

**MINUTES OF THE OPEN MEETING  
NEW MEXICO PUBLIC REGULATION COMMISSION  
April 11, 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  
Judith Amer, Associate General Counsel  
Russell Fisk, Associate General Counsel  
David Black, Associate General Counsel  
Dhiraj Solomon, Utility Division

**Others Present**

Carl Boaz, Stenographer

**CALL TO ORDER**

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

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

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

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

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

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

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

Chair Becenti Aguilar introduced the new Administrative Services Director Jim Williamson. She said he brings a wealth of knowledge to the agency and was a former CRD Director and lives in Santa Fe.

The Commission welcomed Mr. Williamson. Commissioner Espinoza welcomed him back and said he did a great job in the past. She looked forward to working with him.

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

**Commissioner Hall moved to approve the agenda, seconded by Commissioner Espinoza.**

Chair Becenti Aguilar noted Mr. Fisk asked that Case #18-00214-UT be removed from the agenda.

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

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

- **Minutes of the Regular Open Meeting for March 6, 2019**

**Commissioner Espinoza moved approval, seconded by Commissioner Hall to approve the minutes of March 6, 2019 as presented and the motion passed by unanimous 5-0 vote.**

## **5. PRESENTATION**

**Presentation by Thomas Domme, Vice President and General Counsel of New Mexico Gas Company, regarding the price of natural gas from the Permian Basin**

Mr. Thomas Domme introduced Thomas Bullard, Vice President of Engineering and Gas Supply and Gary Murray, Director of Gas Supply.

Mr. Domme explained this presentation was informational and to bring good news to the Commission about

the price of natural gas in the Permian basin.

Mr. Bullard explained New Mexico Gas purchases most of its gas from the Permian and San Juan basins. The customers' bills have two main components; the cost of service and the cost of gas that is passed through to customers and makes up about 40% of the bill.

NMG attempts to purchase gas at the most cost-effective level and Mr. Murray and Mr. Bullard will discuss the decrease in gas and why customers are benefiting from the reduced costs.

Mr. Bullard provided an overview what he and Mr. Murray would present to the Commission.

He noted on a map the Permian and San Juan basins location and identified New Mexico Gas pipelines as red, and others are blue. The Albuquerque, Santa Fe area gets gas from San Juan Basin and a southeast system is in the Permian Basin. Carrying Permian gas to the northwest system requires interstate pipelines (EPNMG), with a mix between the two basins.

Mr. Murray explained the objective is to have reliable, low cost natural gas for customers and that is done by diversifying their supply between the basins and short and long-term contracts. An RFP is done to ensure competitive, but a good price and a good value for customers. They participate in daily markets in that process, which are important because that is where they see the lowest prices.

Currently the Permian Basin is all about oil production and new techniques having to do with horizontal drilling that has set the backdrop for new activity in the last couple of years. Approximately 1/3 of the total U.S. oil production is from the Permian region and it is also one of the lowest costs in the country.

Mr. Murray said the economic driver of the lower gas prices is associated with the oil produced. The companies that produce and sell the oil cannot do that without finding markets and destinations for the gas. The oil production has become so large that the take away capacity for natural gas in the Permian has filled up. Producers are addressing that by building new pipelines with the ultimate destination of the Texas Gulf Coast that shifts into a global market, and pipelines built to serve Mexico.

Pipelines take time to build and is still one to two years before the first can haul more natural gas. The markets for natural gas in Mexico have been slow to develop. That has led to a constrained situation and getting natural gas out of the Permian Basin in larger quantities has created an unusual pricing dynamic.

Pricing is usually in the \$1-3 range but because of the constraints and the maintenance activities, prices have become negative on certain days. That means on some days, New Mexico actually gets paid when they enter a contract to take the gas.

Commissioner Hall asked for an explanation of getting paid to take gas- she thought they were trying to sell the gas.

Mr. Murray clarified as a gas utility they procure natural gas for their customers and costs are passed on to customers.

Commissioner Hall understood.

Mr. Domme added that the negative price is passed directly to the customer or is so low it is almost nothing. If the price goes negative the customers would actually get a credit on their bills, although that has not happened yet, and these conditions are limited only to the Permian Basin.

Commissioner Fischmann asked what percentage of purchases are short-term.

Mr. Murray explained it varied depending on the contract and time of year, and most of their gas is precontracted in the amount they expect to use. In some circumstances they have to make supplemental purchases to the precontracted purchase, dependent on the weather and it might be as much as 50% versus 10% earlier in the week.

Commissioner Fischmann asked if there could be times the purchase is more than needed and they sell.

Mr. Murray replied that would be a last option. They can store gas in the pipeline system and have a gas storage facility contracted in West Texas in times of excess.

Mr. Bullard indicated that the cost factor includes the commodity and things like transportation on interstate pipeline and storage. The gas cost factor for April is \$.04 a therm - one of the lowest ever. A factor is filed each month and a projected factor for the following month and in March the factor was 19 cents for May. That will probably be much lower and could go negative. That was the real reason they came, to explain that in case the PRC received questions.

Commissioner Espinoza was not aware that one-third of natural gas is from Permian Basin.

Commissioner Byrd asked why propane costs stay so high.

Mr. Domme could only speculate. They have their hands full with natural gas.

Commissioner Fischmann thanked them for the update. He asked if the adjustments on the bills would continue in the future.

Mr. Domme replied they will because of the price fluctuation in the market. He asked them to keep in mind that gas prices will go back up at some point and even if it goes up to 12 cents, that would be a threefold increase.

