

**MINUTES OF THE
REGULAR OPEN MEETING
NEW MEXICO PUBLIC REGULATION COMMISSION
February 17, 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 present as follows:

Members Present:

Commission Chairman Patrick H. Lyons
Commission Vice-Chairman Jerome D. Block
Commissioner Jason A. Marks
Commissioner Theresa Becenti-Aguilar
Commissioner Ben L. Hall

Members Excused:

Staff Present

Johnny Montoya, Acting Chief of Staff
Robert Hirasuna, General Counsel
Robert Parker, Associate General Counsel
Margaret Caffey-Moquin, Acting General Counsel
Mary Howells, Associate General Counsel
Carolyn Glick, Hearing Examiner
Ashley Schannauer, Hearing Examiner
Larry Luján, Transportation Division Director
Roy Stephenson, Utilities Division Director
Rocke Johnson, Executive Administrator for Chief of Staff
Jim Brack, Utility Division
Gerald Garner, PIO

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

There were no introductions

3. MISCELLANEOUS ANNOUNCEMENTS

- **Recognition of the Employee of the Month of January**

Chairman Lyons recognized Sandra Padilla Ramirez as employee of the month of January who had 23 years' service now with the Insurance Division.

Commissioner Block congratulated Ms. Ramirez and pictures were taken.

Commissioner Block congratulated the Insurance Division. A constituent as a result of their review of his grievance was successful in requiring an award of health benefits to him and the constituent was satisfied and grateful to the staff.

Chairman Lyons noted that the Superintendent was at the Legislature until 10 p.m. the night before.

4. CONSIDERATION AND APPROVAL OF THE AGENDA

Commissioner Block asked for the consent items to be moved to the Regular Action Agenda.

Mr. Hirasuna asked for Howell's case (07-00442-UT) to be tabled.

Commissioner Block moved to approve the agenda with those amendments. Commissioner Hall seconded the motion and it passed by unanimous (5-0) voice vote.

5. CONSIDERATION AND APPROVAL OF MINUTES

- **Minutes of the Regular Open Meeting of January 20, 2011**
- **Minutes of the Regular Open Meeting of January 25, 2011**

Commissioner Marks moved to approve the minutes of January 20, 2011 and January 25, 2011 as presented. Commissioner Hall seconded the motion and it passed by unanimous voice vote.

6. PUBLIC COMMENT

There were no comments from the public.

7. REGULAR ACTION ITEMS

A. Transportation Division Cases

**10-00381-TR-R IN THE MATTER OF THE APPLICATION OF CAPITAL CITY CAB/VILLAGE TAXI, INC., D/B/A CAPITAL CITY CAB FOR A TARIFF RATE INCREASE
(Robert Parker)Order**

Mr. Parker presented information regarding this matter to the Commission. The company asked for rate increase and filed a motion for an interim increase while their request was being considered. It was set for a hearing but before the hearing, Capital City Cab lowered their increase request to about half what it was. The owner came to the hearing to explain why they needed the immediate increase and how they were losing money and might have to go out of business.

The Transportation Division didn't object to the increase and he prepared an order for approval of an interim rate increase for 90 days.

Commissioner Block moved to approve the order. Commissioner Hall seconded the motion.

Commissioner Marks asked who the HE was.

Mr. Parker said the case was at the Transportation Division right now.

Commissioner Marks asked if they had filed for a permanent rate.

Mr. Parker agreed but said it could change pending notification of a county contract.

Mr. Joe Earnest (representing Capital City Cab Company) said the county usually decided what they wanted to do and then they didn't finish the contract until later. June 1st was the probable date of the contract.

Commissioner Marks was hung up on this case. The basis for the 90 day interim rates was not on facts but just a statement that they would be back in 90 days because they were not ready for their final case.

Mr. Parker said if they didn't know anything concerning the contract by May, they would return for renewal of interim rates.

Commissioner Marks countered that the Commission would do a full-blown hearing on rate increases regardless or perhaps these rates would just stay in effect.

Mr. Parker agreed that was possible.

Commissioner Marks thought staff did superficial work on this case.

Mr. Parker thought they would do a more in-depth study on the permanent application.

Mr. Earnest agreed. There were no protests of the application but they had the materials staff wanted to look at.

Commissioner Marks knew they were making money on the shuttle and the guy was paying himself \$100,000 per year. The interim rate might be okay based on the record but they were making money. And they were not talking about everything changing but just one thing. As soon as the financials were audited sometime this summer they would have it done.

