

**MINUTES OF THE
REGULAR OPEN MEETING
NEW MEXICO PUBLIC REGULATION COMMISSION
September 18, 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:

Commissioner Chairman Patrick H. Lyons
Commissioner Vice Chair Theresa Becenti-Aguilar
Commissioner Jason A. Marks [later telephonically]
Commissioner Ben L. Hall [later telephonically]
Commissioner Douglas Howe

Members Absent:

Staff Present

Johnny Montoya, Chief of Staff
Bob Parker, Deputy Chief of Staff for Legal Affairs
Margaret Caffey-Moquin, Associate General Counsel
Rick Blumenfeld, Associate General Counsel
Sandra Skogen, Associate General Counsel
Steve Schebke, Utility Division
Arthur Bishop, PIO

Others Present

Charmaine Clair, 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 Chair Commissioner 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

The Commission welcomed Rebecca Lucero, a new employee in the Insurance Division.

Commissioner Howe introduced his new executive assistant Ursula Almada. He thanked her for wearing two hats when his former assistant took another position.

Chair Lyons also thanked Ms. Almada for stepping up to help Commissioner Howe.

3. MISCELLANEOUS ANNOUNCEMENTS

a. Recognition of Employee of the Month

Chair Lyons recognized the August employee of the month, Dan Wright. He said Dan serves as a fire inspection investigator with the Fire Investigation Bureau of the Fire Marshal's office and has worked for the PRC for 4 years and 3 months.

Chair Lyons said several months ago the Fire Investigation Bureau received three new investigation trucks that needed utility camper shells, lights and radios. Dan removed all of the usable equipment from the surplus vehicles, saving the PRC several thousand dollars and assisted by Sammy Anaya, installed the needed equipment all in addition to his regular duties.

Chair Lyons congratulated Mr. Wright and presented him with a certificate.

4. CONSIDERATION AND APPROVAL OF THE AGENDA

Commissioner Howe moved to approve the Agenda as presented. Commissioner Becenti-Aguilar seconded the motion and it passed by unanimous 3-0 voice vote.

5. CONSIDERATION AND APPROVAL OF MINUTES

- Minutes of the Regular Open Meeting of August 16, 2012
- Minutes of the Regular Open Meeting of August 21, 2012

Commissioner Howe moved to approve the minutes of August 16 and August 21, 2012 as presented. Commissioner Becenti-Aguilar seconded the motion and it passed by unanimous 3-0 voice vote.

This matter is a public hearing and is a matter of record entered by a court stenographer and not part of these minutes. The hearing began at 9:40 a.m. and concluded at 10:03 a.m.

**6. PUBLIC HEARING
12-00125- TR-EN**

**IN THE MATTER OF THE REVOCATION OF OPERATING
AUTHORITIES FOR FAILURE TO COMPLY WITH FINANCIAL
RESPONSIBILITY REQUIREMENTS.**

**NEW MEXICO PUBLIC REGULATION COMMISSION,
TRANSPORTATION DIVISION, PETITIONER.**

V.

**MIGUEL A. GAMEZ HERNANDEZ, #54758; GLEN D. BEGAY, D/B/A
WINSTON RECOVERY, #52821; BIG DOG TRANSPORT, LLC.,
#55863; MARTIN & RISIE LEYVA, D/B/A WILDCAT TRUCKING,
#53146; RICHARD'S TAXI, LLC, #56065; MUDDY WATER RANCH,
LLC, #55219; EDGARD ONTIVEROS, D/B/A EXCALIBUR CORP.,
#55787; NIZHONI MEDICAL SUPPLY, INC., D/B/A NIZHONI
TRANSPORTATION, # 55247; REYES RIVERA JR., D/B/A DOUBLE A
TRUCKING, # 55986; WALTER ABBOT, D/B/A TWS TOWING, #52718;
NATAN E. ACOSTA, D/B/A E N A TRANSPORT, #55875; DANIEL
PAYAN, D/B/A PAYAN'S TRUCKING, #54482; JUSTO MORENO,
D/B/A JUSTO TOWING, # 55384; OSCAR ALVIDREZ, D/B/A OSCAR
ALVIDREZ TRUCKING, #54842; JOE BAEZA, D/B/A JOE DIRT,
#55914; G NAJERA, #54566; XAVIER GOMEZ, D/B/A GOMEZ
TRUCKING, #55717; A & A TOWING, INC., #52534; MARIA T. VILLAR,
D/B/A ANGELS TRANSPORTATION, #55951; JOHN MONAFO, D/B/A
US 70 AUTO SALVAGE, #54422; GABRIEL GARCIA, D/B/A GABRIEL
GARCIA TRUCKING, #55598; JAME A. GOMEZ, D/B/A GOMEZ
TRUCKING, #53081; PECOS VALLEY MEDICAL CENTER, INC., D/B/A
PECOS VALLEY AMBULANCE SERVICE, #6416; D2L TRUCKING,
INC. # 54891; SUPER TOW, LLC, #55919; AMERICAN RECOVERY,
INC., #36727; JERRY M. DURAN, D/B/A JD & SONS DIESEL FILTERS
SUPPLIES, #53245; JOSE CHAVARRIA, D/B/A M & C TRUCKING,
#55972; JOSEPH ARBALLO, D/B/A J & J TRUCKING, #55356;
DOMINGO V. PEREZ, D/B/A PEREZ TRUCKING, #54802. ARMANDO
ARMENDARIZ, D/B/A A&S FUN TOURS, #00044/55277; BENJAMIN
VILLALBA, D/B/A EDELS TRUCKING, #56040; CJ RECOVERY, LLC,**

#55351; CANON VIA, LLC, #55949; OSCAR CORONA, D/B/A CORONA'S TOWING, #56061; MARTIN JIMENEZ, D/B/A JIMENEZ TRUCKING, #55725; JUAN URIAS, D/B/A EMMANUEL TRUCKING, #55874; D CISCO NAVARETE, D/B/A CN FARMS & TRUCKING, #54704; WILL STANGER, D/B/A SOUTHWEST EXPRESS, LLC, #54914; MONTANO'S EXCAVATING & TRENCHING, INC., D/B/A SANTA FE CONCRETE CO., #55870.

Commissioner Ben Hall joined the meeting via telephone at this time.

6. CONSENT ACTION

A. Transportation Division

12-00125-TR-EN

IN THE MATTER OF THE REVOCATION OF OPERATING AUTHORITIES FOR FAILURE TO COMPLY WITH FINANCIAL RESPONSIBILITY REQUIREMENTS.
NEW MEXICO PUBLIC REGULATION COMMISSION,
TRANSPORTATION DIVISION, PETITIONER.

V.

