

**MINUTES OF THE  
REGULAR OPEN MEETING  
NEW MEXICO PUBLIC REGULATION COMMISSION  
August 30, 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 [telephonically]  
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  
Bob Parker, Deputy Chief of Staff for Legal Affairs  
Michael C. Smith, Associate General Counsel  
Rick Blumenfeld, Associate General Counsel  
Dwight Lamberson, Utility Division Director  
John Reynolds, Utility Division  
Patrick López, Legal Division Director  
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 Vice Chair Theresa Becenti-Aguilar 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**

There were no miscellaneous announcements.

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

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

**5. CONSENT ACTION**

**A. Transportation Division**

12-00198-TR-M      IN THE MATTER OF THE APPLICATION OF GIANT CAB, INC., D/B/A GIANT  
CAB COMPANY, FOR A CERTIFICATE AND TEMPORARY AUTHORITY TO  
PROVIDE TAXICAB SERVICE.  
(Bob Parker)                      Order

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

**6. REGULAR ACTION**

**A. Utility Division**

10-00379-UT      IN THE MATTER OF KIT CARSON ELECTRIC COOPERATIVE, INC.'S ADVICE  
NOTICE NO. 57.  
(Rick Blumenfeld)                      Order

Mr. Blumenfeld presented information regarding this matter to the Commission. He said last September the Commission ordered Kit Carson Cooperative to spin off their internet business. A couple of protests

were emailed. In July Kit Carson filed a report and in August filed revisions to the report. After the E-agenda was sent out yesterday, Mr. Reyes asked the matter to be tabled until Tuesday. Mr. Blumenfeld agreed with the request. Then this morning, he received a signed petition from about 135 members in response to the report who wanted the Commission to follow precisely the order from last September with an investigation because they didn't spin off the internet service and Kit Carson now requests to continue business without spinning off the broadband.

Commissioner Howe was confused why Mr. Reyes wanted to delay consideration until Tuesday since it is clear what the Commission should do about it. This was being perceived and mischaracterized that the Commission would shut down the broadband and there was no such intent but just to look at the filing to see if it should relieve KC of the order to spin off or if they should be given more time or not. There was a lot of contention about it and he thought they should have a hearing on it and determine why people saw this as a problem or not and then determine what to do with the order in 379 UT and how to close it out.

Commissioner Howe noted under #5 in the order it should clarify that the HE should look into whether the Commission's previous order would adversely affect the project and lastly that the hearing be held in Taos so people could participate.

Commissioner Hall had no problem taking it on Tuesday's agenda but agreed with Commissioner Howe that no matter what Mr. Reyes says it needed a hearing and he agreed it should be heard in Taos. Finances are involved in this and Mr. Reyes cannot just give it off.

Mr. Parker reminded the Commission that the people affected didn't know what action was being proposed so maybe Mr. Reyes was fearful that the Commission might do something drastic and probably wouldn't care about handing it off to a HE.

Commissioner Lyons thought they should put it off until Tuesday and agreed it would be good to have the hearing in Taos. Just slowing it down a bit wouldn't hurt much.

Commissioner Marks agreed with Commissioner Howe and Commissioner Hall. Whether considered today or Tuesday, assigning a HE and public hearing is in the interest of all members served by Kit Carson whether you support it or not. The opportunity to have facts brought forward to the HE and deciding if the order should be changed or not or whether there were strong reasons to extend the time would provide benefit. The worst thing would be to let it sit and have people think suspicious thoughts about the other side. The Commission needed certainty and to hear from those 135 people and allow others to let their concerns be known.

His only change would be that Fran Sondheim be shown as the HE.

Commissioner Howe wanted to be able to send out a blanket email to those who have sent emails that this is not about trying to kill a project but a procedural matter. He would like to send it out before the weekend if possible.

Commissioner Marks said the Commission needed to look carefully what would make financial sense for the coop. On the other hand, this is a good project for this community. He certainly was not interested

in trying to kill a broadband project but concerned only about how the coop was doing it. There are folks without opportunity for broadband in this community.

Mr. Blumenfeld agreed to add to paragraph 4 about the 135 people who responded and make sure on paragraph 5.

Commissioner Howe suggested saying "a very large number" instead of 135 and to add "whether the Commission's order will have adverse effect on the project."

Commissioner Hall was not in favor of tabling.

**Commissioner Marks moved to approve the order as amended by Commissioner Howe. Commissioner Howe seconded the motion.**

Vice Chair Becenti-Aguilar asked if the protests were on a common form.

Mr. Blumenfeld had not seen them.

Commissioner Howe noted there were one or two variances but there was obviously a broadcast email sent out.

Commissioner Marks agreed they were not exactly forms but there were numerous people concerned about it moving forward and their concern was about the financial aspects. He didn't think those people wanted to kill it. One side wanted a hearing and the other side was saying keep the broadband.

Mr. Jerome Lucero, one of the interveners, stated that it has never been about killing the project but insuring coop members from anticipated losses. He believed there was a problem but nobody was saying broadband was a bad thing. He asked the Commission to stick by its order. He also agreed that having the hearing in Taos would be a good thing.

He said he didn't go out to get signatures but they were people who were fed up with what Mr. Reyes wanted to do. He said members still could not address the board. He just wanted to protect people who were on fixed incomes from anticipated higher costs.

Commissioner Howe said Mr. Lucero's thoughts were made clear in his letter and he was uncomfortable with oral arguments at this meeting.

Vice Chair Becenti-Aguilar supported the hearing in rural New Mexico to improve lives of many in New Mexico.

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

Commissioner Howe agreed to prepare an email for review by Mr. Parker and Mr. Blumenfeld.