Commissioner Fischmann pointed out that meant possible customer complaints, even if customers are benefiting.

Mr. Domme agreed. The price of gas is one of the things customers complain about.

Commissioner Fischmann asked if there is a provision for price moving or if this too temporary.



**B. Utility Matters:**

- 2) **19-00076-UT**      **IN THE MATTER OF THE APPLICATION OF NEW MEXICO GAS COMPANY, INC. FOR A VARIANCE FROM 17.10.640 NMAC FOR ITS APRIL 2019 GAS COST FACTOR STATEMENT. NEW MEXICO GAS COMPANY, INC., Applicant. (Judith Amer) POTENTIAL FINAL ORDER REGARDING NMGC'S APPLICATION FOR VARIANCE**

Commissioner Espinoza moved, seconded by Commissioner Hall to approve Consent Action items Case #19-00060-TR-M and Case #19-00076-UT as submitted and the motion passed by unanimous 5-0 vote.

**8. REGULAR ACTION AND DISCUSSION**

**A. Transportation Matters:**

None.

**B. Utility Matters:**

- 3) **18-00214-UT**      **IN THE MATTER OF AN ORDER TO SHOW CAUSE AS TO WHY ROSA JOINT VENTURE, LLC, SHOULD NOT BE FOUND IN VIOLATION OF THE PUBLIC UTILITY ACT AND COMMISSION RULES (Russell Fisk) POTENTIAL ORDER REGARDING MOTION FOR MEDIATION**

Commissioner Fischmann wanted to make a comment and postpone the case until next week.

He indicated the Commissioners had received information on Talavera substation that concerned him as to whether this was the best way to spend their money. He expressed his concerns and sent them to EPE who has agreed to come Tuesday of next week with the engineers. That would be the appropriate time to for the Commission to discuss the case in detail.

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

- **Public Service Company of New Mexico - Advice Notice No. 557**

There was no one present to cover the Advice Notice.

Commissioner Espinoza requested that presentations be on-screen to allow the audience to follow as well, when presentations are given like New Mexico Gas.

Mr. Fisk offered to work on that and explained he was given the handout right before the presentation.

Commissioner Fischmann added at municipal they would ask for a thumb drive to display the presentation during the company presentation.

Commissioner Byrd voiced concern with the process the company moving household goods had to go through to get approval and the process does not seem to serve New Mexico. The system required the company to limit their services to an area price and show need. The company had a license to operate in New Mexico but if someone from Clayton wanted the company to move them to Lordsburg, the company would not be able to do that.

He thought PRC's priority should be if the company could supply service in a timely manner at the best rate and the customer wants to use them. He added he will be looking at making policy changes, where possible.

Mr. John Reynolds presented Advice Notice #557 for PNM that is related to an adjustment to a renewable rider designed to recover costs to meet the RPS. The 2018 rider was designed to recover \$49.6 million dollars of procurements and as it happened, procurements were less by about \$2.6 million for a number of reasons. PNM posed an adjustment to the rider to reduce collections, balance the account and compensate for the over recovery.

He recommended the Commission approve the lower rider.

Commissioner Hall noted action was not required, that would just happen.

Commissioner Espinoza confirmed this was just an adjustment.

Mr. Reynolds explained the big adjustment had to do with the New Mexico Wind Energy Center that generated less energy than projected so the dollars to pay for that were lower than planned.

## **10. DISCUSSION OF FINAL and NEW LEGISLATION**

Chair Becenti Aguilar indicated Mr. Montoya brought to her attention that SB Memorial 114 on the removal of the Fire Marshal's Office did not pass, but a working group will be formed for the legislature. The group will include various members of organizations and the Commission should decide on representatives.

Mr. Montoya stated they are waiting for the task force to make the nominations, but he proposed that the Fire Marshal and Chief of Staff at minimum, be assigned to the task force. The task force is a study of the Fire Marshal's office.

The three bills on the agenda have passed and may impact the agency, but three others for next week are not on the agenda and he will update them on those on Tuesday.

Commissioner Espinoza indicated for the record that she had asked that the bills be on the agenda.

- **SB 489 - Energy Transition Act**

Mr. Raj Solomon was present at the table.

Mr. Montoya indicated he reviewed the objectives of the bill to be presented and in addition, he had a productive meeting with David Abbey, Brad Matthews and Jim Williamson. There are several unfunded mandates of concern to the PRC and likely they will approach LFC for supplementals in the near future.

Chair Becenti Aguilar thanked Mr. Montoya for his proactiveness and visit with LFC advisors and in bringing the issues to the Commission's attention.

Mr. Solomon stated he prepared a summary of the Energy Transition Act. The Act either eliminates or reduces PRC's authority in 10 areas:

1. Completely eliminates authority to determine the amount of stranded cost recovery, fundamental for the Commission to exercise discretion in deciding if an abandoned entity is entitled to recover 100% stranded cost recovery.
2. Does not allow the Commission to conduct a review of financing cost to determine if the lowest cost objective has been met. A fundamental duty of a commission.
3. The utility is not required to certify that the lowest cost objective has been met.
4. It does not allow the Commission to amend the financing order once issued or add additional terms and conditions to protect ratepayers.
5. It does not allow the Commission to determine the amount and location of the replacement generation. It has to be in the central consolidated school district.
6. It does not allow the Commission to deny a CCN to any energy storage system that meets the criteria specified in the bill.
7. It does not allow the Commission to consider natural gas by generation in a utility's portfolio in the future, because of the manner in which the ranking criteria is set up.
8. It does not allow the Commission to consider issuance of any energy transition bonds exceeding 25 years, the maximum set in the rule.
9. It does not allow the Commission to impose a fee in the utility to pay bond counsel expenses to review a financing order in the structure and marketing of bonds, unless approved by DFA.
10. It does not allow recovery of any stranded or decommissioning cost for a utility that has a CCN and replaces existing generation with that of lower or zero carbon dioxide emissions.