MIGUEL A. GAMEZ HERNANDEZ, #54758; GLEN D. BEGAY, D/B/A WINSTON RECOVERY, #52821; BIG DOG TRANSPORT, LLC., #55863; MARTIN & RISIE LEYVA, D/B/A WILDCAT TRUCKING, #53146; RICHARD'S TAXI, LLC, #56065; MUDDY WATER RANCH, LLC, #55219; EDGARD ONTIVEROS, D/B/A EXCALIBUR CORP., #55787; NIZHONI MEDICAL SUPPLY, INC., D/B/A NIZHONI TRANSPORTATION, # 55247; REYES RIVERA JR., D/B/A DOUBLE A TRUCKING, # 55986; WALTER ABBOT, D/B/A TWS TOWING, #52718; NATAN E. ACOSTA, D/B/A E N A TRANSPORT, #55875; DANIEL PAYAN, D/B/A PAYAN'S TRUCKING, #54482; JUSTO MORENO, D/B/A JUSTO TOWING, # 55384; OSCAR ALVIDREZ, D/B/A OSCAR ALVIDREZ TRUCKING, #54842; JOE BAEZA, D/B/A Chair Ortiz DIRT, #55914; G NAJERA, #54566; XAVIER GOMEZ, D/B/A GOMEZ TRUCKING, #55717; A & A TOWING, INC., #52534; MARIA T. VILLAR, D/B/A ANGELS TRANSPORTATION, #55951; JOHN MONAFO, D/B/A US 70 AUTO SALVAGE, #54422; GABRIEL GARCIA, D/B/A GABRIEL GARCIA TRUCKING, #55598; JAME A. GOMEZ, D/B/A GOMEZ TRUCKING, #53081; PECOS VALLEY MEDICAL CENTER, INC., D/B/A PECOS VALLEY AMBULANCE SERVICE, #6416; D2L TRUCKING, INC. # 54891; SUPER TOW, LLC, #55919; AMERICAN RECOVERY, INC., #36727; JERRY M. DURAN, D/B/A JD & SONS DIESEL FILTERS SUPPLIES, #53245; JOSE CHAVARRIA, D/B/A M & C TRUCKING,

**#55972; JOSEPH ARBALLO, D/B/A J & J TRUCKING, #55356;
DOMINGO V. PEREZ, D/B/A PEREZ TRUCKING, #54802.
(Bob Parker) Order**

Mr. Parker said he would make corrections on the Order of the public hearing just heard and remove Pecos Valley and Nizhoni Medical.

Commissioner Howe moved the Order with the amendments noted by Mr. Parker that revoked the operating authorities. Commissioner Becenti-Aguilar seconded the motion and it passed by unanimous voice vote by 4-0.

B. Utility Division Cases

**12-00264-UT IN THE MATTER OF THE PUBLIC REGULATION COMMISSION'S
INVESTIGATION REGARDING GAS SERVICE TO CERTAIN CUSTOMERS IN
NORTHWEST NEW MEXICO.
(Bob Parker) Order**

Mr. Parker said the Attorney General wanted to intervene and has requested information on what has occurred. He asked the Commission to approve the Attorney General's intervention.

Commissioner Howe clarified the reason for granting a motion for leave for the AG was because the HE has not yet been assigned.

**Commissioner Hall moved to approve Consent Item 12-00264-UT as presented.
Commissioner Becenti-Aguilar seconded the motion and it passed by a unanimous (4-0) voice vote.
So Ordered.**

**8. REGULAR ACTION
 A. Utility Division**

**10-00366-UT IN THE MATTER OF THE REQUEST OF TWSD WATER AND SANITATION
DISTRICT FOR AN EMERGENCY INTERIM RATE INCREASE.**

**12-00193-UT IN THE MATTER OF TWSD WATER AND SANITATION DISTRICT'S ADVICE
NOTICE NO. 10 FOR NEW RATES.**

(Margaret Caffey-Moquin) Order

Ms. McCaffey-Moquin said her recommendation is based on a detailed review of the record in the two cases. The newer case, docketed in 2012 is regarding Advice Notice 10 for permanent rates for Timberon Water and Sanitation District (TWSD.)

Ms. McCaffey-Moquin said the other case relates to emergency interim rates currently in effect. She said to simplify she wouldn't go through the written analysis she provided the Commission, but would focus on the response to the Bench Request Order.

The cases were tabled by the Commission a couple of weeks ago to get a better read on the underlying data and get the data into the record. Commissioner Hall issued and signed a Bench Request Order on September 6 and the PRC received a timely submittal of TWSD's response that has been filed as required by state law.

Ms. McCaffey-Moquin said the Commission was interested in the total number of rate payers TWSD serves. The Public Utility Act for small water utilities like TWSD to protest a rate change before the Commission could review requires a minimum of 10% of the rate payers or 25 ratepayers; whichever is higher.

Commission Rule 770 pertinent to the sections of the Public Utility Act that affect small water utilities requires the Commission to make the determination on valid protests before proceeding to a just cause determination.

Ms. McCaffey-Moquin said her analysis of the response to the Bench Request Order led her to the conclusion that there are not enough protests filed to allow the Commission to review the rates further. The numbers don't change in terms of the number of rate payers required to challenge Advice Notice 10; a slight reduction of 335 drops to a minimum of 308 but only 70 protests have been filed and some are not valid.

Ms. McCaffey-Moquin pointed out that the Commission's Staff had spent a lot of its time and effort to be accessible to all interested parties and assist with the development of rates that would enable the utility to continue to provide water service to their customers. Since there are not enough protests, it would be unlawful for the Commission to conduct a rate review.

Commissioner Marks joined the meeting telephonically.

Commissioner Becenti-Aguilar asked Ms. McCaffey-Moquin what page she was referring to when she said "just isn't enough" on the Bench Request.

Ms. McCaffey-Moquin said the Response Bench Request Order on page one has a list of answers to the Commission's Bench Request numbered one through nine and she looked at lines three, four and five. The questions asked the number of uniquely named ratepayers to whom TWSD sends a bill, which is 3089 and gives her a minimum of 308 ratepayers that need to file protests.

She said or, if line four and five is looked at differently; the number of persons who received a single bill (3355) and those who receive multiple bills isn't entirely clear if those who receive multiple bills are included in the number. She noted that in any case, the minimum is what she focused on (line 3) and 10% of that total and is 308 people that have to file a valid and timely protest for the Commission to review the rates.

Commissioner Becenti-Aguilar asked Ms. McCaffey-Moquin if she could tell her the difference between the total of people who received the bills, looking at the number of people receiving the bill. She asked how many the PRC lacked in protests.

Ms. McCaffey-Moquin said there had to be an additional 238 valid, timely protests filed.

