

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

**IN THE MATTER OF A COMMISSION RULEMAKING)
TO AMEND RULE 1.2.2 NMAC ENTITLED – PUBLIC) Docket No. 23-00119-UT
REGULATION COMMISSION RULES OF PROCEDURE)**

FINAL ORDER

August 27, 2026

TABLE OF CONTENTS

BACKGROUND	4
DISCUSSION	5
I. Proposed Rule Generally	6
II. Proposed Rule Sections 1-6 – Issuing Agency, Scope, Statutory Authority, Duration, Effective Date, and Objective.....	8
III. Proposed Rule Section 7 – Definitions	9
IV. Proposed Rule Section 8 – General Provisions.....	11
V. Proposed Rule Section 9 – Practice Before the Commission	14
VI. Proposed Rule Section 10 – Filing and Service.....	15
VII. Proposed Rule Section 11 – Form of Pleadings.....	16
VIII. Proposed Rule Section 12 – Motions.....	18
IX. Proposed Rule Sections 13-15 – Complaints, Informal Complaints, and Formal Complaints	19
X. Proposed Rule Sections 16-19 – Settlement Conferences, Mediation, Arbitration, and Arbitration Procedures	22
XI. Proposed Rule Section 20 – Formal Stipulations	23
XII. Proposed Rule Section 21 – Petitions for Declaratory Orders.....	27
XIII. Proposed Rule Section 22 – Commission Investigations and Inquiries.....	28
XIV. Proposed Rule Section 23 – Intervenors; Commenters	29
XV. Proposed Rule Section 24 – Procedural Orders	32
XVI. Proposed Rule Section 25 – Discovery.....	34
XVII. Proposed Rule Section 26 – Pre-Hearing Conferences.....	37
XVIII. Proposed Rule Section 27 – Interim Relief.....	38
XIX. Proposed Rule Section 28 – Subpoenas.....	39

XX.	Proposed Rule Section 29 – Presiding Officer	40
XXI.	Proposed Rule Section 30 – Procedural Authority of a Single Commissioner	42
XXII.	Proposed Rule Section 31 – Interlocutory Appeals from Rulings of the Presiding Officer	43
XXIII.	Proposed Rule Section 32 – Public Hearings	44
XXIV.	Rule 1.2.2.33 NMAC – Order of Presentation and Receipt of Evidence	47
XXV.	Proposed Rule Section 33 – Transcripts	48
XXVI.	Proposed Rule Section 34 – Rules of Evidence.....	48
XXVII.	Proposed Rule Section 35 – Proposed Findings and Conclusions; Briefs.....	50
XXVIII.	Proposed Rule Section 36 – Orders; Recommended Decisions; Exceptions; Rehearing and Reconsideration.....	51
XXIX.	Proposed Rule Section 37 – Recusal	52
XXX.	Proposed Rule Section 38 – Artificial Intelligence.....	53
XXXI.	Rule 1.2.2.39 NMAC – Commission Code of Conduct	55
XXXII.	Proposed Rule Section 39 – Decorum	56
XXXIII.	Proposed Rule Section 40 – Variance.....	57
FINDINGS AND CONCLUSIONS		59

THIS MATTER comes before the New Mexico Public Regulation Commission (“Commission”) upon its own motion to conclude the formal rulemaking proceedings in this Docket and promulgate a final rule. The Commission repeals and replaces its procedural rules – Rule 1.2.2 NMAC – with the “Proposed Rule,” as previously noticed in this Docket, and as amended by this Final Order.

BACKGROUND

1. On May 29, 2025, the Commission issued the “Order Issuing Notice of Proposed Rulemaking” (“NOPR Order”) that initiated formal rulemaking proceedings in this docket to adopt the Proposed Rule, which was presented as a revamped version of the existing procedural rules with various major and minor substantive and non-substantive amendments.¹

2. On August 21, 2025, the following stakeholders filed initial comments: Anastasia Stevens, *pro se* (“Stevens”); Comcast Phone of New Mexico, LLC (“Comcast”); Commission Advocacy Staff (“Staff”); Continental Divide Electric Cooperative, Inc.; El Paso Electric Company (“EPE”); Kit Carson Electric Cooperative, Inc. (“KCEC”); Louisiana Energy Services, L.L.C. (“LES”); New Mexico Affordable Reliable Energy Alliance (“NMAREA”); New Mexico Gas Company (“NMGC”); New Mexico Large Customer Group (“NMLCG”); New Mexico Rural Electric Cooperative Association, Inc. (“NMRECA”); Public Service Company of New Mexico (“PNM”); Southwestern Public Service Company (“SPS”); and Western Resource Advocates (“WRA”).

¹ This order summarizes relevant background. The full electronic record of this proceeding is available at <https://e360.prc.nm.gov/portal/public/>. Additionally, the NOPR Order contains a description of the procedural history of the informal rulemaking proceeding phase.

3. On August 28, 2025, the Commission held a public hearing in this matter and received oral public comments from the following stakeholders: Albuquerque Bernalillo County Water Utility Authority (“ABCWUA”), EPE, NMAREA, NMGC, NMLCG, Staff, and WRA.

4. On September 8, 2025, the following stakeholders filed response comments: ABCWUA, EPE, KCEC, NMGC, NMLCG, PNM, Staff, Stevens, and WRA.

5. On September 29, 2025, the record closed.

6. In January of 2026, the Commission debuted its new case management system, “PRCe360,” to replace the Commission’s aged system. Along with PRCe360, the Commission required, by administrative order, that parties adhere to interim working rules related specifically to e-filing and service procedures designed to guide the public in this new era and were necessitated by the deployment of PRCe360, which superseded the old system. The Commission continues to refine PRCe360, thus, this Final Order and the Final Rule adopted herein do not address the PRCe360 interim working rules. A separate, future notice of proposed rulemaking (“NOPR”) will issue to formalize the interim working rules.

DISCUSSION

7. This Final Order discusses the Proposed Rule generally and section-by-section, summarizing the existing Rule 1.2.2 NMAC, Proposed Rule, and public comments; analyzing comments; and describing substantive amendments to the Proposed Rule that are adopted in the Final Rule. Given the breadth of the public comment record developed in this Docket, while all comments were fully considered, it would be unfeasible to summarize and respond to every issue or argument raised in this Final Order; rather, this Final Order focuses on major substantive issues and amendments. This Final Order does not discuss non-substantive amendments to the Final Rule, such as spelling, grammar, formatting, or minor wording changes.

I. Proposed Rule Generally

8. Although the remainder of this order is structured as a section-by-section discussion, some of the comments in the record relate more generally to the Proposed Rule as a whole, or have impacts that span multiple sections rather than just one. Such general matters are addressed first so that they need not be repeated later.

A. Comments Summary and Analysis

9. EPE commented that the Proposed Rule does not reflect some of the suggestions made by commenters in the pre-NOPR phase of this Docket; for example: a discovery deadline, discovery e-filing, minimum discovery response time, a form protective order, and limits on bench requests.² EPE recommended that the Commission should postpone review of e-filing provisions in 1.2.2 NMAC until after the new document management system is introduced and time for orientation.³

10. EPE makes correct observations about the informal rulemaking record, but there is no error in the Commission's exploration of issues during the informal proceeding phase that it chooses later in the formal proceeding phase not to further pursue. EPE comments on the Proposed Rule's e-filing procedures are well taken, because they will inevitably be impacted by the new case management system (PRCe360).

11. PNM commented that the various requirements for affidavits throughout the Proposed Rule should be replaced with requirements for unsworn affirmations, because Section 35(A)(3) of the Proposed Rule renders affidavit requirements moot.⁴ PNM's comments are well

² El Paso Electric Company's Initial Comments on Notice of Proposed Rulemaking ("EPE Initial") (Aug. 21, 2025) at 4-6.

³ El Paso Electric Company's Response Comments to Notice of Proposed Rulemaking ("EPE Response") (Sept. 8, 2025) at 3.

⁴ See Public Service Company of New Mexico's Initial Comments ("PNM Initial") (Aug. 21, 2025) at 5.

taken. PNM correctly notes that the unsworn affirmation requirement excuses the filing of affidavits in all circumstances such that there is no reason in the procedural rules for anyone to instead produce a more burdensome affidavit. It should also be noted that if a party chooses to instead file an affidavit or sworn/notarized affirmation, that will also be acceptable.

12. WRA suggested that the terms “statutory authority” and “responsibilities” throughout the Proposed Rule, as they relate to the Commission’s authority, should be changed to “jurisdiction” because it is a broader term that encompasses the Commission’s public interest and necessary and proper authority.⁵ WRA’s argument is compelling. Jurisdiction is a more encompassing term.

13. Stevens commented that Rule 1.2.2 NMAC is rife with outdated material that needs to be excised and that such deletions are uncontroversial.⁶ Stevens also commented that “if it ain’t broke, don’t fix it” in regards to changing rules that have not impeded the proper resolution of a matter.⁷ Stevens comments affirm one of the major purposes of this rulemaking, that removing outdated material from the procedural rules is necessary and appropriate and should not be controversial. However, Stevens’s suggestion that the Commission should not change any other rules simply because they are not “broken” is unpersuasive, because longstanding processes and procedures can oftentimes be improved upon.

B. Conclusion

14. PNM’s and WRA’s proposals are incorporated into the Proposed Rule as may be seen in redline on Exhibit A to this Final Order.

⁵ Western Resource Advocates’ Initial Comments (“WRA Initial”) (Aug. 21, 2025) at 2.

⁶ See Initial Comments on Proposed Amendments to Rule 1.2.2 NMAC (“Stevens Initial”) (Aug. 21, 2025) at 2.

⁷ Response Comments on Proposed Amendments to Rule 1.2.2 NMAC (“Stevens Response”) (Sept. 8, 2025) at 1-2.

II. Proposed Rule Sections 1-6 – Issuing Agency, Scope, Statutory Authority, Duration, Effective Date, and Objective

A. Rulemaking and Comments Summary

15. The topics of Sections 1 through 6 of 1.2.2 NMAC and the Proposed Rule are controlled by the State Records Administrator.⁸ Sections 1, 4, and 5 (Issuing Agency, Duration, and Effective Date) are non-substantive; Sections 2, 3, and 6 (Scope, Statutory Authority, and Objective) are substantive but are not necessarily actionable rule provisions that drive specific outcomes. Rule 1.2.2.2 NMAC limits the scope of the procedural rules by excluding rulemaking provisions. Rule 1.2.2.3 NMAC is a self-explanatory list of statutes that authorize the provisions of the rule. And Rule 1.2.2.4 NMAC states the overall objective of the rule to provide procedures for proceedings before the Commission.

16. Section 2 of the Proposed Rule applies the procedural rules to all Commission proceedings, *including rulemaking proceedings*. Section 3 of the Proposed Rule updates the citations to the appropriate statutory authorities. And Section 4 of the Proposed Rule simplifies and shortens the overall objective of the rule without substantive change.

17. Only one substantive comment was filed. Comcast noted that it supports eliminating the exclusion of rulemaking proceedings from the procedural rules, which promotes due process and fairness by clarifying the rehearing procedures for rulemakings.⁹

B. Conclusion

18. No substantive or other significant changes are made to Sections 1-6 of the Proposed Rule in this Final Order.

⁸ See 1.24.10.8(F) NMAC.

⁹ Comments of Comcast Phone of New Mexico, LLC on Order Issuing Notice of Proposed Rulemaking (“Comcast Initial”) (Aug. 21, 2025) at 2-3.

III. Proposed Rule Section 7 – Definitions

A. Rulemaking Summary

19. Rule 1.2.2.7 NMAC contains various definitions for terms used throughout the procedural rules.

20. The Proposed Rule builds upon 1.2.2.7 NMAC by introducing new definitions for new terms in the Proposed Rule, such as “artificial intelligence.” The Proposed Rule also improves 1.2.2.7 NMAC by eliminating outdated terms that are no longer needed because the Commission’s jurisdiction was removed, or because the terms are defined in statute:¹⁰ such as, “fire marshal regulated entities,” “chief of staff,” and “telecommunications provider.” Lastly, the Proposed Rule improves 1.2.2.7 NMAC by including definitions for preexisting terms that are utilized ambiguously throughout 1.2.2 NMAC, such as “probable cause.”

B. Comments Summary and Analysis

21. Many commenters weighed in on various definitions in Section 7 of the Proposed Rule. Comments related to: complaints and the Commission’s focus in resolving them;¹¹ new terms for rebuttal testimony, person, individual, and entity;¹² adding open meetings to the definition of public hearing;¹³ and Staff’s right of appeal and duty to represent the public interest.¹⁴ However, several commenters similarly identified an issue with the definition of “party.” EPE, LES, PNM, and SPS each posited that one who files a motion to intervene should not be considered

¹⁰ “A word or phrase that is defined in an applicable statute should not be defined in rule.” NMSA 1978, § 14-4-5.7(B) (2017).