Mr. Earnest explained that the cash flow would cease in April.

Commissioner Marks asked why they should not get the permanent approval moving in April.

Mr. Earnest said the problem was with the final action of the County.

Commissioner Marks asked that the company show what it would be if they lost that contract.

Mr. Earnest said they showed three different scenarios in the documents they filed. They made a small profit under the current rate and would operate at a loss if the contract was lost.

Commissioner Marks asked if they could assign it to a HE and lengthen the interim beyond 90 days.

Mr. Parker said temporary authority was 90 days.

Commissioner Marks believed that statute didn't apply here.

After discussing alternative time periods, the Commission did not choose another option.

Commissioner Marks moved to approve the amended order and to appoint a Hearing Examiner.

Commissioner Hall commented that he went to the hearing and all they wanted was a couple of nickels. People were in business to make money but the Commission made them go through these hearings. He felt the Commission needed to expedite things. If the man wanted to drive himself out of business with high rates - let him do that. The market could provide supply and demand. He said through one hearing that took six hours and it didn't make sense to drag them through all of this stuff.

Chairman Lyons agreed they needed to streamline the process.

Commissioner Marks said the industry liked the regulation. He believed consumers didn't have a choice because there was no market out there for taxis.

Mr. Parker noted that if they were brand new their tariff would just fly through but a little increase caused a huge response.

Chairman Lyons asked about the first rate for 1/5 of a mile.

Mr. Earnest explained that was a standard in the taxi industry and the meter computed it. It was the same as the rest of the mileage charge and not a requirement by PRC.

Chairman Lyons asked Mr. Earnest if he owned part of the company. Mr. Earnest said he didn't.

Chairman Lyons asked how often he intervened.

Mr. Earnest said he had intervened probably 4-5 times. The certificates were very broad certificates and when transferred, they didn't have the same rights so often they intervened to obtain a stipulation.

Chairman Lyons asked how much he charged for interventions in 2010.

Mr. Earnest needed to look. He thought he probably billed for 6-7 hours. He agreed he was charging for today.

Commissioner Marks found the amount was \$2,700.

Chairman Lyons asked why the credit card amount was \$87,000.

Mr. Earnest said Sandia Shuttle sales were \$2 million that amount was for the bank charges.

The motion passed by unanimous (5-0) voice vote. So Ordered.

B. Utility Division Cases

**10-00272-UT IN THE MATTER OF THE APPLICATION OF NATURAL GAS PROCESSING
CO., THROUGH ITS OPERATING DIVISION, ZIA NATURAL GAS COMPANY,
FOR APPROVAL TO ACQUIRE TWO NATURAL GAS DISTRIBUTION**

SYSTEMS IN DOÑA ANA COUNTY.
(Bob Parker) Order

Mr. Parker presented information regarding this matter to the Commission.

Ms. Mercedes Wells was present for Zia Natural Gas Company.

Mr. Parker couldn't find his papers for this case. He said Mr. Schannauer presented this to the Commission last week regarding Zia acquiring two companies - one in Las Cruces and the other in Hatch. The Village of Hatch didn't want to run theirs any more so Zia would buy these 2 parts. Mr. Schannauer had recommended approval.

Commissioner Marks couldn't tell from RD if future rates would be set by averaging this system with Hobbs or if that was specified in the RD.

Mr. Parker said the idea was to let Zia look at it and come with a rate case.

Commissioner Marks posited that if it resulted in increased rates, that would be their reason to have the acquisition.

Mr. Parker said it wouldn't affect current Zia rates.

Commissioner Marks wondered about the future rates. The rule said it could not disadvantage current customers. In past cases the Commission looked at the net benefit for existing customers and required no increase in rates. He quoted from the bottom of page 5 of the RD and asked if it was asking the Commission to say it didn't know and didn't care.

Mr. Parker said it couldn't be operated now without that. That was in the public interest. Zia was willing to take the risk on for whatever the Commission did in the future rate case.

Commissioner Marks was looking for a statement that there would not be averaging among the systems if it resulted in increased rates. The standard was supposed to protect the existing folks and he didn't see that protection here. There was nothing, once the acquisition was approved, to stop that from happening legally.

Mr. Schannauer said the benefits were bringing something to the system that was not there now including financial resources to do capital improvements soon. They couldn't deal with rates now because they didn't have information but when it did come around they would know whether anybody would be subsidizing someone else.