Commissioner Marks said he missed Ms. McCaffey-Moquin's presentation but gathered from Commissioner Becenti-Aguilar's question that there are still over 3000 unduplicated customers. He said, two customers have a lot of accounts on standby but that isn't a lot of customers apparently.

Ms. McCaffey-Moquin said the question is phrased "how many persons does TWSD bill for standby service." The answer is 4307 and 354 customers of TWSD own multiple lots.

Commissioner Marks asked even if a few of the standbys owned 100 lots there is still over 3000 of them altogether.

Ms. McCaffey-Moquin replied there are over 3000 uniquely named ratepayers.

Commissioner Marks asked the number of protests received and was told seventy.

Commissioner Marks had no further questions. He thought that Ms. McCaffey-Moquin had looked at the issue from all angles. He was ready to vote on the issue.

Commissioner Howe asked if Mr. Beagles protested only for his own properties and not on behalf of others.

Mr. Parker said it was only Mr. Beagle's property but the law and statute specifically state that if you own multiple lots you only get one vote.

Ms. McCaffey-Moquin said she didn't calculate the number.

Commissioner Howe said he agreed with Ms. McCaffey-Moquin's conclusions. He said in her Order under C, August 16, Beagle's Reply on pages 8-11 she characterized five arguments framed as questions. The questions weren't directly answered by her and he recommended she add a direct answer.

Ms. McCaffey-Moquin said she could see his point. She asked if it would satisfy Commissioner Howe's concern if the example: "therefore all protests filed under Rule 8-10 must be disregarded" was followed.

Commissioner Howe said yes and provided another example. He asked that Ms. McCaffey-Moquin add those clarifications to make it clear for everyone reading the Order that the Commission does not agree with any of the five arguments.

Commissioner Marks asked Commissioner Howe what the standing question was.

Commissioner Howe said the argument raised by the Beagles' protests is that taxpayers have standing even if they are not ratepayers and the OGC in the Order states that isn't true.

Commissioner Marks said the law is clear that if you pay a bill you get counted as one on both the numerator and the denominator.

Ms. McCaffey-Moquin said she would add a sentence "No; non-ratepayer, taxpayer, electors do not have standing to protest TWSD's rates in these cases."

Commissioner Marks added the rates are just the utility rates.

Commissioner Hall said McCaffey-Moquin has explored every avenue possible and there aren't enough protests under the law. He said she did a good job and the Commission should just get on with it.

Chair Lyons noted Mr. Virgil Beagles was in the audience. He said he wouldn't want to deny Mr. Beagles the chance to say something.

Mr. Beagles said he would bring the Commission back to their own order that approved emergency interim rates. He said the Commission said five specific things Timberon must do: have an operating reserve of three months; create a separate reserve of \$135,000; hire an engineering firm at a cost of no more than \$40,000; and get their books in order.

He said Timberon has not had an audit approved and the last audit with Cagle, Gray and Shaw said the books were so bad they couldn't do the audit. He said they still can't audit the books because they are in such bad shape.

Mr. Beagles said Mr. Rubinowitz proposal is paying Accounting Associates \$47,000 and that a letter from the State Auditor's Office accused Mr. Rubinowitz of creating a fraudulent audit. Mr. Beagles said there hasn't been a fraudulent audit. He said Timberon has done nothing the Commission asked. He asked how the Commission could give Timberon a rate increase when there are no reserves; no audit or engineering report.

Mr. Beagles presented 390 protests of the properties he owns. He said the Commission rules they only get one vote for properties but are using all of the votes against him. He said going by the Commission's rules, to set the reserves up and the financial statements in reports to the Commission; Timberon has no reserves and hasn't been out for an engineering study and they are trying to pay the county \$47,000 because Timberon wants the Beagles to look bad. He said they don't have a fraudulent audit, so why are they paying \$47,000 to Accounting Associates if it's not been done.

Mr. Beagles said he has documents showing Mr. Lee Deschamp in Socorro took the case on a contingency basis and paid unlicensed contractors \$385,000 to do work in Timberon. He said the statute is clear; even if the owner likes the work they can't be paid for it. He said the material the unlicensed contractors used came out of Timberon's pit; not only did the current board pay for materials they already owned, they paid unlicensed contractors.

He said if you make Timberon do what they need to, he wouldn't be here for rate increases. He said if the Commission followed their order, Timberon doesn't deserve a rate increase because their books are still... they haven't had an unqualified audit since 2004.

Mr. Parker said the Commission has to follow the small water company protest rule. The question is if there are enough protests for PRC to get involved in the rate requests and rate increase and the answer is no, the Commission cannot.

He thought Mr. Beagles had a lot of other complaints about the way the utility is run and if he files a complaint the Commission could determine if that was something to look into, separate from the rate.

Mr. Beagles said even the Commission's order for a temporary rate said "Timberon shall do these things" before they get a permanent rate increase and they haven't done one of them. He said now he's being told because he didn't protest... He said this is the Commission's order, not his. He asked when an Order is not an Order.

Commissioner Marks asked if the order that would deny the protest on the rate case would affect the previous order that granted rate increases.

Ms. McCaffey-Moquin said the order as drafted closes the docket and has no language that specifically approves the Advice Notice 10 rates.

Commissioner Marks said when the Commission granted the interim rate increase reports, various matters were asked for in terms of the audit progress and the Commission took some supervision on the utility when under a different directorship. He said potentially the Commission retains its jurisdiction to consider the matters that Mr. Beagles raised under the previous order, even though the Commission has no legal jurisdiction to do anything about the rate request other than close the docket.

Ms. McCaffey-Moquin agreed.

Mr. Beagles asked if he could protest his 330 lots as one unit; or how many units or people would it take to file a protest.

Ms. McCaffey-Moquin said at least 308 individually named and uniquely named ratepayers. She offered to show him the statute.

Mr. Beagles said the statute says *qualified electors*...if you pay tax in the district then you're qualified to vote in the district. He said he pays taxes on all the lots so what is the difference.

Ms. McCaffey-Moquin said the difference is that Rule 8-10 on the Taxpayer Elector Rules Law does not apply to water sanitation districts and if elected to become subject to the terms and provisions of the Public Utility Act, is Commissioner Rule. Taxpayer elector provisions do not apply to this process.

Mr. Beagles said Ms. McCaffey-Moquin was telling him that for 330 lots he gets one vote. Ms. McCaffey-Moquin replied that was correct.

Chair Lyons said there are 3355 single billed individuals and 4,307 total.

Mr. Beagles said that wasn't true.

Chair Lyons said the second page shows the number of persons that receive bills as 4307 and 358 of them receive more than one bill (multiple lot owners) and single lot owners, and that is 3355.

