MINUTES OF THE
CASE MANAGEMENT OPEN MEETING
NEW MEXICO PUBLIC REGULATION COMMISSION
October 14, 2015

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 Karen L. Montoya, Chairperson
Commissioner Valerie Espinoza
Commissioner Patrick H. Lyons
Commissioner Sandy Jones

Members Absent:
Commissioner Lynda Lovejoy, Vice-Chairperson [excused]

Staff Present:
Andrea Delling, Interim Chief of Staff
Michael Smith, General Counsel
Margaret Caffey-Moquin, Associate General Counsel
Judith Amer, Associate General Counsel
Russell Fisk, Associate General Counsel
Bryan Brock, Transportation Division Director
Carlos Padilla, Public Information Officer

Others Present
Carl Boaz, Stenographer

CALL TO ORDER

The Case Management 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. Commissioner Karen Montoya, Chairperson, called the Case Management 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 Case Management Open Meeting is incorporated herewith to these minutes as Exhibit 1.
A copy of the Agenda for the Case Management Open meeting is incorporated herewith to these minutes as Exhibit 2.

A copy of the Public Comment sign-in sheet for the Case Management Open Meeting is incorporated herewith to these minutes as Exhibit 3.

1. PLEDGE OF ALLEGIANCE/STATE PLEDGE

2. INTRODUCTION OF SPECIAL GUESTS

There were no introductions.

3. CONSIDERATION AND APPROVAL OF THE AGENDA

Chairperson Montoya requested to take off case 15-00312-UT from the Consent Action and place it first under Regular Action.

Commissioner Lyons moved to approve the agenda as amended. Commissioner Espinoza seconded the motion and it passed by unanimous (5-0) voice vote.

4. CONSIDERATION AND APPROVAL OF MINUTES

Minutes of Case Management Open Meeting of September 23, 2015

Chairperson Montoya requested to postpone these minutes to next week's meeting.

Commissioner Jones moved to table the minutes of September 23, 2015. Commissioner Espinoza seconded the motion and it passed by unanimous (4-0) voice vote.

5. CONSENT ACTION:

A. Utility Matters:

1) 14-00196-UT  IN THE MATTER OF THE FORMAL COMPLAINT FILED BY EDMUND PEREA AGAINST CENTURYLINK (Margaret Caffey-Moquin) Order

3) 14-00220-UT  IN THE MATTER OF THE FILING OF INFORMATION REGARDING THE USE OF

Minutes of the Case Management Open Meeting October 14, 2015
PAYMENTS FROM THE STATE RURAL UNIVERSAL SERVICE FUND AS REQUIRED BY 17.11.10.17(3) NMAC
(Russell Fisk) Order

B. Transportation Matter:

4) 15-00274-TR-M IN THE MATTER OF THE APPLICATION OF ADVENTURE PARTNERS, LLC, FOR AN AMENDMENT TO ITS PERMIT TO PROVIDE SPECIALIZED PASSENGER SERVICE AS A TOUR AND SIGHTSEEING SERVICE IN THE STATE OF NEW MEXICO
(Michael C. Smith) Order

Commissioner Espinoza moved to approve the orders in the three consent items. Commissioner Jones seconded the motion which passed by unanimous (4-0) voice vote.

6. PUBLIC HEARING

The Commission went on the record at 9:35 a.m. The public hearing was transcribed by a Court Reporter and are not part of these minutes.

15-00001-TR-EN IN THE MATTER OF THE REVOCATION OF OPERATING AUTHORITIES FOR FAILURE TO COMPLY WITH FINANCIAL REQUIREMENTS. NEW MEXICO PUBLIC REGULATION COMMISSION, TRANSPORTATION DIVISION, PETITIONER, V.

SALOMON MARES D/B/A VAGAMUNDO TRUCKING, #55405; C. VIGIL TRUCKING, LLC, #45148; CARLOS AND SOFIE GURULÉ D/B/A GURULÉ TRUCKING, #43309; BLAS LOYA D/B/A LOYA & SONS, #546363; ADAN MURRILLO D/B/A MURILLO TRUCKING, #56329; MARLEN FAMILY TOWING INC., #55985; AUTOMOTIVE PARTS & SERVICE, INC., #54128; JA OILFIELD SERVICES, INC., #56083; RESPONDENTS

The Public Hearing was concluded at 9:18 a.m. on the Commission went off the record and returned to the Open Meeting agenda.