Commissioner Marks asked if he thought it was okay for Hobbs to subsidize Hatch.

Mr. Schannauer replied that some subsidies were large and some were small.

Commissioner Marks had been through two acquisitions here and there were restrictions put in the order that current customers wouldn't be disadvantaged. That was done with TNMP from PNM. Not paying

higher rates was a condition of the acquisition.

He supported this acquisition but if it had some protection for existing customers.

Mr. Parker felt whatever happened in a rate case was now just speculation. He asked how they would know now that an increase would not be in the public interest.

Commissioner Marks said in PNM case the increase was kept to a modest amount after a 3 year protection.

Mr. Hirasuna agreed with Commissioner Marks about the Commission's precedent to protect existing customers. It was also one way in the Public Utilities Act to deal with it but it was not a requirement.

Commissioner Marks thought they were shooting in the dark here.

Ms. Wells related that when Mr. Hamilton acquired Hobbs, the rates were actually reduced. The issues were entirely different in acquisition.

Chairman Lyons asked her how many customers Zia would get with the acquisition.

Ms. Wells said it would be about 10,000.

Commissioner Marks said from what he read in the RD it appeared that economies of scale would help but he was not prepared to determine what that would be.

Commissioner Marks moved to amend the order to add that for 4 years after the acquisition, any potential increased cost for the Doña Ana acquisition could not materially increase rates for existing Zia customers.

He commented that might have to have separate rates until the expiration of that period. He didn't think the Commission should give Zia a blank check for the future. It was a time limit on protection.

Commissioner Becenti-Aguilar seconded the amendment.

Commissioner Marks made it clear that he supported the acquisition.

Commissioner Hall asked Ms. Wells if the previous acquisitions of Zia had those restrictions put on the approval.

Ms. Wells said they did not.

Commissioner Hall agreed with Commissioner Marks that in this order they could choose to increase all rates but he didn't believe their hands should be tied for 4 years. He believed that Zia's record showed that they always tried to lower the rates and not increase them. He also knew Mr. Hamilton would do a good job with it.

Commissioner Marks agreed to change the period of restriction from four years to three years.

Chairman Lyons thanked Zia for doing this - for coming to New Mexico and helping these people out. The Commission had to go back to being more business friendly in this state. Mr. Hamilton could tell end up telling the Commission to find someone else do this for them. The Commission needed to be more open for business.

The amendment to the order passed on a majority (3-2) voice vote with Commissioners Hall and Lyons voting against.

The order as amended passed by unanimous (5-0) voice vote. So Ordered.

Commissioner Hall noted that Zia Gas had no problems during last gas shortage.

Ms. Wells agreed that Zia didn't turn off any customer but had experienced some low pressures in Hobbs. In Ruidoso in the upper canyon 20 customers' gas service was lost from low pressure but was back on within an hour. She said the Hobbs gas came directly from a gas processing plant. They had to turn down the pressure from 600 to 350 and then turned up the regulators in those low pressure areas. They might get some balancing penalties for that but she didn't know for sure.

Zia also sent some staff members up to Española to help.

Chairman Lyons asked why some people intervened.

Ms. Wells said it was because of their close proximity to them. In one place their lines overlapped and Zia was aggressive about hooking up.

Mr. Clyde Wortham (representing NMGC) agreed they overlapped in two places - in Anthony and near Hatch.

8. REGULAR ACTION ITEMS

A. Utility Division Cases

**11-00042-UT IN THE MATTER OF THE MOTION BY NEW MEXICO GAS COMPANY, INC.
ASKING FOR VARIANCES FROM NMPRC RULE 630 REGARDING ITS 2011
RATE CASE.
(Rick Blumenfeld) Order**

Mr. Hirasuna presented this matter for Mr. Blumenfeld. Their base period should end 150 days before the new rate period. It ended September 30, 2010 so they would have to apply no later than February 18. They couldn't do so because of the investigations on the outages. Nobody objected so he recommended granting the variance for filing on March 20.

Commissioner Marks moved to approve the order. Commissioner Hall seconded the motion and it passed by unanimous (5-0) voice vote. So Ordered.