Mr. Beagles said prior to the protests, the old order said 25 or fewer and the Commission has never before allowed standbys as part of the protest process to be used until now. He said it has always been meter payers; if you pay the meter you pay the fee.

Ms. McCaffey-Moquin offered to try to clarify. She explained the Public Utility Act was amended after 2000. She read out of the Public Utility Act; "for purposes of this section (the size of the water utility) how you determine if the utility is a small water utility is 1500 metered hookups or less, i.e. for this. She said this (Timberon) is within the small water utility group statute with 618 metered hookups.

She continued to read that each person who receives a separate bill equals one rate payer and each person that receives multiple bills equals one rate payer. The term ratepayer is used to count the minimum number of protests required to cause Commission review.

Mr. Beagles said Timberon just sent 4,000 bills for \$30 a lot and called it a facilities maintenance charge. He asked if that counted as a rate payer. He said Timberon would get a \$270,000 water rate increase and \$270,000 in facilities maintenance charges that they are doing nothing with...

Ms. McCaffey-Moquin said she hadn't studied that question.

Mr. Schwebke said the charge Mr. Beagles referred to is under the taxing abilities of the Water and Sanitation District to levy and has nothing to do with the water utility. He said it is entirely related to the swimming pool, the golf course, the road maintenance and other functions that the Water and Sanitation District engages in and can pay through its mill levy and taxing abilities.

He noted that the notice to customers' states that the money has nothing to do with the water utility and is not designed to use any of the money for the water utility.

Mr. Beagles said all the way to the Supreme Court states that the mill levy is \$10 million, period. He said the Water and Sanitation District will pass a \$7 million bond issue to do the water and language was put in that said they would charge any amount of mill levy they need.

Chair Lyons said Mr. Beagles would have to address that with a different tax man because the Commission is not in charge of that.

Mr. Beagles said they call it a sewage maintenance charge and rate payers get nothing for it; for the standby fee they won't grade our roads, so we get nothing for that \$57... He said he had been three months without water in his motel during the hunting season.

Chair Lyons asked if Mr. Beagles had water currently.

Mr. Beagles said the city does right now but hunting hasn't quite started. He said that he or his attorney would come back because he needs to clarify what Timberon has done and he could see today that he doesn't have a chance because of the numbers. He said he does want a ruling today.

Chair Lyons thought that didn't fall under the Commission.

Mr. Beagles said he was told that it falls under tax, but it doesn't; the statute is very clear that you cannot charge more than \$10 million. The Supreme Court has already ruled on that.

Chair Lyons asked Mr. Schwebke who Mr. Beagles would need to see about that.

Mr. Schwebke said he only saw the notice the day before and it is a two-page letter that went to the customers and explains the charge and what it is used for and that it has nothing to do with the water utility. He offered to get a copy for the Commissioners.

Chair Lyons said he wanted to know who the El Dorado should take it to.

Mr. Schwebke said he is familiar with how a water and sanitation district does its taxing authority and thought it was approved through the county.

Mr. Parker clarified that he thought Chair Lyons point was that the matter doesn't have anything to do with the Commission.

Mr. Beagles said if they are going to put another maintenance charge, it can't be a tax because the \$10 million has been set by the Supreme Court.

Chair Lyons asked if Mr. Schwebke had the letter that stated it isn't the water and sanitation and is a standalone. Mr. Schwebke replied he did and would be happy to bring the letter in.

Mr. Beagles thanked the Commission for their time.

Commissioner Howe said Mr. Beagles appears to have a lot of unresolved complaints against Timberon and also clear is that the Commission has no legal authority to stand in the way of the rate increase.

Commissioner Howe moved to approve Ms. McCaffey-Moquin's Order as is and close the dockets and deny the protests.

Commissioner Howe urged Mr. Beagles to make his complaints against Timberon in writing so the Commission could consider if a new docket should be opened to investigate if Timberon is in compliance with Order 10-366. He added that alternatively 10-366 could be left open, but as an old case might be better to open a new case.

Chair Lyons asked about page 12 of the Order- B that approved the rate.

Commissioner Howe asked if B was necessary and was told it wasn't. He thought it easiest to strike B and say nothing about the rates since the Commission couldn't approve or disapprove and the rates would come into being by matter of law.

Mr. Parker said he read B as clarifying what happens as a result of the Commission not looking at the rate increase.

Commissioner Howe asked if the Commission could modify B.

Chair Lyons said the Commission would have to approve it; they approved the interim rate. He asked why they would approve the emergency interim rate and not the permanent rate.

Commissioner Marks said that didn't come in under the provision of small water utilities.

Mr. Parker thought the Commission envisioned that this would happen like a regular rate case and started down that path but that wasn't correct. A special statute handles that type of case and the Commission corrected their course. The Commission doesn't have the authority to look at the rates because there aren't enough protests and the Commission isn't approving the rates; they are just saying they have no authority and Timberon could make their own rates go into effect.

Commissioner Marks seconded Commissioner Howe's motion.

Commissioner Marks agreed the rates would have to go into effect by operation of law and that the Commission has no ability to do anything. He said if the Commission did anything other than Ms. McCaffey-Moquin's Order, it would be in the Supreme Court and reversed immediately.

He agreed with Commissioner Howe and would also encourage Mr. Beagles to file a formal complaint. He said if Mr. Beagles wants to make a complaint about waste or mismanagement with respect to the previous order the Commission could consider that, but not as part of this rate filing.

Chair Lyons said no one disagrees on the number of protests; the Commissioners want to know if part B is in the order. He asked if the Commission has no business approving permanent rates, why in 2010 did the Commission approved the emergency interim rate.

Commissioner Marks said he couldn't say but whether right or wrong it doesn't have an impact on what the Commission needs to do today. He said at this point it is clear what the Commission needs to do about the current application.

Commissioner Becenti-Aguilar asked Ms. McCaffey-Moquin what page she looked at when she said the docket was closed once the Commission votes.

Ms. McCaffey-Moquin said page 12, paragraph E would state both dockets are closed.

Commissioner Becenti-Aguilar noted she didn't receive that page.

Chair Lyons made an amendment to the Order to remove the paragraph...

Ms. McCaffey-Moquin said she was reminded that a prior Commission Order in 12-193, the initial Order entered in June 2012, ruled that the interim emergency rates would stay in place until replaced by new rates pursuant to a Commission Order.

She recommended to include "*by operation of law*" in paragraph B to be clear the Commission is not approving rates but only recognizing that the Advice Notice number 10 rates are coming into effect by operation of law.

Mr. Schwebke pointed out that the prior order existed and didn't mean to suggest anything in the order. He wondered if there could be conflict that would need to be resolved with the current Commission order, such as the interim rates would be removed from effect when the Advice Notice 10 comes into effect.