7. REGULAR ACTION AND DISCUSSION

A. Utility Matter:

2) 15-00312-UT IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE COMPANY OF NEW MEXICO FOR A VARIANCE FROM RULE 560 AND CASE 2124 ORDER APPROVING METER TESTING PROGRAM, PUBLIC SERVICE COMPANY OF NEW MEXICO, PETITIONER.
Mr. Smith presented information regarding this matter to the Commission. This matter is an application or petition requesting a variance from certain requirements and rule 560 and a prior order of the Commission entered in case 2124 back in 1987, which essentially requires PNM to conduct a meter testing sampling program. It is a statistical sampling to test whether electric meters need acceptance or rejection. For different types of meters installed for customers. The intent of that is to identify meters that are not performing up to standards.

There is a previous docket before the Commission in Case 06-00391-UT which is a Notice of Inquiry. It was recently discussed and was issued to commercial customers in which the Commission was looking into advanced metering under time-based rates. In that case, PNM filed a white paper indicating the potential advantages related to advanced metering. However, at that time, they had not conducted enough examination to be certain of the benefits of advanced metering to be realized. They indicated in their more current filing that sense that initial filing in that case, they have periodically studying the costs and benefits of advanced metering. They have now concluded that it may be a viable technology to pursue.

Because they are engaged in identifying large groups of meters and continue to invest large amounts of money of installing meters that would have been installed as advanced meters, they are seeking a variance from that requirement of identifying those older meters so they can basically state that pending the submission of an application to the Commission for an advanced metering program.

Chairperson Montoya asked Mr. Smith what issues he saw regarding them not replacing the meters till the testing is done

Mr. Smith explained that if the media does come to their attention as being defective, that those meters will continue to be replaced. But during the period of the variance, PNM would be looking at replacing 58,000 meters at a cost of $2.8 million.

The order that Mr. Smith prepared for the Commission, since there is not enough information in here to identify on his own, February 28, 2016 is when they would file but they would not deploy until December 31, 2019. So the Commission actually only has a few months to decide it.

Chairperson Montoya noted that it says report detailing why the program is not cost beneficial by February 28, 2018. She asked if that meant they would not know until that time.

Mr. Smith apologized that 2018 was a typo and it should be 2016.

Chairperson Montoya said that is more understandable.

Mr. Smith explained that PNM is asking for approval without a hearing and he is not necessarily opposed to that idea very are that it would be appropriate to request staff input because they are more aware of this advanced metering replacement program. They could advise the Commission if this variance is in the public interest.
Commissioner Espinoza asked if he said that PNM wanted approval without a hearing. She asked if that was because of the investment costs they would be incurring or if there was another reason.

Mr. Smith said that is the reason. They would like to avoid spending a lot of money on meters. They would probably first identify those that are suitable for replacement. But obviously, if they got new meters, those would be pushed to the back of the list.

Commissioner Espinoza asked if the consumers would be paying for those meters anyway.

Mr. Smith said that is correct. PNM doesn’t want to incur that cost by the shareholders. Usually these are the kinds of costs that would be passed along in rates.

Commissioner Lyons moved to approve the order with the one change on the date from 2018 to 2016. Commissioner Espinoza seconded the motion which passed by unanimous (4-0) voice vote. So Ordered

A. Transportation Matter:

5) 15-00001-TR-EN IN THE MATTER OF THE REVOCATION OF OPERATING AUTHORITIES FOR FAILURE TO COMPLY WITH FINANCIAL REQUIREMENTS. NEW MEXICO PUBLIC REGULATION COMMISSION, TRANSPORTATION DIVISION, PETITIONER, V.

