

**MINUTES OF THE
REGULAR OPEN MEETING FOR ADMINISTRATIVE MATTERS
NEW MEXICO PUBLIC REGULATION COMMISSION
June 20, 2012**

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
Commissioner Vice Chair Theresa Becenti-Aguilar
Commissioner Jason A. Marks
Commissioner Ben L. Hall
Commissioner Douglas J. Howe

Members Absent:

Staff Present

Johnny Montoya, Chief of Staff
Robert Parker, Deputy Chief of Staff for Legal Affairs
Matthew Lovato, CFO
Roy Stephenson, Utility Division Director
John Standefer, State Fire Marshal
Jim Williamson, CRD Division Director
Stacy Starr-Garcia, Corporations Bureau Chief
Larry Luján, Transportation Division Director
Patrick López, Legal Division Director
Bill Hermann, Chief Hearing Examiner
Nanda Kumar, CIO
Hughanne Maxwell-Loux, HR
Arthur Bishop, PIO

Others Present

Carl Boaz, Stenographer

CALL TO ORDER

The Regular Open Meeting for Administrative Matters 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

Chairman Lyons introduced Mr. Chris Ocksrider, Republican candidate for PRC District 1.

The Commission welcomed him.

3. MISCELLANEOUS ANNOUNCEMENTS

Chairman Lyons announced the PRC picnic next Thursday on the lawn.

4. CONSIDERATION AND APPROVAL OF THE AGENDA

Commissioner Marks moved to approve the agenda as amended with the financial report postponed to next Tuesday. Commissioner Hall seconded the motion and it passed by unanimous (5-0) voice vote.

5. PRESENTATIONS

a. Utility Division Presentation

Mr. Stephenson provided a handout of the Utility Division presentation for each of the Commissioners. A package electronically shared also gave the facts of the division and all personnel. For background, in 1985 the state renovated Marian Hall for the Utility Division and then it became part of the PRC.

Utilities in New Mexico dealt with \$2-3 billion that the Utility Division oversaw. The Division's collections were between \$13-15 million annually which was bigger than the PRC budget. The main thing the Division did was apply a diversity of professional expertise for everything that comes before the Commission. 103 cases were on Infoshare now that staff analyzed and provided to the Commission. No one else dealt with that many cases. Staff went through every piece of paper line by line and found everything that was hidden - things that should be disallowed.

He introduced the members of the Utility Division to the Commission. Their average experience was 30 years in the industry. He started with Bureau Chiefs. Mike Ripperger was Telecommunication Bureau Chief with the PRC for 15 years. He was chairman of the Information Technology Task Force. He introduced Mark Cessarich who had 12 years with the PRC. Mr. Cessarich also helped with the tribal taxation exemption issue. Eugene Evans had 5 years here as Engineer. Georgette Ramie was an accountant. Ruby Rohrs had 15 years and dealt with tariffs, databases and the \$15 million of fees. Ken Smith had 30 years' tenure and was an expert on USF and a premiere researcher.

Commissioner Marks noted that the Commission worked on redundant lines for Qwest and it was pretty rare now to see outages. But there was an outage in Windstream several times a year. He asked Mr. Ripperger if there was something the Commission should be doing on it.

Mr. Ripperger said it was mostly a loss of 911. Staff did question whether it was a failure in interoffice facilities which was part of SASA or something else. He didn't have enough detail on it yet.

Commissioner Marks asked that someone look into it further and try to figure out what could be changed to provide more reliability. Fire was a reason beyond their control. They needed to have a system that was resilient from that kind of problem.

Mr. Ripperger said they asked Windstream for an update on redundant facilities. Windstream did help greatly in the Little Bear fire.

Mr. Stephenson added that Windstream acquired some rundown facilities but still had an obligation to provide redundancy.

Commissioner Marks thought even if that came from microwave towers, it could at least support 911 services. They seemed to do a good job in recovering under adverse condition but they didn't have a financial incentive to invest in reliability except to keep it just good enough to avoid complaints.

Mr. Evans said Windstream made a concerted effort to upgrade those facilities. Staff worked closely with Bill Garcia as they took those steps and then did follow up as well. They were trying and have responded to the PRC.

Gas, Water & Wastewater Bureau Chief was Steve Schwebke. Mr. Schwebke had a 2 person staff - Phillis Stevens was sick but Timothy Martinez was present. Both had been with the PRC since 2005. They were accomplished in this engineering section. Tim had a degree in mechanical engineering and was not yet licensed. He was the case coordinator for the NMGC issues and had developed a lot of expertise on gas industry. He was also coordinator for Epcor Water Company. The PRC was happy with his progress and confident in his abilities with those large companies.