Chair Lyons said the interim rates are not the same as the Advice Notice number 10. He said he doesn't understand B; the Advice Notice 10 is to increase the standby rate by another 7% while decreasing the other two. He disagreed and said it is anti-growth and anti-development and doesn't agree the standby rate should be raised again. He said if he were to approve rates he would make changes on the standby rate or would otherwise want them stricken.

Commissioner Becenti-Aguilar thanked Mr. Beagles for making the trip. She said the Commission had clarified the protest issue and would go with the law. She said the second question is why the Commission approved the interim rates and Commissioner Marks indicated that was a different issue and at the time the Commissioner's agreed on the issues brought forth.

Commissioner Becenti-Aguilar said she was hesitant to vote because of the confusion and Ms. McCaffey-Moquin hasn't had time to review this. She asked the Commission if they were willing to give Ms. McCaffey-Moquin more time to review the issue to ensure the Commission made the right decision. She said she doesn't want to review the case in 2014 and wants to be sure the Commission has studied the issue thoroughly and moves forward and is making the right decision.

Chair Lyons agreed. He said a lot was happening in December 2010; two Commissioners were leaving and something was done at the last minute and that was suspicious. He didn't know why the interim rate was approved at the last second when the Commission shouldn't have approved the interim rate.

Commissioner Howe offered to withdraw his motion and allow Ms. McCaffey-Moquin to come back and review with the Commissioners why the Order proceeded the way it did. He thought that wouldn't change the outcome because General Counsel laid out that the Commission's ability to act and that was tightly constrained by the law and what was approved deserved clarification.

Commissioner Howe withdrew his motion and asked that the docket be tabled until next Thursday when Ms. McCaffey-Moquin would come back.

Ms. McCaffey-Moquin said she could do the analysis of the December 2010 Order approving the emergency interim rates and put that in the context of the Advice Notice 10 Order that extended interim rates and protests issued June 21, 2012. She offered to present the information by September 25, next Tuesday.

Chair Lyons seconded the motion to table the item until next Tuesday. The motion passed by majority voice vote 4-1; Commissioner Marks voted against.

Mr. Rubinowitz asked if the interim rates continue to be charged or if the new rates would be in effect because there weren't a sufficient number of protests.

Mr. Parker said the interim rates should be charged because the Commission has not officially determined that there are not enough protests until the Order is approved.

Commissioner Hall said the order stated that interim rates would stay in place until the Commission changed the rates in the future and the Commission has nothing to say about it. He asked Ms. McCaffey-Moquin if Advice Notice 10 took the place of what the Commission would have done and if the interim rates would be done away with when Advice Notice 10 went into effect.

Ms. McCaffey-Moquin said none of those things would take place today because the Commission tabled the action until next Tuesday. She said the status quo would just be maintained and the district would continue to charge the interim emergency rates approved in December 2010.

Commissioner Hall said he wanted Ms. McCaffey-Moquin to think about the interim rates versus Advice Notice 10 to see if both should be in effect at the same time. He thought the interim rates should die when Advice Notice 10 comes into effect.

Ms. McCaffey-Moquin agreed that would be the case.

9. DISCUSSION ITEMS

B. Utility Case

12-00061-UT IN THE MATTER OF AN INVESTIGATION INTO THIRD PARTY CHARGES ON TELEPHONE BILLS AND POSSIBLE CRAMMING.

(Sandra Skogen)

Ms. Skogen said this is an investigation into cramming, the practice of putting third party charges on telephone bills. The practice is made possible by billing and collection agreements and is an attractive source of revenue and also provides convenience to consumers by having multiple charges on one bill.

This is particularly the case with third party charges such as a telecommunication charge of a consumer doing a lower cost long distance on an occasional basis or the consumer wants to receive calls from a relative or friend in prison. In both cases if the service provider or aggregator has a billing and collection agreement with the telephone company the charges could be included on the on the local telephone company bill.

Telephone companies began, over time, to provide billing and collection services to third party providers on less traditional services such as pay per call, web hosting, internet, etc. and this set the stage for disreputable companies to place unauthorized charges on telephone bills, typically through an aggregator that sometimes disguised their charges.

Ms. Skogen reminded the Commission of the formal cramming complaint earlier in the year that involved a disputed directory assistance charge. She said the complaint was satisfied but the Commission opened this investigation into third party charges on telephone bills.

Staff filed a report at the Commission's direction, on June 19, 2012 and indicated responses were submitted by Wire Nine and wireless companies, resellers of service, as well as third party aggregators.

Staff concluded that in general, cramming does not appear to be a problem in New Mexico. The Staff's report shows responding carriers reported 31 total complaints in 2001 including complaints to the FCC, the Consumers Relations Division or directly to the companies; four complaints were received in 2008, three in 2009, seven in 2010 and none in 2011 or thus far this year.

She said the numbers are small compared to the number to the Federal Trade Commission of 3,000 per year and the FCC, around 1700. The California Public Utility Commission directly received over 2700 complaints in 2010.

Ms. Skogen said Staff also looked at the volume of third party billing on telephone bills reported by the responding carriers. She thought at seven million dollars the billing wasn't substantial compared to 2 billion dollars nationwide and the responding carriers and aggregators appeared to be in compliance with New Mexico statutes and regulations.

Ms. Skogen said the question before the Commission is whether wide spread cramming is going undetected in New Mexico or if New Mexico is a leader in deterring cramming. She believes it is the latter and the State should take credit for having passed a very restrictive anti-cramming statute in 1999 followed by the adoption by the Commission of very comprehensive rules. The New Mexico statute prohibits any third party charges on a telephone bill other than charges for communication services.

She said that recently Illinois and Vermont enacted statutes and Senator Rockefeller introduced a bill in Congress that is not as strict as the New Mexico statute. In addition, the New Mexico statute applies to all providers of telephone services subject to the jurisdiction of the PRC and current FCC rules apply only to land lines and are one reason Senator Rockefeller introduced his bill. She said the Senator also wants the rules to apply to voice over and internet protocol providers and would direct the FCC to issue rules applicable to wireless carriers; which the FCC recently elected not to do.

Ms. Skogen pointed out that the New Mexico regulations and statute provide numerous other protections including a dispute resolution process; absolution for the first 90 days of unauthorized charges and penalties for cramming, disconnecting or threatening to disconnect for non-payment of crammed charges and injuring or threatening to injure a customer's credit due to non-payment. She said if these measures don't work the Commission could suspend or revoke a carrier's Certificate of Authority or CPCN per the statute.

Ms. Skogen summarized that the rules in the New Mexico statute are strong and the FCC is taking further action, some of which will bolster anti-cramming efforts in New Mexico. The new FCC rules are aimed at prevention and detection of cramming and went into effect May 24 of this year.