Commissioner Hall asked clarification if that meant any facility, not just associated with the replacement of San Juan Generating Station loss capacity, but any other facility would get 100% stranded costs.

Mr. Solomon replied yes. If they have a CCN and operating and replace any plant with a lower or zero carbon dioxide emission, they would automatically get 100% stranded cost. The Commission has no discretion in deciding the percentage of recovery.

Commissioner Hall confirmed that would apply to everything left in the gas fleet, other than the coal plants.

Mr. Solomon agreed. He explained if there is existing gas or a gas line replaced with lower or zero carbon



dioxide emissions, they would automatically get stranded cost recovery and the Commission could not disallow.

Commissioner Hall asked to confirm that a gas plant replaced by a gas plant with lower emissions would get the 100 percent.

Mr. Solomon stated it would not matter whether gas or something else, in most cases it would be gas - if that is being replaced by better technology with lower emissions there is automatic approval of stranded cost recovery. This applies to any utility that has a CCN.

Commissioner Hall said that was a huge concern and takes away all of the Commission's ability to protect ratepayers in that area.

Mr. Solomon noted he had reviewed the ten areas where the PRC authority is limited. A second part gives the Commission additional work:

1. Requires the Commission to hold a hearing on San Juan abandonment and the financing order for issuance of bonds.
2. Requires them to review semiannually, or more frequently, the adjustment mechanism of the energy transition charge.
3. Requires the review of a periodic report filed by the utility showing the receipt and disbursement of the proceeds of energy transition bonds.
4. Requires the review of advice notice filed by the utility that identify the actual energy transition charges to be included on customers' bills.
5. Requires the Commission to evaluate and rank for replacement generation based on certain quantitative and qualitative factors specified in the bill that include cost, economic development opportunity, ability to provide comparably paying jobs to those that are lost, ratio of fuel cost to capital cost and the posting on the PRC web site prior to any hearing.

Commissioner Hall requested a copy of the bill.

The Commission took a 5-minute break at 10:19 a.m., so that copies of the presentation could be provided to Commissioners.

The Commission reconvened at 10:25 a.m.

Mr. Montoya stated he would review the three legislative bills today and the other three he would send to General Counsel and that includes HB 631 - the use of flashing lights by recovery vehicles, HB 512 - the firefighter retirement service credit and Senate Joint Resolution 1 - PRC election and appointment.

Mr. Solomon continued his review:

6. Consult with the Energy Minerals and Natural Resources Department to undertake programs to ensure RPS targets and deadlines.
7. Consult with the Environment Department to ensure RPS targets do not result in material increases to greenhouse gas emissions although not subject to PRC oversight and regulation.

Mr. Solomon commented he could not understand the legislative intent or how the PRC could ensure those entities not subject to PRC oversight/regulation do not increase their greenhouse gas emissions.

He continued with the bill:

8. Consult with the electric transmission system operator's balancing authorities for loads and resources, i.e. PNM.
9. Prepare and submit it report to the legislature beginning July 1, 2020 and every 4 years thereafter. The report must include a review of the RPS forecasts of existing transmission, environmental protection, public safety, affordability system reliability, cost benefit analysis of the RPS electric utilities and identification of barriers to and benefits of the renewable portfolio standard.

Commissioner Espinoza asked what authority the PRC has over the procurement process related to replacement resources, renewables and the traditional.

Mr. Solomon replied they do have authority over those; however, the replacement resources have specified criteria and how is the PRC supposed to rank them, and then based on factors written into the bill, post that on the PRC website for consideration. Once ranked, the highest would have to be approved unless they could find something objectionable.

Mr. Smith added the PRC's authority is very limited under the bill. The Commission does not have the traditional authority with regard to replacement resources and is limited to the school district.

Commissioner Espinoza questioned the authority of the PRC over the financing and believed that is another reason the PRC should not meddle in the securitization process.

Mr. Solomon explained that was what the Commission has been told to do in bond financing by the legislature under this bill; the Commission shall do this, and that is how they should do it. It is a prescriptive bill.

Commissioner Espinoza asked if it is up to the Commission to select someone to do the financing, securitization.

Mr. Solomon indicated the Commission would have to do that under the bill. They have to find a bond counsel who will manage the process and their fee would have to be approved by the DFA. He would need to discuss that with people in budget because it is very new and unique process. Nationally only 9 or so states have done that.

Mr. Montoya clarified the bill states the Commission shall assess a fee and present to DFA for approval.

Mr. Solomon continued:

10. Open a docket when requested by a utility or member of the public, to develop financial and other incentives to encourage utilities to generate or acquire renewable energy in excess of the RPS, carbon

dioxide emissions, and cause reductions in coal-fired generation, both inside and outside the state. Mr. Solomon added that any member of the public could petition for a docket to be opened to reduce carbon dioxide emissions, etc. outside the state as well.

11. Review renewable energy procurement plans filed annually, beginning July 1, 2020.
12. Review annual reports filed by utilities discussing used, sale or transfer or trading of renewable energy certificates,
13. Conduct rulemaking to adopt rules regarding RPS, including a provision for public utility record-keeping and reporting.