Mr. Smith presented information regarding this matter to the Commission. The SPS 2012 IRP was a filing like that which Mr. Blumenfeld presented earlier in the week. The rule required the utility to examine its resources and involve the public in a series of meetings for establishing 20 year plans. In the past, this has been treated as a filing to be followed but not brought to Commission for approval. But this had not received a docket number and had passed the 30 day window without consideration. The Commission wouldn't be approving substance but acknowledging that the filing was made.

With SPS a number of meetings were held and staff were involved so the requirements of the rule have been met. They did not ask for any clarifications formally although staff attended the workshops and might have clarified things there.

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

## **7. PUBLIC COMMENT**

There were no public comments.

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

Mr. Parker reported several projects were going on that involved procedures. Starting October 1, the OGC would give Commissioners a draft agenda one week in advance to give Commissioners a chance to suggest changes and then provide the E Docs shortly after that.

Secondly, he had asked Mr. Blumenfeld to head a committee to think of good procedures for docketing and giving a docket number to every document - things like Advice Notices and IRPs. They would present a proposal to the Commission.

Commissioner Lyons excused himself from the meeting.

Vice Chair Becenti-Aguilar said because people sent in documents from different parts of the state the procedure needed to track them to make them sure they were received and have continuity between Utility Division and General Counsel.

Mr. Parker agreed to add that.

Mr. Parker established another committee headed by Ms. Skogen on how to serve people. In big cases, Ms. Kippenbrock sends out hundreds of notices by mail and it takes a lot of time. Ms. Skogen will look at the rule and see how we might serve people by email.

Mr. Parker asked permission to talk with Mr. Kumar about improvements to the e-docket. It was not searchable and became hard to find cases involving a certain company.

Commissioner Howe asked how much a searchable e-docket would cost.

## **9. COMMUNICATIONS WITH CHIEF OF STAFF, JOHNNY MONTOYA**

Mr. Montoya shared an outline of how the Commission would fill the Transportation Division Director position. It called for ads in the Albuquerque Journal and the New Mexican and a deadline of September 17. He would receive the resumes and a Commission appointed committee of interested stakeholders would recommend good candidates. Mr. Gutierrez is acting director now and has no interest in the job.

The Commission gave him some suggestions regarding the vacancy notice. Mr. Montoya said the committee nominees had all agreed to serve except the MTD chief who had not yet been contacted.

Vice Chair Becenti-Aguilar asked for the ads to run Saturday, Sunday and Monday.

- **Akuo Energy USA, Inc. presentation on independent power producer (IPP) of renewable energy plants.**

Mr. Montoya introduced Mr. Hans Royal and Mr. Jean Lamaire from Akuo Energy USA, a world-wide firm providing alternate energy production with headquarters in Chicago. They described the work of their company and their plans in the United States for wind farms and solar installations. They planned to start construction on a wind energy project on the Sterling Ranch in southeastern New Mexico next year. One phase would connect with Lea County and another phase with SPP. They would recoup their investment through a PPA. Construction would last six months with a \$65 million investment creating 150 full time jobs and during operations \$1.3 million would come to the local economy. Phase two would make it the largest installation in the world.

The Commission thanked them for their presentation and wished them success.

## **10. COMMUNICATIONS WITH COMMISSIONERS**

Commissioner Howe said in regard to HM 63 that the AG and PRC would deliver a report on advisability how formal rate payer advocacy could be set up and divided between them. Commissioner Marks is working on initial part and he working on finishing it up. The AG might be delivering his own report but at hearings he supported doing it.

Commissioner Marks said once they had a draft the Commission was comfortable with he could try to get the AG on board with a joint report.

Commissioner Hall was concerned with what HM 63 would do to the PRC.

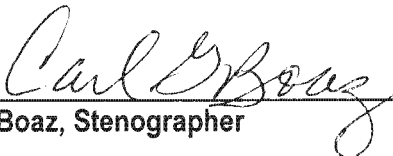
Mr. Mark Jordan reviewed an examination contract with the Commission. It isn't paid for by state funds. After a few questions about the contractor, the Commission was satisfied with the contract.


## 11. ADJOURNMENT

Commissioner Hall moved to adjourn the meeting. Commissioner Marks seconded the motion and it passed by unanimous voice vote. Commissioner Lyons was not present for the vote.

The meeting was adjourned at 10:44 a.m.

ATTEST:

  
Carl Boaz, Stenographer

APPROVED: 10/02/2012  
  
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**

**Thursday, August 30, 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. Transportation Division**

<b>12-00198-TR-M Bob Parker</b>	<b>IN THE MATTER OF THE APPLICATION OF GIANT CAB, INC., D/B/A GIANT CAB COMPANY, FOR A CERTIFICATE AND TEMPORARY AUTHORITY TO PROVIDE TAXICAB SERVICE.</b>  <b>Order</b>
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**6. REGULAR ACTION**

**A. Utility Division**

<b>10-00379-UT Rick Blumenfeld</b>	<b>IN THE MATTER OF KIT CARSON ELECTRIC COOPERATIVE, INC.'S ADVICE NOTICE NO. 57.</b>  <b>Order</b>
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12-00298-UT Michael C. Smith	IN THE MATTER OF SOUTHWESTERN PUBLIC SERVICE COMPANY'S 2012 INTEGRATED RESOURCE PLAN FOR NEW MEXICO.  Order
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7. PUBLIC COMMENT
8. COMMUNICATIONS WITH CHIEF OF STAFF FOR LEGAL AFFAIRS, BOB PARKER
9. COMMUNICATIONS WITH CHIEF OF STAFF, JOHNNY MONTTOYA
  - Akuo Energy USA, Inc. presentation on Independent Power Producer (IPP) of renewable energy plants.
10. COMMUNICATIONS WITH COMMISSIONERS
11. ADJOURNMENT

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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.

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#### 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.**