

**MINUTES OF THE OPEN MEETING
NEW MEXICO PUBLIC REGULATION COMMISSION
April 16, 2019**

TIME: 9:30 a. m.

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

A quorum was present as follows:

Members Present:

Commissioner Theresa Becenti Aguilar, Chairperson
Commissioner Valerie Espinoza, Vice-Chairperson
Commissioner Jefferson Byrd, District 2
Commissioner Stephen Fischmann, District 5 [telephonically]
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
Mark Cessarich, Telecommunications Bureau
Carolyn Glick, Hearing Examiner
Jack Sidler, Utilities Division
Joan Ellis, Utilities 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

None

3. CONSIDERATION AND APPROVAL OF AGENDA

Commissioner Espinoza moved to approve the agenda seconded by Commissioner Byrd.

Commissioner Fischmann asked to table the EPE undocketed Case #17-5 notice of filing construction of Talavera distribution substation and to move the Facebook discussion up on the agenda so he could be part of the discussion.

Commissioner Espinoza moved to approve the agenda with the two changes. Commissioner Hall seconded the motion and it passed by unanimous 5-0 vote.

- 2) 18-00243-UT IN THE MATTER OF PUBLIC SERVICE COMPANY OF NEW MEXICO'S APPLICATION FOR APPROVAL OF A 345 KV TRANSMISSION LINE AND ASSOCIATED FACILITIES PURSUANT TO THE PUBLIC UTILITY ACT, PUBLIC SERVICE COMPANY OF NEW MEXICO, Applicant.**
- | | |
|------------------------|---|
| (Carolyn Glick) | <u>RECOMMENDED DECISION</u> |
| (Judith Amer) | <u>POTENTIAL ORDER REGARDING</u> |
| | <u>RECOMMENDED DECISION</u> |

Ms. Glick reviewed her RD starting with the summary. PNM was seeking a Certificate of Public Convenience and Necessity location approval and determination of right-of-way,

for the construction of a 345-kV transmission line and associated facilities referred to as the BB2 project. In addition, PNM also asked for approval of its proposed ratemaking treatment.

The project would run adjacent to PNM's existing line in Santa Fe and Sandoval County. The line is owned primarily by private landowners with a few miles on State land managed by the NMSLO. Wind resources in the eastern part of the state must reach the PNM system and the western energy market through the interstate transmission network. They interconnect to PNM's line which has a maximum capacity of 1000 MW and is fully subscribed, and additional service is not possible even if existing farms can produce more power.

Maximum capacity of the proposed line is 362 MW and the entire capacity has been committed to Avengrid Renewables, LLC, a PNM transmission wholesale customer. Avengrid does not purchase electricity but purchases transmission service from PNM to move their own energy.

The PRC approved a special service contract in Case #16-00191, between PNM and Facebook that requires PNM to procure sufficient renewable energy to meet Facebook's load at its data center in Los Lunas as it increases.

The PRC approved a power agreement between PNM and Avengrid in Case #18-00009 to purchase the output of the La Jolla wind facility to meet Facebook's increased load. The BB2 line is necessary to move power from the La Jolla facility to PNM's system. Of the total 362 MW capacity, 166 MW of energy would be delivered La Jolla with the remaining 196 MW delivered from future windfarms developed by Avengrid.

The BB2 line will be built to meet Facebook's needs and Avengrid only and of the total 362 MW of capacity, 166 MW is dedicated only to Facebook. None of the capacity is needed to meet the needs of other PNM retail customers and PNM's pursuit of the project is only because of transmission commitments made, not solely to enhance the reliability of their system or as backup.

That comes from the testimony of Mr. Meckinmeyer who when asked, "*He wouldn't have built the BB2 solely to enhance the BB line, correct?*" answered, "*Correct*".

The parties are Bill King Ranch, CCAE, NMIEC, and Staff. CCAE and NMIEC did not participate and did not file briefs with their positions.

Bill King Ranch's primary argument is that PNM seeks to purchase 6.25 miles of the ranch for the project and the ranch has not granted ROW. Representatives of PNM and Bill King Ranch met 10 or more times between June 2018 and attended a mediation in December 2018 but did not reach an agreement.

Bill King Ranch opposes PNM's application with their biggest objection that PNM, Avengrid and Facebook are cooperating in order to misuse PNM's power to condemn. They believe Facebook, technically identified as a PNM retail customer through a special service contract is in reality, Avengrid's customer.

Bill King Ranch argued the legislature granted condemnation power to PNM to help fix retail customers, but this project is being constructed for Avengrid, who does not have condemnation powers, and PNM should not be allowed to use its authority to acquire a private property transmission line benefiting only Facebook and Avengrid.

Bill King Ranch is not asking that the Commission decide the amount PNM should pay them for ROW.