¹¹ See Kit Carson Electric Cooperative, Inc.’s Initial Comments on Proposed Rule 1.2.2 NMAC Administrative Procedures (“KCEC Initial”) (Aug. 21, 2025) at 12-13.

¹² See NM AREA’s Initial Comments (“NMAREA Initial”) (Aug. 21, 2025) at 4-5; see Stevens Initial at 19.

¹³ See PNM Initial at 3.

¹⁴ See Staff’s Initial Comments on NOPR (“Staff Initial”) (Aug. 21, 2025) at 1; see WRA Initial, Attach. 1, at 1.

a party until such time as the Commission grants the intervention, thus intervention movants should be stricken from the definition of party.¹⁵

22. Definitions by their nature should be straightforward in simply explaining what terms mean, however, it is common for definitions to be intermixed with policy and procedure, to contain vague language, to be impacted by changes in law, and to fall short of defining all necessary terms. With this in mind, Section 7 of the Proposed Rule could benefit from further amendment.

23. The definitions for “advisory staff” and “advocacy staff” were impacted by the passage of House Bill 70 in the 2026 Legislative Session and should be amended to more closely align with the text of the updated Public Regulation Commission Act (“PRC Act”).¹⁶ The definitions of “public hearing” should be slightly reworded to read as definitions rather than policies or procedures. The definition of “probable cause” should be simplified. The term “personal bias or prejudice” should be stricken because it is not used in the Proposed Rule.

24. The comments of EPE, LES, PNM, and SPS on the definition of “party” are well taken and persuasive. But further important clarifications to the issue of pending interventions and proposed intervenors are required and addressed further below in the discussion of Section 23 of the Proposed Rule.

25. Separately, EPE recommended that the Commission not adopt the amendment to strike the word “formal” from the definition of “pleading,” because requiring pleading standards for all filings in informal proceedings is contrary to the intent of informal proceedings.¹⁷ EPE’s

¹⁵ See EPE Initial, Ex. A, at 2-3; see Initial Comments on Proposed Amendments to Rule 1.2.2 NMAC (“LES Initial”) (Aug. 21, 2025) at 1; see PNM Initial at 3; see Southwestern Public Service Company’s Initial Comments (“SPS Initial”) (Aug. 21, 2025) at 10.

¹⁶ See NMSA 1978, §§ 62-19-25(B)(4)(a)-(b) (2026).

¹⁷ EPE Initial, Ex. A, at 2-3.

recommendation is reasonable as informal proceedings, and the papers associated therewith, should be held to a lesser standard. Otherwise, papers submitted in informal proceedings would have to conform to the meticulous requirements of Section 11 of the Proposed Rule, which would be unreasonable given the relaxed nature of informal proceedings.

C. Conclusion

26. The Commission adopts the recommendations of EPE, LES, PNM, and SPS to amend the definition of party. The Commission adopts the recommendation of EPE to amend the definition of pleading. The Commission additionally makes *sua sponte* amendments to various definitions in Section 7 of the Proposed Rule, including the definitions for advisory staff, advocacy staff, probable cause, public hearing, and personal bias or prejudice. All amendments to the Proposed Rule may be seen as redlines on Exhibit A to this Final Order.

IV. Proposed Rule Section 8 – General Provisions

27. Rule 1.2.2.8 NMAC, providing general rule provisions, was recently amended in Docket No. 26-00005-UT to update the “Fees” subsection in conformance with recent legislative amendments. When the NOPR Order was issued in this Docket, the amendments to 1.2.2.8 NMAC in 26-00005-UT had not yet been proposed. For accuracy and clarity, Section 8(B) of the Proposed Rule reflects the new language adopted in 26-00005-UT rather than the language that appeared in the NOPR Order.

A. Rulemaking Summary

28. Rule 1.2.2.8 NMAC addresses various topics such as public records, protective orders, fees, dockets, and time computation and extensions.

29. Section 8 of the Proposed Rule reformats 1.2.2.8 NMAC for clarity, reorganizes information such as moving protective order regulations to Section 25, and introduces new material to address pending and closed dockets, dismissals, and general filing deadlines.

B. Comments Summary and Analysis

30. LES commented that some of the language in Section 8 relating to the filing of hard copies is inconsistent with the Commission policy of e-filing.¹⁸ LES makes a valid observation and references to the filing of hard copies should be stricken from Section 8 of the Proposed Rule.

31. NMAREA commented that to alleviate the burden on parties facing substantially shortened deadlines, the computation of time rule should only count business days when a deadline is seven days or shorter.¹⁹ NMAREA commented that in the 30 years of the Commission's procedural rules, there has been no need for automatic dismissals, thus, Subsection J should not be adopted.²⁰

32. Contrary to NMAREA's assertions, the Commission has not received complaints that the computation of time rule, which is typical in courts, has burdened anyone; and the Commission often encounters old or otherwise stagnant dockets that it must manually dismiss and close. An automatic dismissal provision helps alleviate the administrative burden on the Commission, and it provides incentive for parties not to waste time in litigation.

33. The majority of commenters who addressed Section 8 narrowed their focus on the newly proposed provisions in Subsection K that would provide for a general response deadline for instances when other, more specific rules do not apply. EPE, NMAREA, and Stevens suggested that the general response deadline provision be removed from the Proposed Rule because there are

¹⁸ LES Initial at 2.

¹⁹ NMAREA Initial at 5.

²⁰ *Id.* at 5-6.

not clear notice requirements associated with it, it does not seem to fill a clear gap in the existing procedures, and it stacks the chips against stakeholders in favor of utilities.²¹

34. The Comments on Subsection K are unpersuasive. An applicant, petitioner, or other filing party that commences a new docket generally carries the burden of providing sufficient notice to stakeholders. Subsection K only applies in instances where other, more specific statutes or rules, do not address deadlines. For example, if a utility files a petition for a variance, there is no statutory or rule-based deadline associated with the filing of responses. Thus, Subsection K fills a gap in the procedural rules. And given that Subsection K affords parties 20 days to respond, arguments that stakeholders are unreasonably put on the back foot are not persuasive, as 20 days exceeds many other typical response deadlines, such as for motions and discovery which afford significantly less time.

35. Upon *sua sponte* review, there may be a conflict between the intervention requirements of Subsection K and the general intervention deadline as provided in Section 23(B)(4) of the Proposed Rule. Given that Subsection K fills the gap as explained above, Section 23(B)(4) is no longer necessary.

C. Conclusion

36. The Commission incorporates amendments to effectuate LES's comments as may be seen in redline on Exhibit A to this Final Order. No other substantive or significant changes are made to Section 8 of the Proposed Rule.

²¹ See EPE Initial, Ex. A, at 6; see NMAREA Initial at 6; see Stevens Response at 15-16.

V. Proposed Rule Section 9 – Practice Before the Commission

A. Rulemaking Summary

37. Rule 1.2.2.9 NMAC regulates when persons and/or entities shall be represented by a licensed attorney or whether they may be represented by a non-attorney.

38. Section 9 of the Proposed Rule reflects edits that would, in part, rearrange and simplify the contents of 1.2.2.9 NMAC. It also, in part, reflects some substantive revisions. First, Section 9(B) more clearly delineates how entities are to be represented in informal versus formal proceedings. Second, 1.2.2.9(F)(1) NMAC is excised because it is unnecessary for the Commission’s rules to tell the United States Government how it may be represented. And third, 1.2.2.9(F)(2) NMAC, containing a representation exception for residential associations, is excised and discussed further below.

B. Comments Summary and Analysis

39. Few comments were submitted on Section 9 of the Proposed Rule. SPS proposed an edit to clarify that entities may also be represented by attorneys at informal proceedings.²² Staff recommended clarifying edits for when Rule 18.60.4.11 NMAC supersedes the Proposed Rule.²³ Stevens levied some criticisms that the Proposed Rule would narrow the scope of representation and deny access to *pro se* litigants and residential associations.²⁴

40. SPS and Staff offer helpful proposals to clarify Section 9. Stevens’s comments are not persuasive as the *status quo* of representation for individuals and entities between the Proposed Rule and 1.2.2.9 NMAC is unaltered but for eliminating the exception for vague residential associations noted above. It is unclear what an “association of residential” customers or members

²² SPS Initial, Attach. A, at 1.

²³ Staff Initial at 4.

²⁴ See Stevens Initial at 6-9.

is and how they are to be formed, managed, or subject to Commission oversight or jurisdiction, and why they should be treated differently from other entities.

C. Conclusion

41. The Commission incorporates SPS's and Staff's proposals in the Proposed Rule as may be seen in redline on Exhibit A to this Final Order. Otherwise, no substantive or other significant changes are made to Section 9 of the Proposed Rule.

VI. Proposed Rule Section 10 – Filing and Service

42. Rule 1.2.2.10 NMAC and Section 10 of the Proposed Rule, each relating to the Commission's filing and service policies and procedures, is greatly impacted by external factors and circumstances that take precedence over this rulemaking. The Commission has transitioned to PRCe360 and will subsequently propose revised Procedural Rules that incorporate and iterate on the interim working rules currently in place.

A. Rulemaking Summary and Analysis

43. Rule 1.2.2.10 NMAC was last amended in 2021 to provide e-filing procedures in that period of long-term public building closures and widely adopted and sustained work-from-home policies that made filing hard copies in-person impossible. The policies and procedures of 1.2.2.10 NMAC relate specifically to the Commission's superseded document management system, referred to in 1.2.2 NMAC as "e-docket."²⁵

44. The Proposed Rule makes significant non-substantive revisions to 1.2.2.10 NMAC for restructuring and formatting, but the substance is largely the same but for some changes that were necessary at the time the NOPR Order was issued to update procedures specific to the Commission's old filing system.

²⁵ Although commonly referred to "e-docket," that term is generic rather than a proprietary name.

45. However, as has been discussed, the Commission's shuttering of the old system and implementation of PRCe360 and interim working rules necessitates significant further revisions that are currently in progress and expected to come in the form of a NOPR in the near future. Therefore, the best course of action in *this* Docket is to leave Section 10 of the Proposed Rule intact pending further developments. As such, comments relating to Section 10 of the Proposed Rule are not summarized or analyzed herein because they are largely related to outdated processes and procedures that will soon be rewritten in the wake of the Commission's deployment and ongoing development of PRCe360.

B. Conclusion

46. No substantive or other significant changes are made to Section 10 of the Proposed Rule in this Final Order. However, the public can expect a follow-up NOPR to be issued to amend Section 10, and other parts of 1.2.2 NMAC, to update the Commission's filing, service, and docketing policies and procedures in line with PRCe360 and the development of the interim working rules.

VII. Proposed Rule Section 11 – Form of Pleadings

A. Rulemaking Summary

47. Rule 1.2.2.11 NMAC regulates the contents and form of pleadings, exhibits, and interrogatories.

48. The Proposed Rule amends 1.2.2.11 NMAC in two ways. First, it restructures the section for legibility. Second, it introduces new requirements for pleading contents, the form of pleadings, and citations to homogenize filings to create a consistent standard for the sake of professionalization.²⁶

²⁶ See NOPR Order at 8.

B. Comments Summary and Analysis

49. NMAREA commented that it supports the Proposed Rule's form of pleadings requirements, but that the minimum page limit for a table of contents should be increased from 15 to 25 pages to reflect current practice.²⁷ NMAREA commented that language prohibiting non-parties from responding to motions is unnecessary because non-parties have never been allowed to participate in motions practice.²⁸

50. NMAREA's comments about current practices for utilizing tables of contents are incorrect, given that a *10-page* threshold has been in place for years.²⁹ Increasing the threshold for requiring a table of contents by 50%, as proposed in Section 11, is reasonable and balances the administrative burden of composing a table of contents with the benefits it provides to a reader of a long document; whereas increasing it by 150%, as proposed by NMAREA, is not reasonable, as it would largely eliminate tables of contents from pleadings which tend to fall under the 25-page threshold.

51. *Pro se* commenter Stevens commented that the objective to homogenize pleadings before the Commission is laudable, however, it may be more helpful to summarize the requirements rather than cross-referencing to the New Mexico Supreme Court's Rules 12-305 and 23-112 NMRA.³⁰

52. The Proposed Rule should not summarize the form of papers or citation requirements from the NMRA, because if they were to change, then the Commission's rules would become instantaneously outdated and/or at odds with the established appellate court policies.

²⁷ NMAREA Initial at 7.

²⁸ *Id.* at 8.

²⁹ See 1.2.2.11(A)(4) NMAC.

³⁰ Stevens Initial at 3.

Cross-referencing ensures that there is no need to have future rulemakings to conform with appellate court policies. Additionally, restating rules that may be found elsewhere is duplicative.