Ms. Stevens, the other engineer had much experience - some with NMED and in New Mexico worked in Regulation and Wastewater; WIPP, and had private engineering firm experience. She had a number of books published. Mr. Schwebke relied on her expertise. In the last year they had to deal with a myriad of small companies - water systems that should be regulated. She helped them get a certificate filing before

the Commission.

Bruno Carrara was Electrical Engineering Bureau Chief. Mr. Carrara prepared the chart for the Commission. He understood how the plants were constructed and the Division relied on him for rates.

Mr. Carrara introduced Jack Sidler as his staff member. He was an officer in the USAF, studied at UNM and was getting licensed. His main expertise was on the distribution and transmission side. He did CCNs and rate cases and handled complaints about quality of service.

Mr. Stephenson referred to the schematic on rate case application and Mr. Carrara reviewed it with the Commission. He explained the roles of the team coordinator, lawyers, engineers, economists and accountants.

Mr. Stephenson said they had a matrix that showed every company so when a filing came in they knew where to send it. The team process integrated with it.

Commissioner Howe liked the illustration on the rate case. He asked if Mr. Carrara felt his team was adequately staffed to handle the huge numbers of rate cases.

Mr. Carrara believed they were capable of handling the load.

Commissioner Howe clarified that he wondered if the Bureau could provide all the testimony required.

Mr. Carrara said the two of them were handling it but it was impossible to keep up with all the information.

Mr. Stephenson added that their staff was able to stand up to companies because of their expertise.

Commissioner Howe asked if there was any hope of getting rate cases done within the time frame.

Mr. Carrara thought there was that possibility but couldn't say how they would accomplish that.

Commissioner Howe asked what Commissioners could do to help speed it up.

Mr. Stephenson said the complexity and interventions lengthened it.

Commissioner Marks asked about how much PNM spent on their last rate case. Mr. Carrara said it was \$4 million.

Commissioner Marks said the cost of service was not being recovered. SPS spent \$2 million in theirs. And the PRC assigned 4-5 people on it and might spend \$300,000 on it so it wasn't a level playing field. They needed for the utilities to stop spending so much of the ratepayers' money on these rate increases. Their witnesses overlapped each other and they brought in outside experts. It was not the time for reforming that but it would be better if staff could make an issue of it and tell the utilities that their expenses were unreasonable.

Mr. Stephenson said the utility had the burden to prove it. Staff had to pick what they had the expertise to address.

Commissioner Marks noted it had increased greatly. They spent \$800,000 8 years ago and now spending \$4 million.

Mr. Carrara said historically staff had greater flexibility to bring in outside experts and now there were no funds to allow that. That had left it on staff resources to deal with it.

Commissioner Hall felt it was imprudent for rate payers to have to cover \$4 million in lawyer fees for rate increases when it didn't benefit the rate payers at all.

Mr. Stephenson thought with more time and resources they could address the reasonableness of it.

Commissioner Hall said something needed to be done about it.

Mr. Stephenson said the Utility Division collected the money to regulate the companies but didn't get as much staff as needed.

Commissioner Hall said that needed to be changed also.

Mr. Parker didn't think it was just the utilities that needed to shorten the process but the Commission could deal with that too. The PRC gave a lot more due process than the courts did. A judge could limit the testimony in the court.

Economic Bureau Chief Jim Brack was on vacation.

Mr. Stephenson said Mr. Brack had great institutional knowledge and did all consumer drafting.

Mr. Chávez was his expert witness in a case on rural coops. (Not present).

Ms. Elisha Leyba-Tercero was also a new member - economist. She had experience with other government entities and was good at keeping up with rest of state government. She would help with FIRs and bill analysis during the legislative session.

Thomas Patin was senior member of the Economic Bureau. He served many years as attorney in the oil and gas industry.

Mr. John Reynolds was a utility double hitter who started in telecommunications. He was on the M&V Committee and they were about ready to respond on the RFP looking at a 3 year contract.

Mr. Anthony Sisneros had a background in statistical development. He knew how to allocate costs appropriately and what rate design should be used.

Commissioner Becenti-Aguilar asked about Marc Martínez. Mr. Stephenson said although he was on the organization chart his position was moved to another division.

