

**MINUTES OF THE OPEN MEETING
NEW MEXICO PUBLIC REGULATION COMMISSION
March 27, 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 [telephonically]
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
Ashley Schannauer, Hearing Examiner
Fran Sundheim, Hearing Examiner

Others Present

Carl Boaz, Stenographer

CALL TO ORDER

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

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

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

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

1. PLEDGE OF ALLEGIANCE/STATE PLEDGE

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

2. INTRODUCTION OF SPECIAL GUESTS

There were no introductions.

3. CONSIDERATION AND APPROVAL OF AGENDA

Mr. Smith requested revisions to the agenda. He asked to take item 9 - Legislative Issues off the agenda. He explained that the Chief of Staff is working to prepare a presentation on that, and it is not yet ready.

PNM representatives are present to address the outage at the Sunport and they could address that under Public Comment or earlier, if the Commission wishes.

Commissioner Hall suggested hearing the report under Public Comment since it was not noticed on the agenda.

Commissioner Byrd moved to approve the agenda as amended. Commissioner Hall seconded the motion and it passed by unanimous 5-0 voice vote.

4. DIVISION DIRECTOR'S REPORT

The Division Director's report was postponed to next week.

5. PUBLIC COMMENT

Chair Becenti-Aguilar asked PNM to report on the outage at the Albuquerque Sunport.

Mr. Mark Fenton said he was in contact with both Commissioner Espinoza and Commissioner Hall over the weekend. He introduced Mr. Todd Fridley, who was active in restoring service, working with the City of Albuquerque and they would field questions from the Commission.

Commissioner Espinoza said before that, she was impacted and knew the outage was planned. She wanted to know why people were not notified the night before, if it was a planned outage. She noted it happened three times in three days and needed for the public to be prepared. She was impacted and videotaped the impact while she was there. "That is the biggest question I have. It was pretty frightening."

Mr. Todd Fridley said he is the Vice-President of Transmission Operations at PNM and asked the Commission, if he didn't answer their questions in his recap of what happened, to ask him again.

He explained that at the Sunport, there are two main feeders for the complex. On Saturday, one of them had an outage. The cause was the termination of an underground cable they found. PNM crews arrived quickly after 3:20 a.m. when the outage occurred. Crews began working on the backup circuit. During that time, the airport normally would have full backup generation for all essential functions. There are significant generation facilities that the airport owns. But two of the four did not engage. They had a debriefing with airport staff yesterday about what went wrong on their side and for those hours they were working, operations of the airport stopped. As they explained in the debrief, it was clear their generators failed to engage to bear the load.

The crews restored electric service by 8:20 a.m. During that time, the power had been off in half of the airport and was then restored to full power. He explained there is redundancy of the two circuits, so the crew put all the load on the other circuit. They began assessing the damage on the outage circuit and it was a complex process since it is all underground. The underground cable is very robust and well protected, so it is very reliable. That keeps it away from lightning and weather but makes it harder to pinpoint the problems. They located it in the afternoon on Saturday at 1:00 p.m. And had to determine reliability. At midnight on Saturday, they encountered a problem.

Chair Becenti Aguilar asked how they relate this to the public and if they had a team onboard to communicate.

Mr. Fridley said their public communications team handled that. The power was back on at 1 pm. They worked with the City to communicate the effects to the public. They communicated directly with City and airport personnel. The City scrambled to determine why their generators did not come on.

Chair Becenti Aguilar heard there were many passengers waiting in line. But to send a message that PNM was working on a solution - she did not see that.

Mr. Fenton said PNM posted on social media and published public notice with all TV stations at 5:00 a.m. for broadcast.

Chair Becenti Aguilar also heard that the Airport General Manager did not announce anything to the passengers. She asked, going forward, if there is a way to communicate those to the public, especially to the waiting passengers.

Mr. Fenton thought they did communicate.

Commissioner Espinoza thought PNM did make an effort. She wanted to know if it was planned because people who were trying to get to the airport could not get to the counters. It was a bad situation. It cannot happen again. "I was on Facebook and most people can get a text message. I know you said you didn't think I was up at that time but there were people trying to get home or to New Mexico. I don't think I'm satisfied because you didn't answer the question about it being planned outage. It affected too many people. There was no way anyone would know until they got to the airport. So the effort was not sufficient on what happened. People were distraught and concerned about what happened and how you could have notified the public the night before - about the outage at 3:00 a.m. If it was planned by PNM, how could the public know what to expect? Why didn't they get the word to the media?"

Commissioner Fischmann pointed out that they could have used the amber alert system and that alert comes to everyone's phone. He asked why that could not happen in this situation. That would be much more effective communication.