10-00295-UT

**IN THE MATTER OF THE APPLICATION OF NEW MEXICO GAS COMPANY
FOR APPROVAL OF 2011 ENERGY EFFICIENCY PROGRAMS AND
PROGRAM COST TARIFF RIDER PURSUANT TO THE NEW MEXICO PUBLIC
UTILITY AND EFFICIENT USE OF ENERGY ACTS.
(Margaret Caffey-Moquin) Order**

Ms. Caffey-Moquin presented information regarding this matter to the Commission. This was an uncontested case that the HE presented two weeks ago. She recommended approval of the programs. During the discussion Commissioners had questions that had arisen primarily based on 4th quarter information and asked NMGC to file more information which they did file on February 11 and was 15 pages long and had several things they asked the Commission to notice. The RD would still recommend approval and administrative notice of the information filed.

Two of the programs failed the Total Resource Cost (TRC) test for the prior year. The HE noted that too and her recommendation included the reason was low participation and recommended close monitoring of them. In Mr. Casey's affidavit he said part of reason for low participation was that they had long implementation periods for various practical reasons. NMGC didn't want to continue them but acknowledge the energy savings was high.

Commissioner Block moved to approve the order that supported the RD. Commissioner Becenti-Aguilar seconded the motion.

Commissioner Marks asked when they had to come back.

Ms. Caffey-Moquin said a filing must be made within one year of this order.

Commissioner Marks asked if that was with changes if they were not cost effective.

Ms. Caffey-Moquin agreed to check on that.

Commissioner Hall didn't necessarily agree to have NMGC evaluate themselves.

Ms. Caffey-Moquin clarified that all of the programs had to be audited by the independent evaluator.

Commissioner Hall asked how it worked that NMGC got \$3 million credit for these programs. NMGC recovered that \$3 million from rate payers so it was a subsidized program and NMGC was not out anything whatsoever. So the rate payers were doing this - not NMGC. Ms. Caffey-Moquin agreed.

Commissioner Hall asked if it was fair for one ratepayer to subsidize another.

Ms. Caffey-Moquin explained that the rule was what gave rise to these programs and that was caused

by the statute.

Commissioner Hall believed the ratepayers needed to know that they were paying the tab for these programs.

Chairman Lyons added that in 2011 costs would continue at \$3.28 million and using the dollar a therm. So for six years they would make up for that cost. That seemed to him like a bad business decision.

Mr. Steve Casey said they had to meet the statute on effective useful life on these programs. It was not just first year savings but the useful life. The new homes program had 20-30 year life so they met the TRC. Depending on which program, it was approximately 4-5 years.

Commissioner Hall said NMGC was spending \$3 million to save \$500,000.

Mr. Casey pointed out that it was gas they didn't have to purchase down the road.

Commissioner Marks said it appeared in the affidavit that one or both of the non-performing started getting activity toward the end of the year. Mr. Casey agreed.

Commissioner Marks agreed to support it but was getting tired when they didn't save what they thought they could save. He thought the standard should be higher next year.

The motion to approve the order passed by majority (4-1) voice vote with Commissioner Hall voting against. So Ordered.

**10-00086-UT IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE COMPANY OF
NEW MEXICO FOR A REVISION OF ITS RETAIL ELECTRIC RATES
PURSUANT TO ADVICE NOTICE NOS. 397 AND 32 (FORMERLY TNMP
SERVICES).
(Robert Hirasuna) Order**

Mr. Hirasuna presented information regarding this matter to the Commission on a motion filed by the AG, NMIEC and PNM. The option was for the HE to hear it or for the Commission to hear it. The consideration of the stipulation needed to be done quickly to change the rate on May 15, 2011. The procedural schedule would be established on May 12, 2011.

Other parties had come in and opposed the request with complicated legal issues and by saying they would prefer to have the HE hear the case. He pointed out that the tentative schedule was the shortest schedule the Commission could adopt.

If the Commission decided to reject the stipulation, the only option would be to go back to HE and there would not be enough time to do that.

No testimony had been filed and he didn't know exactly how complicated it would be. If needed, PNM

could file for interim rates and have the hearing. Then it could be extended for further consideration of the stipulation.

Mr. Hirasuna suggested in the motion to say they could file by May 15 but there would have to be a hearing on the request. The rates would be subject to refund.

Finally, there was some good reason to leave this with HE, Ms. Glick, since she had already started working on it.

Chairman Lyons noted this was the big PNM case and the Commission should stick with the procedures and not give opinions. He cautioned the Commissioners not to do that.

Commissioner Block moved to have it come before the Commission.