Mr. Charles Gunter was the Accounting Bureau Chief. He started as an economist and then became chief. He now had 2.5 staff (Dwight Lamberson was shared with Telecom on future test year cross-training.)

Mr. Vincent Decesare had a CPA and had worked here for 18 years having come to the PRC when the Corporations Commission merged.

Ms. Martha Perkins was a newcomer to the agency (joined in May) but had 30 years' experience with LANL and City of Los Alamos in accounting and rate setting.

Mr. Dwight Lamberson had an extensive background in planning, rate case analysis and extensive work in approving energy programs as well as legislation in renewable energy. He was technically in the accounting bureau but also had to deal with legal issues, etc. He had an extensive background in utilities industry before coming here.

Mr. Stephenson said the Utilities Division had the smallest support staff. They were devastated when they lost their other position and were grateful for Reggie Padilla's work. She keeps track of all 20 staff members. He was proud of the team despite the budget and regulatory difficulties. The Commission made the decisions based on the record and his staff made the record.

Commissioner Hall said the Utility staff did a great job and he appreciated it. Chairman Lyons agreed.

b. Fleet Department Presentation

Mr. Lovato provided a hand out of vehicles in PRC inventory. They worked out a plan on maintenance and assignment of vehicles. Some vehicles were assigned to individual staff in order to do their jobs. They still went through the check-out process and didn't have to transfer equipment from one vehicle to another.

On maintenance and repairs he asked each division to help with the routine maintenance like oil change and wiper blade replacement. For other things he got three quotes, working with that employee to make sure the PO gets submitted.

All vehicles have to go through the fleet manager to get checked out. Logs were completed and were signed back when they were returned. Use required supervisory and Chief of Staff approvals.

Commissioner Marks asked how many overnight checkouts there were.

Mr. Montoya said it was about three per week. He had to sign off on all checkouts and many staff were getting better at it. He explained the higher level of detail in logs being required. It was about 1000% better than last year.

Mr. Lovato said logs were in every vehicle and they record beginning and ending mileage and every month the reports were submitted to the fleet manager. The logs verified use and when fuel or other purchased items were included with submission of logs. Transportation had some vehicles as well as Pipeline Safety, Insurance Fraud Bureau and one with ASD for the mail room.

Some had high mileage and were being considered for taking out of service. It would take 30 days for approval from LFC and Auditor to liquidate those.

Commissioner Howe asked how many employees were in PRC.

Mr. Lovato said there were 297.

Mr. Montoya said they had more vehicles than were needed and were planning to deplete some of the older vehicles with highest mileage.

Commissioner Marks recalled they had to buy some trucks for Pipeline Safety last year and 3 for the Fire Marshal.

Marshal Standefer said those carried \$20,000 worth of equipment for investigations. They were not usable for any other bureau.

Chairman Lyons thought they could cut it down ten percent and maybe 12 or 14.

Mr. Lovato said they would look at it.

Commissioner Howe asked if it was economically sensible that they were purchased and not leased.

Mr. Montoya explained that was up to GSD.

Chairman Lyons said the analysis showed purchase was more economical.

Commissioner Howe said there were firms that specialized in fleet management with leases that turned out to be very economical. It just surprised him that the state bought the vehicles.

Commissioner Becenti-Aguilar asked about the trailers.

Mr. Lovato explained they were used by the Fire Academy to transport equipment.

Commissioner Marks added that it was not the Commissioners who were buying cars but the divisions who come asking for more. He thought they might have been better off not buying the smaller cars. Many staff wouldn't drive the smaller cars.

Mr. Montoya said they were not buying any cars now.

Commissioner Marks thought they should get rid of the junk but maybe keep the Civics and Focus

vehicles.

Chairman Lyons said they did use the Escapes.

Commissioner Marks felt the Focus was not a comfortable car to use.

Commissioner Hall wanted to make sure people didn't take home vehicles when they didn't need them.

Fire Marshal -

Mr. Montoya said the Commission recommended that Marshal Standefer and his four deputy marshals take vehicles home. There were four investigators on call all night.

Marshal Standefer said they had 2 stationed in Santa Fé and 2 in Alamogordo on standby. 1/8 of the salary paid to them was for responding within 20 minutes to emergencies.

Commissioner Hall asked, since they were not an emergency crew and didn't fight fires but just investigated fires, why they were on call 24 hours a day.

Marshal Standefer said they were on mutual aid and on call for response and follow up on investigation of any municipalities anywhere in the state.