Mr. Solomon added that # 13 requires PRC to adopt a carbon dioxide emission standard for any coal-fired utility that is shutting down. The rest of the standards have been appropriately given authority to the Environmental Improvement Board.

Commissioner Espinoza asked the what the plan was to get that accomplished.

Mr. Solomon replied that would be the fiscal impact part. He notified LFC that he would need a minimum of 9 additional FTEs determined by the current caseload and workload.

Commissioner asked what the response was regarding the unfunded mandate and how that would be provided.

Mr. Montoya was not sure staff has the answer, but they did visit with the LFC and the PRC Analyst also recognized the need for nine additional FTEs. He will work with staff when to approach LFC for supplemental funding, which is a concern, it is not just a fixed-cost. He wants LFC to understand that would be separate from the fee for the securitization bond review. He was not sure about the timing.

Mr. Solomon pointed out the bill did not have the RPS only and even with securitization alone the LFC estimated a need for 4 additional FTEs for the bill. The bill doubles the work of SB 47 and that may be underestimated and may have to be revisited.

He plans to contact other states that have gone through securitization to get an idea how to proceed.

Commissioner Fischmann noted there was a lot of prescriptive things in the bill of what the PRC will do and how they will do it and could create unnecessary work, not only for the Commission, but those the Commission regulates as well. He thought if staff and the bill regulators could get together regularly to identify those areas, they could possibly clean up some of the administrative burden created. He would appreciate staff doing that and might feel like extra work now but hopefully save work down the road.

Commissioner Fischmann asked if the utilities wanted to comment.

No one responded.

Chair Becenti Aguilar asked to create a task force in the agency if possible and review Commissioner Fischmann's idea. She thought four staff members would be sufficient to review SB 489. She asked Commissioner Fischmann if a task force was what he wanted.

Commissioner Fischmann replied he would leave that to staff's discretion. They should not be relitigate the bill, but they could concentrate on areas where progress could be made immediately, and the prescription could possibly be streamlined. He invited utilities to participate in the effort.

Commissioner Espinoza said she trusted this would get done sooner rather than later because trying to get a rulemaking set up for SB 43 took two years.

Commissioner Byrd confirmed the process would require rulemaking and hoped in that process they could streamline.

Commissioner Fischmann reported he was meeting with John Reynolds tomorrow because it was unclear how the legislation would affect the renewable energy charges on customer's bills.

Chair Becenti Aguilar clarified her reference to the task force was Mr. Montoya's communications with LFC. They would like for the Commission to have input and a staff recommendation on how the list would be communicated to the LFC. She asked for a recommendation within a couple of weeks.

Mr. Solomon recommended a couple of weeks for time to contact other states about the process and talk with the commissioners and staff from those states.

Commissioner Espinoza acknowledged Mr. Solomon's work and efforts in the process.

Mr. Montoya mentioned John Reynolds would report on HB 291 - changes to the Efficient Use of Energy Act (EUEA) and asked to continue with HB 521, thereafter.

Mr. Reynolds reviewed HB 291 EUEA changes or amendments to the Act sponsored by Representative Andrea Romero. The Act is the framework for implementation of energy efficiency programs and about 12 years old and for utilities to implement cost-effective energy programs, and a mandate for electric IOUs to budget 3% of customer bills for the program. The gas IOUs requirement is up to 3% of customer bills. This bill sets the range of electric IOUs at a 3% minimum and 5% maximum.

Currently electric IOUs spend about \$45 million collectively; the gas IOUs have a cap that will soon be 5 percent. The other change is a savings requirement from 8% KWH in 2020 and 2025 would be 5% of 2020 KWH sales. Savings requirements after 2025 through 2030 will be the Commission's burden to establish.

Another change is that the discounting rate that could not be adjusted for taxes and public utilities, gas or electric, could petition to implement a rate adjustment mechanism not based on KWH sales. That protects the utility from volumetric rates, essentially allowing decoupling for which the Commission is bound to approve.

Commissioner Fischmann asked if the Commission was bound to approve the utility proposal or approve a mechanism for decoupling.

Mr. Reynolds noted as he read, *if the utility proposes a decoupling mechanism and makes the case that it is consistent with the new statute and the Commission agrees; the Commission is bound to approve.*

Commissioner Fischmann asked to clarify that if the Commission was not comfortable with a mechanism and wanted to modify it, they still have the authority to do that.

Mr. Reynolds thought the language was fairly directive, but open for debate.

Mr. Smith stated the language is broad but states, *that the Commission shall upon petition, remove regulatory through the adoption of a mechanism that ensures the revenue approved ...* It does not say the Commission has to approve the one that had been approved.

Commissioner Hall suggested they look at the language more closely. She read: *a rate adjustment mechanism that ensures that the revenue per customer approved by the Commission in a general rate case is recovered by the public utility without ...* it definitely requires the Commission to approve the regulatory disincentives of some nature. She added another thing it requires is, *"The Commission shall not reduce the utilities return on equity based on approval of a disincentive removal mechanism or profit incentives."*

She found that more specific and is a concern for the operation of the Commission to determine what is fair in terms of risk shifting. The function of the disincentive is to shift the risk from the utility to the ratepayers and if the Commission *"shall not reduce the return on equity"* then they are disabled from protecting the ratepayers from additional costs associated with the disincentive.

Commissioner Hall said that is another provision that ties their hands in a way that compromises customer interest.