SALOMON MARES D/B/A VAGAMUNDO TRUCKING, #55405; C. VIGIL TRUCKING, LLC, #45148; CARLOS AND SOFIE GURULÉ D/B/A GURULÉ TRUCKING, #43309; BLAS LOYA D/B/A LOYA & SONS, #546363; ADAN MURRILLO D/B/A MURRILLO TRUCKING, #56329; MARLEN FAMILY TOWING INC., #55985; AUTOMOTIVE PARTS & SERVICE, INC., #54128; JA OILFIELD SERVICES, INC., #56083, RESPONDENTS

(Judith Amer)

Order

Ms. Amer presented information regarding this matter. She prepared an order revoking the operating authorities for these noncompliant motor carriers. The list is on staff Exhibit 2 which was filed in this docket on October 13, 2015.

Commissioner Jones moved to approve the order. Commissioner Lyons seconded the motion which passed by unanimous (4-0) voice vote. So Ordered.

C. Utility Matter:

6) 15-00127-UT IN THE MATTER OF THE APPLICATION OF EL PASO ELECTRIC COMPANY FOR REVISIONS OF ITS RETAIL ELECTRIC RATES PURSUANT TO ADVICE NOTICE NO. 236
Commissioner Lyons said he wanted to put this on the agenda because he wanted to vote on it today. It has been going on for several weeks and is part of the interlocutory appeal. The Commission owes it to the company to get this taken care of.

He said he was going to call in on a satellite on from the Gila wilderness and hoped it would work next week. That was why he wanted it on the agenda today.

Mr. Fisk said oral argument was held last week and there are a couple of issues that were raised during that oral argument. OGC first thought analysis needed to be done but upon further review decided those issues would not stand in the way of the recommendation that OGC had previously given. That was to deny the interlocutory appeals. One of those issues by Counselor Marks for Vote Solar was with regard to the application regarding the federal PURPA Act. OGC previously raised this issue with regard to construing rule 570, which is the rule about that issue in this matter. OGC believes that rule 570 intended to implement the FERC rules, which concern Distributed Generation. While the objectives in rule 570 is to implement those FERC rules. And the other reason is that PURPA actually requires state regulatory authorities to implement the FERC rules. So he didn't believe there could be any difference in substance between the FERC rules and rule 570.

He pointed specifically in the FERC rules to rule 292.305 which concerns rates for sales.

Chairperson Montoya asked Mr. Fisk if that meant Commission had created rules illegally.

Mr. Fisk said no. He is saying that the PRC will does comply with FERC under the interpretation that OGC asserts. He explained that FERC rule 18CFR 292.305, under A, General rules, a.1 deals with rates for sales. It says that they shall not discriminate against any qualifying facility- that is basically the DG solar panels in comparison to rates for sales to other customers served by the electric utility. So the rule makes a comparison between customers with DG and customers without.

Chairperson Montoya asked if he assumed the facility was qualifying.

Mr. Fisk agreed. Solar panel facilities qualify under PURPA as well as our rule. There is no controversy about that at this point. But in the rule right after this one says rates for sales, which are based on accurate data and consistent system wide costs and principles shall not be considered to discriminate against any qualifying facility to the extent that such rates apply utilities other customers with similar load or other cost related characteristics. That is what EPE is arguing and its testimony - its proposed class for partial requirements customers, residential customers with solar or other qualifying facilities - is that they have a unique cost and load profile. And therefore, EPE can create a rate based on that.

Because this is a FERC rule and because Rule 570 is to implement that rule and because we don't believe that rule can deviate from the FERC rule. We believe that El Paso should have the opportunity to try to prove that the difference in rates between residential and residential partial requirements class are due to
real differences in costs and load.

Chairperson Montoya asked if a facility can qualify for a rate if the rate is illegal.

Mr. Fisk was not sure he understood the question. Qualifying facility actually refers to the technical features of the facility by allowing it to qualify as a cogeneration unit.

Chairperson Montoya understood he was not saying it qualifies for this rate.

Mr. Fisk agreed.

Mr. Fisk said counsel for Vote Solar argued that PURPA and FERC rules do not prevent the Commission from adopting a rule that deviates from a FERC rule, which is just the opposite of what OGC has been saying. Counsel for Vote Solar argued that if there were higher rates for DG customers, it wouldn't encourage distributed generation, which is one of the objectives of PURPA and also is one of the objectives of at least a portion of the rule as stated in 570, that it is okay to deviate in that direction. Mr. Marks discussed a case in which a court had allowed a state to deviate with regard to rates for purchases from these entities. But the point was that states were allowed impose a rule that was more beneficial to the qualifying facility than the rest. It is called a matter of Consolidated Edison Company of New York v. Public Service Commission 63 MR second 424, 1984. He read it into the record because there was not a comparable citation from New Mexico.