Ms. Glick found the Commission lacks authority to deny PNM's application that would prevent them from exercising their condemnation power. She suggested the proper remedy would be for Bill King Ranch to seek a change in State Law.

Regarding PNM's requests; the first is for a CCN. The Public Utility Act (PUA) requires a public utility to obtain a CCN before installing a public utility plant or system, including a transmission line. The utility is required to show their need for additional capacity as the most cost-effective and feasible alternative.

Bill King Ranch did not state a position on PNM's request for a CCN but urges PRC to deny the application.

Staff recommended the Commission approve the CCN.

Ms. Glick found that PNM has shown need for additional capacity and is the most cost-effective among feasible alternatives. She recommended the Commission issue a CCN for the proposed project.

PNM's second request is for location approval of the BB2 project, required by the PUA prior to constructing transmission lines and the associated facilities designed or capable of operating 230 kilovolts or more.

The Commission "*shall approve the application of transmission lines unless the proposed facilities would unduly impair important environmental values*".

Bill King Ranch opposes the approval and argues approval of the request would be premature and PNM did not prove their request would not impair environmental values.

Staff recommended approval. Ms. Glick found that PNM has shown it would not impair environmental values and also recommended approval.

PNM's third request is ROW. The PUA requires ROW no greater than 100' without prior determination of the necessary right-of-way width required to construct and maintain the transmission line.

PNM asked the Commission to determine a maximum 150' ROW width as necessary. Bill King Ranch argued PNM did not show 150' width would safely support the line. Staff recommended the maximum 150' ROW request is necessary. PNM indicated the maximum distance between span length for the proposed towers would be 1,760', and 150' ROW would comply with the National Electric Safety Code. However, under extreme conditions, a ROW width of 200' would be necessary to comply.

Ms. Glick found that PNM's request for 150' ROW maximum should be rejected and the Commission should determine a 200' ROW is necessary.

PNM's fourth request is ratemaking. A public utility may request that the Commission determine the ratemaking principles and treatment for the facilities for which a CCN is requested. The Commission *"shall comply if such a request is made"*.

PNM estimated the cost of the project at \$85 million and the revenue requirement both wholesale and retail, at \$10.5 million annually. PNM would recover the annual revenue amount from ratepayers and requested authority to recover an estimated \$5.4 million for the project from all PNM New Mexico retail customers; the estimated retail allocation of the revenue requirement.

Bill King Ranch opposes the request. Staff supports the request.

Ms. Glick found PNM's request should be denied because it would preclude the Commission from enforcing the special services contract between PNM and Facebook, ordering Facebook to directly reimburse PNM for the cost of the project.

The Commission approved the special service contract in Case #16-191 between Facebook and PNM, and a PNM witnesses stated, *"Facebook does not wish, and has not requested that the cost of the electric service for its data center be subsidized by any other customers"*.

Ms. Glick noted that section 3.3 of the special service contract ensures other retail customers would not subsidize the cost of upgrades necessary to meet Facebook's increased load. The contract states transmission system upgrades will be required to provide electric service to meet customer load, *"the cost of which shall be recovered by PNM through direct reimbursement by customer under a separate electric facilities agreement between customer and PNM. Other transmission facility upgrades to PNM's required to serve additional customer load and associated cost shall be addressed in separate electric facilities agreements between PNM and customer"*.

Facebook was aware of the provision and had previously paid upfront for the cost of an extension for the 115KV system necessary to serve the data site.

PNM did not ask Facebook to pay for the BB2 project up front. PNM stated Facebook was not required to reimburse them for the cost because the project is a system improvement that benefits all customers.

Ms. Glick disagreed and found the project was not necessary to serve any other retail customers other than Facebook. It is necessary to Facebook to move the energy from La Jolla wind facility to PNM's system. She again mentioned the quote from Mr. Meckinmeyer. She added that although energy from the La Jolla system may be delivered to others, the energy, nor the proposed project is not necessary to serve the other customers.

PNM witness Meckinmeyer repeatedly said the capacity would only "*serve one retail customer - Facebook*".

Ms. Glick cited 57-59 of her RD testimony that she had relied on:

- 50% of the power to be transmitted will go only to only one customer.
- The one retail customer is Facebook data center in Los Lunas.
- 196 MW is a point-to-point transmission Clines Corner to the Four Corners and 166 megawatts will serve the data center.
- Avengrid has requested a total of 362 MW but 166 MW of that will be reallocated to the data center.
- PNM has signed a transmission service agreement with Avengrid for firm transmission for 166 MW that will be converted to serve Facebook, once the line is in service.
- That capacity has been dedicated to serve Facebook;
- and the remaining 196 MW has been dedicated or firm transmission has been granted, to Avengrid by PNM.
- The 362 MW is not required nor needed to meet PNM's peak load but a portion of that is needed to serve the data center.
- There are currently no plans to use the proposed lines to serve PNM retail customers other than Facebook and no knowledge of any plans to use the transmission facility to serve anyone beyond Facebook.