Commissioner Fischmann said he has been in contact with people at the Regulatory Assistance Project who are advocates of decoupling and have expertise in that. They offered to present on the different forms decoupling can take and that might give the Commission a better feel for what to expect in future rate cases. He offered to set up the presentation.

Chair Becenti Aguilar remarked if they could not travel to New Mexico and could do a PowerPoint presentation, the Commission could view the PowerPoint presentation and discuss on a conference call.

Commissioner Fischmann was certain they would be thrilled to come.

Mr. Reynolds noted that he planned to address Commissioner Hall's point and the return on equity has been largely the Commission's discretion. He could not remember a statute that said the Commission should not consider that when determining return on equity.

There are a number of rate cases expected this year and there is at least one who has stated their intent to propose decoupling. The energy efficiency rule is based on the Act and needs to be updated soon to conform with the Act and the statute requires the rule updated by June 30, 2025. The rule would be effective 2025 through 2030. Mr. Reynolds said he has not quantified any financial impact at this point.

Mr. Reynolds recommended a rulemaking procedure be initiated by late June, early July.

Mr. Reynolds explained HB 521, PRC Application for Vehicle Electricity, has five sponsors and a lot of implications, essentially dealing with EVs for private vehicles, fleets, school buses, etc. The bill requires application by January 1, 2021 for approval of plans to plan/support transportation, electrification, including investment incentives, deployment of a charging infrastructure, rate design and developing customer education.

Subsequent applications are to be filed, no less frequently than every two years and at the Commission's discretion and could be mandated that the Commission manage efficiency and RPS on an ongoing basis.

Consideration of the application includes improvement of the electric IOU system efficiency; increase access to electricity as transportation fuel, including underserved areas; a reduction of air pollution /greenhouse gases; reasonableness in transparency, etc. The statute also makes clear the retail distribution of electricity for the vehicles shall not be deemed to be a public utility. The Commission would regulate the rates that a utility charges to the owners of a charging station.

Commissioner Espinoza asked how that impacts the consumer; who would pay.

Mr. Reynolds explained the Commission would regulate the rates from the utility to the purveyor of the electricity. The sponsors presented the bill to get the state ahead of the curve in the electric vehicles and charging stations, which is important. Utilities would build the infrastructure, wiring, cables, etc. so parties would have access to connect their charging stations.

The other element had to do with best charging stations, level III along interstates. The best charging stations are expensive as well as the infrastructure because of the energy and bandwidth required to charge a vehicle in 15-30 minutes. The cost recovery for that type of business would be prohibitive and the bill provides for utilities to recover cost (from ratepayers) to make it more economic.

Mr. Montoya indicated in a committee he attended one of the biggest issues was that ratepayers would absorb the costs of the station and infrastructure.

Mr. Reynolds noted that the bill was passed based on a similar bill passed in Utah about three years ago that had a statutory cap of \$2 million, and another proposed bill in Maryland has a \$70 million cap. This bill does not have a cap.

Commissioner Fischmann clarified if the large infrastructure is built it would go into the current rate base as stated by the bill but allows the Commission to say if the expense is reasonable, or not. He asked if correct that the Commission would still have discretion to say a rate is too much.

Mr. Reynolds thought there was no restriction on the Commission in terms of dollars and they would be required to consider the investments and incentives to develop the infrastructure and encourage participation. He agreed the Commission would have that discretion.

Mr. Reynolds added this would be an additional regulatory mandate and could be a burden for the Commission and would be wise to develop a rule if they ask IOUs to go on a two-year cycle. This is being done in other states and is an opportunity to get education and develop expertise. There are organizations to do that, the Regulatory Assistance Project is one.

He recommended the Commission seek education opportunities and direct workshops with the IOUs before plans are filed and to be prepared before January 2021.

Commissioner Fischmann understood as he read the bill, it enables a utility to submit a plan that could supply infrastructure for a third-party to add a quick charging station and they could charge their own rates. The plan does not require the charging stations to be owned by the utility.

Mr. Reynolds thought the bill did not prohibit the utility from being engaged in the sales of electricity for transportation, in other states the utilities are engaged, but there is no monopoly. He did not know how the commissions in those states regulate that but recalled one committee did have a concern about a monopoly.

Mr. Smith noted the bill does not prohibit the utility from performing subsidiary activities.

Commissioner Espinoza said she heard Mr. Reynolds make a recommendation for the Commission. She thought it should be Commissioner Fischmann.

Mr. Reynolds explained his recommendation to order workshops would include the three electric IOUs/stakeholders before the first applications are filed (due January 1, 2021).

Commissioner Fischmann replied addressing the 489 issues and the procurement is urgent and the Commission should stay focused on those in the short-term. There is more time to get to this bill, and he would check into resources to help with the workshops and information on how other states have done this.

Commissioner Byrd encouraged, regarding the suggestion on education in other states, getting that done now to avoid them struggling to get everything done before all of it is due.

Mr. Montoya thanked him for bringing that up. He has been discussing the training for the educational and other resource opportunities with Mr. Chavez.

- **HB 291 - Efficient Use of Energy Act Changes**

There was no discussion on this bill.

- **HB 300 - Rural Electric Co-Op Proxy Voting and Quorums**

Mr. Milo Chavez reported the bill was pushed by Socorro Electric in an attempt for rural electrics to get a quorum. There are many co-ops in the state that have never been able to get quorum and because of that cannot make changes to the bylaws, which many times are antiquated and no longer serve the cooperatives.

- **HB 521 - PRC Application for Vehicle Electricity**

There was no discussion on this bill.