Commissioner Hall said she gets that information from the airline when flights get delayed.

Commissioner Fischmann agreed that with no power, a lot of lives are impacted.

Commissioner Byrd asked what caused the initial failure.

Mr. Fridley said it was a fault on a termination underground which was the result of age and moisture. Regarding the planned outage, when they searched, they found in the same vault the cable had another termination on it. That was late Sunday night at 11 pm, which prevented crews being in that vault and they had to clear that cable first. If they ignored it, it probably would have failed also. So in those early morning hours, they did a quick planned outage. It took two hours to plan that and the airport said they communicated all of that. Their generators would normally handle that and to have no outage. That was done in the midnight hours on Sunday night. So they would not interrupt airport operations. And then they had another event when the airport's generators did not provide power.

Commissioner Espinoza asked why they chose that time. It really did create some pandemonium. People were trying to get up and down the escalators and it created

havoc. Why did you choose that time and what will you do to prevent that happening again? That was twice in the same weekend.

Mr. Fridley said the team was into restoration Saturday night and early Sunday hours. They planned to have it done by 2 a.m. on Sunday when traffic was least. It was not something they could allow to go on. So they needed to get it done as quickly as possible on Sunday night and early Monday morning. It took time to give clearance to the PNM staff. The airport has a number of access points and not all of them were manned.

Commissioner Espinoza asked if they the Mayor know they were not manned.

Mr. Fridley agreed, and there was a big debrief yesterday that covered it. Because of that delay - they finished at 5 a.m. and that made an impact. But it was better in the night than to wait for day time. The backup did not work again, and they scrambled with lack of power.

Commissioner Espinoza said it would be simple to notify the public. That is the best way to get the information out. Announcements, commercials, etc. to get it out to travelers. All they need to know is to prepare for it to prevent long lines and people are better prepared and less concerned. It could have been more than just an outage with things going on around the world.

Mr. Fridley said the debrief they had on Monday afternoon with airport went well. They were embarrassed with failure of their generators. They recognized some issues with their equipment so they will be working with them on those power issues, security and access to our equipment on the property with escorts into the property. They are also talking about communication. The airport is not tolerant of anything like that happening and need to figure out what they need to do. They will make some rigorous testing of all equipment on their property. There are many things they can do to ensure they are in good condition and spend money to invest in what is not. It will be a proper investment. And working on all those issues with airport staff.

Commissioner Hall assumed they will come up with arrangements for repair and dealing with communications. Will that result in written protocol or some kind of product you could show the Commission for it? It is a matter of public concern and public safety. Do you plan to create some kind of document from this event?

Mr. Fridley agreed. He said that is exactly what they will do. They will codify the more robust plan for the public. It will be important to have that protocol and arrangement with airport staff for the future. They will file a report with the Commission in a couple of weeks to detail what happened and what they will do in the future to prevent it again. The airport is in the same position where they have issues that could cause these events. At the meeting on Monday, there were all types of entities present including security, transportation, food services, etc. The overall issue is that they do

have backup facilities. So they have generators and will be reinvesting in generator improvements.

Chair Becenti Aguilar suggested Milo Chávez, as Acting Utilities Division Director, to create and keep a file on all outages at utility companies throughout the State. There were outages right after Christmas last year. They need to keep those in records and ask utilities to come and submit a written report and how they are following up with a protocol to document our overseeing of their concerns, so they have a plan when they happen again.

She also asked PNM to review and upgrade their communications with the public. "I just happened to see the report on television, but it was all on the negative impact and not any positive report from PNM. Work with Public Relations at the Airport and how they can communicate with passengers. This is something all of us can learn from. I appreciate you coming forward and they look forward to the written report. And if they have further questions, they will get back with you."

6. CONSENT ACTION

A. Transportation Matters:

None

B. Utility Matters:

- 1) 19-00033-UT **IN THE MATTER OF THE APPLICATION OF EL PASO ELECTRIC COMPANY FOR AUTHORIZATION TO ISSUE SECURITIES PURSUANT TO NMSA 1978, SECTIONS 62-6-6, 62-6-7 AND 62-6-0 (2004_ AND 17.1.2.8.B NMAC) EL PASO ELECTRIC COMPANY, Applicant.**
(Fran Sundheim) **RECOMMENDED DECISION**
(Russell Fisk) **POTENTIAL ORDER ON RECOMMENDED DECISION**

- 2) 19-00058-TR-M **IN THE MATTER OF THE APPLICATION OF GRAVITAS MOVING, LLC, FOR A CERTIFICATE TO PROVIDE HOUSEHOLD GOODS SERVICE**
(David Black) **POTENTIAL ORDER GRANTING HOUSEHOLD GOODS SERVICE CERTIFICATE**

Commissioner Hall moved to adopt the orders for both consent cases. Commissioner Byrd seconded the motion and it passed by unanimous 5-0 voice vote. So Ordered.