Commissioner Marks felt the stipulating parties were putting the Commission in a real bind with this proposal. He understood the reasons for it with cash flow etc. But there didn't seem to be time to provide due process to opposing parties with the May 15 deadline when testimony hadn't even been filed yet. Discovery and filing of testimony had to be done yet.

They would have to hold the hearing in mid to late April and he didn't see how it all could get done in time for a mid or late April hearing. And then the opposition could go to the Supreme Court to complain.

The real deadline was August. It would be a contested stipulation and possible that it could result in an order that was a litigated order. The law said it would be close to a litigated case.

Mr. Hirasuna said the New Mexico law was not very clear. Any contested stipulation would have to be supported by extensive evidence.

Commissioner Marks thought they could reject the stipulation and order the rates - that was possible legally.

Mr. Hirasuna agreed but was not sure the record would be there. The rates had to be based on the evidence.

Commissioner Marks agreed that on the interim rate question they were asking for rates based on phase one. He asked how much phase one would cost.

Mr. Hirasuna said \$45 million was the base rate increase. That would be a 5.7% increase.

Commissioner Marks added that it was also subject to refunds. If the Commission didn't go that route he wondered if they would need to require customer notice again. Mr. Hirasuna didn't think so - just hold a hearing.

Commissioner Marks favored Mr. Hirasuna's recommendation. There was no easy course but this was probably the best among bad alternatives to hold a hearing and not force the parties into litigation.

Commissioner Marks thought if it was just rate, the Commission could do it but a consumer was contesting cost of service.

Chairman Lyons said on page 2 in the final order he didn't see how they could meet the deadline of May 12th.

Mr. Hirasuna said the response itself said if the Commission couldn't do that, to consider interim rates. He clarified that there was no schedule. Page 2 was what PNM proposed. Chairman Lyons understood.

Mr. Hirasuna said they needed to address the suspension period; not the schedule.

Commissioner Marks suggested what Mr. Hirasuna recommended earlier that the Commission could hear the interim case but leave the main case with Ms. Glick. There were 7 days scheduled for hearing. The main case ought to be with her. If the Commission proceeded down the interim rate route but said no to them at that time, the stipulation might be withdrawn. They couldn't approve the interim rates until the hearing.

Commissioner Marks thought they would need a month for testimony and opposition or ix weeks. He was trying to figure out a length for suspension.

Mr. Hirasuna contemplated that parties would have the chance to argue the procedural schedule and put suspension out that length of time (as long as needed) or withdraw the stipulation. There was uncertainty because of the refund.

Mr. Pat Ortiz (representing PNM) began a statement on time needed to pursue the stipulation.

Mr. Hirasuna cautioned him not to give testimony on this matter.

Mr. Jeff Taylor (NMAG) said normally he would object to anyone arguing and he objected to this unless the Commission agreed to hear from everyone.

Mr. Ortiz understood.

Chairman Lyons said the stipulation, if approved, would be heard by Ms. Glick and they would hear the interim and the time table would be dealt with.

Commissioner Marks thought they should address that and maybe would not even want to issue an order today but state that the HE should hear the stipulation and the Commission could hear the company's request for interim rates. They needed to get the parties together to talk about procedures.

Ms. Glick had a pre-hearing conference last Friday and received input from all parties and could now issue a schedule. She agreed with Mr. Hirasuna that if the stipulation was rejected there wouldn't be time for the August 10th deadline. She was ready to go with the procedures.

Commissioner Marks thought they could make it contingent upon PNM's willingness to extend the

period if they needed to litigate it. Mr. Hirasuna agreed.

Chairman Lyons felt they needed to get this one right and asked if they should wait until Tuesday.

Commissioner Marks agreed.

Chairman Lyons asked Mr. Hirasuna to put it first on Tuesday's agenda. Mr. Hirasuna agreed.

9. DISCUSSION ITEMS

A. Utility Division Cases

**07-00442-UT IN THE MATTER OF AN INVESTIGATION OF NON-TARIFFED CHARGES OF
INSTITUTIONAL OPERATOR SERVICE PROVIDERS.
(Mary Howells)**

This matter was tabled under Approval of the Agenda.

10. COMMUNICATIONS WITH GENERAL COUNSEL, ROBERT HIRASUNA

There were no communications with General Counsel.

11. COMMUNICATIONS WITH ACTING CHIEF OF STAFF, JOHNNY MONTOYA

Mr. Montoya said the Commission had a statutory obligation over ski lifts and chairs.