C. Conclusion

53. As discussed later in this Final Order, Section 38(D) of the Proposed Rule is relocated to Section 11 of the Final Rule to be collocated with Section 11's provisions on pleading errors and defects, as may be seen on Exhibit A to this Final Order. Otherwise, no substantive or other significant changes are made to Section 11 of the Proposed Rule in this Final Order.

VIII. Proposed Rule Section 12 – Motions

A. Rulemaking Summary

54. Rule 1.2.2.12 NMAC regulates motion practice generally in Commission proceedings.

55. Section 12 of the Proposed Rule makes significant non-substantive copyedits to 1.2.2.12 NMAC, but it also makes several significant substantive changes. Section 12 includes prohibitions on the: filing of motions in closed dockets, direction of motions to the Commissioners when a presiding officer has been appointed, and motion practice of non-parties. Section 12 additionally provides exceptions to certain motion requirements where the motion is non-substantive.

B. Comments Summary and Analysis

56. NMAREA commented that the Proposed Rule's requirement for a table of authorities for motions exceeding 14 pages is burdensome.³¹ NMAREA commented that a 13-day motion response deadline is atypical and confusing compared to State court practice and it should

³¹ NMAREA Initial at 8.

be changed to 15 days.³² NMAREA commented that language prohibiting non-parties from responding to motions is unnecessary because non-parties have never been allowed to participate in motions practice.³³

57. NMAREA's claims about the burden of compiling a table of authorities are unpersuasive. Tables of authorities have always been required,³⁴ but the Proposed Rule *eases* the burden by requiring them only for longer documents. Likewise, the Commission's 13-day motion response rule has been in place for decades without issue or complaint. NMAREA's claims about motion practice are incorrect because the Commission often receives motion responses from non-parties.

C. Conclusion

58. No substantive or other significant changes are made to Section 12 of the Proposed Rule in this Final Order.

IX. Proposed Rule Sections 13-15 – Complaints, Informal Complaints, and Formal Complaints

59. Because informal and formal complaints are interrelated, Sections 13-15 of the Proposed Rule are addressed together.

A. Rulemaking Summary

60. Rule 1.2.2.13 NMAC relates to complaints, both informal and formal, generally. Rule 1.2.2.14 NMAC relates only to informal complaints, and Rule 1.2.2.15 NMAC relates only to formal complaints.

³² *Id.* at 6.

³³ *Id.* at 8.

³⁴ *See* 1.2.2.36(E)(2) NMAC.

61. The Proposed Rule makes significant non-substantive and substantive changes to these rules. Non-substantively, the Proposed Rule reorders material to fit the topic-areas of each respective section, and it differentiates from when Consumer Relations Division (“CRD”) is independently responsible from the Commission as a whole. Substantively, the Proposed Rule requires complainants to complete the informal complaint process prior to filing a formal complaint or seeking other relief from the Commission. For formal complaints, the Proposed Rule requires complaints to contain a statement of evidence in possession or that may be discovered and to serve complaints upon the respondents; and it requires complainants and respondents to file descriptions of evidence, four weeks after the answer, containing witness lists and lists of records to be introduced at hearing. Lastly, the Proposed Rule codifies the Commission’s various precedents related to complaint dismissal and satisfaction.

B. Comments Summary and Analysis

62. Sections 13-15 of the Proposed Rule received both affirming and critiquing comments. Some commenters supported the more formalized complaint procedures as clarifying.³⁵ Critiquing comments mostly related to three areas.

63. First, commenters opposed the ability of CRD to waive, upon its own discretion, the good faith requirement for complainants to resolve complaints with utilities prior to filing complaints with the Commission; and instead recommended that CRD’s waiver power be subject to a good cause standard.³⁶ Although CRD’s discretion to waive the good faith requirement is

³⁵ See Comcast Initial at 4-6; see NMAREA Initial at 9; see New Mexico Gas Company, Inc.’s Initial Comments on Proposed Rule (“NMGC Initial”) (Aug. 21, 2025) at 9; see New Mexico Rural Electric Cooperative Association, Inc. Comments on Proposed Rule 1.2.2 NMAC Administrative Procedures (“NMRECA Initial”) (Aug. 21, 2025) at 5.

³⁶ See KCEC Initial at 13; see NMRECA Initial at 2-3; see Stevens Response at 12.

long-standing, the Commission understands the arguments of the commenters and agrees that a good cause standard is a reasonable balancing of the interests.

64. Second, commenters opposed the requirement for complainants to serve complaints upon respondents, because complainants are unlikely to provide effective service which would cause delays, unnecessary disputes, and confusion.³⁷ The Commission's new case management system is likely to alleviate these worries, because PRCe360 is designed to automatically serve filings. Because the Commission is in the best position to effectively utilize PRCe360, it does not object to maintaining the duty to serve formal complaints.

65. Third, commenters took issue with provisions of the Proposed Rule, such as the description of evidence filing requirements, for being prohibitively burdensome in potential violation of the Public Utility Act which provides customers with a statutory right to file complaints.³⁸ The Commission is persuaded to an extent. The Proposed Rule's procedure for the filing of a description of evidence four weeks after the answer is filed would be overly burdensome, especially when considering that formal complaints are often filed by laypersons unfamiliar with administrative law, regulatory law, and the niche practice of utility law. However, the remaining procedures contained in the Proposed Rule appropriately capture the Commission's intent to differentiate informal and formal complaints and increase the participation and professionalism requirements of the Commission's procedural rules.³⁹

66. Upon *sua sponte* review, the Commission notes that the Proposed Rule requires further clarification of the three-step process for complainants to first seek to resolve controversies

³⁷ See Comcast Initial at 4-6; see Southwestern Public Service Company's Response Comments ("SPS Response") (Sept. 8, 2025) at 9.

³⁸ See EPE Initial, Ex. A, at 13-14; see Stevens Initial at 4-5; see Stevens Response at 13.

³⁹ See NOPR Order at 8-9.

directly with the regulated entity, to secondly file and complete the informal complaint process, and to thirdly file a formal complaint.

C. Conclusion

67. The Commission adopts Stevens proposal to apply a good cause standard to CRD's ability to waive the good faith requirements for informal complaints. The Commission strikes Section 15(F) of the Proposed Rule to alleviate some of the increased burden for litigants. The Commission reverts service procedures for formal complaints. And the Commission, *sua sponte*, implements various other clarifying and minor amendments throughout Sections 13-15. All amendments to the Proposed Rule may be seen as redlines on Exhibit A to this Final Order.

X. Proposed Rule Sections 16-19 – Settlement Conferences, Mediation, Arbitration, and Arbitration Procedures

68. Sections 16-19 of the Proposed Rule are addressed together because they relate to alternative dispute resolution strategies, do not substantively differ from 1.2.2.16-19 NMAC, and did not receive substantive comments.

A. Rulemaking and Comments Summary

69. Rules 1.2.2.16-19 NMAC provides policies and procedures governing the following alternative dispute resolution strategies: settlement conferences, mediation, and arbitration. The Proposed Rule leaves these sections largely intact, but for non-substantive amendments to simplify, restructure, and reorganize material.

70. NMAREA commented that Sections 16-19 of the Proposed Rule encourage voluntary resolution of disputes, fosters collaborative case management, reinforces confidentiality and procedural flexibility, preserves party autonomy, and enhances administrative efficiency.⁴⁰

⁴⁰ NMAREA Initial at 9.

B. Conclusion

71. No substantive or other significant changes are made to Sections 16-19 of the Proposed Rule in this Final Order.

XI. Proposed Rule Section 20 – Formal Stipulations

A. Rulemaking Summary

72. Rule 1.2.2.20 NMAC provides the policies and procedures regulating contested and uncontested stipulations for purposes of settlement in formal Commission proceedings.

73. In the NOPR Order, the Commission discussed settlement, particularly the consideration of stipulations and the issues stemming therefrom, at length.⁴¹ The NOPR Order walks through, in detail, the Commission's history of imposing tolling procedures in suspension period cases, the issues that have arisen from the implementation of tolling, and the Commission's proclamations in regards to both.⁴² The NOPR Order affirms the Commission's tolling precedent and the important differences between traditional court settlements and the Commission's processes.⁴³ The writing in the NOPR Order continues to be highly relevant to the discussion in this Final Order, and is incorporated by reference.

74. Section 20 of the Proposed Rule presents a unique consideration – it proposes two mechanisms, to accomplish the Commission's settlement goals as articulated in the NOPR Order, as either/or options for the commenters to consider. The first option is Subsection A(3) of Section 20 of the Proposed Rule; the second option is Subsection D. Subsection A(3) provides that the Commission may treat the filing of a stipulation to be a new application or petition, thereby withdrawing or abandoning the original application or petition, for purposes of resetting a

⁴¹ See NOPR Order at 10-19.

⁴² *Id.*

⁴³ *Id.* at 15-17.

suspension period. Subsection D provides a reimagined version of the Commission’s longstanding tolling precedent. Particularly, Subsection D features a tolling cap and procedures to guarantee certification of a stipulation as a “carrot-on-the-stick” for agreeing to tolling – such features that the Commission’s established tolling precedent lack.

75. Section 20 of the Proposed Rule additionally features many edits that, in alignment with the Commission’s past statements as discussed in the NOPR Order, seek to differentiate the idea of settlement from stipulated resolution in Commission proceedings. Lastly, Section 20 also contains significant non-substantive amendments for organization, structure, clarity, and grammar.

B. Comments Summary and Analysis

76. Of all the sections of the Proposed Rule, Section 20 elicited the most comments from the public stakeholders. For the sake of clarity, the Commission addresses comments on Subsection A(3) and Subsection D in turn.

77. On Subsection A(3), commenters variously argued in opposition that: it discourages stipulations;⁴⁴ it is contrary to the public policy to encourage settlement;⁴⁵ it is contrary to PUA obligations;⁴⁶ ambiguity could lead to confusion, disputes, and overly punitive results;⁴⁷ the outcome is ambiguous if the stipulation is denied;⁴⁸ it evades statutory obligations;⁴⁹ “substantial change” is not defined;⁵⁰ it is universally opposed by commenters;⁵¹ it is burdensome

⁴⁴ See EPE Initial, Ex. A, at 14; see NMAREA Initial at 10; see NMGC Initial at 2; see New Mexico Large Customer Group’s Initial Comments on the Proposed Rules (“NMLCG Initial”) (Aug. 21, 2025) at 1, 4.

⁴⁵ See EPE Initial, Ex. A, at 14; see PNM Initial at 7; see Stevens Initial at 11.

⁴⁶ See KCEC Initial at 9-11.

⁴⁷ See LES Initial at 2.

⁴⁸ See NMGC Initial at 2.

⁴⁹ See *id.* at 2.

⁵⁰ See NMGC Initial at 2.

⁵¹ See New Mexico Large Customer Group’s Response Comments on the Proposed Rules (“NMLCG Response”) (Sept. 8, 2025) at 2; see SPS Response at 2.

on rural electric cooperatives;⁵² it forces choice between statutory rights and a prompt decision;⁵³ and it creates uncertainty when the stipulation is rejected and/or the original application is withdrawn/abandoned and disregards stipulation opponents.⁵⁴ One supportive comment was filed, stating that the intent of Subsection A(3) has merit.⁵⁵

78. The comments opposing Subsection A(3) of Section 20 of the Proposed Rule are persuasive. The record of comments amounts to substantial evidence that it would not be necessary or appropriate to adopt Subsection A(3) in the Final Rule.

79. On Subsection D, commenters variously argued in opposition that: it is unenforceable as amending statute;⁵⁶ it threatens rural electric cooperatives with contractual default;⁵⁷ it would discourage or have a chilling effect on stipulations;⁵⁸ it contains arbitrary, coercive, and unfair provisions;⁵⁹ overriding statutory deadlines creates reversible due process concerns;⁶⁰ it forces choice between statutory rights and a prompt decision;⁶¹ it imperils proceedings when not needed;⁶² it is not truly supported by any commenter;⁶³ and it is unclear how tolling would affect contested stipulations.⁶⁴ Supportive comments were filed on Subsection D as well, stating that: it is preferable to Subsection A(3);⁶⁵ it is reasonable to address the

⁵² See NMRECA Initial at 3-4.

⁵³ See SPS Initial at 2.

⁵⁴ See Stevens Initial at 9-11.

⁵⁵ See LES Initial at 2.

⁵⁶ See EPE Initial, Ex. A, at 15; see PNM Initial at 5;

⁵⁷ See KCEC Initial at 4;

⁵⁸ See NMLCG Initial at 3; see PNM Initial at 7; see SPS Initial at 5.

⁵⁹ See NMLCG Initial at 5; see NMLCG Response at 3; see PNM Initial at 7; see SPS Response at 3.