7. REGULAR ACTION AND DISCUSSION

A. Transportation Matters:

NONE

B. Utility Matters:

- 3) 18-00261-UT IN THE MATTER OF PUBLIC SERVICE COMPANY OF NEW MEXICO'S REQUEST FOR A COMMISSION ORDER GOVERNING THE ACCOUNTING TREATMENT OF COSTS RELATED TO JOINING THE WESTERN EIM
(Ashley Schannauer) RECOMMENDED DECISION
(David Black) POTENTIAL FINAL ORDER
ADOPTING RECOMMENDED
DECISION

Mr. Schannauer and Mr. Black addressed this matter.

Mr. Schannauer provided a summary for the Commissioners and a copy of the Richard D. Starkweather testimony.

Mr. Black said that in August last year, the Commission requested PNM to provide cost accounting for joining EIM Energy Imbalance Market. The filing resulted in opening a docket and in the proceeding, it went to a public hearing that took place on December 12, 2018. Direct testimony was received into evidence and the Commission subsequently issued a final order on December 19, two days after the open meeting for determining exact language. The wording seemed to be preapproval and prudence of those costs, but the order did not nail that down. Within the 30-day deadline, a motion for rehearing was filed by ABCWUA which was presented on February 6, 2019. The Commission approved that order which vacated the previous order and the present Commission issued an order that it be examined by Mr. Schannauer to issue a Recommended Decision (RD).

Mr. Schannauer issued a report on March 8, advising that there was sufficient evidence in the record. He issued a briefing order and an amended briefing order to assist him with the RD. That is where it stands today. The RD was issued timely.

Prior to this current case, there was an inquiry case in 2017 which the previous Commission investigated the Energy and Balance Market and that gave rise to this case.

Mr. Schannauer said the issue was two things - whether the Commission simply issues an accounting order on the regulatory asset that PNM could implement by joining the EIM and would allow PNM to seek recovery of those costs in the next rate case. That is one action before the Commission. The other was whether the Commission wants any future rate making treatment that approves covering those costs in a future rate case.

The summary he handed out described those two potential actions. The first just deals with the accounting order and the December 19 order did approve that.

He said his recommendation is consistent with that, that the Commission should approve the accounting order to allow PNM to establish a regulatory asset and then determine recovery of costs.

He didn't recommend approving the second because it is difficult to determine what they are asking for. He read the language and thought it was hard to understand what it meant because it is not in the Act. He first thought it was just permission for PNM to join the EIM. But in the briefing, PNM went into more detail on what they intended.

In the estimated costs, if proven, the Commission could allow PNM to recover in a future rate case. But if they are inaccurate in their estimate and it costs more, then the Commission would need to adjust it in another order. So he recommended that not be binding. That was opposed by a Staff witness to not approve the prudence of that estimate. ABCWUA also objected and asked for a rehearing.

In the motion, there needs to be a showing of public benefit and the claim by PNM that savings would exceed the costs. He did not conclude that PNM had sufficiently established that.

The benefit analysis is on the second page of the handout. It is copied from page 24 of the RD. He analyzed the cost benefit of the participation. They plan to join in 2021 and the cost actually exceeds the savings in the first year by about \$1.2 million. The benefits would exceed costs beginning in 2023, with closure of the San Juan Generating Station (SJGS). They will go around and around on what resources will replace SJGS. So the future is uncertain and benefit not sufficiently established.

Commissioner Fischmann said, in looking at these numbers and also at the ongoing costs by utilities that were submitted as part of this proceeding and ABCWUA on energy generated at the Salt River Project by Arizona Power & Light, which is also larger than PNM - APL had \$2.4 million in costs but PNM showed \$10 million in costs. Their implementation costs are substantially higher than the other utilities. They should get a

different benefit. But he actually supported and encouraged PNM to join EIM because the long-term benefits will be substantial. So it would be a mistake for the Commission to endorse these numbers. He asked if Mr. Schannauer had any comment on that difference.

Mr. Schannauer noted that PNM costs include more than the others, including training and capital costs over the first five years.

Commissioner Fischmann asked what the ongoing annual operating costs would be.

Mr. Schannauer said PNM they hired consultants to estimate the costs and another to evaluate the cost benefit. The handout has a table from the consultant showing the implementation costs and the ongoing costs. PNM expects annual costs of \$2.9 to 3.9 million.

Commissioner Fischmann thought that is more in line with the other utilities.

