

**MINUTES OF THE
REGULAR OPEN MEETING
NEW MEXICO PUBLIC REGULATION COMMISSION
January 11, 2011**

TIME: 9:30 a. m.

PLACE:

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

A quorum was not present as follows:

Members Present:

Commission Chairman Patrick H. Lyons
Commissioner Ben L. Hall

Members Excused:

Commissioner Theresa Becenti-Aguilar
Commissioner Jason A. Marks
Commission Vice-Chairman Jerome D. Block

Staff Present

Michael Rivera, Chief of Staff
Bob Parker, Acting General Counsel
Rick Blumenfeld, Associate General Counsel
Mary Howells, Associate General Counsel
Mark Cessarich, Telecommunications Bureau
Roy Stephenson, Utility Division Director
Steve Schwebke, Water/Gas Bureau Chief
Larry Luján, Transportation Division Director
Rocke Johnson, Executive Administrator for Chief of Staff
Mike Ripperger, Telecommunications Bureau Chief
Gerald Garner, PIO
Joan Ellis, Legal Division
Hughanne Maxwell, Human Resources
Juan Rios, ASD Director
Matthew Lovato, CFO
Avelino Gutierrez, Legal Division
Leroy Aragon, District 1 Executive Administrator

Others Present

Carl Boaz, Stenographer

CALL TO ORDER

The Regular 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. Commission Chairman Patrick Lyons called the Regular 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 Regular Open Meeting is incorporated herewith to these minutes as Exhibit 1.

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

1. PLEDGE OF ALLEGIANCE

2. INTRODUCTIONS

Mr. Jim Campbell was introduced as the current Arizona President for Qwest and when the merger was finished he would be the Regional Vice President for this region up to Minnesota.

The Commissioners welcomed him.

3. MISCELLANEOUS ANNOUNCEMENTS

There were no miscellaneous announcements.

4. CONSIDERATION AND APPROVAL OF THE AGENDA

Chairman Lyons requested that the cases on the agenda for action (items 7 and 8) be moved to Thursday's agenda. The Commissioners decided to proceed with discussion of 8a at this time.

5. CONSIDERATION AND APPROVAL OF MINUTES

- **Minutes of the Special Open Meeting of December 23, 2010**

These minutes were not considered because there was no quorum.

6. PUBLIC COMMENT

There were no comments from the public.

7. CONSENT ACTION ITEMS

A. Transportation Division Cases

10-00083-TR-M **IN THE MATTER OF THE APPLICATION OF MOVING SOLUTIONS, INC., FOR A CERTIFICATE TO PROVIDE HOUSEHOLD GOODS CARRIER SERVICE AND FOR TEMPORARY AUTHORITY.**
(Rick Blumenfeld) Order

This case was postponed until Thursday's Open Meeting.

B. Utility Division Cases

09-00281-UT **IN THE MATTER OF THE COMPLAINT OF MICHAEL ARCHULETA AND A. STERN AGAINST WINDSTREAM COMMUNICATIONS.**
(Bob Parker) Order

This case was postponed until Thursday's Open Meeting.

Undocketed **IN THE MATTER OF THE APPLICATION OF TRILLION PARTNERS, INC. FOR A CERTIFICATE OF REGISTRATION TO PROVIDE COMPETITIVE LOCAL EXCHANGE TELECOMMUNICATION SERVICES WITHIN THE STATE OF NEW MEXICO.**
(Margaret Caffey-Moquin, Mark Cessarich) Order

This case was postponed until Thursday's Open Meeting.

8. DISCUSSION ITEMS

A. Utility Division Cases

09-00389-UT **IN THE MATTER OF THE APPLICATION BY RATON NATURAL GAS COMPANY FOR CONTINUED USE OF ITS PURCHASED GAS ADJUSTMENT CLAUSE. RATON NATURAL GAS COMPANY, APPLICANT**
(Rick Blumenfeld) Order

Mr. Blumenfeld presented information regarding this matter to the Commission. He considered it a routine matter. The Purchased Gas Adjustment clause was to ensure that costs were just and reasonable for customers. In this case there was no rate increase, no new tariff, and staff was not opposed to it. The company was required to request continuation every four years.

The Commission must consider four statutory provisions (63-7E) including that it was consistent with the Public Utility Act, had reasonable rates for all classes, specific adjustment provisions to recover purchased power costs and an approved method of applying costs. They filed the required information in this case.

He reviewed the application as did his predecessor and everything appeared to be in order.

Regarding the variance, the company for several years had asked for a variance of the fifteen day prices rather than three day prices to pass on to customers. The variance had been used for about five years.

Commissioner Hall asked if there were no changes in the cost of anything. Mr. Blumenfeld agreed.