⁶⁰ See NMLCG Response at 4.

⁶¹ See SPS Initial at 2.

⁶² See *id.* at 6.

⁶³ See SPS Response at 3; see Stevens Response at 3.

⁶⁴ See Stevens Initial at 12.

⁶⁵ See EPE Initial, Ex. A, at 15; see NMLCG Initial at 4; see Stevens Response at 3.

Commission's concerns;⁶⁶ it provides a better resolution to the Commission's concerns because it is voluntary, legally defensible, and capped;⁶⁷ and the 120-day cap is reasonable.⁶⁸

80. Tolling is the Commission's established practice.⁶⁹ Rather than having potentially unbounded tolling procedures implemented via individual procedural orders that are subject to change from docket to docket as has been the *status quo*, it is preferable to have a consistent, regulated structure in which all stakeholders are afforded the opportunity to give input. That is what this rulemaking and Subsection D provide. The Commission appreciates the critiques of commenters and understands that there are aspects of tolling in general, and Subsection D specifically, that may be problematic. The Commission is willing to address those concerns. For example, Subsection D(2)(b) should be stricken as being cited by the commenters as the most controversial and potentially coercive provision in the Proposed Rule. But ultimately, the Commission is not persuaded to strike Subsection D in full, or to end the practice of tolling for good, because tolling is a useful tool that is needed when the Commission is confronted with party-caused delays as explained at length in the NOPR Order.⁷⁰

81. Commenters must understand that tolling is implemented when necessary to protect the Commission's ability to fulfill its statutory duties. In recent years, the Commission has strived to more quickly process cases and to hold parties accountable for punctual litigation by implementing various strategies to keep cases moving and avoid delays. As such, the Commission has not implemented a stipulation tolling procedure since 2024,⁷¹ and the commenters should take

⁶⁶ See NMAREA Initial at 10.

⁶⁷ See NMGC Initial at 3-4.

⁶⁸ See NMLCG Initial at 4.

⁶⁹ See NOPR Order at 10-19.

⁷⁰ See *id.*

⁷¹ See Docket No. 24-00255-UT, Order Amending Procedural Schedule to Consider Uncontested Stipulation (Dec. 11, 2024) at 2.

solace that tolling is not intended to be wielded with disregard to the rights of utilities to receive a prompt decision.⁷²

82. Lastly and unrelated to the analysis above, some commenters took issue with the Proposed Rule's redraft of the existing 1.2.2.20(D) NMAC related to precedential effect of stipulations (1.2.2.20(F) in the Proposed Rule).⁷³ The edit was not intended to be substantive, rather, it was a grammar edit to achieve active voice. Stevens proposed that it may be a more logical process for stipulation signatories to mark which parts of their stipulation they wish to be precedential for the Commission's consideration.⁷⁴ The Commission agrees and notes it would be more efficient for the signatories to make a proposal rather than for the Commission to assume the lone burden, which could be a cause for rehearing, but that the Commission should not lose the ability to take initiative in determining precedential effects of stipulations.

C. Conclusion

83. The Commission adopts the proposals of the various commenters to strike Subsection A(3) from the Proposed Rule, and to amend Subsections D and F, as may be seen as redlines on Exhibit A to this Final Order.

XII. Proposed Rule Section 21 – Petitions for Declaratory Orders

A. Rulemaking and Comments Summary

84. Rule 1.2.2.21 NMAC provides the requirements for filing a petition for a declaratory order and the Commission's procedures for hearing them in its discretion. The Proposed Rule makes no substantive changes to 1.2.2.21 NMAC.

85. No substantive comments were submitted on Section 21 of the Proposed Rule.

⁷² § 62-8-7(C) (2011) ("The commission shall hear and decide cases with reasonable promptness.").

⁷³ See SPS Initial at 11-12; see Stevens Response at 9-10.

⁷⁴ See Stevens Response at 9.

B. Conclusion

86. No substantive or other significant changes are made to Section 21 of the Proposed Rule in this Final Order.

XIII. Proposed Rule Section 22 – Commission Investigations and Inquiries

A. Rulemaking and Comments Summary

87. Rule 1.2.2.22 NMAC provides the Commission’s procedures for initiating an investigation. The Proposed Rule expands 1.2.2.22 NMAC to the related inquiry process, but it otherwise makes only non-substantive amendments to restructure and clarify the section.

88. NMAREA commented that the proposed changes to 1.2.2.22 NMAC provide clearer procedural direction.⁷⁵

B. Analysis

89. Upon *sua sponte* review, it does not appear prudent to mandate public hearings in all investigations and inquiries as may be required by 1.2.2.22(B)(4) NMAC and Section 22(B)(2)(d) of the Proposed Rule. Although public hearings are often required in show cause proceedings, the Commission often performs less intensive “paper” inquiries without also hosting a public hearing, which is administratively efficient and does not prevent any respondent from requesting a public hearing. Thus, the qualifier “if necessary” should be included, similar to Subparagraph (e).

C. Conclusion

90. The Commission, *sua sponte*, amends Section 22(B)(2)(d) of the Proposed Rule consistent with the analysis above. No other substantive or significant changes are made to Section 22 of the Proposed Rule in this Final Order.

⁷⁵ NMAREA Initial at 11-12.

XIV. Proposed Rule Section 23 – Intervenor; Commenters

A. Rulemaking Summary

91. Rule 1.2.2.23 NMAC provides the processes and procedures for intervention, including objections thereto and disposition, as well as for public comments. In addition to major, non-substantive structural, reorganizational, and clarifying amendments, Section 23 of the Proposed Rule contains major substantive additions.

92. Section 23 proposes additional deadlines for the filing of intervention motions to fill in the gaps for proceedings that do not otherwise have intervention deadlines. It reduces the period for filing objections to intervention motions from 13 to 12 days. And it provides clear rules for when public comments shall be submitted.

B. Comments Summary and Analysis

93. EPE recommended that a new subparagraph of intervention requirements be added to require movants to show that their intervention is not duplicative or that their interests are not already represented.⁷⁶ EPE's proposal is well taken. The procedural rules have had a longstanding procedure to allow the Commission to limit the number of intervenors when their interests are substantially alike. It is reasonable for the movant to make a showing at the outset.

94. LES commented that proposed intervenors should be allowed to respond to objections to their intervention motions.⁷⁷ Although LES fashions its proposal as allowing a response, in actuality it would amount to a reply. Replies are generally forbidden in the procedural rules without leave of the Commission, thus, LES's proposal should not be adopted.

⁷⁶ EPE Initial, Ex. A, at 16.

⁷⁷ LES Initial at 2.

95. SPS recommended rule language and commented that the Commission should copy the Public Utility Commission of Texas (“PUCT”) and make it so proposed intervenors have the same rights and obligations as parties pending the disposition of their motions to intervene.⁷⁸ SPS comments are well taken insofar as proposed intervenors should have the same *obligations* as parties, but whether or not they should have the same *rights* as parties is a deeper issue.

96. LES’s and SPS’s comments expose the grey area associated with pending motions to intervene and the rights of proposed intervenors. Earlier in this Final Order, the Commission affirmed that proposed intervenors are not parties as that term is defined. However, the decades of precedent in Commission proceedings is that proposed intervenors are typically allowed to act, temporarily, as parties, and are treated as parties, when their intervention motions are unopposed. For example, it is common for a proposed intervenor to file an intervention motion and simultaneously, or shortly thereafter before their intervention is confirmed, engage in motion and discovery practice – actions that are privileges of parties.

97. This grey area gets muddled further when a pending intervention is opposed. Under that circumstance, it is typical for the parties opposing the intervention to not treat the proposed intervenor as a party until the Commission rules upon the intervention motion.

98. Additionally, there is the issue of when does a proposed intervenor’s rights as a party vest? Do they vest once the Commission grants intervention or intervention is granted by operation of law, or do they vest upon the filing of the intervention motion, or some other time as determined by the Commission or presiding officer? This issue could be important, for example, if something arises during the pendency of the intervention motion that the proposed intervenor would need to object to or appeal. Perhaps the best course of action is to permit, but not mandate,

⁷⁸ See SPS Initial at 10.

the backdating of a proposed intervenor's rights as a party to the date filing the intervention motion, if determined by the Commission or presiding officer for good cause. If the party rights are allowed to backdate, then a proposed intervenor who later becomes a party could have the right to appeal errors that occurred during the pendency of the intervention motion.

99. Other commenters suggested that Section 23 should revert to the original language that portrays the minimum standards for intervention, not as filing requirements of the motion, but as requirements of the Commission's review of the motion.⁷⁹ In response, PNM wisely noted that the original language in 1.2.2.23 NMAC incorrectly shifts the burden of proof from the movant to the Commission and other parties.⁸⁰

100. Upon *sua sponte* review, the Commission notes that there is inconsistency between the motion response deadline of 13 days and the intervention motion response deadline of 12 days. To achieve consistency and to avoid possible confusion, the intervention motion response deadline should revert to 13 days. Additionally, the general intervention deadline may conflict with 1.2.2.8(K) of the Proposed Rule as discussed earlier in this Final Order and is not necessary. Lastly, the Commission notes that the public comment procedures of the Proposed Rule should be clarified further to address the Commission's discretionary receipt of public comment at open meetings.

C. Conclusion

101. The Commission adopts EPE's proposed intervention requirement discussed above. The Commission, in part, adopts SPS's proposed language from the PUCT discussed above. The Commission, *sua sponte*, reverts the intervention motion response deadline, strikes the general intervention deadline pursuant to the discussion of 1.2.2.8(K) of the Proposed Rule, and adds new

⁷⁹ See NMAREA Initial at 11-13; see WRA Initial at 4.

⁸⁰ See PNM Response at 2-3.

material to 1.2.2.23(F) of the Proposed Rule to establish clear policies for pending interventions and proposed intervenors consistent with the analysis above, and public comments at open meetings. All amendments to the Proposed Rule may be seen as redlines on Exhibit A to this Final Order.

XV. Proposed Rule Section 24 – Procedural Orders

A. Rulemaking Summary

102. Rule 1.2.2.24 NMAC regulates the contents of the Commission’s or presiding officer’s procedural orders as well as the requirements for notice of public hearings.

103. Section 24 of the Proposed Rule proposes additional required contents of procedural orders, such as dates for the filing of stipulation and stipulation testimony, and reasonable limitations on discovery. Section 24 additionally provides expanded means for the provision of notice of public hearings, focusing on digital rather than physical tools.

B. Comments Summary and Analysis

104. EPE commented that newspaper publication of notices of public hearings no longer serves to provide effective notice, but it still imposes costs on ratepayers and should be deleted.⁸¹ Stevens responded that EPE cites no sources to prove that digital notice is superior to newspaper notice, but the Commissions should take a conservative stance.⁸² The Commission does not opine on whether newspaper notice remains sufficiently effective at providing public notice, however, the Commission agrees with EPE, to an extent, to deprioritize it in the Proposed Rule. To be certain, deprioritizing newspaper publication does not prevent public notice to be accomplished

⁸¹ EPE Initial, Ex. A, at 15-16.

⁸² Stevens Response at 16-17.

by newspaper publication – the Commission and presiding officer retain discretion to mandate it – but it should no longer be the first example of proper notice options provided.

105. Comments were split on the added requirement for procedural orders to contain “any reasonable limitation on discovery.” One commenter was supportive;⁸³ however, two were critical, saying that discovery limitations have never been necessary,⁸⁴ and the utility has a natural advantage in Commission proceedings because they hold exclusive control to most of the discoverable data.⁸⁵

106. Section 24 of the Proposed Rule will not, despite the critiques levied, mandate that discovery limitations shall be applied in all proceedings. Rather, it provides notice that the Commission or presiding officer, may, in their discretion, impose such limitations – a power that the Commission and presiding officers have always possessed but seldom utilized. The amendments to 1.2.2.24(A) NMAC do not alter the *status quo*. The Commission agrees that the utility has a natural advantage over intervenors and Staff, and that advantage should not be lightly ignored in the setting of any discovery limitations. However, it must also be stressed that open-ended discovery can be used for gamesmanship and overly burdensome to all parties. The Commission and presiding officer may monitor and manage discovery if parties misuse it or take advantage of it being open-ended.

C. Conclusion

107. The Commission amends the newspaper notice provision as may be seen on Exhibit A to this Final Order; otherwise, no substantive or other significant changes are made to Section 24 of the Proposed Rule.

⁸³ See EPE Initial, Ex. A, at 16.

⁸⁴ See NMAREA Initial at 13.

⁸⁵ See WRA Initial at 5.

XVI. Proposed Rule Section 25 – Discovery

A. Rulemaking Summary

108. Rule 1.2.2.25 NMAC provides the Commission’s policy and procedures related to discovery, noting that discovery is governed by the New Mexico Rules of Civil Procedure, and covering topic-areas such as depositions, interrogatories, requests for admission, sanctions, and protective orders.