Ms. Glick pointed out the evidence shows the only PNM retail customer the project is necessary to serve is Facebook. Facebook agreed in a special service contract to directly reimburse PNM for costs for the upgrades necessary. The special service contract was approved by the Commission and became an order, which the Commission can enforce.

Facebook should be required to directly reimburse PNM for 45.9% of the cost of the project or an estimated \$39 million.

Ms. Glick found the ratemaking principles and treatment once the project is in service should be that PNM not be allowed to recover any cost of the project except from Facebook.

She recommended PNM's request for ratemaking treatment be denied.

Chair Becenti Aguilar asked Commissioner Fischmann if he had questions.

Commissioner Fischmann found the demand charge was part of the contract for transmission. He confirmed with Ms. Glick in her RD, that the recent data from BB2 transmission line should not be included in the demand charge provision.

He wondered if language should be included regarding that because there could be confusion and making it explicit could be helpful.

Ms. Glick replied it was too late to be included in her RD but could be placed in the final order.

Ms. Amer agreed it could be placed in the final order and adopted in the final order.

Commissioner Hall supported Commissioner Fischmann's suggestion and wholeheartedly agreed with the RD. She said it strained credulity for anyone other than Facebook to pay for the retail rate portion of the cost.

Commissioner Hall moved to approve the order, seconded by Commissioner Espinoza and the motion passed by unanimous 5-0 vote.

4. RESOLUTIONS

- **Resolution Regarding the Southwest Power Pool**

Commissioner Byrd provided background that PRC had approved Sagamore Windfarm last March. That was in the SPP queue to be approved by SPP, but their process is slow and cumbersome. They restart calculations when someone drops out and SPP is well beyond their queue.

This resolution asked SPP to reconsider their approval process method and suggests SPP take everyone in the queue, run calculations and inform everyone whether they are approved. Then move on to the next queue so they do not have to change calculations when someone leaves or joins.

Commissioner Byrd indicated he ran the resolution by Excel Energy SPS.

He read the resolution dated April 16, 2019: that the New Mexico PRC is aware of serious delays in the SPP process to study the interconnection of new generation up to the SPP transmission system. These delays are likely to affect a new windfarm approved by the PRC in Case #17-00044-UT.

The Commission strongly supports the creation of the New Mexico Renewable Portfolio Standards and urges SPP to take immediate steps to ensure viable generation projects, particularly those with purchase power agreements or similar arrangements and approved by the State Regulatory Commission, are advanced quickly through the generator interconnection queue to enable them to take advantage of the renewable energy tax incentives that will expire at the end of 2020.

The Commission requested the SPP send them a report within the next 30 days explaining their steps to advance such projects over nonviable projects.

The resolution would be witnessed by the five Commissioners.

Chair Becenti Aguilar asked if the point was not to allow changes when someone new came on board.

Commissioner Byrd explained the language was not specific on how SPP fixed the process, but recommended they not restart the calculations but finish first those who are already in the queue.

Commissioner Hall supported the resolution. She shared her shock at the multiple submittals by parties that make the process more complicated. She thought the Commission should make a strong statement or the State could lose out on renewable energy.

Commissioner Espinoza moved to approve the resolution, seconded by Commissioner Hall and the motion passed by unanimous 5-0 vote.

5. PUBLIC COMMENT

Mr. Jim Schiltz stated his plan was to speak about the Talavera Substation, but it was no longer on the agenda.

Mr. Smith indicated the item would be on the agenda next week and it would be better to discuss as a party in the matter, to discuss at that time.

Mr. Schiltz explained he is the vice president of the regulatory board for El Paso and said that would be fine. He noted that El Paso sent five people, including engineers and a vice president, to respond specifically and discuss the matter and he had communicated with Commissioner Fischmann about coming today.

Mr. Schlitz asked to arrange a solid agenda date for EPE to respond to questions.

Commissioner Espinoza said she could hear his disappointment and she also was disappointed that they had traveled all that way without being aware of the removal from the agenda. She asked if the other witnesses might be able to discuss any of the matter.

Mr. Smith explained that Commissioner Fischmann had asked for the item to be postponed because he would be unavailable and has questions.

Commissioner Byrd added his understanding from what he read was that Commissioner Fischmann wanted to push this to the HE.

Mr. Smith explained the Commission has that option to push to an HE. This is unusual in that it does not require an application to the Commission. But Commission rule allows inquiry into whether there has been compliance with the rules. A formal investigation was not opened but is an option.