Mr. Schannauer agreed. It is higher but not extreme. The second document has an appropriate comparison where one can see PNM's figures are higher than the others on what they are asking the Commission to approve, and their costs go as high as \$21 million. And a total of \$28.7 million in costs and being left in the future to only consider the reasonableness of what costs are in excess of that total. That does not seem reasonable.

He said Mr. Doug Howell presented testimony that supported PNM joining the EIM and testified about the benefits but did not talk about cost recovery. He also gave descriptions on how cost recoveries were achieved in other states. There were six of them and only one (Idaho) had prior approval for cost recovery but it also was limited. It was initially approved only on recovery of costs that did not exceed the savings. With those, the company would be required to return for approval. Others did not deal with that until afterward.

So Mr. Schannauer recommended the Commission approve the accounting order to establish a regulatory asset. And after the results, they might go as far as to approve the rate making treatment.

Commissioner Byrd moved, seconded by Commissioner Hall, to approve the order as presented.

Commissioner Espinoza said she couldn't agree more with Mr. Schannauer on the cost recovery.

Commissioner Fischmann said he thoroughly supports EIM and supports PNM getting recovery of its costs. They deserve to get a reasonable return on investments but let's get the numbers right before that is approved.

Chair Becenti Aguilar asked if he was requesting further explanation.

Commissioner Fischmann said he was not. He just wanted to be sure that PNM can get the numbers accurate.

Commissioner Byrd agreed. It was never whether or not they wanted them in EIM but just to make sure the costs are reasonable and that it could be done differently in the future. It is important to be done right.

The order was approved on a unanimous (5-0) voice vote. So Ordered.

4) 16-00138-UT IN THE MATTER OF AN ORDER TO SHOW CAUSE TO EL PASO ELECTRIC COMPANY REGARDING ITS UNFUNDED LIABILITY FOR "OTHER POST-EMPLOYMENT BENEFITS" (Russell Fisk) POTENTIAL DISPOSITIVE ORDER REGARDING ORDER TO SHOW CAUSE

Mr. Fisk presented information regarding this matter to the Commission. He said, "This is extremely complex and obtuse and maybe you will just want to discuss it today and have me bring back an order next time."

This Order to Show Cause case against El Paso Electric Company (EPE). The matter arose out of EPE's most recent rate case, Case No. 15-00127-UT, which was filed in 2015 and the Commission decided in 2016. And, by the way, there will be another rate case filed later this year. It has a deadline that was agreed to in another case. He thought it was June 1. In the course of that last rate case, it was discovered that there were potential issues with EPE's treatment of its funding of non-pension post-employment benefits, also known as "OPEBs" (other post-employment benefits). These benefits primarily consist of retiree health benefits that are separate from pension benefits.

It has not been a recent practice to issue policy statements. But in 1993, the PRC asked EPE to reflect those in current costs, to be reflected in the year they were incurred and payments actually for life and health payments to retirees.

Since the order, they came up with a different way to reflect the costs in a much greater complexity. It involves actuarial projects. The accrual method was adopted by the Commission. Under the old “pay as you go” scheme, the actual cash payments paid to the retirees was, at the recommendation of FASB, put in a trust. That has specific requirements for the deferred obligation and how it is treated, including that it

may be amortized on a straight-line basis. They are each separate obligations and staff essentially agreed on how they should be handled.

In the most recent EPE rate case, EPE submitted evidence showing that it had a net accrued liability and a balance in its Accumulated Other Comprehensive Income (AOCI) account with respect to its OPEBs that totaled approximately \$105.7 million as of December 31, 2014.

EPE charges a portion of its pension and other benefits expense to its AOCI account, which is included in EPE's owner's equity account reflected on its balance sheet. According to EPE, those amounts had not been reflected on EPE's income statement and have not been considered part of any pension costs that EPE has ever sought to include in rates. EPE further asserted that the amounts operated to directly reduce the owner's equity accounts of EPE. As of December 31, 2014, EPE had credited a total of \$58,277,000 of its pension and OPEB costs to its AOCI account. And while it appeared that EPE has not included any of the pension and benefit costs credited to its AOCI account in rates, EPE witnesses did not preclude the possibility that EPE might attempt to recover those amounts from its ratepayers in the future (not in the present rate case).

Based upon the record in the rate case, it appeared that EPE may have failed to comply with essentially policies announced the 1993 Policy Statement. These include: (1) Since at least 1998 (and likely before then) failing to fund its OPEB trust in the amount of its annual accrued OPEB expenses as supported by independent actuarial studies, with the result that EPE's net liability for OPEB costs are approximately \$105.7 million; (2) failing to file a general rate case proposing to recover its deferral obligation by no later than December 31, 1995 (it appears that EPE may never have requested or received Commission approval to establish a regulatory asset for the pension and OPEB liability that has accrued since it emerged from bankruptcy); (3) failure to apply for or receive Commission permission to charge to earnings (either as a lump sum or amortized over a period not exceed 20 years) its transitional obligation in the year it adopted SFAS 106; and (4) failure to request Commission approval of the external trust it apparently created several years ago for its OPEB program.