However, a case from a Pennsylvania court from 1990 stated with regard to the New York case that the same reasoning doesn’t apply when it comes to a state regulatory authority. The New York case concerned a state statute and the Pennsylvania said there is an issue with regard to a federal preemption and there the analysis is whether the federal law preempts the rules. The FERC said their rules can prevent a state from making a law. The Pennsylvania court said that PURPA doesn’t prevent that. PURPA does say the state must implement these rules. So it wouldn’t apply with regard to Rule 570 in that the Commission couldn’t independently deviate from the FERC rules in implementing the FERC rules but the State Legislature could.

Chairperson Montoya asked if he was saying our rules deviate.

Mr. Fisk said no. His interpretation is that the rule doesn’t deviate. So when we see EPE’s residential service tariff over here and the residential partial requirements tariff over there, we need to see exactly the same rate. The FERC rules allow for an attempt by the utility to show that there are real cost differences that allow them to create a new class. And they are saying the rule 570 should be interpreted in the same way. That was the first issue we looked into.

Former Commissioner Marks also raised the issue if it was possible for the Commission with regard to interpreting the language of 570, specifically 570.14 C (1) which is a critical part of the rule and discussed today - that is the part of the rule that says customers shall be billed for services in small co-generation facilities in accordance with the rate structure and monthly charges that the customer will be assigned. The customer had not interconnected a qualifying facility. And much of the argument in this case is about the rate structure which has been discussed and it was said that rate structure is not the same as rates and pointed to the report that clearly shows that rate structure is an umbrella concept and refers to allocation of costs and recovery over the whole classes.
Former Commissioner Marks pointed to his handout that highlighted the RD from case 2047. Which was the RD adopted by the Commission. What he pointed to was this language that says the electricity generated by the customer would continue to offset the electricity supplied to the customer by the utility. A customer is required to pay the otherwise applicable energy rate and to pay monthly minimum charges which would have been paid absent the qualifying facility. He argued that meant same rates whereas to us this language takes care not to say same rates. That difference seems only to apply to the monthly minimum charges and that is what EPE argued as well. They said, "look at the monthly charges for each. They are the same. And then the rate structure for all the rates is the same. But the rates can be different. That sentence supports the idea and only applies it to minimum monthly charges.

He asked what is meant by "otherwise applicable energy rate." it could mean just the energy rate that applies but it could be argued that it applies in the absence of a qualifying facility. Bu if that is the case, he asked why they didn’t use the same language by both. That was Mr. Marks’ argument.

Mr. Fisk maintained the same recommendation that these appeals be denied and he stood for questions.

Ms. Caffey-Moquin had nothing else to add.

Commissioner Espinoza heard him say the FERC rule allowed a special rate to be created and asked if he agreed with that or disagreed.

Mr. Fisk said OGC thinks the FERC rule does allow EPE the opportunity to show that there are special costs and characteristics that warrant a different rate for qualifying facilities that don’t characterize other customers and therefore they could show a separate cost should be created for those customers.

Commissioner Espinoza asked then, why he would recommend denial.

Mr. Fisk said the appeals are from the motions to dismiss that were denied. Vote Solar and Solar for Choice had moved to remove the residential partial requirements rate class and EPE opposed that. EPE had set up a separate rate and Vote solar and PRC opposed that. The motions to dismiss were denied and that is the correct decision so the appeal should be denied so that EPE can go forward with its special proposed rate class.

Commissioner Espinoza asked if this was the case that was supposed to be brought up next week.

Mr. Fisk said OGC understood that it would be brought back next week but Commissioner Lyons asked for it to be on the agenda this week.