Chairman Lyons asked if there was any way to get Zia to extend natural gas to Las Vegas.

Commissioner Hall thought some of Zia's people would be present next week to testify.

Mr. Parker suggested they could put that as a separate item.

Mr. Steve Schwebke announced that the Zia hearing would be heard tomorrow. He agreed to pass along that request.

Commissioner Hall said he would not be able to attend the hearing tomorrow.

Mr. Blumenfeld asked about the Mescalero Ambulance service.

Commissioner Hall said he would be meeting with them tomorrow in Mescalero.

9. COMMUNICATIONS WITH ACTING GENERAL COUNSEL, BOB PARKER

There were no communications with General Counsel.

10. COMMUNICATIONS WITH CHIEF OF STAFF, MICHAEL RIVERA

- **Legislative Matters**

Mr. Rivera reported staff had prepared about a dozen FIRs in the last few days and submitted them, as required with a 24 hour turnaround.

Chairman Lyons asked who authorized him to send them over there.

Mr. Rivera explained that he asked for input from the divisions and the Commissioners and was

required to send them back within 24 hours. He noted that Commissioner Marks provided some information on some of them. They were sent yesterday.

Chairman Lyons asked who signed for final approval.

Mr. Rivera explained that General Counsel, Commissioners and he reviewed them and if there were no responses, he sent them.

Chairman Lyons questioned the 24 hour deadline for pre-filed bills.

Mr. Rivera said that had been the PRC practice.

Mr. Stephenson clarified that the Commission never had received pre-filed bills before but their understanding was that they had to operate under the 24 hour rule for them.

Chairman Lyons said he didn't have an opportunity for any input on them.

Mr. Rivera said the LFC requested an analysis within 24 hours.

Chairman Lyons asked for a copy of what he read and he would talk with the LFC about it.

Mr. Leo Baca asked for a copy of FIR reports for SB 4 and SB 17.

Mr. Rivera explained that the FIRs were provided electronically.

Chairman Lyons said the Commissioners needed to see them before they were sent over. It was also inappropriate for LFC to ask for a 24 hour turnaround.

Commissioner Hall agreed. They could not respond in 24 hours if they didn't have the bill.

Chairman Lyons said they needed to get the legislative team set up for it and had to have communications that were not just email. Commissioner Hall agreed.

Mr. Lovato and Mr. Rios presented information on the new budget adjustments.

Mr. Lovato said he emailed the Commissioners last night on LFC's FY 12 recommendation. He provided a handout that showed comparisons on how they reached their recommended cuts. He reviewed the handout on the proposed budget and gave details of the cuts.

Mr. Rios said there were about seven positions they wanted to fill but needed to wait for DFA recommendations.

Mr. Lovato agreed to have this proposal ready for the Commissioners by this afternoon on the positions that they might recommend.

Chairman Lyons asked to meet at 2:30 on it.

Chairman Lyons said he talked to some senators about the Transportation Division legislative proposal.

Mr. Luján handed out the proposed legislation. He explained that it was to look at deregulation of the certificates and permits similar to the warrants which were deregulated in 1999. It would not deregulate drivers and insurance and safety. It would include taxis limos, terminal shuttles, non-emergency medical transportation, ambulance service and household moving services as well as rates on non-consensual tows.

It would be less costly for carriers. They wouldn't have to prove need for the service in their territory and rates would not need to be submitted. Right now it took 90 days to get them certificated but a warrant could be done in a day and a half.

Transportation currently spent about 10 hours on each simple application to get a certificate - sometimes it took more. Legal staff spent an average of 4 hours. OGC then reviewed with another six hours and getting an order prepared for Commission. The docketing unit also spent time on filing.

With an application that was contested, those hours would increase substantially. With those they spent from 40 to 50 hours. Then the Commission, when there was intervention, had to have a hearing.

In the first six months, they spent \$12,100 on court reporting expense for those hearings. This would provide substantial savings in time and money for the investigation bureau.

Most complaints on the Investigation Bureau were for overcharging. They had to spend a hundred dollars to refund fifty dollars that actually went to the General Fund. They were not allowed by statute to refund it to the citizen. That would allow staff more time on inspections of all carriers and more time on illegal people transporting. That was his proposal.

Commissioner Hall's concern was that some of those certificates were based on need in the community. He asked who judged what that need was.

Mr. Luján described the requirement.

Commissioner Hall said supply and demand should dictate that rather than the Commission. He asked why the Commission should determine the competition.

Mr. Luján said it was because state statute now required it.

Commissioner Hall didn't think the Commission had any business telling the second company they couldn't do business. This was supposed to be a free country with capitalism. They wanted to let the market take care of itself. Mr. Luján agreed.

Chairman Lyons thought it looked like a good FIR also.