Chair Becenti Aguilar asked Commissioner Fischmann for comment.

Commissioner Fischmann said he had hoped to avoid a docket based on their discussion. He apologized that he was unable to be present. He indicated it would be difficult to discuss over the phone and why he proposed this be heard next week.

Chair Becenti Aguilar pointed out slight changes were made last week, and the Commission met on a Thursday and the following week on a Tuesday and everyone notified in advance. Next week's meeting is scheduled for Wednesday, April 24 at 9:30 a.m. and there are no changes proposed.

She apologized for the late changes on this case. She asked if possible EPE could adjust to the changes.

Mr. Schiltz offered to check whether the new date worked for everyone and asked if not, that the Commission work with him to reschedule.

Chair Becenti Aguilar asked Mr. Schlitz to let her know by the end of the meeting.

The second person signed up to make a public comment was not present.

6. CONSENT ACTION

A. Transportation Matters:

None.

B. Utility Matters:

- 1) **15-00332-UT** **IN THE MATTER OF AN INQUIRY REGARDING MATTERS
RAISED BY LEACO RURAL TELEPHONE COOPERATIVE'S
(CLEC) ANNUAL ETC CERTIFICATION FILING IN NPRC CASE
NO. 15-00183-UT
(Russell Fisk) POTENTIAL ORDER CLOSING DOCKET**

**Commissioner Espinoza moved approval of the consent agenda, seconded by
Commissioner Hall and the motion passed by unanimous 5-0 vote.**

Commissioner Fischmann excused himself from the meeting at 10:17 a.m.

7. REGULAR ACTION AND DISCUSSION

A. Transportation Matters:

None.

B. Utility Matters:

- 2) **18-00243-UT** **IN THE MATTER OF PUBLIC SERVICE COMPANY OF NEW
MEXICO'S APPLICATION FOR APPROVAL OF A 345 KV
TRANSMISSION LINE AND ASSOCIATED FACILITIES
PURSUANT TO THE PUBLIC UTILITY ACT, PUBLIC SERVICE
COMPANY OF NEW MEXICO, Applicant.
(Carolyn Glick) RECOMMENDED DECISION
(Judith Amer) POTENTIAL ORDER REGARDING
 RECOMMENDED DECISION**

This matter was considered earlier in the agenda.

- 3) **18-00103-UT** **IN THE MATTER OF APPLICATIONS FOR 2019 BROADBAND
PROGRAM SUPPORT FROM THE STATE RURAL UNIVERSAL**

**SERVICE FUND, AS PER 17.11.10.31 NMAC
(Russell Fisk) POTENTIAL ORDER AUTHORIZING INITIAL
PAYMENTS TO ENMR TELEPHONE
COOPERATIVE AND SMITH BAGLEY**

Mr. Fisk explained this was from last year's application and the first year that funding was awarded for the \$5m broadband program, but actual payments were not made.

A separate rule under subparagraph H-3, states awards are dispersed in a specific way: The Administrator (GBMW Consulting) shall disperse 1/3 of the award at the beginning of the project, 1/3 at midpoint and 1/3 at completion. The second and third payments are contingent on satisfactory status reports.

Eastern NM Rural Telephone Coop (ENMR) filed stating the project has started. Smith Bagley submitted 3 projects and is ready to begin and requested the first disbursement.

Mr. Fisk explained the broadband program provisions are modeled on the FCC process specifically on the mobility fund.

Mr. Fisk noted the proposed order would make the first third of the three payments for each of the Smith Bagley and ENMRT projects. ENMR had stated construction started on each of their projects in January. Smith Bagley stated their project has not started but engineering was done, and equipment was delivered, and they are ready to go.

Mr. Fisk recommended the administrator be authorized to disburse the funds.

He explained payments have been staggered to keep the per connection charge low because not all of the \$5 million funding goes out every year.

Staff did not have time to file but does not oppose disbursement. Century Link and Windstream are the other two companies awarded program funding. They have not yet requested funding.

Commissioner Espinoza asked if the companies would come back after the money was spent.

Mr. Fisk replied yes, as specifically stated in Commission rules, reports shall be submitted annually and within 30 days after project completion companies shall demonstrate their project provides the coverage proposed.

Commissioner Espinoza asked for a quick description of how disbursements were determined, and money was divided among the companies.

Mr. Fisk referred Commissioners to the spreadsheet on the last page of his report on the projects submitted. The Commission must disperse at least \$5m per year and they are nearing the \$30m cap on the fund. Last year, the Commission decided to keep the amount at \$5m and deferred the connection charge. The spreadsheet shows the amount to be dispersed over three years for all four companies.