Mr. Gutierrez briefly explained what was needed. There was a requirement in 24 Art 15 Sect 1 that required those operators to file an affidavit with the PRC agreeing to financial responsibility to pay all final judgments resulting from negligence of the operator and the insurance was based on the kind and number of lifts. To his knowledge the PRC had not promulgated a rule on the prescribed form.

The statute didn't mention which division to file with but the form looked like a Form E and talked about passengers but the ski section didn't mention the Motor Carrier Act in any way. So was it Insurance or Transportation or neither of those.

Commissioner Marks asked if the PRC had done nothing on its responsibilities under the ski act or the Corporation Commission.

Mr. Gutierrez agreed. They had not received anything from any ski areas.

Chairman Lyons asked when that was passed.

Mr. Gutierrez said it passed in 1960 and was amended three times afterward.

Commissioner Marks had a constituent complain about conditions at a ski area and he had asked for staff to confirm whether the Commission had responsibility and/or were doing anything.

There were two problems. They had a statute and constituents complaining about an unsafe ski area.

Chairman Lyons asked if they would report to CID.

Mr. Gutierrez confirmed that financial responsibility was solely the PRC's authority.

Commissioner Marks agreed but lift safety inspections should be filed somewhere.

Commissioner Hall said if they were not certified, they could not be operated. He didn't know who would certify them but offered to find out.

Chairman Lyons asked that staff do a little investigation.

Commissioner Marks said they should come up with a proposal for the next legislative session so no ski operator would be violating the law.

Mr. Montoya said they had the final audit report now and Mr. Lovato would address it. He handed out copies of the report to each Commissioner.

Mr. Lovato said it was not complete. This was a copy of the financial statements. In the back were two findings that starting on page 82. One was the cash deposit within 24 hours rule that had been an ongoing problem in the Insurance Division. The other was a new finding for the damage prevention grant that was never picked up in 2010. What happened was that the Commission got an award but with the pipeline bureau's staff change with a chief leaving and a new one coming on they never completed the rest of the grant. This was the last time it would be a finding for the PRC.

Regarding the cash deposits, they were looking at the corporations' module for electronic deposits. Vacancies in IT delayed it and once that was filled they would complete the pilot to do web based collections.

Commissioner Block asked, upon filling the IT vacancies, what the time line would be to get this up and running. It wasn't fun to have that ding over their heads.

Mr. Lovato said currently they had an offer and should have it done in two weeks and the others within 4-5 weeks.

Commissioner Block thought they should keep an eye of this and have the Chief of Staff report on it. Chairman Lyons agreed.

Mr. Lovato clarified that they did the financial statements in-house now. Moss Adams was their auditor.

They would go out for RFP. Moss -Adams said this was the best audit since they started doing them. The State Auditor determined the cost. The PRC budgeted \$68,000 and this one cost \$68,000.

Chairman Lyons thought only two findings was very good. That showed the Commission that the staff were making sure they abided by the requirements. He asked how much the Commission collected last year.

Mr. Lovato said it was over \$300 million and all of it was accounted for.

Chairman Lyons thought the media should pick up on that.

Commissioner Marks thanked Mr. Lovato for the good work. They saved money and were doing better work.

Mr. Montoya passed out a copy of the Code of Conduct.

Commissioner Becenti-Aguilar said while they were meeting with the LFC one of the members asked if the PRC had ethics guideline and she said they did. This one was adopted in 2007 and she thought they might wish to make changes to it. They had a chance to do that now because we would soon be meeting with legislators.

Chairman Lyons agreed that they should update this 2007 document. He asked Mr. Montoya to get with each of the commissioners for any changes.

Commissioner Block thanked Commissioner Becenti-Aguilar for keeping their reputation in mind. Commissioner Marks was right. If no changes were made they should still have a signature page to acknowledge they would abide by it.

- **Discussion of the Ute Pipeline Project**

Mr. Jerman presented the project to the Commission. A high need for water was being furnished by groundwater there that was being depleted. The legislature created a new water authority in Eastern New Mexico and that gave tools to transport water from the reservoir to communities. This recommended that the Chief of Staff sign a contract to audit their work. Staff drafted a proposed contract and presented it in December twice and the Commission basically favored it but was concerned that the audit was not independent enough.

The auditor for Clovis (the fiscal agent) was being proposed to do it but the Commission thought he might not be independent enough. In the attachment, all seven communities supported having this auditor do it. Farley Benner was the auditor.