Mr. Fisk explained the black box settlement for rate increase and revenue required - four were like that and the next case was fully litigated.

Commissioner Fischmann asked, in the 2015 rate case, if there wasn't a request for cost recovery.

Mr. Fisk said there was for OPEB expenses.

Commissioner Fischmann asked how it was resolved.

Mr. Fisk said there was not a specific amount of recovery but there was an amount determined for annual expenses. He said he had no other information on that.

Commissioner Fischmann thought, since in the prior four cases, it was not clearly delineated as an item and not specified for cost recovery, that the liability would not be charged to EPE customers. He asked if that was an accurate assumption.

Mr. Fisk agreed. And EPE said it would not seek to recover that outstanding liability of \$59.3 million because of the complex accounting in which it could be an increase or decrease in actuarial function.

Commissioner Fischmann noted in the order here, it basically is setting up a mechanism that would allow EPE to claim this cost as an expense to be recovered in a future rate case. "Do you have a sense of how much each year?"

Mr. Fisk didn't have a specific amount.

Commissioner Fischmann thought this was not a rush item and in getting that information, they could decide next week and feel comfortable with the decision. That needs to be clear on what the Commission is voting on. EPE doesn't intend to charge for the accumulation in this accounting limbo. There is no way to separate it out. He wanted to see stronger language on that. Maybe they could get more evidence on it next time. And trying to go back is virtually impossible. And if they could get clear on those things, he would be ready to vote on the order.

Commissioner Hall asked about the \$57 million deferred amount, based on actuarial calculations. If the company does not want to collect those from ratepayers - would that have to be put in a different case?

Mr. Fisk explained this is going forward with that case concluded. It would be, going forward, an amount equal to the amount established in the rate case and would be required to show it has complied with that requirement to ensure compliance. He further explained that the \$105.7 million is due to a charge the utility made to its own owners.

Commissioner Fischmann asked if the order simply gives EPE a chance to request rate making treatment and does not specify what would happen in it.

Mr. Fisk agreed.

Commissioner Espinoza asked if Mr. Fisk wanted the Commission to vote on it next week.

Chair Becenti Aguilar asked if that was enough time.

Mr. Fisk said yes. The recommendation will be the same. He pointed out that the former Accounting Chief prepared a very detailed analysis and he trusted the result.

Commissioner Fischmann said, before voting, he would like to have a sense of the impact on rate payers and that is what is lacking now and should be straightforward for next week.

No action was taken on this matter.

8. DISCUSSION AND POSSIBLE ACTION

5) 18-00030-UT IN THE MATTER OF A COMMISSION INQUIRY INTO THE PROCUREMENT PRACTICES OF INVESTOR OWNED ELECTRIC UTILITIES (Judith Amer)

Ms. Amer explained that this inquiry was opened in February 2018 because in the earlier PNM renewable case, the Commission realized it had no rules governing this process as exists in other states. The final order approved PNM's procurement of a turn-key project even though the Hearing Examiner recommended against it because there were no rules about it. She also said the order would determine whether the Commission should establish deadlines for a renewable energy portfolio.

Based on that language in the proposed order, this case was opened with two workshops last year. And the three new Commissioners were not part of the workshops. So there are Staff recommendations and guidelines on how to proceed in the future. There were numerous stakeholders and three IOUs present.

At the first, meeting they presented their process. Attached to the packet was a summary of what they did. They used an independent evaluator, but they don't use one all the time. Things were kept confidential that needed to be confidential.

At the workshop, PNM said sometimes they do an RFP and sometimes not. Timing in selecting resources - as close to time of use as possible, is important to PNM. When there is a delay, costs might escalate and produce legislative uncertainty. They hope to keep it between 30-90 days. In approving an asset as big as this - bidders are assumed to be knowledgeable about it. Questions are web-based.

For the independent evaluator, PNM uses a third-party engineering firm that reviews both RFP and non-RFP projects. Once selected, PNM seeks regulatory approval and the work can take 12-18 months. In conclusion, PNM had concerns about mandatory selection. They said an RFP is just one means for selection and it would be good to have a standardized template. Finally, PNM said it tries to levelize by adding to the PPA when it is owned.