109. Section 25 of the Proposed Rule makes two significant substantive amendments to 1.2.2.25 NMAC, and several other significant and insignificant non-substantive amendments. Section 25 proposes to reduce the amount of time for discovery deadlines across the board from 15 days to 12 days, and it proposes to explicitly list types of appropriate sanctions similar to that which exists in the Federal Rules of Civil Procedure.⁸⁶ Otherwise Section 25 contains structural edits, copyedits, and rearranges material, such as housing the protective order regulations that was moved from Section 8 of the Proposed Rule.

B. Comments Summary and Analysis

110. Public comments tended to address three areas of Section 25 of the Proposed Rule. Comments generally touched upon the shift from 15-day to 12-day deadlines, sanctions, or proposals for new language.

111. On the issue of shortened deadlines, commenters variously argued that 12 days is an unreasonable amount of time⁸⁷ and creates undue hardship,⁸⁸ and there are no tangible benefits

⁸⁶ See NOPR Order at 19.

⁸⁷ EPE Initial, Ex. A at 18.

⁸⁸ NMAREA Initial at 15.

for reducing the time for discovery but there are evident burdens.⁸⁹ However, Staff's opinion on discovery responses is "the sooner, the better."⁹⁰

112. The Commission understands the concerns of the commenters and agrees to revert the discovery deadlines to 15 days.

113. On the issue of listing specific sanctions in line with the Federal Rules of Civil Procedure, commenters variously argued: it undermines the discretion of the Commission and presiding officer;⁹¹ it is unnecessary because discovery disputes have been sufficiently addressed over the years without a specific sanctions list;⁹² the Commission's penal authority is limited to monetary fines;⁹³ it would increase litigiousness;⁹⁴ it could lead to unfair, severe punishments for minor or inadvertent discovery infractions;⁹⁵ and it may increase discovery motion practice and encourage more gamesmanship.⁹⁶

114. The Commission appreciates the critiques of the commenters on the proposal to specifically list types of sanctions that may be imposed for discovery violations. Although the Commission is unpersuaded that the proposed language in Section 25 is unlawful or inappropriate in any way, as it merely tracks what is typical for sanctions in courts of law, the Commission also understands that these provisions are not necessary and could potentially limit the Commission's discretion. With or without the proposed language, the Commission's intent is to retain wide discretion to resolve discovery disputes. For these reasons, Section 25(J)(4) of the Proposed Rule should be stricken.

⁸⁹ NMGC Initial at 4-5.

⁹⁰ Staff Initial at 14.

⁹¹ EPE Response at 5-6.

⁹² NMAREA Initial at 15; *see* Staff Response at 5.

⁹³ NMGC Initial at 6.

⁹⁴ *Id.* at 7.

⁹⁵ SPS Initial at 6-7.

⁹⁶ SPS Response at 6.

115. Commenters also submitted various proposals for new material to be included in Section 25.

116. EPE proposed that discovery in Commission proceedings be “guided by” instead of “governed by” the New Mexico Rules of Civil Procedure.⁹⁷ The Commission agrees, as evidentiary procedures in administrative proceedings should be more relaxed than in the courts.

117. PNM proposed that the rule should contain a standard form of protective order for automatic issuance to save time and allow sooner discovery.⁹⁸ But commenters responded that a standard form of protective order should be developed through workshops,⁹⁹ and that automatic issuance is unlawful because full disclosure is the rule not the exception.¹⁰⁰ PNM’s proposal may have merit but it is beyond the scope of this proceeding.

118. SPS proposed that discovery responses should be due in business days rather than calendar days, and daily and total limits should be placed on discovery to avoid duplicative requests and reduce burdens.¹⁰¹ Commenters opposed SPS’s proposal, noting that if SPS’s proposed limits on interrogatories are adopted, then litigants would instead use depositions to accomplish their goals and it would be much less efficient.¹⁰² As discussed in Section XV of this Final Order relating to procedural orders, the Commission has serious concerns with imposing blanket limits on discovery given the natural advantages that the utilities hold, but it is also concerned with the gaming of the discovery process. For these reasons, any limits should be left

⁹⁷ See EPE Initial, Ex. A at 17.

⁹⁸ PNM Initial at 9.

⁹⁹ New Mexico Gas Company, Inc.’s Response Comments (“NMGC Response”) (Sept. 8, 2025) at 4.

¹⁰⁰ Stevens Response at 20.

¹⁰¹ SPS Initial at 8.

¹⁰² See NMLCG Response at 7; see Stevens Response at 18.

to the Commission's or presiding officer's discretion on a case-by-case basis, as is provided in the Proposed Rule.

119. Stevens commented that Section 25(I) of the Proposed Rule (supplementation of discovery responses) is susceptible to interpretation because it could be read to exclude information for which a litigant had in its possession but did not realize was relevant to the discovery request – Stevens recommended copying the language of Rule 1-026(E) NMRA to resolve the issue.¹⁰³ The Commission agrees that the language from Rule 1-026(E) NMRA is superior to Section 25(I) of the Proposed Rule and should be implemented.

C. Conclusion

120. The Commission reverts discovery deadlines to 15 days. The Commission adopts EPE's proposal to amend Section 25(C) of the Proposed Rule. The Commission adopts the various commenters' proposals to strike Section 25(J)(4) of the Proposed Rule. The Commission adopts Stevens's proposal to amend the language of Section 25(I) of the Proposed Rule. These amendments to the Proposed Rule may be seen as redlines on Exhibit A to this Final Order.

XVII. Proposed Rule Section 26 – Pre-Hearing Conferences

A. Rulemaking and Comments Summary

121. Rule 1.2.2.26 NMAC contains the Commission's policy and requirements for pre-hearing conferences, pre-hearing memos, and pre-hearing orders. Section 26 of the Proposed Rule makes significant non-substantive revisions to restructure and reorganize the material as well as copyedits to simplify and clarify it. Substantively, the Proposed Rule eliminates some requirements for pre-hearing memos that are duplicative with the new procedure for the filing of pre-hearing statements as may be seen in Section 32 of the Proposed Rule.

¹⁰³ Stevens Initial at 14-15.

122. No substantive comments were filed on Section 26 of the Proposed Rule.

B. Analysis

123. Upon *sua sponte* review, the Commission notes an odd reference to “informal discovery” in the Proposed Rule. Relating to the requirement in Subsection B for parties to be familiar with all material obtained through discovery, it is not clear what informal discovery is and how parties should go about becoming familiar with it, especially if it refers to materials that are not of record and filed with the Commission. The reference to informal discovery should be stricken.

C. Conclusion

124. The Commission, *sua sponte*, strikes the reference to informal discovery discussed above, but no other substantive or other significant changes are made to Section 26 of the Proposed Rule in this Final Order.

XVIII. Proposed Rule Section 27 – Interim Relief

A. Rulemaking and Comments Summary

125. Rule 1.2.2.27 NMAC provides the requirements for requests for interim relief. Section 27 of the Proposed Rule makes non-substantive amendments to update statutory references and reformat paragraphs. Additionally, the Proposed Rule strikes 1.2.2.27(C) NMAC as it is duplicative with the e-filing and service procedures contained in 1.2.2.10 NMAC.

126. NMAREA commented that the proposed changes to 1.2.2.27 NMAC preserves flexibility and maintains procedural safeguards.¹⁰⁴

¹⁰⁴ NMAREA Initial at 16.

B. Conclusion

127. No substantive or other significant changes are made to Section 27 of the Proposed Rule in this Final Order.

XIX. Proposed Rule Section 28 – Subpoenas

A. Rulemaking and Comments Summary

128. Rule 1.2.2.28 NMAC provides the requirements for subpoenas, including special service and fee provisions that differ from other service provisions of the procedural rules. Section 28 of the Proposed Rule makes insignificant copyedits and other formatting amendments.

129. NMAREA commented that the proposed changes to 1.2.2.28 NMAC ensure enforceability and transparency.¹⁰⁵

B. Analysis

130. Upon *sua sponte* review, Section 28(E) of the Proposed Rule relates to protective orders to prevent annoyance, embarrassment, or oppression of parties or witnesses. Subsection E is duplicative of Section 25(K) of the Proposed Rule. As Subsection K is more detailed, Subsection E should be stricken.

C. Conclusion

131. The Commission, *sua sponte*, strikes Section 28(E) of the Proposed Rule, but no other substantive or significant changes are made to Section 28 of the Proposed Rule in this Final Order.

¹⁰⁵ *Id.*

XX. Proposed Rule Section 29 – Presiding Officer

A. Rulemaking Summary

132. Rule 1.2.2.29 NMAC provides the duties and powers of presiding officers.

133. Section 29 of the Proposed Rule contains edits to align the section with recent amendments to the PRC Act.¹⁰⁶ Section 29 additionally contains significant non-substantive amendments to restructure, reorganize, and simplify 1.2.2.29 NMAC.

B. Comments Summary and Analysis

134. NMAREA commented that one issue that is not adequately addressed in the Proposed Rule is the role of presiding officers in litigated proceedings.¹⁰⁷ NMAREA argued that the increasing usage of bench requests and extensive examination at hearings puts presiding officers in the position of party-litigants rather than neutral fact finders which shifts the burdens of proof and persuasion in the proceeding.¹⁰⁸ NMAREA and SPS recommended that Section 29 should be amended to limit a presiding officer's ability to issue bench requests to limited instances to clarify, but not supplement, the record.¹⁰⁹ WRA commented that the Commission should consider the code of conduct for administrative law judges, as provided by the Public Law Section of the New Mexico State Bar, and the hearing officer code of conduct in the Administrative Hearings Office Act.¹¹⁰ WRA proposed edits that would require decisional independence and impartiality from the Commission.¹¹¹

135. The comments about the role of presiding officers are misplaced. Presiding officers are different than judges of the court; they are typically Commission employee hearing examiners

¹⁰⁶ See § 62-19-7 and -20.

¹⁰⁷ NMAREA Initial at 2.

¹⁰⁸ See *id.* at 2-3.

¹⁰⁹ *Id.* at 17; see SPS Response at 5.

¹¹⁰ WRA Initial at 6.

¹¹¹ *Id.*, Attach. 1, at 29-30.

and are subject to the standards of the PRC Act. The PRC Act requires hearing examiners to provide the Commission with a written recommendation on the matter assigned to the hearing examiner, including findings of fact and conclusions of law, but the PRC Act does not require them to have decisional independence or to be neutral fact-finders like judges of the court. A hearing examiner's job is to recommend decisions that are not only in compliance with specific laws, but that are generally consistent with the public interest.¹¹² Thus, hearing examiners work towards specific outcomes, and if the evidentiary record as built by the parties is insufficient to reach a decision that is in the public interest, the hearing examiner needs the ability to request the necessary evidence be produced. It cannot be true that an administrative law judge may not issue bench requests to fill the gaps in their understanding of the record. This does not shift the burden of proof, rather, it ensures the Commission is fulfilling its statutory duties.

136. Additionally, hearing examiners may consult on the merits of proceedings with commissioners and other advisory staff¹¹³ as long as such discussion do not rise to a level of improper influence, interference, or pressure, further showing that hearing examiners are not an independent arm of the Commission in the same way that Staff is.¹¹⁴ The Commission agrees that efforts of a presiding officer should not excuse material failures of a party carrying the burden of

¹¹² See NMSA 1978, § 62-3-1(B) (2008) ("It is the declared policy of the state that the public interest, the interest of consumers and the interest of investors require the regulation and supervision of public utilities to the end that reasonable and proper services shall be available at fair, just and reasonable rates and to the end that capital and investment may be encouraged and attracted so as to provide for the construction, development and extension, without unnecessary duplication and economic waste, of proper plants and facilities and demand-side resources for the rendition of service to the general public and to industry."); Docket No. 21-00267-UT, Certification of Stipulation (Nov. 10, 2022) at 24 (adopted by Order Adopting and Approving Certification of Stipulation (Nov. 30, 2022) at 1) (The "Commission sits as the ultimate arbiter of proceedings thoroughly suffused with questions of public interest . . . The Commission itself remains responsible for ensuring an adjudication or other administrative action best serves the public.").

¹¹³ 1.2.3.9(C) NMAC.

¹¹⁴ § 62-19-20(A) ("Hearing examiners shall conduct proceedings and issue findings and recommendations based solely on the record and applicable law, free from improper influence, interference or pressure from any source within or outside the commission.").

proof, but hamstringing a presiding officer's ability to obtain information from parties is not a proper solution.

C. Conclusion

137. No substantive or other significant changes are made to Section 29 of the Proposed Rule in this Final Order.

XXI. Proposed Rule Section 30 – Procedural Authority of a Single Commissioner

A. Rulemaking Summary

138. Rule 1.2.2.30 NMAC provides the procedural authority of a single commissioner to act on their own behalf or on behalf of the Commission.