He would be able to provide it within a couple of weeks because he was familiar with the books.

Chairman Lyons asked him to have it ready. They were trying to get the Senate Bill passed that would fund it.

Commissioner Marks said the committee meets tomorrow and he could be there to support it.

Chairman Lyons supported him doing that.

Commissioner Marks moved to approve the contract. Commissioner Hall seconded the motion and it passed by unanimous (5-0) voice vote.

12. COMMUNICATIONS WITH COMMISSIONERS

- **Presentation on LNG Peak Shaving Facilities by Spiro G. Vassilopoulos**

Mr. Vassilopoulos came forward and Mr. Montoya handed out a packet on it.

He introduced himself as an independent gas and oil producer to talk about peak shavers. He was a 4-year client of LNG. Gas demand recently went through the roof and resources disappeared. This device almost guaranteed no shortage again for the state. The facility should be somewhere in central New Mexico. It was a gas warehouse for gas in frozen state. The first one was built in 1955.

He went through the benefits - economic, could allow gas to be used as motor fuel and to guard against supply interruptions. He had brochures for the Commission. Mr. Eric Fry could expand on it for the Commission. He was in Houston and could visit in the next few weeks.

Commissioner Marks asked what the capacity of the freezer was.

Mr. Vassilopoulos said it was "essentially a function of how much take away you want. Mr. Hatch in Roswell said they could do 100 million cubic feet per day so that would be 1.5 billion cubic feet of natural gas when vaporized.

Commissioner Marks asked what it would cost.

Mr. Vassilopoulos said it would cost \$150 million.

Chairman Lyons asked if he had spoken with the gas company.

Mr. Vassilopoulos said he had never met a utility that wanted a rate based asset.

Commissioner Marks said that would cost about \$15 million per year and there were 700,000 customers.

Mr. Vassilopoulos estimated about \$40 per customer. Natural gas for cars would be about 25% of gasoline costs. Dallas and Fort Worth vehicles used LP Gas. Liquified was much better than compressed natural gas. It was ultra clean fuel.

Mr. Vassilopoulos said the Federal Regulator Commission had a BTU limit on various gases. 99% was

methane. LNG facilities, if you don't cycle the storage, could get a small methane build up but for the most part it was not an issue. It had a rated life of 25 years but could last much longer.

Chairman Lyons asked Mr. Stephenson to include an investigation into the peak shaver as part of the ongoing investigation.

- **Presentation on Jet Stream Wind by Commissioner Jerome D. Block**

Commissioner Block shared details on this new renewable project in Rio Arriba County using 14,400 concentrating solar dishes on 400 acres to produce 144 megawatts and the project would provide 150 construction jobs and 60 jobs thereafter. The company would collaborate with local colleges on curriculum changes for the future.

He introduced Mr. Henry Herman looking for a letter of support.

Mr. Herman said they expected to manufacture solar concentration devices. They had letters of support from other entities and were seeking one from the PRC.

One economic benefit was that the company would be donating one dish to a resident for every 100 manufactured in Santa Fé. That was worth \$15,000 and they expected to manufacture 100 per day.

Commissioner Block asked how large they were.

Mr. Herman said they were 16' in diameter. They were about the size of television satellites of the 1980s.

Commissioner Marks asked if they had licensing from SES or Infinia.

Mr. Herman said they were not. Neither SES nor Infinia manufactured a size of dish that would comply with residential markets. They partnered with Microgen in UK who would move their facilities to Santa Fé from the UK and have facilities besides Jet Stream. They now had a prototype for 1KW and 3.5KW to reduce development time. They would put 5 such engines in a single dish.

They had their full funding already and hoped to break ground in late April and start manufacturing solar dishes at the same time in Santa Fé. They had a prototype in their shop now and invited the Commission to visit.

Commissioner Block felt the effects for renewable energy and economic benefit were tremendous. He thanked Mr. Herman for also making an effort with the colleges to bring in a curriculum. This would make a difference.

Commissioner Block asked for agreement from the Commission to sign off on his letter to support their efforts.

Chairman Lyons agreed to sign it. He asked if Jet Stream had a purchased power agreement.

Mr. Herman said he was in negotiation with four power companies at one time for a power purchase agreement. A letter of support from the PRC would help. They would like to keep the electricity local but could transmit it to California if necessary.

Mr. Stephenson asked how many MW they would produce.

Mr. Herman said it was 144 MW.