There were issues raised at the workshop by stakeholders. An important question is how the evaluators are considered independent when they are paid by the IOU and how disagreements are resolved. At what stage does the evaluator get involved? What parts are confidential? Are they allowed to ask confidential questions? And what about legal costs?

Mary Lee Soules filed her comment in this case. She believes a regulated IOU is affected by different pressures and that the PRC should extend oversight to protect customers. She believes competition is the most important principle.

Chair Becenti Aguilar noted the Commissioners did get a memorandum from her.

Commissioner Espinoza saw there is no order.

Commissioner Hall asked about recommendations.

Ms. Amer said she could go to the recommendation but had questions. She said the Staff recommended rulemaking be issued in it and asked if the RFP should be reviewed and released by the PRC. She wanted clarification on how confidential information is treated. What are the criteria for approval? Scoring criteria? What is the evaluator responsible for? How will they review the final selection of evaluators? Should the RFP only apply to certain portions? Who prepares the rules? By when?

Commissioner Hall said she conducted the workshops last year and they were very extensive. They were prepared by both utilities and Staff and involved a tremendous amount of work to identify those questions. So quite a bit of work was done. And in reviving this again, she had asked Commissioner Byrd to be part of the process and he agreed to proceed with rule making. She was grateful for Ms. Amer bringing this to us and explaining it to us.

She asked if the research should first be done on what other states have done and the framework they used. She also thought Staff should do the creation of rulemaking.

Commissioner Byrd said he did a little research and pointed out that Texas had none. Going forward to where there is some overlap, they are seeking for some draft language. As far as getting the rulemaking out, he would like to see some draft rules by Staff. If they can get those draft rules down on paper, about 60-90 days for draft rules and some states probably have some rules in place now. He would like that submitted so they can have a good draft to start. Does that seem reasonable?

Ms. Amer agreed.

Chair Becenti Aguilar summarized that Commissioner Hall and Commissioner Byrd will shepherd the proceeding. She asked if there was any time schedule to mention.

Ms. Amer said she would like 60-90 days going forward.

Commissioner Fischmann was in total support going forward with this. It has been a little loose on whether alternatives have been looked at and this is entitled to a thorough review before investing in it.

He thanked Commissioner Byrd and Commissioner Hall for taking the lead. There are a number of things worth looking into - NARUC information, for instance. There is lots of clarity needed on interconnection that is not uniformly considered elsewhere. And we need to have a proper procurement process and not work on it for five years out only to find that the solution is then obsolete.

As his example, they failed the public in 2017 with PNM's procurement process and nothing given from legislators on what came back on that RFP on the range of prices. Lots of decisions are being made at all levels of Government. How can they do that process without allowing decision-makers to know the process. Those things need to be addressed and he was thrilled this Commission wants to go forward with that.

Commissioner Espinoza said she was ready to go forward, too.

9. LEGISLATIVE ISSUES POSSIBLE DISCUSSION

Bills passed in 2019 Legislative Session tracked by NMPRC

This item was deleted under Approval of the Agenda.

10. EXECUTIVE CLOSED SESSION

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

- **Public Service Company of NM v. NMPRC; Supreme Court Case No. S-1-SC-37552**
- **NMPRC v. Commissioner Fischmann Blanco; NM District Court No. D-101-CV-2012-00752**
- **Picacho Hills Utility Company Inc., U.S. Bankruptcy Court Case No. 13-10742-t7**

Commissioner Hall moved, seconded by Commissioner Byrd, to go into executive closed session for the reasons stated on the agenda.

The motion to enter executive session passed by unanimous roll call vote with Commissioner Byrd, Commissioner Hall, Commissioner Espinoza, Commissioner Fischmann and Commissioner Becenti-Aguilar voting in favor and none voting against.

The Commission went to Commissioner Hall's office at 11:36 a.m.

The Commission ended the Executive Closed Session at 12:35 p.m.

Commissioner Hall moved, seconded by Commissioner Fischmann, to return to open session. The motion passed by unanimous 5-0 voice vote.

Chair Becenti Aguilar announced the Commission discussed two matters as noted on the agenda.

11. CONSIDERATION AND POSSIBLE ACTION REGARDING ADVICE NOTICES

- **El Paso Electric Company - Advice Notice No. 260**

Mr. John Reynolds described the advice notice filed by EPE on energy efficiency on March 6, the Commission approved it in the EPE case. It is straightforward and he recommended the Advice Notice be allowed to go into effect by operation of law.

The Commission took no action on Advice Notice No. 260.

12. COMMUNICATIONS WITH CHIEF OF STAFF

Mr. Montoya had nothing to communicate at this point.

13. COMMUNICATIONS WITH GENERAL COUNSEL

There were no communications with General Counsel.