Commissioner Jones went back to the RD of this Commission in Case 2847. He thought Mr. Fisk read from it precisely and thought his concern was when we try to separate these monthly minimum charges with the actual energy rate - there is no period in that sentence. So he made the case that you cannot split the rate because it is all said in the same sentence. That was approved by this Commission all in one sentence. He thought that decision made it plain that you cannot discriminate in that class. He heard the same arguments and the rule is clear not to split up that class.
So he couldn’t support the RD and didn’t support OGC’s recommendation on this. The rule is clear and the Commission has talked about it in several instances. If the customer’s DG generates one tenth of his energy, then it benefits the system and that customer would be discriminated against. If they are selling back electricity they get charged more. He suggested that there is a process for putting riders in place for qualifying facilities and the Commission has honored that in the past. He was not sure this was the time to change that.

Commissioner Lyons said this has become a big issue in many states. Last week we got into a little testimony. He liked the order. He would like to have a hearing of testimony on this. There are differences of opinion so it is time to hear the testimony. It is a perfect time to do that. He liked the order as it is to dismiss and deny.

Ms. Caffey-Moquin said the disagreement on the closed parcel on the rule to OGC’s view, illustrates that a motion to dismiss should not be granted or run through the interlocutory process because there is some room for a reasonable difference of opinion so to our view of what the standard is for granting a motion to dismiss because there are at least differences that certainly can be respected on each side of the argument that the Commission should not be put in a position, as a matter of law that there is only one way to interpret rule 570. So that is the genesis of her advice to the Commission. It is not crystal clear that there is only one way. If it can be interpreted both ways, this Commission can decide which way.

Commissioner Jones said the order from GC and from the hearing examiner is contrary to a decision the Commission made in an earlier case. It does have a significant effect on how the Commission rules in the future. In this case we are trying to further identify what the rule says about a qualifying facility and what a tariff is. And we are using the kind of language that says that in accordance with doesn’t necessarily mean in accordance with. So it has significant precedence. If EPE didn’t like the decisions and wanted to pursue it in a rate case, they should have asked for a declaratory order so they could separate that out outside of a rate case. The other option would be to do it through a rate rider – the traditional way. Those methods are time tested and customary not only in New Mexico but many other states.

He was worried that the Commission was short-circuiting the process here.

He respects EPE’s position but it needs to be solved now rather than later when it might end up at the Supreme Court. There is a methodology the Commission could put in place to address DG in New Mexico on how to derive those costs.

Commissioner Espinoza asked if there would typically be two orders prepared; one that would grant the appeal and the other would deny the appeal.

Ms. Caffey-Moquin said that typically they present the proposed order they recommend but she could draft the alternative. If that is what the commission chooses and that’s what she would do

Commissioner Espinoza said that’s what she would propose.

Ms. Caffey-Moquin knew that there was some disagreement on the commission about this. She could
see that that would've been a helpful thing to do. If they had more time she would've paid more attention to the alternative.

Commissioner Lyons agreed this is the time to decide what costs and the benefits are and who is paying for it. This is the time to look at it.

Commissioner Lyons moved to deny the interlocutory appeals. The motion died for lack of a second.

Chairperson Montoya asked if it would be appropriate to ask counsel to come back with an alternative decision.

Ms. Caffey-Moquin agreed she could do that.

Commissioner Jones said it doesn't appear there is support for the RD or General Counsel's recommendation here.

Chairperson Montoya said she would like to move an order today but would like something in writing prior to moving an order.

Ms. Caffey-Moquin suggested that the Commission simply give her direction to place the matter on the agenda next week after getting a sense of the Commission on the direction to take.

Commissioner Jones asked that the Commission take into account Commissioner Lyons schedule.

Commissioner Lyons thought the proper thing to do now is not take a vote on it today but he would vote against a motion to table. That's what the Commission did four weeks ago.

Chairperson Montoya to Ms. Caffey-Moquin, with her recommendation, and with the OK of the commission, she formally requested that Ms. Caffey-Moquin bring it back next week, for a vote. Wanted the record reflect that Commissioner Lyons wanted to do this.

Commissioner Lyons asked the record to reflect that three Commissioners did not get a chance to vote on this.

Ms. Caffey-Moquin said the Commission could engage in a voting process on the alternative order today and she could bring a written order back next week. That would be one way that all the Commissioners present today could have their vote reflected at least in the minutes.

Mr. Smith said the Commission could also approve the order and make amendments to as they see fit.

Chairperson Montoya asked for assistance in formulating the motion.