She said one of the two measures adopted is a detection that requires third party charges to be separately stated and totaled on the bill; however, the New Mexico statute has required that (but not the sub totals) for thirteen years.

Ms. Skogen said the other FCC measure is aimed at prevention and requires carriers that provide blocking to notify customers of this option at the point of sale, on their bill and on the carrier's website. Typically customers only find out about blocking after there is a problem.

Ms. Skogen said the new FCC rule is implementing a change for New Mexico, at least in the CenturyLink territory, if not elsewhere and she thought it worth monitoring.

Ms. Skogen said finally, the FCC is considering an opt-in requirement that requires a customer to affirmatively approve third party billing before the fact; presumably third party charges would still have to be authorized on a case by case basis.

Ms. Skogen said she has no recommendation for further action in the docket. The Commission could continue to monitor the matter or if the Commission wished to delve deeper into the materials provided by the responding carriers, Staff could provide that. Alternatively, if the Commission considered the matter to be resolved she could prepare an Order to close the docket.

Commissioner Howe asked Ms. Skogen to review the Commission's authority and the penalties.

Ms. Skogen said the penalty for cramming or slamming, disconnecting or threatening to disconnect within the PRC's authority is up to \$10,000 per occurrence. A lesser penalty for threatening to injure a customer's credit is \$1,000 per occurrence and if credit is actually injured based on the charges; the penalty could be up to ten thousand dollars.

Commissioner Howe said in the complaint about directory assistance, the call was routed to someplace in Nevada and showed up as a \$7.65 charge, which was ultimately removed. He asked what in the PRC statute or rules prohibit that.

Ms. Skogen said the statute in the rules require that the charge be authorized. Generally authorization has to be in writing or pursuant to a recorded statement; however this is a telecommunication charge and

may be subject to an exception. She couldn't remember if in that specific case, Century Link forgave the charges or the charges were truly unauthorized.

Commissioner Howe said the \$7.65 charges could be happening quite a bit; they just don't know it.

Ms. Skogen agreed. She thought the statute/rules require the carriers to have the ability to explain cramming etc. and the dispute resolution process. She said the question is whether consumers take advantage of that, look at their bills and complain if there is a problem.

She found it amazing that New Mexico numbers were so small with 31 statewide in a year and zero complaints to the Consumer Relations Division over the last two years.

Commissioner Howe said there is no evidence specific to New Mexico. He said he never looks at his bill and charges could show up and he wouldn't know. He thought the Commission doesn't have the answer whether the \$7.65 was lawful in New Mexico if the consumer doesn't know that is the directory assistance charge.

Ms. Skogen said it does seem suspicious the directory assistance charge would be at that rate.

Commissioner Howe said that is why the Commission brought it up and then it was removed by the phone company, which suggests if legal, that wouldn't have been done. He wanted more information on how the directory assistance rules work because that area might be going undetected.

Mr. Tim Goodwin with CenturyLink offered to provide information. He said in that particular case the directory assistance charge happened when the customer dialed a call that had been out of service and had no forwarding number. The third party contractor got the number and provided their directory assistance service to find a new number and the call was routed to the provider.

He said a message plays that states directory assistance could help get the number and asks if the customer would like to get that number. He said CenturyLink has information that shows the consumer did call the number, hear the message and press the corresponding number to accept the charges.

Mr. Goodwin said CenturyLink policy is to provide a billing service for the third party provider. When a customer says they didn't make the call or authorize the charge, CenturyLink reverses the charge. He said the customer and the third party have to work out the dispute on the charge.

Commissioner Howe asked if the message says how much the charge is when the person is asked if they accept the charge for the service.

Mr. Goodwin said he thought it does but there are taxes on top of that.

Commissioner Howe asked if CenturyLink/Qwest requires the charge be made known to the customer.

Mr. Goodwin said in order to get onto the bill they have to follow an agreement and policy. He understands that requires all of the particulars of the charge including that charges be disclosed to the customer. He said the short answer is yes but CenturyLink doesn't police or verify that on a daily basis.

Commissioner Howe asked who would police the third party provider arrangement.

Mr. Goodwin said the PRC and FCC who monitor third party cramming/slamming and help consumers with third party bills.

Commissioner Howe thanked Mr. Goodwin for his answers. He asked Ms. Skogen if, in this investigation, the companies had responded to any specific questions with affirmed or attested to; with attestations or reports.

Ms. Skogen thought there wasn't a requirement to attest to the responses but she recalled that the provider for the directory assistance was out of Nevada. She said that could impact whether there was jurisdiction over the charges.

Commissioner Howe said there is a flaw if a Nevada firm is allowed to charge a New Mexico customer without the PRC jurisdiction.

Ms. Skogen explained she didn't mean to imply that the PRC didn't have jurisdiction if authorized; just in terms of if there was a tariff charge.

Commissioner Howe said there isn't a tidal wave of problems but he still had a question whether the third-party providers make the prices of their services known. He said if he had made a directory assistance call and was asked if he would accept the charges, he probably would have assuming the charge would be a few pennies.

Mr. Parker added that the complainant alleged that; he may have accepted the charges but expected a dollar, etc.

Commissioner Howe wanted to know from the telecom providers if their third-party agreements require the parties to be transparent about the prices charged at the time the customer accepts the charge.

Mr. Parker thought that would be confusing for companies. He explained billing is often through another carrier and directory assistance might be Verizon, and because it is included in the Qwest bill could be unique to directory assistance; which people naturally associate with the phone company.

Commissioner Howe said it could be limited to directory assistance but might apply equally to other areas of telecom. He asked this be as broad as possible as it pertains to standard telecom services; whatever that might be.

Mr. Goodwin that what Commissioner Howe described could border on the use of the telephone service and the manner in which those services are provided through the Order would be through telephone communications, through pushing buttons or voice etc.

Commissioner Becenti-Aguilar said Ms. Skogen indicated there are only 31 complaints statewide and no complaints in Consumer Relations. She said that is good information but PRC's job is to protect the consumers and many of the consumers may not be educated enough or know to file a complaint with Consumer Relations. She asked that Staff further investigate how telephone companies have hidden charges.

She said this has happened to her and she didn't report it and a lot of consumers might not report it. She asked that the Commission allow Staff to investigate this and allow rules to be set in place. She said the Commission should have answers available.

Ms. Skogen agreed there is a consumer protection issue and at the same time the difficulty is that there are a number of things on the bill where consumers want those charges. She said the practice has been going on since the mid 90s and is a legitimate business practice to have the charges on the bill for customers' convenience. The problem is when charges are not authorized.