139. Section 30 of the Proposed Rule expands the list of permissible procedural orders and notices that a single commissioner may issue in-line with the historical application of 1.2.2.30 NMAC, to include altering time periods established in the procedural rules or by Commission order, granting leave to file untimely motions and motion responses/replies, and granting leave to file other pleadings that require leave of the Commission; and to amend the ability of a single commissioner to suspend advice notices more generally.

140. NMAREA commented that the proposed changes to 1.2.2.30 NMAC enhances administrative efficiency.¹¹⁵

B. Conclusion

141. No substantive or other significant changes are made to Section 30 of the Proposed Rule in this Final Order.

¹¹⁵ NMAREA Initial at 16.

XXII. Proposed Rule Section 31 – Interlocutory Appeals from Rulings of the Presiding Officer

A. Rulemaking Summary

142. Rule 1.2.2.31 NMAC provides the policies and procedure for interlocutory appeals from rulings of presiding officers.

143. Section 31 of the Proposed Rule makes many non-substantive edits to clarify and simplify the material, and it makes several substantive edits. Section 31 reframes the longstanding extraordinary nature of interlocutory appeals as a pleading requirement for which the appellant must make a showing of extraordinary circumstances. Section 31 reduces the amount of time a presiding officer has to permit the interlocutory appeal from 15 to 12 days, and it increases the amount of time the Commission may act upon interlocutory appeals from 15 to 30 days.

B. Comments Summary and Analysis

144. Commenters expressed concern with the extraordinary circumstances standard to justify the filing of interlocutory appeals. Commenters suggested that a good cause standard should be implemented,¹¹⁶ and that proving extraordinary circumstances would effectively block interlocutory appeals.¹¹⁷

145. The Commission disagrees with the comments. It has long been the Commission’s policy of taking up interlocutory appeals only under extraordinary circumstances,¹¹⁸ the Proposed Rule merely reflects that policy as a concrete requirement whereas previously it existed only as a

¹¹⁶ See *id.* at 18.

¹¹⁷ See Kit Carson Electric Cooperative, Inc.’s Response Comments on Proposed Rule 1.2.2 NMAC Administrative Procedures (“KCEC Response”) (Sept. 8, 2025) at 4.

¹¹⁸ See 1.2.2.31(A)(2) NMAC (The rule, being effective as of 2008, states, “The commission does not favor interlocutory appeals from the rulings of a presiding officer and expects that appeals *will be taken only in extraordinary circumstances*. The movant in any such appeal bears the burden of establishing grounds for review and reversal of a ruling of the presiding officer made in the course of the proceeding.” (emphasis added)).

policy statement. Thus, the Proposed Rule provides more clarity and consistency without significantly altering the *status quo*.

C. Conclusion

146. No substantive or other significant changes are made to Section 31 of the Proposed Rule in this Final Order.

XXIII. Proposed Rule Section 32 – Public Hearings

A. Rulemaking Summary

147. Rule 1.2.2.32 NMAC provides regulations for public hearings, including the rights of parties and commenters, appearances, conduct, and joint hearings.

148. Section 32 of the Proposed Rule proposes clarifying copyedits and other edits to restructure the material along with one primary substantive addition. Section 32 contains a new requirement for parties to file statements of position two weeks before the start of a public hearing, containing a concise summary of the party's overall position and a concise statement of each discrete question of fact, law, or policy at issue and the party's positions.

149. The Commission explained the reasoning for the proposed new requirement for statements of position:

Statements of positions are intended to provide a clear and concise summary of the contested issues in a proceeding in a centralized location. Under the current framework of the Procedural Rule, there is no requirement for parties to summarize the contested issues prior to hearing, thus, one would need to familiarize themselves with potentially thousands of pages of testimony to coalesce and understand all of the contested issues. The status quo is unreasonable and creates a significant barrier to entry for commissioners, non-party participants, and newcomers to become acquainted with the contested issues in a proceeding prior to the public hearing.¹¹⁹

¹¹⁹ NOPR Order at 20.

B. Comments Summary and Analysis

150. All of the comments submitted on Section 32 of the Proposed Rule related to statements of position. There were supportive comments, critical comments, and new language proposals.

151. Some commenters indicated support,¹²⁰ and others variously argued that statements of position will lead to more effective public hearings¹²¹ and are not burdensome for simply distilling a position down to a shorter pleading.¹²²

152. Some commenters variously argued that statements of positions: are prejudicial because some parties do not finalize their positions until after a public hearing;¹²³ may cause reliance on unsworn testimony;¹²⁴ would be unduly burdensome because two weeks prior to a public hearing is the busiest time for litigants;¹²⁵ are unworkable because party positions are too complex and only sufficiently stated through testimony;¹²⁶ put undue stress on parties and would not further judicial efficiency;¹²⁷ would be inefficient to file prior to direct testimony;¹²⁸ and would be an impossible regurgitation of testimony and a waste of resources.¹²⁹

153. The Commission understands the added burden that statements of position would create, but it agrees with NMGC who doubts the extent of the burden as expressed by some commenters.¹³⁰ The benefit to be gained from statements of position outweighs the burden

¹²⁰ See SPS Initial at 12.

¹²¹ NMGC Initial at 9.

¹²² See NMGC Response at 2.

¹²³ Albuquerque Bernalillo County Water Utility Authority's Response Comments ("ABCWUA Response") (Sept. 8, 2025) at 2.

¹²⁴ LES Initial at 2-3.

¹²⁵ NMAREA Initial at 13.

¹²⁶ *Id.* at 14.

¹²⁷ NMLCG Initial at 6-7.

¹²⁸ Staff Initial at 13-14.

¹²⁹ Stevens Initial at 17-18.

¹³⁰ See NMGC Response at 2.

imposed from the Commission's perspective in confronting and digesting records of proceedings that often stretch to the thousands of pages.

154. WRA proposed additional language that would couch statements of position as non-binding and non-evidentiary.¹³¹ NMGC commented that WRA's suggestions are sensible and allows parties to change positions after evidence is adduced at hearing.¹³² Staff suggested that WRA's proposal be adopted as reasonable.¹³³ The Commission agrees that statements of position should not be treated as binding or carry any evidentiary weight. WRA's proposal is well taken.

155. Upon *sua sponte* review, the Proposed Rule requires further refinement. Since the NOPR Order issued, the Commission has been taking steps to focus public hearings on key issues and to provide separate fora for public comments. The new procedure for statements of position will aid in this endeavor, however, it should not be utilized to constrain the Commission's discretion to limit public hearing to key issues. Additionally, the existing rights of commenters listed in Section 32 and 1.2.2.32 NMAC conflicts with public comment procedures provided in Section 23. Therefore, Section 32 should be refined to address the scope of public hearings and to not conflict with public comment procedures. In particular, the Commission provides new rule language relating to how statements of position may be utilized by the Commission to define the scope of issues to be considered at public hearings. The Commission highlights 1.2.2.32(K) of the Proposed Rule as a potential logical outgrowth issue and encourages the filing of motions for rehearing if any stakeholder takes issue with its inclusion in the Final Rule.

¹³¹ WRA Initial, Attach. 1, at 33.

¹³² NMGC Response at 1.

¹³³ Staff's Response to Initial Comments ("Staff Response") (Sept. 8, 2025) at 6.

C. Conclusion

156. The Commission adopts WRA's proposal to explicitly state that statements of position are non-binding and do not carry evidentiary weight. The Commission, *sua sponte*, adds new language relating to the scope of public hearings and strikes conflicting language relating to public comments. These amendments may be seen in redline on Exhibit A to this Final Order

XXIV. Rule 1.2.2.33 NMAC – Order of Presentation and Receipt of Evidence

A. Rulemaking Summary

157. Rule 1.2.2.33 NMAC relates to the order of presentation and receipt of evidence, and 1.2.2.34 NMAC relates to transcripts. However, Section 33 of the Proposed Rule relates to transcripts, because in the NOPR Order, the entirety of 1.2.2.33 NMAC was stricken, thereby shifting the numbering.

158. To replace the material stricken in 1.2.2.33 NMAC, the Commission proposed a singular sentence in Section 34 of the Proposed Rule to give the Commission or presiding officer the discretion to direct the order of presentation and the receipt of evidence.

B. Comments Summary and Analysis

159. Staff commented that the stricken 1.2.2.33 NMAC should be reintroduced to require the applicant bearing the burden of proof to present its case first, and to protect Staff's right to present its case last.¹³⁴ SPS responded that the party holding the burden of proof should have the opportunity to go both first and last in the presentation of the case, as is typical.¹³⁵

160. Staff's and SPS's comments are not persuasive for two reasons. First, the order and presentation of evidence in Commission proceedings is firmly established by decades of practice

¹³⁴ See Staff Initial at 15.

¹³⁵ SPS Response at 8.

precedent, eliminating 1.2.2.33 NMAC does not change that fact, and it is unlikely to upset the *status quo*. Second, 1.2.2.33 NMAC rigidly prescribes procedures to a presiding officer's domain of expertise – presiding officers should have discretion to alter the presentation and receipt of evidence as they see fit under new and unique circumstances on a case-by-case basis.

C. Conclusion

161. Rule 1.2.2.33 NMAC is not reintroduced into the Proposed Rule.

XXV. Proposed Rule Section 33 – Transcripts

162. As noted above, Section 33 of the Proposed Rule correlates to 1.2.2.34 NMAC.

A. Rulemaking and Comments Summary

163. Rule 1.2.2.34 NMAC provides procedures for the making of transcripts of formal public hearings. Section 33 of the Proposed Rule proposes minor, non-substantive amendments for structure and copyediting. It also provides one substantive amendment by striking the transcript citation rule because it conflicts with citation standards elsewhere in the procedural rules.

164. No substantive comments were filed on Section 33 of the Proposed Rule.

B. Conclusion

165. No substantive or other significant changes are made to Section 33 of the Proposed Rule in this Final Order.

XXVI. Proposed Rule Section 34 – Rules of Evidence

166. As a result of the renumbering explained above, Section 34 of the Proposed Rule correlates to 1.2.2.35 NMAC.

A. Rulemaking Summary

167. Rule 1.2.2.35 NMAC provides the rules of evidence applicable to Commission proceedings.

168. Section 34 of the Proposed Rule contains significant non-substantive copy edits and amendments to restructure 1.2.2.35 NMAC. Section 34 additionally contains limited substantive edits to provide consistent standards for the form of testimony and to clarify who may take objection at evidentiary hearings.

B. Comments Summary and Analysis

169. KCEC commented that Commission proceedings should adhere to, and presiding officers should be bound by, the New Mexico Rules of Evidence.¹³⁶ Staff proposed amendments along similar lines.¹³⁷ NMLCG responded that these recommendations should not be adopted because the *status quo* is more efficient.¹³⁸

170. The Commission disagrees with KCEC and Staff but agrees with NMLCG. The Commission's rules of evidence are more relaxed than the New Mexico Rules of Evidence as applied in the courts. Changing the rules of evidence would upend the *status quo* and increase the burden upon the Commission and litigants.

171. NMAREA commented that the contextual language explaining rebuttal evidence should be relocated to a definition.¹³⁹ The Commission is not persuaded that the term "rebuttal evidence" is one that needs to be defined, as it is a basic and well-understood term in the law.

C. Conclusion

172. No substantive or other significant changes are made to Section 34 of the Proposed Rule in this Final Order.

¹³⁶ KCEC Response at 3-4.

¹³⁷ See Staff Initial at 16.

¹³⁸ See NMLCG Response at 8.

¹³⁹ NMAREA Initial at 19.

XXVII. Proposed Rule Section 35 – Proposed Findings and Conclusions; Briefs

173. As a result of the renumbering explained above, Section 35 of the Proposed Rule correlates to 1.2.2.36 NMAC.

A. Rulemaking and Comments Summary

174. Rule 1.2.2.36 NMAC provides the parameters for, and regulates the contents of, proposed finds and conclusions, briefs, and accompanying reconciliation statements.

175. Section 35 of the Proposed Rule makes non-substantive copyedits, and other structural edits, to 1.2.2.36 NMAC. Section 35 also makes several substantive edits, including a prohibition on including contested material issues in proposed findings and conclusion, striking the overly punitive threat of dismissal of a proceeding in which a party fails to comply with 1.2.2.36 NMAC, and striking a seldom-followed blanket rule for the Commission to not consider issues if they are not argued in post-hearing briefs.