Ms. Caffey-Moquin said one way to do it would be to grant the interlocutory appeal and simply say that the Hearing Examiner's recommendation is overruled and the motions to dismiss are granted. It could be done that way without the more detailed rationale that was presented in the order today.
Chairperson Montoya thought that would be pretty messy – to do it twice.

Mr. Smith said if there is a dispute over the content of the order the parties bring then there is a presentment here.

Chairperson Montoya said that would take longer.

Commissioner Jones said it is important that the Commission disposing of it by next week.

Ms. Caffey-Moquin said it is also possible and she is offering it without consulting her colleague that the Commission could table the matter for an hour and she could draft a very simple order along the lines she just described and bring you back to the commission meeting so it could be voted on today.

Commissioner Jones asked how long that would take her.

Ms. Caffey-Moquin estimated about 45 minutes. She would prefer to be able to write the order with at least an opportunity to review it once more in-house. That would be the best course of action.

Commissioner Jones proposed that the Commission could deny today's order, directing OGC to bring back an order next week partially granting the motions in the appeal.

Ms. Caffey-Moquin said that would work. The only question she had was what the partial approval would be.

Commissioner Jones said he was trying to make it broad so there is flexibility.

Commissioner Espinoza said she just heard Commissioner Lyons say there was no rush. But on the memorandum it says OGC had initially planned to bring this matter back before the Commission on October 21. Commissioner Lyons has directed us to put the matter on the agenda on October 14 as he would not be present on October 21. She asked if OGC could prepare this for October 28.

Ms. Caffey-Moquin said she could.

Commissioner Espinoza said that in every Commissioner could be present for the vote. Commissioner Lovejoy is not here either and she wants matters to be heard when she returns because it is important. Commissioner Espinoza felt that everything Commission decides is important.

Commissioner Jones understood they would vote to deny this order, direct OGC to bring back an alternative order on October 28. Maybe the Commission could have it presented next week or partially presented and then have an order ready to go on October 28 for a vote.

Ms. Caffey-Moquin asked if the discussion on the 21st would be for clarifying the written order.

Commissioner Jones agreed.
Ms. Caffey-Moquin said the only concern she had about that was how it might affect the hearing starting on November 16 as to the scope of the record that is to be developed.

Commissioner Jones moved to deny the appeal and instruct OGC to bring back an alternative order to vote on at the October 28 meeting with discussion on October 21. Chairperson Montoya seconded the motion and it passed by 3-1 majority voice vote. So Ordered.

8. DISCUSSION B PRC BOOTH AT THE AG FEST B COMMISSIONER JONES

Commissioner Jones said he had a discussion with Mr. Segovia with the Department of Agriculture. The Ag Fest is an event where different groups go and show their wares. He asked Commissioner Jones if the Commission would be interested in having a booth there. Many state agencies do have one. The PRC had a significant impact on rural America and rural New Mexico. So he asked if the Commission would like to have a small booth there. He mentioned that the PRC used to have a booth at the State Fair. There is a catch. It will cost about $500 to participate. It doesn't have to be decided today that he wanted to know how the Commission felt about. It is just an opportunity for the PRC to be there and mingle with the legislators and the general public. It could bring it back a later date for action.

9. EXECUTIVE CLOSED SESSION PURSUANT TO NMSA 1978 2CTION 10-15-1(H) (7) TO DISCUSS PENDING LITIGATION:

A. STATE DISTRICT COURT CASE NO. 3-101-CV-2015-01834; NMPRC v. THE NEW MEXICAN ET AL.


Mr. Smith clarified that the only reason for the executive session is for part B.

Commissioner Espinoza moved to go into executive session. Commissioner Jones seconded the motion and it passed by unanimous roll call vote with Commissioner Jones, Commissioner Montoya, and Commissioner Espinoza voting in the affirmative and none voting against (4-0).

The Commission went into executive session at 10:54 a.m.
The Commission ended the executive session at 11:22 a.m.

Commissioner Jones moved to return to open session. Commissioner Lyons seconded the motion which passed by unanimous (4-0) voice vote.

Commissioner Jones announced to the public that during the closed executive session no actions were taken and the only matters discussed was the Supreme Court appeal with New Energy Economy.

10. MISCELLANEOUS ANNOUNCEMENTS

There were no miscellaneous announcements.