The total request last year was over \$6m and the Commission decided, with staff's help, which companies to cut. Three projects were denied; Windstream because LEACO stated they were providing sufficient coverage in that area. Windstream and LEACO will work together and come back.

ENMR's Clayton Passamonte project was denied because of the cost per person. Their projects are among the most expensive because they serve ranches over vast distances.

Commissioner Byrd pointed out it was Corona Galina's Mountain, not Clayton that was denied.

Mr. Fisk apologized and agreed. He added all of the denials are without prejudice.

Smith Bagley was the third denial because they were late submitting, and the extensive permitting required was incomplete.

Everyone was adjusted to get to \$5m by about 0.08% at 75% of their project and 25% company funds.

Commissioner Hall asked for more information on the denial on Lovington Exchange because LEACO already serves the area.

Mr. Fisk explained LEACO did not intervene in the process but sent a letter that was filed in the record. The Commission's decision was to deny the project, but specifically stated Windstream had 30-days for a rehearing of their project. Windstream sent a letter to see what LEACO serves.

Commissioner Byrd moved to approve the order, seconded by Commissioner Espinoza.

Chair Becenti Aguilar thanked Mr. Fisk for the short turnaround time.

She noticed the number of notices filed and that three of the items #6-8 were on the Navajo Nation projects. Engineering has been completed by Smith Bagley and equipment has been delivered.

Chair Becenti Aguilar acknowledged the Commission's good job responding to the needed projects for the Navajo Nation.

She asked if possible, for Staff to submit comments in the future, since they had not commented.

Mr. Fisk explained Staff had been busy, but Joan Ellis could attest that Staff had no opposition to the disbursements.

Ms. Ellis verified Staff had not opposed the initial disbursement and in fact, Staff had required each of the companies to file an affidavit to provide certainty for the Commission. She added Mr. Fisk did a great job explaining the situation.

She said Staff asked that the Commission authorize the disbursement.

Chair Becenti Aguilar asked if possible, in the future, that press releases be provided on this type of project for her district. She also wanted a record indicating Staff did not oppose the Commission's action they were about to take.

Ms. Ellis was unclear the extent Chair Becenti Aguilar wanted whether it would be something in writing and filed in the docket.

Mr. Fisk explained the order records Staff's statements at the open meeting and Staff did not object.

The motion passed by unanimous 4-0 vote. Commissioner Fischmann was not present for the vote.

Commissioner Espinoza moved to go into closed session at 10:38 a.m.

Mr. Smith confirmed that EPE communicated they were not available next week but are available the first of May which was also acceptable to Commissioner Fischmann. The item would be included on the agenda for May 1, 2019.

Commissioner Hall seconded the motion to go into closed session. The motion passed by unanimous 4-0 roll call vote. Commissioner Fischmann was not present for the vote.

4) Undocketed **EL PASO ELECTRIC COMPANY'S RULE 17.5.440 NMAC
NOTICE OF FILING NO. 70-CONSTRUCTION OF TALAVERA
DISTRIBUTION SUBSTATION AND RELATED FACILITIES
(Michael Smith) CONSIDERATION AND POSSIBLE ACTION
ON REQUESTS FOR INVESTIGATION BY**

**DOÑA ANA COUNTY COMMISSION AND
CITIZEN PETITION TO NMPRC**

This item was postponed under the approval of the agenda.

8. EXECUTIVE CLOSED SESSION

- **PURSUANT TO NMSA 1978, SECTION 10-15-1 (H) (7) - PENDING LITIGATION MATTERS**
 - *City of Las Cruces v. New Mexico Public Regulation Commission; / Supreme Court Case No. S-1-SC-37458*

The Commission ended the executive session at 10:54 a.m.

Commissioner Espinoza moved, seconded by Commissioner Hall to return to open session.

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

The motion passed by unanimous 4-0 vote.

9. DISCUSSION OF NEW LEGISLATION

- **HB 512 - Firefighter Retirement Service Credit**
- **SJR 01 - PRC Election and Appointment**

Mr. Fisk indicated he would summarize the final version briefly.

- The Commission beginning January 1, 2023, will have 3 appointed members. The Governor will nominate members from a list of qualified nominees submitted by the PRC Nominating Committee.
- This is a constitutional amendment that requires it to be passed by voters.
- The Committee would require legislation to set it up and appointments would require approval by the Senate.
- Service would be for 6-year staggered terms and after serving two consecutive 6-year terms members would be ineligible to hold office until one full term intervenes.
- A person appointed to fill a vacancy will serve the remainder of the unexpired term.
- The 6-year term is staggered with one Commissioner appointed for 6 years, 4

- years, and 2-year terms to require staggered elections.
- The legislature requirements and continuing education requirements remain the same.
- New is the Nominating Committee procedures and the removal of a Commissioner by impeachment. The impeachment process is clearly stated.
- The current provisions prevent Commission members from receiving anything of value and removal for malfeasance or neglected duties.
- Areas of regulation is defined as the Commission having responsibility for regulating public utilities, as provided by law. They may have responsibility for other public service companies other than utilities, as provided by the legislature, which gives more power to the legislature to expand the list.

