

**MINUTES OF THE  
REGULAR OPEN MEETING  
NEW MEXICO PUBLIC REGULATION COMMISSION  
May 22, 2012**

**TIME: 9:30 a. m.**

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

A quorum was present as follows:

**Members Present:**

Commission Chairman Patrick H. Lyons  
Commissioner Vice Chair Theresa Becenti-Aguilar  
Commissioner Jason A. Marks  
Commissioner Douglas J. Howe

**Members Absent:**

Commissioner Ben L. Hall [excused]

**Staff Present**

Johnny Montoya, Chief of Staff  
Robert Parker, Deputy Chief of Staff for Legal Affairs  
Roy Stephenson, Utility Division Director  
Larry Luján, Transportation Division Director  
Patrick López, Legal Division Director  
Avelino Gutierrez, Legal Division  
Yolanda Dominguez, District 5 Executive Administrator  
Danielle Durán, District 1 Executive Administrator  
Arthur Bishop, 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**

Mr. Montoya announced that Ms. Durán brought donuts in honor of Commissioner Marks's birthday (yesterday). The Commission wished him a happy birthday.

Chairman Lyons announced that Commissioner Hall was in Ruidoso to address the Kiwanis Club and excused from the open meeting.

**4. CONSIDERATION AND APPROVAL OF THE AGENDA**

Chairman Lyons added a closed session for limited personnel matters.

**Commissioner Marks moved to approve the agenda as amended. Commissioner Becenti-Aguilar seconded the motion and it passed by unanimous (4-0) voice vote.**

**5. CONSENT ACTION**

**A. Utility Division**

**11-00049-UT      IN THE MATTER OF THE APPLICATION OF ALBUQUERQUE TROLLEY &  
DOUBLE DECKER CO., LLC, D/B/A ALBUQUERQUE TROLLEY CO., FOR A  
RATE INCREASE.  
(Bob Parker)    Order**

Commissioner Marks moved to approve the order. Commissioner Becenti-Aguilar seconded the motion and it passed by unanimous (4-0) voice vote.    So Ordered.

**6. REGULAR ACTION**

Mr. Parker noted that the OGC staff were currently reviewing all cases in which nothing had been done for over a year. Some were still alive in that category. He prepared a stock order that closed the case without prejudice and if anyone wanted it reopened they could ask for it to be reopened.

#### **A. Transportation Division**

**07-00070-TR-EN    IN THE MATTER OF THE PETITION OF COMMISSION STAFF FOR AN ORDER TO SHOW CAUSE WHY RUNNING BEAR RESCUE, INC, D/B/A ROCKY MOUNTAIN EMS IS NOT IN VIOLATION OF THE MOTOR CARRIER ACT AND RULES OF THE NEW MEXICO PUBLIC REGULATION COMMISSION.  
(Bob Parker)    Order Closing Docket**

Mr. Parker presented information regarding this matter to the Commission. This was from a 2008 show cause order by staff. It was assigned to HE James Martin and nothing had happened since 2009.

Commissioner Marks said the format was fine and had no problems with any of them but had some concerns about this one with Running Bear. This hadn't had anything done because the Commission never brought it to a vote.

He was not sure why the Commission didn't do anything for two years but it was recommended for a \$1,000 fine suspended and ordered the CCN be amended to show they were not serving Las Vegas. The time now had passed and the fine was released and the order just needed to approve the RD.

Mr. Parker said so much had happened since then with Rocky Mountain EMS.

Commissioner Marks agreed. Things had superseded it. It wasn't that no one had done anything.

Mr. Parker said it was up to the Commission.

Commissioner Marks said the other case was designed to address the question of Albuquerque Cab where drivers were lessees of the vehicle. He couldn't remember the details but staff and Commission were concerned because they weren't sure the rules properly captured everyone's responsibilities.

He asked if Transportation staff agreed.

Mr. Luján said the staff position was that leases had nothing to do with what Albuquerque Cab was doing.

Commissioner Marks concluded that as long as we all agree staff was correct the Commission didn't need to do anything else.

Mr. Parker added that if they did, the cases could be reopened.

Commissioner Marks asked if Rocky Mountain EMS filed an amended CCN excluding Las Vegas.

Mr. Luján said they did not.

Mr. Gutierrez said all Rocky Mountain would have to do is file their original petition and Transportation could amend it to exclude Las Vegas.

Mr. Luján reminded the Commission that they were violating some PRC rules there and San Miguel County came and asked that the PRC stop their authority there.

Commissioner Marks said until the CCN was amended, they could still be in San Miguel County if they wanted to be. They were still operating in Santa Fé. The RD said what they had to do and Rocky Mountain filed no exceptions.

Commissioner Howe asked if it was too far gone to act on the RD.

Mr. Parker said it was legally not too late but it seemed wrong to do that.

Commissioner Howe was sensitive to that feeling. It was "two years later - gotcha." He wondered if the Commission could just close it out and perhaps staff could do a show cause.

Commissioner Marks felt that would just create more work. The RD was from May 2010. So get rid of the fine. They are not operating in San Miguel today.

Commissioner Howe said he could support Commissioner Marks's proposal.

Chairman Lyons thought they should adopt the order as is and he didn't know if the protest was valid to start with. The Commission should just dismiss it and move on.

Mr. Luján said if the Commission just closed it, Rocky Mountain wouldn't have to re-apply. This order would change it. Mr. Parker agreed.