11. PUBLIC COMMENT

There were no public comments.

12. COMMUNICATIONS WITH GENERAL COUNSEL, MICHAEL C. SMITH

There were no communications with General Counsel.

13. COMMUNICATIONS WITH INTERIM ACTING CHIEF OF STAFF, ANDREA DELLING

Ms. Delling was not in the room.

14. COMMUNICATIONS WITH COMMISSIONERS

Commissioner Lyons requested permission to invite Mr. Ken Costello to make a presentation to the Commission about recent developments in the electric industry. It would be no longer than the 30-minute presentation with time for questions. He asked if it could be put on the October 28 agenda. He thought it would be very informative for the Commission.

Ms. Delling returned to the meeting and said she had nothing to communicate.

15. ADJOURNMENT

Commissioner Jones moved to adjourn the meeting.

The meeting was adjourned at 11:30 a.m.
Thank you for attending this meeting.

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<td>Ruth Sarya</td>
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<td>Stacey Goodwin</td>
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<td>Diane Giedhill</td>
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AGENDA

1. PLEDGE OF ALLEGIANCE/STATE PLEDGE

2. INTRODUCTION OF SPECIAL GUESTS

3. CONSIDERATION AND APPROVAL OF THE AGENDA

4. CONSIDERATION AND APPROVAL OF MINUTES
   - Minutes of Case Management Open Meeting of September 23, 2015

5. CONSENT ACTION:

   A. Utility Matters:

   | 1)  | 15-00196-UT Margaret Caffey-Moquin | IN THE MATTER OF THE FORMAL COMPLAINT FILED BY EDMUND PEREA AGAINST CENTURYLINK |
   | 2)  | 15-00312-UT Michael C. Smith       | IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE COMPANY OF NEW MEXICO FOR A VARIANCE FROM RULE 560 AND CASE NO. 2124 ORDER APPROVING METER TESTING PROGRAM, PUBLIC SERVICE COMPANY OF NEW MEXICO, Petitioner |
   | 3)  | 15-00220-UT Russell Fisk           | IN THE MATTER OF THE FILING OF INFORMATION REGARDING THE USE OF PAYMENTS FROM THE STATE RURAL UNIVERSAL SERVICE FUND AS REQUIRED BY 17.11.10.17(E) NMAC |

Open Meeting: Case Management Meeting
Agenda
Wednesday, October 14, 2015
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### B. Transportation Matter:

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**ORDER**

### 6. PUBLIC HEARING

Case No. 15-00001-TR-EN
Avelino Gutierrez
Fidel Archuleta

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

NEW MEXICO PUBLIC REGULATION COMMISSION, TRANSPORTATION DIVISION,

PETITIONER,

V.

SALOMON MARES D/B/A VAGAMUNDO TRUCKING, #55405; C. VIGIL TRUCKING, LLC, #56148; CARLOS AND SOFIE GURULE D/B/A GURULE TRUCKING, #43309; BLAS LOYA D/B/A LOYA & SONS, #54636; ADAN M. MURRILLO D/B/A MURILLO TRUCKING, #56329; MARLEN FAMILY TOWING, INC., #55985; AUTOMOTIVE PARTS & SERVICE, INC., #54128; JA OILFIELD SERVICES, INC., #56083,

RESPONDENTS
7. **REGULAR ACTION AND DISCUSSION**

A. **Transportation Matter:**

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<th>15-00001-TR-EN</th>
<th>IN THE MATTER OF THE REVOCATION OF OPERATING AUTHORITIES FOR FAILURE TO COMPLY WITH FINANCIAL REQUIREMENTS.</th>
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<td></td>
<td>Judith Amer</td>
<td>NEW MEXICO PUBLIC REGULATION COMMISSION, TRANSPORTATION DIVISION,</td>
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<td>PETITIONER,</td>
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<td>SALOMON MARES D/B/A VAGAMUNDO TRUCKING, #55405; C. VIGIL TRUCKING, LLC, #56148; CARLOS AND SOFIE GURULE D/B/A GURULE TRUCKING, #43309; BLAS LOYA D/B/A LOYA &amp; SONS, #54636; ADAN M. MURRILLO D/B/A MURILLO TRUCKING, #56329; MARLEN FAMILY TOWING, INC., #55985; AUTOMOTIVE PARTS &amp; SERVICE, INC., #54128; JA OILFIELD SERVICES, INC., #56083;</td>
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<td>RESPONDENTS.</td>
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B. **Utility Matter:**