Commissioner Espinoza added it also removes all regulatory authority.

Mr. Fisk noted the Constitution states the PRC regulates utilities, transportation companies, etc. and that would be removed. The Commission will be at the mercy of the legislature as to what the Commission legislates. That would not be changed anytime soon because nothing was removed from the Constitution by the legislature. However, the legislature could decide what authority the Commission could regulate other than public utilities, and the PUA is enshrined in the Constitution.

Mr. Montoya envisioned the need for the legislature to define a public utility and what *"other public service companies"* are if the bill passed. He struggled with the term public utility and the others under the Commission, such as the Fire Marshal. That is probably not a public utility or under *other public service companies*.

Mr. Fisk thought *"may have responsibility for regulation of other public services companies"* may be more limited and possibly precludes the Fire Marshal, etc.

Mr. Montoya noted he had concern with SJR1 because what the title voters will vote on is misleading: the PRC appointment versus election. Voters will not understand that would limit PRC jurisdiction to public utilities and other public services as defined by the legislature.

• **HB 512 - Firefighter Retirement Service Credit**

Fire Marshal Don Shainin explained after reviewing the credit there is no impact to the agency or any cost. The bill allows volunteer firefighters to compile their service records to show credit for previous fire calls, department meetings and training. They have a little less than one year to resubmit those to PERA for service credits and PERA retirement benefits.

Other than records verifications from his fire support division, there is no impact and they are working in conjunction with PERA.

- **SM 144 - Fire Marshal Relocation Working Group**

Mr. Montoya is revisiting the memorial, SM 144, which assigns the Municipal League and the Association of Counties to determine what they might need from PRC support. He will provide feedback once he is made aware of that.

Chair Becenti Aguilar noted that the Fire Marshal and Chief of Staff were on the working group.

Mr. Montoya confirmed they were assigned to the working group but depending on his discussion with the Municipal League and Association of Counties, they may request a Commissioner to represent the agency.

Commissioner Byrd indicated he has been talking with the Association of Counties on the memorial and is already involved. He offered to be the representative.

Chair Becenti Aguilar noted for the record that Commissioner Byrd would be representing the Commission in the working group, in addition to Chief of Staff Montoya and the Fire Marshal.

10. COMMUNICATIONS WITH CHIEF OF STAFF

Mr. Montoya stated staff continues to work on the 800 number and roll call and he would provide more information in the next meeting.

Commissioner Espinoza pointed out the 800 number has never worked. She suggested it be sent to another number for someone to answer in case no one is at the front desk.

Mr. Montoya said he talked with Jim Williamson about having a "live body" answer the phone.

He continued, Mr. Williamson and Mr. Matthews are at CFO training and the presentation based on their conversation about flow charts and responsibilities, has been pushed to the next meeting.

Mr. Montoya planned to meet with the Utility Division staff at 2:30 on the outages. He will require the utility at a minimum to default to the email distribution list until they find why the 800 number was not recording a message or being transferred.

Commissioner Espinoza indicated the usual email she receives is a utility outage from the State. She did receive one from John Francis with Western New Mexico that was okay, but others are coming through Google voice and just has jargon.

Commissioner Espinoza recommended just when there is an outage in Santa Fe or wherever.

Mr. Montoya replied the recommendation would be a request that the utility companies provide the Commissioners notification. At minimum to remain in compliance, they will need the utility.outage@statenmus.

Commissioner Espinoza suggested the coal office could also be included when the amount of people out of power is applicable.

Mr. Montoya offered to revisit that.

He added he had contacted the MLK Jr. Board and was waiting for a call from their executive director, Leonard Waites. He would provide more information next meeting.

Chair Becenti Aguilar asked the outcome of the employee recognition feedback.

Mr. Montoya replied he met with several division directors and seemed to be consistency that salary was #1 and the second was time off. Individual recognition remains in the forefront and is why he proposed giving 8 hours administrative leave and a parking spot the Commission had done in the past.

It was discussed if that was not amenable to the Commission, then possibly a gift card, but appears it is recognition of the individual for their performance.

Mr. Montoya agreed there should be quarterly luncheons as well at which time they could recognize all staff, even those who are not employee of the month. Many employees in the agency are doing good work and it would be appropriate to have a quarterly potluck/luncheon.

He also plans a quarterly staff luncheon and suggests the Commission consider continuing their July 4th luncheon. Commissioner Lyons could be asked to bring his barbeque truck and July is a good time to celebrate getting through the end of a fiscal year and beginning another.