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

Fire Marshal Don Shainin read from the bill *"money used for the Fire Protection Fund may be used to purchase land for fire stations and substations."* Currently the Fund monies can only be utilized to build a fire station and the land has to be owned free and clear by the municipality.

The bill would allow agencies to purchase land to build on and there is no impact. The only change is more training may be required in the visualization of property; the property is not condemned; was not a hazardous waste site; the property had no previous issues; the title is free and clear. Much of that would be done with the DFA, but the Fire Marshal's Office may be involved in looking at the property selected to determine if suitable regarding traffic impediment, schools nearby, etc.

Mr. Montoya added the bill also allows for refinancing of the land, and a concern is the impact to the fund and the amount of money that would be used to purchase land versus fire services expenditures.

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

Marshal Shainin explained this bill requires the Commission to issue rules requiring an inspection of fire and smoke dampers, which he assumed would be through the Fire Marshal's Office

He passed out a statement given to him by his Deputy over code enforcement and stated he was not sure the total impact. The deputy compiled information on the process and how different agencies collaborate and develop rules.

Marshal Shainin noted an issue was how many ANSI (American National Standards Institute) certified inspectors there are already. ANSI has a certification program for damper HVAC inspectors, etc. and he wanted to know what requirements are to work with ANSI and how many inspectors there are currently. No information was provided on the costs charged to the public. He has no idea what impact would be compared to the agencies currently doing inspections, and what the bill requires for his people to be ANSI certified and the costs involved to others currently doing the inspections. He received an email from one person who said it would be a burden to get his employees to that level.



Fire Marshal Shainin pointed out the bill has passed, and they need to come together to discuss those things and develop the timelines by which the inspectors need to be certified.

Commissioner Fischmann asked the other professions likely to have ANSI certification.

Marshal Shainin explained most likely the sheet metal workers. His concern is whether this would create a monopoly. He would like, as the agency that will be adopting the rules and making the decisions, to be sure they are not cutting out an industry and would like to get together to discuss this. He is not opposed to bringing in ANSI certified inspectors, as long as other inspectors are allowed to do the job but does not want to close the door on those doing the job because they lack a certification, if the certification is easily obtainable within a reasonable amount of time and cost.

Commissioner Byrd asked to confirm that the bill excludes fire marshal investigators from doing inspections.

Marshal Shainin explained it does not actually exclude them; it was unclear. The last page states, *"The state or political subdivision of the State with a Fire and Life Safety Enforcement Program, or other persons possessing a fire, life safety certification from a program accredited by the American National Standards Institute."* He was uncertain if the language meant the Fire Marshal's Office has to be ANSI certified, as well as others already doing inspections.

Mr. Montoya indicated he had followed the bill through the process and changing the language was discussed that would require the State Fire Marshal to have ANSI training. He interpreted the bill as they do not; the bill states that the rule shall address that. There is no deadline when the rule should be enacted by the Commission.

Commissioner Byrd stated the Commission needs to be sure they are all ANSI certified and meet the requirements.

Marshal Shainin replied they are already doing damper inspections tied into the alarm systems, but the bill may be looking at more in-depth inspections and getting into walls, etc.

Commissioner Fischmann agreed with Commissioner Byrd. He asked how long it took to get ANSI certified.

Marshal Shainin was not sure and was researching that. He was not sure his office has any ANSI certified employees.

Commissioner Espinoza thought he did.

Mr. Montoya recalled there were two in code enforcement but offered to confirm that. The ANSI headquarters is in Washington DC and provides training throughout the country. In one committee hearing it was brought up that the Fire Marshal's Office does damper inspections. That was a concern brought to the Commission and the reason they are opposed to the legislation. In another unfunded mandate, they

anticipated 4 FTEs to do the testing and inspection component, in addition to what they currently do and their current staff.

There were no further questions.

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

Mr. Montoya stated he had talked with Commissioner Espinoza and the rest of the Commission about an Employee of the Month. He thought the first meeting of each month was a good time to recognize an employee and nominations should be submitted to the Chief of Staff's office. They could create a team to evaluate the nominations to recognize an individual for the previous month.

He recommended the employee receive eight hours of administrative leave to use within that month and a parking spot in the front row during session.

Commissioner Espinoza noted the Commission had not done this in some time, and it is important. She would start with the recommendation of a hearing examiner, like Anthony Medeiros, someone who is devoted to the work.

She explained in the past an employee could be recognized by anyone in the Commission.

Chair Becenti Aguilar had a different view of the Employee of the Month. She asked Mr. Montoya to meet with Division Directors and employees and get their thoughts as to whether an employee of the month is of value to them.

She stated she did not support employee administrative leave or a parking spot for recognition and preferred to acknowledge the employees once a year with a potluck and giving them a certificate. In the past someone was nominated, received a certificate and took a photo with the Commissioners. She would like to know if employees thought that beneficial and wanted that to be considered. Or would employees like other options. She suggested an option be an employee's potluck once a year because that would be more meaningful and valuable.

Mr. Montoya agreed to discuss with the division managers and employees.

He continued that the only other project being working on by staff is the agency's ability to webcast and Miguel is working on a project they hope to present in a couple of weeks. The Commission would be able to share documents and share the computer which would help when someone is working remotely.

Commissioner Hall asked if that was only in open meetings.

Mr. Montoya responded the webcast could be used for any meeting.

Commissioner Byrd explained they have been looking at different technologies such as WebX, Skype, etc.

to share data, do a video or a phone call. They will probably go with WebX because it only requires one license and is about \$20 a month. Information can be presented for the user on the other end who would only need the app, which is free and downloadable.