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<th>6)</th>
<th>15-00127-UT</th>
<th>IN THE MATTER OF THE APPLICATION OF EL PASO ELECTRIC COMPANY FOR REVISIONS OF ITS RETAIL ELECTRIC RATES PURSUANT TO ADVICE NOTICE NO. 236</th>
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<td>Commissioner Lyons</td>
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8. **DISCUSSION— PRC BOOTH AT THE AG FEST — COMMISSIONER JONES**
9. EXECUTIVE CLOSED SESSION PURSUANT TO NMSA 1978, SECTION 10-15-1(H)(7) TO DISCUSS PENDING LITIGATION:

A. STATE DISTRICT COURT CASE NO. D-101-CV-2015-01823; NMPRC v. THE NEW MEXICAN ET AL.


10. MISCELLANEOUS ANNOUNCEMENTS

11. PUBLIC COMMENT

12. COMMUNICATIONS WITH GENERAL COUNSEL, MICHAEL C. SMITH

13. COMMUNICATIONS WITH INTERIM ACTING CHIEF OF STAFF, ANDREA DELLING

14. COMMUNICATIONS WITH COMMISSIONERS

15. ADJOURNMENT

To obtain a copy of this agenda please log in the Commission's website at www.nmpc.state.nm.us.

The Commission will make reasonable efforts to post the agenda on the Commission's website at least 72 hours before the open meeting, but the inability to do so within the 72 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 AT (505) 827-4042 AS SOON AS POSSIBLE PRIOR TO THE COMMENCEMENT OF THE OPEN MEETING.

PUBLIC COMMENT

All members of the public wishing to provide public comment must sign a sign-up sheet prior to the start of the meeting and identify their name and the name of the organization they represent (if any), and the topic or issue on which they desire to comment. The portion of the agenda allocated for public comment at any one open meeting shall be limited to a maximum of 30 minutes for all persons wishing to provide comment. The order of speakers will be based on the order in which speakers sign up, but public officials may be taken out of order. If a speaker is not present at the time he or she is called to provide comment, that speaker shall forfeit their opportunity to speak. Public comment by an individual or entity shall be limited to no more than three (3) minutes unless the Commission acts to extend the period. If the number of individuals on the sign-up sheet desiring to provide comment would exceed the allotted 30-minute period, the Chairman may limit individual remarks to a shorter time period. Individuals represented by or representing a common organization or association may be asked to select one individual to act as spokesperson to speak for the group. Individuals who sign up to comment, but either fail to do so or choose to speak for less than their allotted time, may not cede or yield their time to another speaker. Written comments of individuals who cannot be physically present may not be read aloud at the meeting but may be submitted to the Commission.

The subject matter of public comments shall be relevant to matters within the Commission’s jurisdiction. Public comment will not be permitted on matters that should be addressed appropriately as the subject of an informal or formal complaint before the Commission or on pending rulemaking proceedings before the Commission once the opportunity for public comment in those proceedings has closed. Public comment by parties to a proceeding or adjudication pending before the Commission will not be permitted where the comment concerns matters at issue in such proceeding. The Chairman shall retain the right to stop any speaker who raises an issue that is not under the Commission’s jurisdiction or is subject to the restrictions above. Public comment will be received without Commission comment or response. However, individual Commissioners may at their option seek clarification or additional information from speakers through the Chairman. No speakers will be accommodated after the public comment portion of the agenda has closed. The Chairman
retains the right to exercise discretion in the implementation of this policy and may override the above rules in case of emergency or other unforeseen circumstances.

Speakers providing comment shall at all times conduct themselves in accordance with proper decorum. Profane or vulgar language or gestures will not be tolerated. Audience members shall not disrupt an open meeting by speaking without being recognized by the Commission and shall not incite others to do so. The Commission retains the right to remove disruptive attendees and individuals who fail to conduct themselves in accordance with these provisions from the Commission meeting.
Thank you for attending this meeting.

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