She said her point is a lot of people have looked into this and the measures to curb this to a large degree don't go as far as what PRC has in place. She said the question is if they should do more to enforce what is on the books. She said she doesn't have specific suggestions as to how to strengthen the rules but Staff could go deeper into the information provided by the carriers. She said Staff could look into the details behind the complaints and as Commissioner Howe suggested, at the contracts between telecom companies, providers and aggregators.

Commissioner Becenti-Aguilar was interested in Commissioner Howe's suggestion to strengthen the rules and have a review session. She said it is worth looking into to make sure the telecom staff has enough information and to get recommendations from General Counsel of what is going on in New Mexico.

Chair Lyons said Commissioner Howe made a good point; when a call is made to directory assistance you don't think your charge is going to be exorbitant. He was ready to find a way the Commission could limit directory assistance on how much they could charge.

Commissioner Hall agreed. He said Staff should look at that and make suggestions to the current rules to make them better for all customers.

Commissioner Howe clarified that the Commission wants to know how customers know what they would be charged when they authorize the call and also *when* the customer is told that cost; if customers are being told the charge at the time the charge is authorized.

Commissioner Becenti-Aguilar said the telecom industry would say that customers agreed to that in their contracts for that type of service and if that is the case, is another option for Staff to research to see how the industry does their business.

10. PUBLIC COMMENT

There was no public comment.

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

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

12. COMMUNICATIONS WITH CHIEF OF STAFF, JOHNNY MONTOYA

There were no communications with Chief of Staff.

13. COMMUNICATIONS WITH COMMISSIONERS

Commissioner Howe said he just returned from a trip to Amman Jordan where he participated in a USAID (Agency for International Development) project to help the electricity regulatory commission understand how to implement their new energy efficiency law. He was surprised that Jordan is trying to tackle many of the same problems as New Mexico in energy efficiency.

He said Jordan imports almost all of their fuel for electricity generation and are completely hostage to the international market on oil and is bankrupting the country and energy efficiency is a national security issue. He said he would write a piece on that.

Commissioner Howe said secondly, he wanted to bring up the draft letter to the Attorney General on HM 63 by Chair Lyons.

Chair Lyons said he would talk about that. He said he wants to designate Marc Martinez to act as the liaison between the AG's office and the PRC to see if the PRC recommendation to the legislature could be the same as the AG's.

Commissioner Howe had no objection and thought it appropriate for Chairman Lyons to respond to the AG, but he wasn't confident they would get a consensus report between the AG and the PRC. He thought there were different views.

He asked if it would serve their purpose for Commissioners, because of the tight time line, to have an open discussion on their feelings. He said they would have time, if different sets of Commissioners or independent Commissioners wanted to offer their own opinions to the legislature.

Chair Lyons said it was a very good idea and they could try to get Marc Martinez on it as much as possible to start a presentation on what is there and to have a discussion.

Commissioner Becenti-Aguilar asked that the item be on the agenda for Thursday.

Chair Lyons said the recommendation should be to send the letter that says Mark Martinez would be the Commission's liaison.

Mr. Parker confirmed the letter would just state that Mr. Martinez would work with the AG staff and would not take a position of whether a good or bad idea. He said the discussion item could be scheduled for next Thursday.

Commissioner Howe suggested a week would be needed to put in a clean and clear format.

Chair Lyons said the PRC needs a letter that states that Mark Martinez, not the Chief of Staff or Commissioners, etc. would be the contact person on HM 63.

Commissioner Howe offered to send the letter.

Commissioner Becenti-Aguilar asked if discussion was required for Mark Martinez to be the liaison.

Chair Lyons said he was only communicating that.

Commissioner Howe said he wasn't sure if Commissioner Becenti-Aguilar's concern was if Mr. Martinez would take a particular point of view. He had asked Mr. Martinez that question and was assured that Mr. Martinez plans to take no position and would simply be a conduit of information.

Commissioner Becenti-Aguilar said there should also be a statement in the letter that indicates there are five Commissioners and five different views and indicates that PRC is only assigning Mark Martinez as liaison between the two agencies. She said that isn't clear in the letter and as she reads it said they would begin the discussion between the two agencies. She said the Commission should also make the point to the AG that there are different views.

Commissioner Hall said he hasn't read the letter but thought there should be an open discussion with all five Commissioners to come to a consensus of what to do about HM 63.

Chair Lyons asked if Commissioner Hall wanted Mr. Martinez designated as the point person.

Commissioner Hall said yes, as long as Mr. Martinez isn't espousing his own opinion.


Mr. Parker offered to review the letter.

14. ADJOURNMENT

Commissioner Becenti-Aguilar moved to adjourn the meeting. Commissioner Howe seconded the motion and the motion passed by unanimous 4-0 voice vote.

The meeting adjourned at 11:48 a.m.

ATTEST:



Carl Boaz, Stenographer

APPROVED: 10/11/2012



PATRICK H. LYONS, CHAIRMAN



THERESA BECENTI-AGUILAR, VICE CHAIR



JASON A. MARKS, COMMISSIONER



BEN L. HALL, COMMISSIONER

TELEPHONICALLY APPROVED

DOUGLAS J. HOWE, COMMISSIONER

OPEN MEETING

DATE: Sept. 18, 2012

[illegible]

EXHIBIT 1
PRC 09/18/12



NEW MEXICO PUBLIC REGULATION COMMISSION

**REGULAR OPEN MEETING
Tuesday, September 18, 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**
 - **Recognition of the Employee of the Month of August**
- 4. CONSIDERATION AND APPROVAL OF THE AGENDA**
- 5. CONSIDERATION AND APPROVAL OF MINUTES**
 - **Minutes of the Regular Open Meeting of August 16th, 2012**
 - **Minutes of the Regular Open Meeting of August 21st, 2012**
- 6. PUBLIC HEARING**

CASE NO. 12-00125-UT – IN THE MATTER OF THE REVOCATION OF OPERATING AUTHORITIES FOR FAILURE TO COMPLY WITH FINANCIAL RESPONSIBILITY REQUIREMENTS.

**NEW MEXICO PUBLIC REGULATION COMMISSION, TRANSPORTATION DIVISION,
PETITIONER.**

V.