He stated actually, they have already gone with WebX because it was only \$20 and they plan to use it for SPP, but anyone can use it by contacting Miguel for set up. WebX works for their needs now until they need something for a bigger project, and utility companies use it and it avoids having to drive all over the state.

## **12. COMMUNICATIONS WITH GENERAL COUNSEL**

There were no communications with General Counsel.

## **13. COMMUNICATIONS WITH COMMISSIONERS**

Commissioner Espinoza indicated she had requested the utility companies inform her when an outage occurred, and PNM has been good about that, especially in her district. She thanked PNM for sending the specifics, but stated she is getting strange text messages from other utilities. She offered to show them the messages which do not say who or where they are from and say only that there is a utility outage in the state.

She asked if they could work on that to just send a generic message.

Mr. Montoya had also observed an issue with the email utility outage reports. The audio is always silent with the email and he has put that on his to-do list. He thought several years ago the Commission required an email type report and changed that to allow reporting via a 1-800 number. That is not working, and the Commission may want to go back to text through an email.

Commissioner Espinoza thanked Mark from PNM for keeping her informed.

She reported she had been asked to fill a position on the board of Martin Luther King Committee and it is mainly for a chair. Sandy Jones had filled the position twice and other commissioners sat on the board, but not as a chair. The Commission should decide who would fill that position now.

Commissioner Espinoza also welcomed Mr. Montoya as Chief of Staff.

Chair Becenti Aguilar offered to fill that position and would be happy to do so.

Chair Becenti Aguilar asked Mr. Montoya to visit with James Williamson over her concern regarding calls to the PRC getting an automated answering machine and then transferred. She would like that streamlined and handled in a better way.

She received a call from someone in Illinois about starting a business in New Mexico and they had been transferred all over the agency. She forwarded the person to Avelino Gutierrez.

Mr. Montoya indicated he had discussed that with Miguel before Mr. Williamson was on board and that is on their to-do list. Currently it is set up with a roll call, but he intends during normal business hours to have someone answer the calls.

Chair Becenti Aguilar asked Mr. Montoya to inform the Commission when there would be a staff meeting.

Mr. Montoya replied he currently does not have a recurring staff meeting scheduled but would be looked at possibly a weekly division director meeting. He has also talked with Mr. Williamson about an ASD Division meeting on Monday for a meet-and-greet and Mr. Williamson has been meeting with individuals on his own.

Mr. Montoya continued that he is also considering a full staff meeting, either monthly or quarterly. The benefit would be to highlight initiatives and directives of the agency and transparency with staff. They plan a luncheon to give staff an opportunity to network among themselves.

Chair Becenti Aguilar commented weekly meetings for ASD would definitely be needed. She had been informed by staff members that they had no idea why the former Chief of Staff took over certain responsibilities. That was done with no discussion or explanation with the employees and they would like clarity.

She asked that Mr. Montoya provide a flow chart of the Administrative Services Division developed by Mr. Williamson so the Commission could see who manages what. He should include a description of duties; i.e., bullet points of items, like Renee Kepler's responsibilities, and who is responsible for IPRA requests, etc.

Chair Becenti Aguilar indicated currently she gets many emails from the Records Department for IPRA requests and they need to be channeled appropriately. She asked Mr. Williamson to compile data on when the request was made, how the request was handled and how it was resolved, instead of all of the Commissioners receiving the requests weekly.

Commissioner Hall recalled the last ASD director was the custodian of public records.

Mr. Smith clarified that the reason email requests were sent to the Commissioners from the Records Division was because the previous Commissioners wanted copies.

Chair Becenti Aguilar pointed out directors are hired to receive that type of email and they could certainly bring urgent requests to an open meeting.

Commissioner Hall agreed.

Commissioner Byrd noted that if something deemed not important to the Commissioners turned out to be,

the Commissioners would throw a fit that they were not told.

Commissioner Fischmann suggested each Commissioner say whether they want the requests or not because he personally could do without them.

Mr. Williamson explained the IPRA process was to go first to Melanie Sandoval the Records Bureau Chief. She has 3 days to acknowledge the request and supply information or request additional days to respond. Legal Division reviews all responses sent out on IPRA requests.

Chair Becenti Aguilar clarified that is the Legal Division, not General Counsel.

Mr. Smith indicated General Counsel was involved to the extent the IPRA seeks documentation from the Commissioners because of concerns on attorney/client privileges or communication issues.

Chair Becenti Aguilar understood.

Commissioner Byrd suggested staff get a signature of receipt when sending in the mail.

Mr. Williamson agreed.

Chair Becenti Aguilar clarified that she and Commissioner Fischmann want the IPRA requests to be received by Mr. Williamson's division. Anything of importance to the Commission could be brought to them during open meetings.

Commissioner Hall agreed.

Commissioners Espinoza and Byrd requested they continue to receive the requests.

Commissioner Espinoza clarified that IT, Records, Financial, and HR and the Fleet Manager in Financial, is in Mr. Williamson's division.

Commissioner Espinoza for the record, asked that the notification regarding next Tuesday's meeting being moved be sent with sufficient time to those presenting on the agenda.

Commissioner Byrd said practice in the past was to suspend a meeting for a week, and he suggested there be no meeting for the week of July first since the fourth is on Thursday.

Commissioner Espinoza agreed.

Commissioner Fischmann agreed and thought the Chief of Staff could develop a list of other holidays the Commission should suspend the meeting; 4 or 5 meetings a year. That would be appropriate and fairer to staff as well as Commissioners. The other Commissioners agreed.

