION**
  - **HB 15 - Rural Electric Coop Renewable Standards**
  - **HB 426 - Renewable Energy Transmission Authority Study**
  - **HB 432 - Affordable Solar Energy Act**
  - **HB 491 - Immobilizing or Towing of Certain Vehicles**
  - **SB 416 - Redistricting Act**
  - **SB 456 - Electric Utility Resource Procurement**
  - **SB 468 - Clean Energy for New Generation Facilities**
  - **SB 232 - Public Record Requests Costs and Procedures**
  - **SB 285 - IPRA Failure to Permit Inspections**
  - **SB 489 - Energy Transition Act**
  - **HB 162 - Insurance Premium Tax Provisions**
  - **HB 175 - Regional Water Utility Authority Act**
  - **HB 244 - Minimum Train Operating Crews**
  - **HB 300 - Rural Electric Co-Op Proxy Voting & Quorums**
  - **SB 336 - Electricity Distribution for Certain Vehicles**
  - **SB 281 - Community Solar Act**
  - **HB 283 - Increase Renewable Portfolio Standards**
  - **SB 275 - Increase Renewable Portfolio Standards**

- HB 291 - Renewable Use of Energy Act Changes
- SB 233 - Broadband Access Unfair Trade Practices
- HB 116 - Wastewater System Financing
- HB 124 - Fire Protection Fund Changes
- HB 176 - Broadband Telecomm Facility Gross Receipts
- SB 99 - Appointment of PRC Members
- SB 143 - PRC Fire Safety Standards
- SB 161 - Renewable Energy Transmission Authority Funds
- HB 38 - ABQ-Bernalillo Water Authority Water Rights
- HB 210 - Community Solar Act
- SB 136 - Efficient Use of Energy Act Amendments
- SB 165 - Municipal Revenue For Bond Repayment
- HB 269 - Separation of Fire Marshal from PRC
- HB 385 - Access to Telecomm Rural Service Fund
- HB 406 - PRC Transmission Line Jurisdiction
- SB 208 - Broadband Facility Component Gross Receipts
- SB 357 - Generation & Transmission Rate Protests
- SB 374 - Local Choice Energy Act
- SB 376 - Utility Eminent Domain Rights of Way
- HB 512 - Firefighter Retirement Service Credit
- HB 521 - PRC Application for Vehicle Electricity
- HB 541 - Telecommunication Cramming & Slamming
- HB 604 - Utility Securitization Bond Act
- HB 637 - Presumed Life of Electric Generating Plants
- SB 492 - Utility Securitization Financing
- SB 528 - Passenger Rail Maintenance & Service
- SB 537 - PRC Commissioner Continuing Education
- SB 565 - Remove Fire Marshal from PRC
- SB 597 - Rural Electric Coop Rate Change Protests
- SJR 4 - Transfer PRC from Elected to Appointed
- SJR 1 - PRC Election and Appointment

**XIV. COMMUNICATIONS WITH CHIEF OF STAFF**

**XV. COMMUNICATIONS WITH GENERAL COUNSEL**

**XVI. COMMUNICATIONS WITH COMMISSIONERS**

**XVII. ADJOURNMENT**

---

To obtain a copy of this agenda please log in the Commission's website at [www.prc.state.nm.us](http://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:** February 27, 2019

**PUBLIC COMMENT SIGN-IN SHEET**

NAME	PHONE NUMBER	TOPIC

Thank you for attending this meeting.