Commissioner Hall didn't want to see the PRC spend a lot of money for two people to run back and forth between Alamogordo and Santa Fé. Marshal Standefer agreed - it was much quicker and cheaper this way.

Mr. Montoya said they could use their vehicles and received a 1099 for any personal use.

Marshal Standefer identified them. Deputies have to respond to emergency response on a rotational basis. One was at the Academy.

Chairman Lyons asked him to identify those specific vehicles on the inventory and he did.

Mr. Montoya explained there were 7 staff members and 4 would be on call at a time. A total of 9 people would have their vehicle with them.

Mr. Montoya produced a white paper that recommended staff with expensive equipment in vehicles could take their vehicles home and receive 1099s. On page 4 it gave 3 exceptions and the third was for expensive equipment.

Commissioner Marks didn't think it was safer to have stuff stolen in a driveway vs. the PERA parking lot.

Mr. Montoya said those vehicles with emergency lights were more susceptible in the parking lot. Three

investigators were not on call but had expensive equipment.

Commissioner Hall asked how many of the 35 were taking them home.

Mr. Montoya said it was now 9 and proposing 12. He said they have had no vandalism in the parking lot.

Chairman Lyons thought a fence could be installed to make them more secure.

Mr. Montoya didn't think there was a safety issue in the parking lot. Marshal Standefer felt differently about it.

Chairman Lyons proposed to try the recommendation for 6 months and see how it went. Commissioner Hall and Commissioner Marks agreed.

c. Corporations Bureau Presentation

Ms. Starr-Garcia and Mr. Lovato made the presentation.

Commissioner Becenti-Aguilar said they had various concerns about ASD. It had come to a point now that Commissioners would like to hear from the staff. She had asked the Fleet Manager to present and she was bypassed. She wanted Ms. Starr-Garcia to tell it like it was.

Ms. Starr-Garcia had three people assigned to the phones. When phones could not be answered they would use a recorded message to put them on hold.

Regarding processing schedules, Phase II implemented a new system. They had 71 filings in May. 1568 PINs were issued.

Commissioner Marks asked how many paper reports they got in May.

Ms. Starr-Garcia couldn't say. They had some still coming in from the March 15 deadline.

Commissioner Marks asked what percent were filed on line now.

Mr. Kumar said more than half of the 400 were filed on-line.

Ms. Starr-Garcia said this morning they had no pending reports and those on line were processed the day received. Charter Documents were under the 15 day required deadline. Foreign charter documents were 50 days outside the statutory deadline. Specialty transactions were approximately 105 days outside the 15 day limit. She anticipated about 2 more weeks to catch up. They now had 2 persons working on all transactions and would have 8 soon.

Commissioner Becenti-Aguilar asked how things were changing with the temporary staff.

Ms. Starr-Garcia said they had made significant progress. They did encounter some bugs and were working with IT to get them fixed as they went.

Commissioner Howe asked if money was refunded when they couldn't do expediting.

Ms. Starr-Garcia agreed. Most were being processed in the time limit (about 95%).

Commissioner Marks asked if temps were used for charter documents.

Ms. Starr-Garcia said three of them were.

Commissioner Marks wondered if it would be safer to lay off half the temps on June 30 and keep the rest for another 30 days. Corporations folks were coming in every Saturday and could soon burn out. He was sure she was proud to see light at end of tunnel.

Chairman Lyons agreed. They could get back in the same hole if all left on June 30.

Mr. Lovato agreed to look at that.

Ms. Starr-Garcia said for next steps that cross training was needed and redeployment of resources. She would continue to monitor and address system errors in the new system and manage phone coverage without temps. Their calls had decreased. Then they would get DLC's on-line.

Commissioner Hall knew it had been a rough year and Ms. Starr-Garcia had suffered a lot of abuse. He appreciated her hard work. He asked when she thought they would be in compliance.

Ms. Starr-Garcia had hoped it by June 30th and was still shooting for that target or at least much closer. Specialty would be the problem.

Commissioner Marks asked if they needed money for phase III.

Mr. Lovato said it had not been cut from the 2013 request so they would have money to do that. He would bring that RFP to the Commission.

6. HUMAN RESOURCES

- **Vacancy Update**

Ms. Maxwell-Loux reported 38 vacancies now. Several pending have expired. She had 6 posted and received the listing yesterday for the purchasing agent position. They were now interviewing 5 positions. Three positions would be deleted on June 30. One they were trying to reclassify. One just vacated yesterday. One was on hold pending reclassification.