Mr. Montoya agreed he would take care of other requests; to adjust the clock on the wall and contact GSD

about picking up trash around the outside of the building.

Commissioner Fischmann thanked Commissioner Byrd for raising competitive issues on the transportation providers. They should encourage competition.

Commissioner Byrd asked if Good Friday was a recognized state holiday. He was told it is acknowledged although not a holiday.

Chair Becenti Aguilar indicated she had discussed with Commissioner Fischmann their observance and many of their employees participate in religious ceremonies. She supports administrative leave given to employees who are at work on Friday morning from 8-12 noon.

Mr. Montoya clarified that anyone wanting the full day off would be required to take four hours of annual leave in combination with the four hours of administrative leave.

Commissioner Fischmann commented that if PRC is more considerate of their employees, perhaps they could keep them from going to PNM, so he is glad they are looking at that.

He thanked Chair Becenti Aguilar for looking at the public interface, such as the website and was heartened that Mr. Montoya was tackling that. He said they need to do better.

Commissioner Espinoza thanked Legal Counsel and those who supported her in allowing her to borrow Marc Martinez for a couple of weeks, because otherwise legal would have been left without help. She was grateful for those who understood the need.

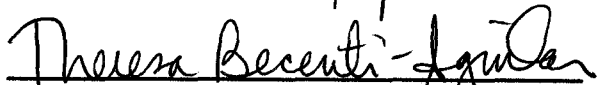
#### **14. ADJOURNMENT**

The meeting adjourned at 12:05 p.m.

ATTEST:

  
Carl Boaz, Stenographer

APPROVED: 5/8/19

  
THERESA BECENTI AGUILAR, CHAIRPERSON

  
VALERIE ESPINOZA, VICE CHAIRPERSON

  
CYNTHIA B. HALL, COMMISSIONER

  
JEFFERSON BYRD, COMMISSIONER

  
STEPHEN FISCHMANN, COMMISSIONER

# NEW MEXICO PUBLIC REGULATION COMMISSION

## OPEN MEETING: CASE MANAGEMENT MEETING

Date: April 11, 2019

**CONFIDENTIAL**

NAME	COMPANY NAME (if any)	PHONE NUMBER
Mark Fowler	PWM	505 241 2498
Rebecca Carter	NMGC	505 697-3832
Carol Clifton	James For EPE	982-0011
Gary Murray	NMGC	505 280 3360
Tom Bullard	NMGC	505 681 4423
Tom Davis	NMGC	205 0621
Ryan Jones	PWM	241-4864
Brian Johnson	Renew Engineering	505-490-7033
Don Shainin	SFMO	505 460-0160

Thank you for attending this meeting.





**NEW MEXICO PUBLIC REGULATION COMMISSION**

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

**Thursday, April 11, 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 March 6, 2019**
- V. PRESENTATION**

**Presentation by Thomas Domme, Vice President and General Counsel of New Mexico Gas Company, regarding the price of natural gas from the Permian Basin**
- VI. PUBLIC COMMENT**
- VII. CONSENT ACTION**
  - A. Transportation Matters:**

1)	19-00060-TR-M David Black	IN THE MATTER OF THE APPLICATION OF TMT SANTA FE LLC D/B/A TWO MEN AND A TRUCK TO PROVIDE HOUSEHOLD GOODS SERVICE  <u>POTENTIAL ORDER GRANTING HOUSEHOLD GOODS SERVICE CERTIFICATE</u>
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- B. Utility Matters:**

2)	19-00076-UT Judith Amer	<p>IN THE MATTER OF THE APPLICATION OF NEW MEXICO GAS COMPANY, INC. FOR A VARIANCE FROM 17.10.640 NMAC FOR ITS APRIL 2019 GAS COST FACTOR STATEMENT</p> <p>NEW MEXICO GAS COMPANY, INC.</p> <p>Applicant.</p> <p><u>POTENTIAL FINAL ORDER REGARDING NMGC'S APPLICATION FOR VARIANCE</u></p>
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# **VIII. REGULAR ACTION AND DISCUSSION**

## **A. Transportation Matters:**

NONE

## **B. Utility Matters:**

3)	18-00214-UT Russell Fisk	<p>IN THE MATTER OF AN ORDER TO SHOW CAUSE AS TO WHY ROSA JOINT VENTURE, LLC, SHOULD NOT BE FOUND IN VIOLATION OF THE PUBLIC UTILITY ACT AND COMMISSION RULES</p> <p><u>POTENTIAL ORDER REGARDING MOTION FOR MEDIATION</u></p>
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# **IX. CONSIDERATION AND POSSIBLE ACTION REGARDING ADVICE NOTICES**

- Public Service Company of New Mexico - Advice Notice No. 557

# **X. DISCUSSION OF FINAL NEW LEGISLATION**

- SB 489 - Energy Transition Act
- HB 291 - Efficient Use of Energy Act Changes
- HB 300 - Rural Electric Co-Op Proxy Voting and Quorums
- HB 521 - PRC Application for Vehicle Electricity
- HB 124 - Fire Protection Fund Changes
- SB 143 - PRC Fire Safety Standards

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

**XII. COMMUNICATIONS WITH GENERAL COUNSEL**

**XIII. COMMUNICATIONS WITH COMMISSIONERS**

**XIV. ADJOURNMENT**

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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:** April 11, 2019

## PUBLIC COMMENT SIGN-IN SHEET

[illegible]

**Thank you for attending this meeting.**

EXHIBIT 3  
PRC - April 11, 2019