**Commissioner Marks moved to approve this and the following two orders (08-00389-TR-P) and (08-00342-PL) and in this case (07-00070-TR-EN) to amend the order with a new paragraph between 2 and 3 in that finds that the intervening time has rendered the imposed and suspended fine as moot but requires changes to the CCN. The order would change their CCN to exclude the City of Las Vegas and could require the company to file their paperwork.**

Mr. Gutierrez said the order would require them to surrender their current CCN and we would reissue a new certificate omitting the City of Las Vegas.

Commissioner Howe seconded the motion and it passed by unanimous (4-0) voice vote. So Ordered.

**08-00389-TR-P      IN THE MATTER OF ADOPTION OF PROPOSED AMENDMENTS TO THE  
COMMISSION'S MOTOR TRANSPORTATION RULES**

**(Bob Parker) Order Closing Docket**

The order for this case was approved in the previous motion.

**B. Pipeline Safety Bureau**

**08-00342-PL      IN THE MATTER OF THE PUBLIC REGULATION COMMISSION'S  
JURISDICTION OVER ON-CALL NOTIFICATION SYSTEM INCLUDING PUBLIC  
AWARENESS PROGRAMS UNDER § 62-14-7-1, NMSA 1978.  
(Bob Parker) Order Closing Docket**

There was a workshop held in 2008 and nothing happened after that so it should be closed out.

The order for this case was approved in the previous motion.

**7. PUBLIC COMMENT**

There were no public comments.

**8. COMMUNICATIONS WITH DEPUTY CHIEF OF STAFF FOR LEGAL AFFAIRS, BOB PARKER**

There were no communications with Deputy Chief of Staff for Legal Affairs.

**9. COMMUNICATIONS WITH CHIEF OF STAFF, JOHNNY MONTROYA**

There were no communications with Chief of Staff.

**10. CLOSED EXECUTIVE SESSION      Pursuant to NMSA 1978 Section 10-15-1.H(2) to discuss  
limited personnel matters.**

**Commissioner Marks moved to go into executive session to discuss limited personnel matters. Chairman Lyons seconded the motion and it passed by unanimous roll call vote with Commissioner Becenti-Aguilar, Commissioner Howe, Commissioner Lyons and Commissioner Marks voting in favor and none voting against.**

The Commission went into at 10:04 a.m.

The Commission went back to open session at 10:20.

Commissioner Marks moved to return to open session. Commissioner Becenti-Aguilar seconded the

motion and it passed by unanimous (4-0) voice vote.

Chairman Lyons announced to the public that during the executive session no actions were taken and the only matter discussed was a personnel matter in which employees who had been given administrative leave in order to vote in an election didn't go to vote.

#### **10. COMMUNICATIONS WITH COMMISSIONERS**

There were no communications with Commissioners.

#### **11. ADJOURNMENT**

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

The meeting was adjourned at 10:20 a.m.

ATTEST:



Carl Boaz, Stenographer

APPROVED: May 31, 2012



PATRICK H. LYONS, CHAIRMAN



THERESA BECENTI-AGUILAR, VICE CHAIR

EXCUSED

JASON A. MARKS, COMMISSIONER



BEN L. HALL, COMMISSIONER



DOUGLAS J. HOWE, COMMISSIONER







## NEW MEXICO PUBLIC REGULATION COMMISSION

### REGULAR OPEN MEETING

Tuesday, May 22, 2012

9:30 A.M.

PERA Building, 4<sup>th</sup> 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. CONSENT ACTION

#### A. Utility Division

11-00049-UT Bob Parker	IN THE MATTER OF THE APPLICATION OF ABQ TROLLEY & DOUBLE DECKER CO., LLC, D/B/A ABQ TROLLEY CO., FOR A RATE INCREASE.  <u>Order</u>
---------------------------	---

#### 6. REGULAR ACTION

##### A. Transportation Division

07-00070-TR-EN Bob Parker	IN THE MATTER OF THE PETITION OF COMMISSION STAFF FOR AN ORDER TO SHOW CAUSE WHY RUNNING BEAR RESCUE, INC., D/B/A ROCKY MOUNTAIN EMS, IS NOT IN VIOLATION OF THE MOTOR CARRIER ACT AND RULES OF THE NEW MEXICO PUBLIC REGULATION COMMISSION.  <u>Order Closing Docket</u>
------------------------------	---

08-00389-TR-P Bob Parker	IN THE MATTER OF ADOPTION OF PROPOSED AMENDMENTS TO THE COMMISSION'S MOTOR TRANSPORTATION RULES.  Order Closing Docket
-----------------------------	--

7. B. Pipeline Safety Bureau

08-00342-PL Bob Paker	IN THE MATTER OF THE PUBLIC REGULATION COMMISSION'S JURISDICTION OVER ONE-CALL NOTIFICATION SYSTEM INCLUDING PUBLIC AWARENESS PROGRAMS UNDER §62-14-7.1, NMSA 1978.  Order Closing Docket
--------------------------	--

8. PUBLIC COMMENT

9. COMMUNICATIONS WITH DEPUTY CHIEF OF STAFF FOR LEGAL AFFAIRS,  
BOB PARKER

10. COMMUNICATIONS WITH CHIEF OF STAFF, JOHNNY MONTOYA

11. COMMUNICATIONS WITH COMMISSIONERS

12. ADJOURNMENT

---

The Commission will make reasonable efforts to post the agenda on the Commission's website 36 hours before the open meeting, but the inability to do so within the 36 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 (827-4084) AS SOON AS POSSIBLE PRIOR TO THE COMMENCEMENT OF THE OPEN MEETING.**