Commissioner Marks clarified that he supported the project but might not sign the letter because they might come here for approval and he must be unbiased since the utilities could come to the PRC for regulatory approval. They could support the manufacturing side of it. He didn't want the Commission to interfere by prejudging something for your PPA if there was another one at a lower rate.

Chairman Lyons said they could support the manufacturing project and the company production of solar electricity but not the PPA.

Mr. Stephenson agreed to work with them on a letter of support.

Chairman Lyons announced that the PRC budget came out well in HB 2.

They were also looking into two guys with independent investigation skills to do the investigation.

13. ADJOURNMENT

Commissioner Marks moved to adjourn the meeting. Commissioner Hall seconded the motion and it passed by unanimous voice vote.


The meeting was adjourned at 12:00 p.m.

ATTEST:




Carl Boaz, Stenographer

APPROVED: 03/22/2011



PATRICK H. LYONS, CHAIRMAN



JEROME D. BLOCK, VICE CHAIRMAN



THERESA BECENTI-AGUILAR, COMMISSIONER



JASON A. MARKS, COMMISSIONER



BEN L. HALL, COMMISSIONER



BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

**REGULAR OPEN MEETING
Thursday, February 17, 2011
9:30 A.M.**

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

AMENDED AGENDA

- 1. PLEDGE OF ALLEGIANCE**
- 2. INTRODUCTIONS**
- 3. MISCELLANEOUS ANNOUNCEMENTS**
 - **Recognition of the Employee of the Month of January**
- 4. CONSIDERATION AND APPROVAL OF THE AGENDA**
- 5. CONSIDERATION AND APPROVAL OF MINUTES**
 - **Minutes of the Regular Open Meeting of January 20, 2011**
 - **Minutes of the Regular Open Meeting of January 25, 2011**
- 6. PUBLIC COMMENT**
- 7. CONSENT ACTION ITEMS**

A. Transportation Division

10-00381-TR-R Robert Parker	IN THE MATTER OF THE APPLICATION OF CAPITAL CITY CAB/VILLAGE TAXI, INC., D/B/A CAPITAL CITY CAB, FOR A TARIFF RATE INCREASE. <u>Order</u>
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B. Utility Division

10-00272-UT Bob Parker	IN THE MATTER OF THE APPLICATION OF NATURAL GAS PROCESSING CO., THROUGH ITS OPERATING DIVISION, ZIA NATURAL GAS COMPANY, FOR APPROVAL TO ACQUIRE TWO NATURAL GAS DISTRIBUTION SYSTEMS IN DOÑA ANA COUNTY. <u>Order</u>
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8. REGULAR ACTION ITEMS

A. Utility Division Cases

11-00042-UT Rick Blumenfeld	IN THE MATTER OF THE MOTION BY NEW MEXICO GAS COMPANY, INC. ASKING FOR VARIANCES FROM NMPRC RULE 630 REGARDING ITS 2011 RATE CASE. <u>Order</u>
10-00295-UT Margaret Caffey-Moquin	IN THE MATTER OF THE APPLICATION OF NEW MEXICO GAS COMPANY FOR APPROVAL OF 2011 ENERGY EFFICIENCY PROGRAMS AND PROGRAM COST TARIFF RIDER PURSUANT TO THE NEW MEXICO PUBLIC UTILITY AND EFFICIENT USE OF ENERGY ACTS. <u>Order</u>
10-00086-UT Robert Hirasuna	IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE COMPANY OF NEW MEXICO FOR A REVISION OF ITS RETAIL ELECTRIC RATES PURSUANT TO ADVICE NOTICE NOS. 397 AND 32 (FORMERLY TNMP SERVICES). <u>Order</u>

9. DISCUSSION ITEMS

A. Utility Division

07-00442-UT Mary Howells	IN THE MATTER OF AN INVESTIGATION OF NON-TARIFFED CHARGES OF INSTITUTIONAL OPERATOR SERVICE PROVIDERS.
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10. COMMUNICATIONS WITH GENERAL COUNSEL, ROBERT HIRASUNA

11. COMMUNICATIONS WITH ACTING CHIEF OF STAFF, JOHNNY MONTOKA

- Legislative matters
- Discussion of the Ute pipeline project

12. COMMUNICATIONS WITH COMMISSIONERS

- Presentation on LNG Peak Shaving Facilities by Spiro G. Vassilopoulos
- Presentation on Jet Stream Wind by Commissioner Jerome D. Block

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.