Commissioner Hall asked about pending investigations.

Mr. Luján said they currently had 38 pending investigations sitting in Legal for getting findings to the Commission. He believed this would be significant savings for them.

Chairman Lyons said the pre-file deadline was Friday and that was when they needed to file it.

Mr. Gutierrez said he would try to get it in by Friday.

Mr. Luján said he had asked Mr. Gutierrez and Mr. Dave Baca to revamp the Motor Carrier Act. It was 50 pages long.

Mr. Rivera said the estimate was about two weeks to finish it and it would save the PRC thousands of dollars.

Mr. Parker wondered about the non-consensual towing. The police didn't care how much the tow company charged.

Mr. Luján agreed. They were looking into it and across the street they probably would be asked the same question. New Mexico was one of about 8 states that still had this regulation. They were looking at how other states did it. The City of Albuquerque and Bernalillo County would take of that regulation if the PRC didn't have it. Who would regulate it was still a question.

At the federal level, the rates were set by the market. He thought it was working in those places.

Chairman Lyons commented that it might get amended as it went along.

11. COMMUNICATIONS WITH COMMISSIONERS

There were no communications with Commissioners.

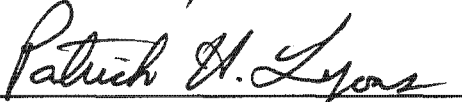
12. ADJOURNMENT

The meeting was adjourned at 10:30 a.m.

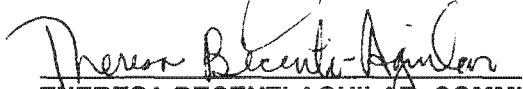
ATTEST:


Carl Boaz, Stenographer

APPROVED: 02/24/2011


PATRICK H. LYONS, CHAIRMAN


JEROME D. BLOCK, VICE CHAIRMAN


THERESA BECENTI-AGUILAR, COMMISSIONER

JASON MARKS, COMMISSIONER


BEN L. HALL, COMMISSIONER

SIGN-IN SHEET

DATE:

January 11, 2011

[illegible]

Thank you for attending this meeting.



BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

**REGULAR OPEN MEETING
Tuesday, January 11, 2011
9:30 A.M.**

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

AGENDA

- 1. PLEDGE OF ALLEGIANCE**
- 2. INTRODUCTIONS**
- 3. MISCELLANEOUS ANNOUNCEMENTS**
- 4. CONSIDERATION AND APPROVAL OF THE AGENDA**
- 5. CONSIDERATION AND APPROVAL OF MINUTES**
 - **Minutes of the December 23, 2010 Regular Open Meeting**
- 6. PUBLIC COMMENT**
- 7. CONSENT ACTION ITEMS**

A. Transportation Division Cases

10-00083-TR-M Rick Blumenfeld	IN THE MATTER OF THE APPLICATION OF MOVING SOLUTIONS, INC., FOR A CERTIFICATE TO PROVIDE HOUSEHOLD GOODS CARRIER SERVICE AND FOR TEMPORARY AUTHORITY. <u>Order</u>
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B. Utility Division Cases

09-00281-UT Bob Parker	IN THE MATTER OF THE COMPLAINT OF MICHAEL ARCHULETA AND A. STERN AGAINST WINDSTREAM COMMUNICATIONS. <u>Order</u>
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Undocketed Case Margaret Caffey-Moquin Mark Cessarich	IN THE MATTER OF THE APPLICATION OF TRILLION PARTNERS, INC. FOR A CERTIFICATE OF REGISTRATION TO PROVIDE COMPETITIVE LOCAL EXCHANGE TELECOMMUNICATION SERVICES WITHIN THE STATE OF NEW MEXICO. <u>Order</u>
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8. REGULAR ACTION ITEMS

A. Utility Division Cases

09-00389-UT Rick Blumenfeld	IN THE MATTER OF THE APPLICATION BY RATON NATURAL GAS COMPANY FOR CONTINUED USE OF ITS PURCHASED GAS ADJUSTMENT CLAUSE. RATON NATURAL GAS COMPANY, APPLICANT. <u>Order</u>
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9. COMMUNICATIONS WITH ACTING GENERAL COUNSEL, MARGARET CAFFEY-MOQUIN

10. COMMUNICATIONS WITH CHIEF OF STAFF, MICHAEL RIVERA

- Legislative matters
- Presentation on building security

11. COMMUNICATIONS WITH COMMISSIONERS

13. ADJOURNMENT

The Commission will make reasonable efforts to post the agenda on the Commission's website 24 hours before the open meeting but the inability to do so within the 24 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.

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 (827-4084) AS SOON AS POSSIBLE PRIOR TO THE COMMENCEMENT OF THE OPEN MEETING.