14. COMMUNICATIONS WITH COMMISSIONERS

Commissioner Byrd said it came to his attention that Dr. Heidi Pitts will be leaving soon. He was sorry to see her go and wished her the best.

At the last meeting, he had mentioned the Talavera Station and had not heard anything about it.

Commissioner Fischmann said he sent a note to Mr. Montoya, asking him to follow up with EPE and has not heard anything.

Mr. Montoya said he has been in contact with General Counsel and has some information to make sure they are not interfering with the open case. He said he could inform each Commissioner privately. He asked Mr. Smith to review what was submitted.

Mr. Smith said he got emails from Staff on communications between them and it became apparent that the matters discussed will require the Staff to present or both Staff and EPE to present to the Commission. Hopefully, that would be by next week. Even though not formally docketed, he was treating it formally for ex parte purposes. It would be too difficult for him to interpret the last communications back and forth. It was around March 21 and he was discussing the possibility of a presentation to the Commission.

Commissioner Espinoza asked Mr. Smith how long Staff has had that information.

Mr. Smith thought it was either Monday or Sunday.

Commissioner Espinoza and Commissioner Byrd thanked him.

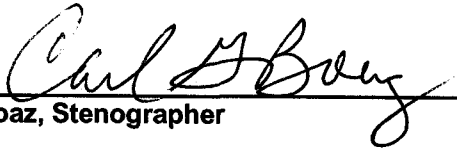
Chair Becenti Aguilar said the reporter here today wanted to know more about the Facebook situation. Apparently, he has been hearing about some concerns with the facility in Las Lunas. She asked if it was possible, they could apprise the Commission.

Mr. Smith thought it was probably based on the BB2 line and that is a pending case so he could not discuss it with the reporter.

15. ADJOURNMENT

The Open Meeting was adjourned at 12:46 p.m.

ATTEST:



Carl Boaz, Stenographer

APPROVED: 5/1/19

APPROVED

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: March 27, 2019

SECRET

[illegible]

Thank you for attending this meeting.



NEW MEXICO PUBLIC REGULATION COMMISSION

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

Wednesday, March 27, 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. DIVISION DIRECTORS' REPORTS**
- V. PUBLIC COMMENT**
- VI. CONSENT ACTION**

A. Transportation Matters:

NONE

B. Utility Matters:

1)	19-00033-UT Russell Fisk Fran Sundheim	IN THE MATTER OF THE APPLICATION OF EL PASO ELECTRIC COMPANY FOR AUTHORIZATION TO ISSUE SECURITIES PURSUANT TO NMSA 1978, SECTIONS 62-6-6, 62-6-7 AND 62-6-0 (2004_ AND 17.1.2.8.B NMAC EL PASO ELECTRIC COMPANY, Applicant. <u>POTENTIAL ORDER REGARDING</u> <u>RECOMMENDED DECISION</u>
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2)	19-00058-TR-M David Black	IN THE MATTER OF THE APPLICATION OF GRAVITAS MOVING, LLC, FOR A CERTIFICATE TO PROVIDE HOUSEHOLD GOODS SERVICE <u>POTENTIAL ORDER GRANTING HOUSEHOLD GOODS SERVICE CERTIFICATE</u>
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VII. REGULAR ACTION AND DISCUSSION

A. Transportation Matters:

NONE

B. Utility Matters:

3)	18-00261-UT David Black Ashley Schannauer	IN THE MATTER OF PUBLIC SERVICE COMPANY OF NEW MEXICO'S REQUEST FOR A COMMISSION ORDER GOVERNING THE ACCOUNTING TREATMENT OF COSTS RELATED TO JOINING THE WESTERN EIM <u>POTENTIAL FINAL ORDER ADOPTING RECOMMENDED DECISION</u>
4)	16-00138-UT Russell Fisk	IN THE MATTER OF AN ORDER TO SHOW CAUSE TO EL PASO ELECTRIC COMPANY REGARDING ITS UNFUNDED LIABILITY FOR "OTHER POST- EMPLOYMENT BENEFITS" <u>POTENTIAL DISPOSITIVE ORDER REGARDING ORDER TO SHOW CAUSE</u>

VIII. DISCUSSION AND POSSIBLE ACTION

5)	18-00030-UT Judith Amer	IN THE MATTER OF A COMMISSION INQUIRY INTO THE PROCUREMENT PRACTICES OF INVESTOR OWNED ELECTRIC UTILITIES
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IX. LEGISLATIVE ISSUES POSSIBLE DISCUSSION