Commissioner Hall thought some divisions needed those to be filled soon to get their work done.

Mr. Montoya said they were not sitting on any of the positions. Right now they had five within the same budget code. That budget had \$1,300 left in the budget. Only four were on hold. He was working on filling them.

7. PUBLIC COMMENT

There were no public comments.

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

Mr. Parker said they would be filling the lawyer position soon.

9. COMMUNICATIONS WITH CHIEF OF STAFF, JOHNNY MONTOKA

There were no communications with Chief of Staff.

10. COMMUNICATIONS WITH COMMISSIONERS

Commissioner Marks received a call from a constituent to send a resolution on the phone issue and he was receptive.

NARUC called to FCC regarding interstate limits on what could be charged to families of inmates. He got in touch with the Vice Chair and was working on the resolution. The PRC still had the rule making here and would put a presumptive cap on it. NARUC would take some action like the PRC had.

NARUC petitioned the FCC in 2002. Now 9 years later there was still no final action. The FCC should hear that it was past time to take action.

Chairman Lyons announced that Commissioner Hall was elected president of Western States.

Commissioner Hall said their conference would be here in Santa Fé next June and the PRC would host that conference. He would need help to make it a good event. It would be at the Eldorado - June 2-5. 13 states and AZ dropped out of hosting it.

Commissioner Marks congratulated Commissioner Hall and was grateful that he stepped in when New Mexico was in a difficult situation.

Commissioner Hall asked for an update on the Columbus ambulance by Larry Luján.

Mr. Luján said ambulance companies were going out of business but the state law said no ambulance could close down without approval by the PRC. He didn't think the PRC could force them to stay open unless we have money for them.

New Mexico needed some kind of legislation to deal with the financial issue. They were not getting enough money to keep going.

Columbus Ambulance anticipated closing July 1. Columbus officials were arrested and money was missing. He had been down there for two weeks. Luna County was trying to help. Equipment was a big issue. The equipment belongs to the Village of Columbus.

Chairman Lyons said he and Mr. Montoya met with EMS last week and had worked on HB 2 for several years. There was now no funding for EMS. The state had well-funded fire departments with fire trucks but ambulances were 15 years old and couldn't be replaced. The fight was over funding and there wouldn't be increase in taxes to fund it. They had to find the money somewhere else. Pecos was right behind Columbus.

Commissioner Marks said the fire departments were not well funded.

Chairman Lyons said none of the fire departments were going broke. They were all well-funded.

Commissioner Marks said the Fire Fund was funded by property insurance. So it should be 2% on homeowners' insurance for public safety.

Mr. Luján thought a tax levy would go a long way to help. Right now nothing was being done. In Columbus there was no such thing as a volunteer fire department any more. They have to be paid. A lot of people needed to get together to deal with the problem. Only two ambulance companies were in the black in the whole state. Senator Smith was working on it.

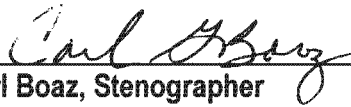
Commissioner Hall thought they should fund ambulances the same way fire departments were funded. He noted that Ruidoso recently got a \$4 million fire house and a brand new fire truck.

11. ADJOURNMENT


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

The meeting was adjourned at 1:00 p.m.

ATTEST:


Carl Boaz, Stenographer

APPROVED: 07/03/2012


PATRICK H. LYONS, CHAIRMAN


THERESA BECENTI-AGUILAR, VICE CHAIR


JASON A. MARKS, COMMISSIONER


BEN L. HALL, COMMISSIONER


DOUGLAS J. HOWE, COMMISSIONER



NEW MEXICO PUBLIC REGULATION COMMISSION

REGULAR OPEN MEETING FOR ADMINISTRATIVE MATTERS

Wednesday, June 20, 2012

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. PRESENTATIONS**
 - a. Utility Division Presentation**
 - b. Fleet Department Presentation**
 - c. Corporations Bureau Presentation**
- 6. HUMAN RESOURCES**
 - Vacancy Update**
- 7. PUBLIC COMMENT**
- 8. COMMUNICATIONS WITH DEPUTY CHIEF OF STAFF FOR LEGAL AFFAIRS,
BOB PARKER**
- 9. COMMUNICATIONS WITH CHIEF OF STAFF, JOHNNY MONTTOYA**
- 10. COMMUNICATIONS WITH COMMISSIONERS**

11. 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.

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.