In addition, a holiday party between Thanksgiving and Christmas was discussed and he supports that suggestion.

Mr. Montoya would send an email with the proposed open meeting schedule relating to the state holidays, once he finalizes the decision.

11.COMMUNICATIONS WITH GENERAL COUNSEL

Mr. Smith informed the Commission that paperwork is awaiting response from SPO for the reclassification of the position of the vacant HE and upgrade to a manager position. A barrier is the special function of the HE. They are trying to reclassify into the attorney reclassification and adjust the salary scale. The HE manager position would be equivalent to General Counsel classification.

Mr. Smith stated he would be out next Wednesday, and Ms. Amer would cover that day.

Chair Becenti Aguilar noted they have received reports from all of the division directors and would like to hear from the General Counsel's office. She asked if Mr. Smith was prepared to report today.

Mr. Smith replied he could answer questions. The office has four attorneys and one vacancy; Mr. Bogatko was reassigned to the Legal Division and hope to resolve that. The empty paralegal position has been advertised and they will move forward with the list of names received.

Mr. Fisk indicated Mark Martínez, attached to General Counsel Office will be retiring in several months and that position will be vacant as well. That pertains to a long-standing issue of the need for advisers to the Commission. Ken Costello's report reflected that it would be good for the Commission to have a roster of experts in engineering, economics and accounting on hand.

Chair Becenti Aguilar stated she has worked with Mr. Martinez since 2006 and values his work and steady assistance to the Commissioners. She supports him and would not want to interfere with legal counsel and take up their time. She stated the Commissioners' backup is Mr. Martinez and he has been very accessible.

She asked about how caseloads would be handled in the next sixty days.

Mr. Smith replied that was difficult off the top of his head. They send monthly outlook reports to the Commission and he referred her to that.

Mr. Fisk noted that EPE would file a rate case next month and IRP would file soon and there was then mostly telecom because of the reports due, and reports to the legislature soon and the CL 2017 bill and a rulemaking for QOS for CL also.

Mr. Montoya indicated he had researched for contractual services and the EPE rate case is anticipated in May; SPS in July; and a PNM case in September. He was not sure that NMGS was going to file a rate case.

Mr. Smith stated he does have a NMGS rate case that will be presented to the Commission in the next few weeks.

Chair Becenti Aguilar thanked Mr. Smith for all of his hard work and said when he does take time off, wear his cell phone.

12. COMMUNICATIONS WITH COMMISSIONERS

Commissioner Espinoza indicated that Commissioner Hall spoke to the Albuquerque City Council last night regarding SB 489. She asked that each Commissioner represent their personal position interests. Generally, it is a bad idea to answer questions on behalf of the entire Commission. Commissioners should speak only on behalf of their position and not the Commission as a whole when speaking before city council etc.

Commissioner Hall explained she was proud to be asked to present to City Council because they were interested in what is happening at the PRC. The City of Albuquerque geographically includes many of her constituents and she felt it within her purview to speak.

She added she did not purport to represent any Commission opinion that had not been previously expressed and added, for the record, she acted entirely within the bounds of her role as a representative of her constituents and acted properly.

Commissioner Byrd reported there would be a "thank you" to Dr. Pitts to honor her work and they will have pizza and cake. He wanted to thank her for the work she has done and let her know he looks forward to working with her in her new capacity.

He added something the Commission should consider is flex time; possibly allowing flex time for staff to work hours that better fits their personal schedules.

Chair Becenti Aguilar thought that an excellent idea. She asked Chief of Staff to look into the suggestion and get feedback from division directors, employees and the fleet management.

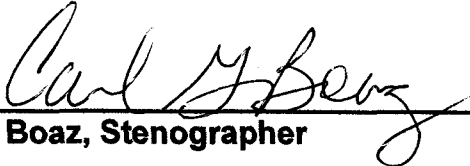
She stated that the Commission was happy to see new division directors and setting examples for better communication and setting up the agenda to have a better job for staff to come to.

Chair Becenti Aguilar added she wanted the employees to know she values their work and their suggestions. They should go through the chain of command and the Chief of Staff could bring their suggestions to the Commission if important.

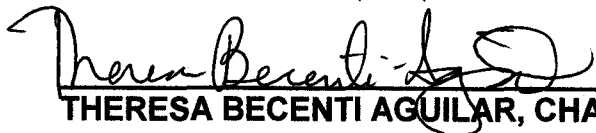
13. ADJOURNMENT

The meeting adjourned at 11:31 a.m.