Bills passed in 2019 Legislative Session tracked by NMPRC

X. EXECUTIVE CLOSED SESSION

- **PURSUANT TO NMSA 1978, SECTION 10-15-1 (H) (7) - PENDING LITIGATION MATTERS**
 - *Public Service Company of NM v. NMPRC*; Supreme Court Case No. S-1-SC-37552
 - *NMPRC v. Stephen Blanco*; NM District Court No. D-101-CV-2012-00752
 - *Picacho Hills Utility Company Inc.*, U.S. Bankruptcy Court Case No. 13-10742-t7

XI. CONSIDERATION AND POSSIBLE ACTION REGARDING ADVICE NOTICES

- **El Paso Electric Company - Advice Notice No. 260**

XII. COMMUNICATIONS WITH CHIEF OF STAFF

XIII. COMMUNICATIONS WITH GENERAL COUNSEL

XIV. COMMUNICATIONS WITH COMMISSIONERS

XV. ADJOURNMENT

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

The Commission will make reasonable efforts to post the agenda on the Commission's website at least 72 hours before the open meeting, but the inability to do so within the 72 hours prior, will not require the Commission to delay the meeting or to refrain from taking action on any agenda item on which it otherwise could act.

At any time during the Open Meeting the Commission may close the meeting to the public to discuss matters not subject to the New Mexico Open Meetings Act. The Commission may revise the order of the agenda items considered at this open meeting.

Notice is hereby given that the Commission may request that any party answer clarifying questions or provide oral argument with respect to any matter on the agenda. If the Commission makes such a request, any party present at the meeting, either in person or by telephone, shall have an equal opportunity to respond to such questions or argument. In the event a party whose case is on the agenda chooses not to appear, the absence of that party shall not cause such discussion or argument to become ex-parte communications.

PERSONS WITH DISABILITIES

ANY PERSON WITH A DISABILITY REQUIRING SPECIAL ASSISTANCE IN ORDER TO PARTICIPATE IN THIS PROCEEDING SHOULD CONTACT THE OFFICE OF DIRECTOR OF ADMINISTRATIVE SERVICES OF THE COMMISSION AT (505) 827-4042 AS SOON AS POSSIBLE PRIOR TO THE COMMENCEMENT OF THE OPEN MEETING.

PUBLIC COMMENT

All members of the public wishing to provide public comment must sign a sign-up sheet prior to the start of the meeting and identify their name and the name of the organization they represent (if any), and the topic or issue on which they desire to comment. The portion of the agenda allocated for public comment at any one open meeting shall be limited to a maximum of 30 minutes for all persons wishing to provide comment. The order of speakers will be based on the order in which speakers sign up, but public officials may be taken out of order. If a speaker is not present at the time he or she is called to provide comment, that speaker shall forfeit their opportunity to speak. **Public comment by an individual or entity shall be limited to no more than three (3) minutes** unless the Commission acts to extend the period. If the number of individuals on the sign-up sheet desiring to provide comment would exceed the allotted 30-minute period, the Chairman may limit individual remarks to a shorter time period. Individuals represented by or representing a common organization or association may be asked to select one individual to act as spokesperson to speak for the group. Individuals who sign up to comment, but either fail to do so or choose to speak for less than their allotted time, may not cede or yield their time to another speaker. Written comments of individuals who cannot be physically present may not be read aloud at the meeting but may be submitted to the Commission.

The subject matter of public comments shall be relevant to matters within the Commission's jurisdiction. Public comment will not be permitted on matters that should be addressed appropriately as the subject of an informal or formal complaint before the Commission or on pending rulemaking proceedings before the Commission once the opportunity for public comment in those proceedings has closed. Public comment by parties to a proceeding or adjudication pending before the Commission will not be permitted where the comment concerns matters at issue in such proceeding. The Chairman shall retain the right to stop any speaker who raises an issue that is not under the Commission's jurisdiction or is subject to the restrictions above. Public comment will be received without Commission comment or response. However, individual Commissioners may at their option seek clarification or additional information from speakers through the Chairman. No speakers will be accommodated after the public comment portion of the agenda has closed. The Chairman retains the right to exercise discretion in the implementation of this policy and may override the above rules in case of emergency or other unforeseen circumstances.

Speakers providing comment shall at all times conduct themselves in accordance with proper decorum. Profane or vulgar language or gestures will not be tolerated. Audience members shall not disrupt an open meeting by speaking without being recognized by the

Commission and shall not incite others to do so. The Commission retains the right to remove disruptive attendees and individuals who fail to conduct themselves in accordance with these provisions from the Commission meeting.

NEW MEXICO PUBLIC REGULATION COMMISSION

OPEN MEETING: CASE MANAGEMENT MEETING

Date: March 27, 2019

PUBLIC COMMENT SIGN-IN SHEET

NAME	PHONE NUMBER	TOPIC

Thank you for attending this meeting.