MIGUEL A. GAMEZ HERNANDEZ, #54758; GLEN D. BEGAY, D/B/A WINSTON RECOVERY, #52821; BIG DOG TRANSPORT, LLC., #55863; MARTIN & RISIE LEYVA, D/B/A WILDCAT TRUCKING, #53146; RICHARD'S TAXI, LLC, #56065; MUDDY WATER RANCH, LLC, #55219; EDGARD ONTIVEROS, D/B/A EXCALIBUR CORP., #55787; NIZHONI MEDICAL SUPPLY, INC., D/B/A NIZHONI TRANSPORTATION, # 55247; REYES RIVERA JR., D/B/A DOUBLE A TRUCKING, # 55986; WALTER ABBOT, D/B/A TWS TOWING, #52718; NATAN E. ACOSTA, D/B/A E N A TRANSPORT, #55875; DANIEL

PAYAN, D/B/A PAYAN'S TRUCKING, #54482; JUSTO MORENO, D/B/A JUSTO TOWING, #55384; OSCAR ALVIDREZ, D/B/A OSCAR ALVIDREZ TRUCKING, #54842; JOE BAEZA, D/B/A JOE DIRT, #55914; G NAJERA, #54566; XAVIER GOMEZ, D/B/A GOMEZ TRUCKING, #55717; A & A TOWING, INC., #52534; MARIA T. VILLAR, D/B/A ANGELS TRANSPORTATION, #55951; JOHN MONAFO, D/B/A US 70 AUTO SALVAGE, #54422; GABRIEL GARCIA, D/B/A GABRIEL GARCIA TRUCKING, #55598; JAME A. GOMEZ, D/B/A GOMEZ TRUCKING, #53081; PECOS VALLEY MEDICAL CENTER, INC., D/B/A PECOS VALLEY AMBULANCE SERVICE, #6416; D2L TRUCKING, INC. #54891; SUPER TOW, LLC, #55919; AMERICAN RECOVERY, INC., #36727; JERRY M. DURAN, D/B/A JD & SONS DIESEL FILTERS SUPPLIES, #53245; JOSE CHAVARRIA, D/B/A M & C TRUCKING, #55972; JOSEPH ARBALLO, D/B/A J & J TRUCKING, #55356; DOMINGO V. PEREZ, D/B/A PEREZ TRUCKING, #54802.

ARMANDO ARMENDARIZ, D/B/A A&S FUN TOURS, #00044/55277; BENJAMIN VILLALBA, D/B/A EDELS TRUCKING, #56040; CJ RECOVERY, LLC, #55351; CANON VIA, LLC, #55949; OSCAR CORONA, D/B/A CORONA'S TOWING, #56061; MARTIN JIMENEZ, D/B/A JIMENEZ TRUCKING, #55725; JUAN URIAS, D/B/A EMMANUEL TRUCKING, #55874; D CISCO NAVARETE, D/B/A CN FARMS & TRUCKING, #54704; WILL STANGER, D/B/A SOUTHWEST EXPRESS, LLC, #54914; MONTANO'S EXCAVATING & TRENCHING, INC., D/B/A SANTA FE CONCRETE CO., #55870.

7. CONSENT ACTION

A. Transportation Division

<p>12-00125-TR-EN Bob Parker</p>	<p>IN THE MATTER OF THE REVOCATION OF OPERATING AUTHORITIES FOR FAILURE TO COMPLY WITH FINANCIAL RESPONSIBILITY REQUIREMENTS. NEW MEXICO PUBLIC REGULATION COMMISSION, TRANSPORTATION DIVISION, PETITIONER. V.</p> <p>MIGUEL A. GAMEZ HERNANDEZ, #54758; GLEN D. BEGAY, D/B/A WINSTON RECOVERY, #52821; BIG DOG TRANSPORT, LLC., #55863; MARTIN & RISIE LEYVA, D/B/A WILDCAT TRUCKING, #53146; RICHARD'S TAXI, LLC, #56065; MUDDY WATER RANCH, LLC, #55219; EDGARD ONTIVEROS, D/B/A EXCALIBUR CORP., #55787; NIZHONI MEDICAL SUPPLY, INC., D/B/A NIZHONI TRANSPORTATION, #55247; REYES RIVERA JR., D/B/A DOUBLE A TRUCKING, #55986; WALTER ABBOT, D/B/A TWS TOWING, #52718; NATAN E. ACOSTA, D/B/A E N A TRANSPORT, #55875; DANIEL PAYAN, D/B/A PAYAN'S TRUCKING, #54482; JUSTO MORENO, D/B/A JUSTO TOWING, #55384; OSCAR ALVIDREZ, D/B/A OSCAR ALVIDREZ TRUCKING, #54842; JOE BAEZA, D/B/A JOE</p>
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	<p>DIRT, #55914; G NAJERA, #54566; XAVIER GOMEZ, D/B/A GOMEZ TRUCKING, #55717; A & A TOWING, INC., #52534; MARIA T. VILLAR, D/B/A ANGELS TRANSPORTATION, #55951; JOHN MONAFO, D/B/A US 70 AUTO SALVAGE, #54422; GABRIEL GARCIA, D/B/A GABRIEL GARCIA TRUCKING, #55598; JAME A. GOMEZ, D/B/A GOMEZ TRUCKING, #53081; PECOS VALLEY MEDICAL CENTER, INC., D/B/A PECOS VALLEY AMBULANCE SERVICE, #6416; D2L TRUCKING, INC. # 54891; SUPER TOW, LLC, #55919; AMERICAN RECOVERY, INC., #36727; JERRY M. DURAN, D/B/A JD & SONS DIESEL FILTERS SUPPLIES, #53245; JOSE CHAVARRIA, D/B/A M & C TRUCKING, #55972; JOSEPH ARBALLO, D/B/A J & J TRUCKING, #55356; DOMINGO V. PEREZ, D/B/A PEREZ TRUCKING, #54802.</p> <p>Order</p>
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B. Utility Division

<p>12-00264-UT Bob Parker</p>	<p>IN THE MATTER OF THE PUBLIC REGULATION COMMISSION'S INVESTIGATION REGARDING GAS SERVICE TO CERTAIN CUSTOMERS IN NORTHWEST NEW MEXICO.</p> <p>Order</p>
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8. REGULAR ACTION

A. Utility Division

<p>10-00366-UT Margaret Caffey-Moquin</p>	<p>IN THE MATTER OF THE REQUEST OF TWSD WATER AND SANITATION DISTRICT FOR AN EMERGENCY INTERIM RATE INCREASE.</p>
<p>12-00193-UT</p>	<p>IN THE MATTER OF TWSD WATER AND SANITATION DISTRICT'S ADVICE NOTICE NO. 10 FOR NEW RATES.</p> <p>Order</p>

9. DISCUSSION ITEMS

B. Utility Cases

12-00061-UT Sandra Skogen	IN THE MATTER OF AN INVESTIGATION INTO THIRD PARTY CHARGES ON TELEPHONE BILLS AND POSSIBLE CRAMMING.
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10. PUBLIC COMMENT

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

12. COMMUNICATIONS WITH CHIEF OF STAFF, JOHNNY MONTROYA

13. COMMUNICATIONS WITH COMMISSIONERS

14. 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.