176. NMLCG commented that it supports the Commission striking Section 35(B)(4) of the Proposed Rule, which limits the Commission’s consideration of issues to issues argued in post-hearing briefing, because the doctrines of legal sufficiency that the Commission must meet (arbitrary and capricious, substantial evidence) and the opportunity for parties to raise and brief issues is sufficient.¹⁴⁰

B. Conclusion

177. No substantive or other significant changes are made to Section 35 of the Proposed Rule in this Final Order.

¹⁴⁰ NMLCG Response at 6-7.

XXVIII. Proposed Rule Section 36 – Orders; Recommended Decisions; Exceptions; Rehearing and Reconsideration

178. As a result of the renumbering explained above, Section 36 of the Proposed Rule correlates to 1.2.2.37 NMAC.

A. Rulemaking Summary

179. Rule 1.2.2.37 NMAC provides governing policies for commission orders and recommended decisions, and important procedures for exceptions and motions for rehearing.

180. Section 36 of the Proposed Rule makes significant non-substantive amendments to 1.2.2.37 NMAC to restructure the section and clarify significant ambiguities, such as the appropriate deadlines for the different types of motions for rehearing. However, the substantive hard deadlines and other requirements provided throughout 1.2.2.37 NMAC are largely unchanged in Section 36, except for the response deadline to motions for rehearing filed pursuant to the PUA is proposed to be decreased from 13 days to 7 days to better accommodate Commission action within the 20-day statutory window.¹⁴¹

B. Comments Summary and Analysis

181. PNM commented that allowing motions to reopen closed dockets adds uncertainty to the regulatory process.¹⁴² Stevens responded that the Commission's rule is typical and tracks the New Mexico rules of civil procedure.¹⁴³

182. The Commission disagrees with PNM's comments. The Proposed Rule has not created a new process for which closed dockets may be reopened, rather, it provides a procedure where one previously did not exist but was needed because parties took advantage of its absence.

¹⁴¹ See NOPR Order at 20; see § 62-16-10.

¹⁴² PNM Initial at 10.

¹⁴³ Stevens Response at 21.

The Commission frequently receives filings in closed dockets requesting Commission action without an accompanying motion to reopen the docket. This is problematic because once a docket is closed, it is no longer updated with current service contacts or monitored to the same degree as open dockets. Closed docket filings are often missed and the requested relief is delayed. The Commission would like to solve these issues by requiring motions to reopen to be filed first.

183. Upon *sua sponte* review, the Commission identifies material in Section 36(A)(3) and (4), mostly related to recommended decisions, that is outdated, unfollowed, duplicative, overly prescriptive, or phrased inefficiently. Section 36 should be further amended to simplify the material to align with the Commission's current practice of issuing final orders that build upon recommended decisions and make further findings and conclusions based on the record, rather than adopt a recommended decision, either in full or in part, by reference, which can lead to confusion about what is or is not approved by the Commission.

C. Conclusion

184. The Commission, *sua sponte*, strikes Section 36(A)(3)(b) and (B) and amends Section 36(A)(4) of the Proposed Rule, as may be seen as redlines on Exhibit A to this Final Order.

XXIX. Proposed Rule Section 37 – Recusal

185. As a result of the renumbering explained above, Section 37 of the Proposed Rule correlates to 1.2.2.38 NMAC.

A. Rulemaking and Comments Summary

186. Rule 1.2.2.38 NMAC provides the policies for recusal of commissioners and hearing examiners. Section 37 of the Proposed Rule largely rewrites 1.2.2.38 NMAC to reflect the recent amendments to the PRC Act¹⁴⁴ and to preserve the process for parties to request recusal.

¹⁴⁴ § 62-19-7.

187. NMAREA commented that the proposed changes improve transparency and integrity.¹⁴⁵

B. Conclusion

188. No substantive or other significant changes are made to Section 37 of the Proposed Rule in this Final Order.

XXX. Proposed Rule Section 38 – Artificial Intelligence

189. As a result of the renumbering explained above, the Proposed Rule’s new section on artificial intelligence (“AI”) slots into Section 38.

A. Rulemaking Summary

190. Section 38 of the Proposed Rule is all new material proposed for inclusion in the Procedural Rule relating to the use of AI to aid in the drafting of pleadings and other documents submitted to the Commission. It contains a requirement to identify AI-produced material, a prohibition on AI-hallucinated statements, and a threat of sanctions for non-conformance.

B. Comments Summary and Analysis

191. Comments filed on Section 38 of the Proposed Rule were mostly critical of the proposed rule language. Commenters variously argued that Section 38 is: unnecessary because attorneys are already subject to professional ethics standards that are evolving to address AI;¹⁴⁶ overly broad because AI is increasingly being integrated into everyday applications so most pleadings would fall into the category of being produced, to some degree, with the aid of AI;¹⁴⁷ unnecessary because the signature policy set out in Section 11 of the Proposed Rule is sufficient to ensure accuracy of pleadings;¹⁴⁸ unnecessary because the New Mexico Supreme Court issued

¹⁴⁵ NMAREA Initial at 21.

¹⁴⁶ EPE Initial, Ex. A, at 19-20.

¹⁴⁷ NMGC Initial at 7-8; *see* PNM Initial at 10.

¹⁴⁸ *Id.* at 8; *see* SPS Initial at 9.

guidelines for legal professionals related to AI, providing that existing rules and ethical obligations guard against the potential drawbacks of AI;¹⁴⁹ and overly broad because it could require disclosures for mundane assistance such as predictive text or search engines.¹⁵⁰

192. Staff commented that there are pros and cons with Section 38 of the Proposed Rule.¹⁵¹ Staff commented,

The proposed language on AI offers some benefits in promoting transparency, preventing false citations, and ensuring accountability, but the potential drawbacks are significant. The broad and ambiguous definition of AI use, combined with the administrative burden of tracking and disclosing AI-generated content, could discourage legitimate and efficient uses of AI. The rapid evolution of AI tools further increases the risk that the rule will become outdated or fail to address emerging technologies. Enforcement challenges also limit the practical effectiveness of the proposed requirements.¹⁵²

193. The Commission is persuaded by the commenters that existing signature requirements and evolving ethical rules applicable to attorneys provide sufficient protections from the clear downsides of AI as an emerging technology with not well understood quirks. However, the disincentive for a party's failure to confirm the accuracy, veracity, or existence of a statement of law or fact, as proposed in Subsection D of Section 38, should be retained as a general requirement in the Final Rule. The general requirement would be fitting for Section 11 of the Proposed Rule.

C. Conclusion

194. The Commission strikes Section 38 in full, but relocates Section 38(D) to Section 11, as may be seen in redline on Exhibit A to this Final Order.

¹⁴⁹ NMGC Response at 3.

¹⁵⁰ SPS Initial at 8-9.

¹⁵¹ Staff Initial at 17.

¹⁵² *Id.*

XXXI. Rule 1.2.2.39 NMAC – Commission Code of Conduct

A. Rulemaking Summary

195. Rule 1.2.2.39 NMAC relates to the Commission’s code of conduct that is adopted by the Commission by resolution at an open meeting outside the scope of the procedural rules. However, Section 39 of the Proposed Rule relates to decorum, because in the NOPR Order, the entirety of 1.2.2.39 NMAC was stricken, thereby shifting the numbering.

B. Comments Summary and Analysis

196. NMAREA commented that it opposes the deletion of 1.2.2.39 NMAC because it serves as an important role in ensuring ethical behavior by parties and representatives.¹⁵³

197. NMAREA’s comments are misplaced because 1.2.2.39 NMAC relates to the conduct of the Commission and its employees rather than of parties and representatives. Rule 1.2.2.39 NMAC is properly stricken from the Proposed Rule because it is a rule that simply states that the code of conduct must be consistent with statute, thus merely stating the obvious. To be clear, the Commission’s code of conduct serves an important purpose, but the code of conduct is a document adopted outside the purview of 1.2.2.39 NMAC. It is unnecessary to have a rule that merely states the obvious.

C. Conclusion

198. Rule 1.2.2.39 NMAC is not reintroduced into the Proposed Rule.

¹⁵³ NMAREA Initial at 21.

XXXII. Proposed Rule Section 39 – Decorum

199. As a result of the striking of 1.2.2.39 NMAC explained above, the Proposed Rule’s new section on decorum slots into Section 39.

A. Rulemaking Summary

200. Section 39 of the Proposed Rule contains all new material relating to the Commission’s policy on decorum in Commission proceedings, including appropriate attire and use of electronic devices. It also addresses non-compliance, including sanctions and removal.

B. Comments Summary and Analysis

201. Various commenters took issue with Section 39 of the Proposed Rule. Commenters suggested that strict and unreasonable enforcement of Section 39 could infringe upon due process;¹⁵⁴ decorum is not an important topic to merit a rule;¹⁵⁵ and Section 39’s stated policy imposes a subjective standard.¹⁵⁶

202. Strict enforcement and unreasonable enforcement should not be conflated. Any rule, if unreasonably enforced, may result in due process infringements. That should not also be the case for strict enforcement, and the Commission is not persuaded that is the case here with Section 39. The Commission has discretion to determine which topics merit formal rules and has done so here.¹⁵⁷ It is also not possible to create an objective standard when it comes to topics like dignity and dress codes. There is going to be some subjectivity, and as discussed above, if the rule is imposed unreasonably on parties, then parties may appeal to any error it perceives.

203. But the levied criticisms cause the Commission to reevaluate Section 39 of the Proposed Rule. Rather than addressing attire and personal electronic devices, it would be simpler

¹⁵⁴ See ABCWUA Response at 3; *see also* Staff Initial at 18.

¹⁵⁵ See EPE Initial, Ex. A, at 20.

¹⁵⁶ See NMAREA Initial at 21.

¹⁵⁷ See § 62-19-9(B)(4).

and better to pare down the section to its basic components, which is to discourage disruptive behavior in Commission proceedings. Additionally, the Commission, from time to time, may issue resolutions on decorum which may delve into greater specificity than the Proposed Rule. Thus, Paragraphs B and C of Section 39 of the Proposed Rule may be stricken.

204. Upon *sua sponte* review, the policy statement at Section 39(A)(1) of the Proposed Rule appears unnecessary given the policy guidance already provided throughout the PUA.

C. Conclusion

205. The Commission strikes Sections 39(A)(1), (B), and (C) of the Proposed Rule as may be seen in redline on Exhibit A to this Final Order. Section 39 of the Proposed Rule becomes Section 38 of the Final Rule due to the striking of Section 38 discussed above.

XXXIII. Proposed Rule Section 40 – Variance

206. As a result of the renumbering and newly added sections explained above, Section 40 of the Proposed Rule retains its correlated numbering with 1.2.2.40 NMAC.

A. Rulemaking Summary

207. Rule 1.2.2.40 NMAC provides the requirements for petitioning the Commission for a variance from the requirement of any rule or order of the Commission.

208. Section 40 of the Proposed Rule makes several amendments to 1.2.2.40 NMAC. First, it clarifies when variance requests should be filed as petitions or as motions. Second, it clarifies how variance requests may be supported. Third, it eliminates the contradictory requirement for a variance request to describe how its proposed alternative will achieve the purpose of the rule. Fourth, it clarifies how responses to variance petitions shall be treated. And fifth, the Proposed Rule codifies and elaborates on the Commission’s practice of issuing variances *sua sponte*.

B. Comments Summary and Analysis

209. NMAREA commented that the original language of 1.2.2.40 NMAC should be maintained as it is more concise.¹⁵⁸ NMAREA's comments are unpersuasive because the original language was outdated and, in part, contradictory. A variance by its nature seeks permission to not act in accordance with the established law, thus, it makes little sense to require a petitioner or movant to explain how the requested alternative action will further the purposes of the rule. The better approach, as reflected in the Proposed Rule, is to simply require an explanation of why the variance is in the public interest.

210. Upon *sua sponte* review, the Commission questions language in Section 40(H) of the Proposed Rule that would limit a presiding officer's authority to issue variances only from orders issued by the presiding officer. Allowing presiding officers to also issue variances from orders issued by the Commission provides more procedural and administrative flexibility and increases efficiency.

211. The Commission also notes that there is misalignment in Section 40 of the Proposed Rule between the standards for issuing variances depending on if requested by a party (public interest standard) or if issued by the Commission *sua sponte* (good cause standard). These standards should be aligned as the longstanding public interest standard for consistency.

C. Conclusion

212. The Commission, *sua sponte*, amends language in Section 40(H) as discussed above and as may be seen as redlines on Exhibit A to this Final Order. Section 40 of the Proposed Rule becomes Section 39 of the Final Rule due to the striking of Section 38 discussed above.

¹⁵⁸ NMAREA Initial at 22.

FINDINGS AND CONCLUSIONS

The Commission finds and concludes:

213. The informal inquiry, notice, and public comment processes, as well as the formal public comment and public hearing processes, held so far in this Docket, have satisfied the Commission's duty to apprise the public, solicit and consider comments, and develop a record.