ATTEST:


Carl Boaz, Stenographer

APPROVED: 6/6/19


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: April 16, 2019



NAME	COMPANY NAME (if any)	PHONE NUMBER
Carol Cliffare	Jones for EPE	982-0015
Nancy Burns	EPE	982-7391
Mark Fenter	PNM	505 241 2498
Carla Sonntag	NMUSA	836-4223
MILE D'AMADIO	XCEL	505 681-0946
Joe Lees	XCEL	505-948-8660
Will Hanks		505-220-9909
Nancy Burns	EPE	410 9342
Jim Schichtl	EPE	915 521 4697
Rebecca Carter	NMGC	505-269-5737
Glenn Schiffrang	SF GREEN CHAIRMAN	505-501-0222
Brian Johnson	Renew Engineering	505-490-7033
Stacey Gordon	PNM	211-4927
Leo Baca	Centurylink	250-4393
Debra Doll	WRA	505-702-3653
Reswood Towe		928 871 4325

Thank you for attending this meeting.



NEW MEXICO PUBLIC REGULATION COMMISSION

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

Tuesday, April 16, 2019

9:30 a.m.

**PERA Building, 4th Floor Hearing Room
1120 Paseo de Peralta, Santa Fe, NM 87501**

AGENDA

- I. PLEDGE OF ALLEGIANCE/STATE PLEDGE**
- II. INTRODUCTION OF SPECIAL GUESTS**
- III. CONSIDERATION AND APPROVAL OF THE AGENDA**
- IV. RESOLUTIONS**
 - **Resolution Regarding the Southwest Power Pool**
- V. PUBLIC COMMENT**
- VI. CONSENT ACTION**
 - A. Transportation Matters:**

NONE
 - B. Utility Matters:**

1)	15-00332-UT Russell Fisk	IN THE MATTER OF AN INQUIRY REGARDING MATTERS RAISED BY LEACO RURAL TELEPHONE COOPERATIVE'S (CLEC) ANNUAL ETC CERTIFICATION FILING IN NMPRC CASE NO. 15- 00183-UT <u>POTENTIAL ORDER CLOSING DOCKET</u>
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VII. REGULAR ACTION AND DISCUSSION

A. Transportation Matters:

NONE

B. Utility Matters:

2)	18-00243-UT Judith Amer Carolyn Glick	IN THE MATTER OF PUBLIC SERVICE COMPANY OF NEW MEXICO'S APPLICATION FOR APPROVAL OF A 345 KV TRANSMISSION LINE AND ASSOCIATED FACILITIES PURSUANT TO THE PUBLIC UTILITY ACT, PUBLIC SERVICE COMPANY OF NEW MEXICO, Applicant. <u>POTENTIAL ORDER REGARDING</u> <u>RECOMMENDED DECISION</u>
3)	18-00103-UT Russell Fisk	IN THE MATTER OF APPLICATIONS FOR 2019 BROADBAND PROGRAM SUPPORT FROM THE STATE RURAL UNIVERSAL SERVICE FUND, AS PER 17.11.10.31 NMAC <u>POTENTIAL ORDER AUTHORIZING INITIAL</u> <u>PAYMENTS TO ENMR TELEPHONE COOPERATIVE</u> <u>AND SMITH BAGLEY</u>
4)	Undocketed Michael Smith Presentation by Staff Dhiraj Solomon	EL PASO ELECTRIC COMPANY'S RULE 17.5.440 NMAC NOTICE OF FILING NO. 70- CONSTRUCTION OF TALAVERA DISTRIBUTION SUBSTATION AND RELATED FACILITIES <u>CONSIDERATION AND POSSIBLE ACTION ON</u> <u>REQUESTS FOR INVESTIGATION BY DONA ANA</u> <u>COUNTY COMMISSION AND CITIZEN PETITION</u> <u>TO NMPRC</u>

VIII. EXECUTIVE CLOSED SESSION

- **PURSUANT TO NMSA 1978, SECTION 10-15-1 (H) (7) - PENDING LITIGATION MATTERS**
 - *City of Las Cruces v. New Mexico Public Regulation Commission;*
Supreme Court Case No. S-1-SC-37458

- IX. DISCUSSION OF NEW LEGISLATION
 - HB 512 - Firefighter Retirement Service Credit
 - SJR 01 - PRC Election and Appointment
 - SM 114 - Fire Marshal Relocation Working Group
- X. COMMUNICATIONS WITH CHIEF OF STAFF
- XI. COMMUNICATIONS WITH GENERAL COUNSEL
- XII. COMMUNICATIONS WITH COMMISSIONERS
- XIII. ADJOURNMENT

To obtain a copy of this agenda please log in the Commission's website at <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 16, 2019

PUBLIC COMMENT SIGN-IN SHEET

[illegible]

Thank you for attending this meeting.

EXHIBIT 3
PRC - April 16, 2019