214. In contemplation of the commenters' various proposals contained in the initial comments and response comments filed in this Docket, and the oral comments made at the public hearing, the Proposed Rule should be amended consistent with the findings and conclusions discussed in the body of this Final Order, and in other, non-substantive ways not herein specifically discussed.

215. The Proposed Rule as amended shall be referred to as the "Final Rule," and it shall be attached to this Final Order in both redline (Exhibit A) and clean formats (Exhibit B).

216. The Final Rule is reasonable and promulgating it is necessary and appropriate.

217. The Commission incorporates by reference any findings and conclusions stated in the body of this order.

IT IS THEREFORE ORDERED:

A. The Proposed Rule is hereby AMENDED consistent with the findings and conclusions of this Final Order.

B. The Proposed Rule as amended is hereby ADOPTED as the Final Rule of the Commission for publication in the New Mexico Administrative Code at Title 1 – General Government Administration, Chapter 2 – Administrative Procedures, Part 2 – Public Regulation Commission Rules of Practice and Procedure.

C. Any violation of the Final Rule shall additionally be a violation of this Final Order.

D. Advisory Staff and the Office of General Counsel are hereby authorized to make non-substantive changes to the Final Rule as necessary for the purposes of proofing, formatting, and publication.

E. The Office of General Counsel shall submit the Final Rule to New Mexico State Records and Archives for publication in the New Mexico Register and provide the Final Rule to the public pursuant to the State Rules Act, at its earliest opportunity allowing sufficient time for motions for rehearing to be filed and resolved.

F. Motions for rehearing shall be timely if filed by **September 28, 2026**. Responses to motions for rehearing shall be timely if filed by **October 2, 2026**. Replies to responses shall not be filed.

G. If no motions for rehearing are filed, or if all motions for rehearing are denied by operation of law, this Docket shall close.

H. This Order is effective when signed.

I. In computing time in accordance with statute, regulation, or Commission order, the computation shall begin on the date that this Order is filed.

SIGNED under the Seal of the Commission at Santa Fe, New Mexico, this 27th day of August, 2026.

NEW MEXICO PUBLIC REGULATION COMMISSION

/s/ Gabriel Aguilera, electronically signed
GABRIEL AGUILERA, COMMISSIONER

/s/ Greg Nibert, electronically signed
GREG NIBERT, COMMISSIONER

/s/ Patrick J. O'Connell, electronically signed
PATRICK J. O'CONNELL, COMMISSIONER



EXHIBIT A

TITLE 1 GENERAL GOVERNMENT ADMINISTRATION
CHAPTER 2 ADMINISTRATIVE PROCEDURES
PART 2 PUBLIC REGULATION COMMISSION RULES OF PRACTICE AND PROCEDURE

1.2.2.1 ISSUING AGENCY: New Mexico public regulation commission.

[1.2.2.1 NMAC – Rp, 1.2.2.1 NMAC, XX/XX/202~~65~~]

1.2.2.2 SCOPE: This rule applies to all commission proceedings. Other rules governing specialized proceedings or matters shall govern in the event of a conflict with this rule.

[1.2.2.2 NMAC - Rp, 1.2.2.2 NMAC, XX/XX/202~~65~~]

1.2.2.3 STATUTORY AUTHORITY: Sections 62-8-3, 62-13-2, 62-14-9.1, 62-14-10, 62-19-9, 62-19-21, 63-7-23, 63-9-11, 63-9A-5.1, 63-9A-11, 63-9B-5, 63-9H-10, and 70-3-13 NMSA 1978.

[1.2.2.3 NMAC - Rp, 1.2.2.3 NMAC, XX/XX/202~~65~~]

1.2.2.4 DURATION: Permanent.

[1.2.2.4 NMAC - Rp, 1.2.2.4 NMAC, XX/XX/202~~65~~]

1.2.2.5 EFFECTIVE DATE: [MONTH] [DAY,] 202~~65~~, unless a later date is cited at the end of a section.

[1.2.2.5 NMAC - Rp, 1.2.2.5 NMAC, XX/XX/202~~65~~]

1.2.2.6 OBJECTIVE: The objective of this rule is to establish procedures for handling matters that come before the commission within its ~~jurisdiction~~statutory authority.

[1.2.2.6 NMAC - Rp, 1.2.2.6 NMAC, XX/XX/202~~65~~]

1.2.2.7 DEFINITIONS: In addition to the definitions contained in Sections 3-29-2, 62-3-3, 62-14-2, 62-19-2, 63-9-2, 63-9A-3, 63-9H-3, and 70-3-12 NMSA 1978, as used in this rule:

A. Definitions beginning with “A”:

(1) **advisory staff** means ~~the commission personnel assigned pursuant to 62-19-25 NMSA 1978 persons hired by the commission pursuant to Section 62-19-19 NMSA 1978~~ to advise and assist the commission, but who do not represent advocacy staff in proceedings before the commission.;

(2) **applicant** means a person ~~or entity~~ who files an application with the commission;

(3) **advocacy staff** means ~~the commission personnel assigned pursuant to 62-19-25 NMSA 1978 all persons employed by the commission, other than hearing examiners and advisory staff, who to~~ participate as a party in commission proceedings without being required to intervene; who advocate for policies and positions independently from the commission, hearing examiners, and advisory staff; and who do not have the right of statutory appeal; and

(4) **artificial intelligence (AI)** means a machine-based system or tool that can, for a given set of human-defined objectives or parameters, make predictions, recommendations, or decisions influencing real or virtual environments.

B. Definitions beginning with “B”: [RESERVED]

C. Definitions beginning with “C”:

(1) **commenter** means a person who enters an oral or written comment into the record of a proceeding before the commission or presiding officer but who is not a party to the proceeding;

(2) **complainant** means a person ~~or entity~~ who files an informal or formal complaint alleging any action or omission of a person ~~or entity~~ in violation of any law, rule, or order issued, enforced, administered, or promulgated by the commission, or who requests commission assistance to resolve any issue, within the commission’s jurisdiction, that the complainant has with a regulated person ~~or entity~~; and

(3) **corporation** means domestic and foreign corporations, limited liability companies, cooperative associations, sanitary projects act associations, water users associations, waterworks corporations, and foreign business trusts as those terms are defined in Section 3-29-2 and Chapter 53, NMSA 1978, that are subject to commission regulation.

EXHIBIT A

D. Definitions beginning with “D”: **document** means, except as otherwise used in the provisions of this rule governing discovery and formal complaints, any submission in a formal proceeding, including pleadings, or which is required to be filed by commission rule or order outside a formal proceeding.

E. Definitions beginning with “E”:

(1) **e-docket** means the commission’s electronic docketing and document management system;

(2) **electronic** means relating to technology having electrical, digital, magnetic, wireless, telephonic, optical, electromagnetic, or similar capabilities;

(3) **electronic signature** means a full, printed name of the person responsible for the electronic version of the document by scanned or other electronic reproduction of the signature or by typing in the signature line the notation “/s/” followed by the name of the person signing the original document and including the email address of the person signing;

(4) **electronic storage media** means any physical device used to store electronic data; and

(5) **electronic filing** means the filing procedures for set forth in 1.2.2.10 NMAC.

F. Definitions beginning with “F”:

(1) **file, filed, or filing** means submitting by email to the records bureau, unless otherwise permitted by Subsections D and B of 1.2.2.10 NMAC, and acceptance by the chief clerk or the chief clerk’s designee; and

(2) **formal proceedings** means all matters to which the commission assigns docket numbers and enters on the docket for decision except for rulemaking proceedings prior to the issuance of a notice of proposed rulemaking.

G. Definitions beginning with “G”: [RESERVED]

H. Definitions beginning with “H”: **hearing examiner** means a person, except a commissioner, appointed by the commission to preside over any matter before the commission pursuant to Section 62-19-20 NMSA 1978 and issue a recommendation.

I. Definitions beginning with “I”:

(1) **informal proceedings** means any matters handled outside a formal proceeding by the commission or its advisory staff, advocacy staff, or consumer relations division, including informal complaints and rulemaking proceedings prior to the issuance of a notice of proposed rulemaking; and

(2) **intervenor** means a person permitted by the commission or presiding officer to participate as a party in a proceeding pursuant to 1.2.2.23 NMAC.

J. Definitions beginning with “J”: **JPEG** means the “joint photographic experts group” electronic file type.

K. Definitions beginning with “K”: [RESERVED]

L. Definitions beginning with “L”: [RESERVED]

M. Definitions beginning with “M”: **mediator** means a person assigned by the commission or presiding officer to facilitate resolution of disputes pending before the commission.

N. Definitions beginning with “N”: [RESERVED]

O. Definitions beginning with “O”: [RESERVED]

P. Definitions beginning with “P”:

(1) **party** means a person ~~or entity~~ who initiates a commission proceeding by filing an application, petition, or complaint; or whom the commission or presiding officer names as a respondent; or a person ~~or entity who files a motion for leave to intervene or~~ whom the commission or presiding officer grants leave to intervene; and a party is classified as an applicant, petitioner, complainant, respondent, intervenor, ~~proposed intervenor~~, or advocacy staff;

(2) **PDF** means the “portable document format” electronic file type;

~~(3) **personal bias or prejudice** means a predisposition toward a person based on a previous or ongoing relationship, including a professional, personal, familial or other intimate relationship, that renders the commissioner or hearing examiner unable to exercise the commissioner’s or hearing examiner’s functions impartially.~~

~~(34) **petitioner** means a person ~~or entity~~ who files a petition with the commission;~~

~~(45) **pleading** means an application, petition, complaint, answer, motion, response to motion, exception, brief, or other formal written statement filed in any formal proceeding;~~

~~(56) **presiding officer** means a commissioner, or a hearing examiner, appointed to preside over any matter before the commission;~~

EXHIBIT A

~~(67)~~ **probable cause** means the legal standard that ~~the commission shall determine to be satisfied prior to holding a public hearing on a formal complaint or resolving a formal complaint on the merits; probable cause exists when the allegations in a formal complaint are supported by facts that, if proven, would provide reasonable grounds for the commission to determine that a regulated entity has violated a law, rule, order, tariff, certificate of public convenience and necessity, or operating authority enforced by, under, or is satisfied when the record contains alleged facts that, if proven, would constitute a violation of any laws, rules, or other authorities~~ within the commission's jurisdiction;

~~(78)~~ **proceeding** means a process initiated for commission action;

~~(9)~~ **proposed intervenor** means a person who files a motion for leave to intervene upon ~~which the commission or presiding officer has not yet ruled, or which has not yet been deemed approved by operation of law;~~ and

~~(109)~~ **public hearing** means a proceeding, ~~which shall be open to the public unless closed by the commission or presiding officer for good cause,~~ that affords an opportunity for parties to present such evidence, argument, or other appropriate matters as the commission or presiding officer (s) deems relevant or material to the issues.

Q. Definitions beginning with "Q.": [RESERVED]

R. Definitions beginning with "R":

(1) **records bureau email address** means "prc.records@prc.nm.gov" or another records bureau email address, as provided on the commission's website;

(2) **regular business hours** means 8:00 a.m. to 12:00 p.m. and 1:00 p.m. to 5:00 p.m., prevailing mountain time, Monday through Friday, excluding State holidays;

(3) **regulated entity** means a utility, telecommunications provider, community solar subscriber organization, or owner or operator of gas and hazardous liquid pipelines and underground facilities or one-call notification system that is subject to the jurisdiction of the commission; and

(4) **respondent** means a person ~~or entity~~ against whom a complaint is filed or a person ~~or entity~~ subject to the jurisdiction of the commission against whom the commission issues notice instituting a proceeding, investigation, or inquiry of the commission.

S. Definitions beginning with "S": [RESERVED]

T. Definitions beginning with "T": [RESERVED]

U. Definitions beginning with "U": unsworn affirmation means ~~an~~ verification in lieu of an affidavit pursuant to 1-011(B) NMRA of the rules of civil procedure

V. Definitions beginning with "V": [RESERVED]

W. Definitions beginning with "W": [RESERVED]

X. Definitions beginning with "X": [RESERVED]

Y. Definitions beginning with "Y": [RESERVED]

Z. Definitions beginning with "Z": [RESERVED]

[1.2.2.9 NMAC - Rp, 1.2.2.7 NMAC, XX/XX/20265]

1.2.2.8 GENERAL PROVISIONS:

A. Public records:

(1) Except when the commission or presiding officer directs otherwise, all pleadings, orders, communications, exhibits, or other documents shall become matters of public record as of the day and time of their filing.

(2) The commission shall permit any person to examine any such public record, unless subject to a protective order, or otherwise protectable under the Inspection of Public Records Act.

(3) Without written permission, no person shall take an original commission record from the commission's premises.

(4) Arrangements to examine records or to obtain copies of records shall be made through the chief clerk or the chief clerk's designee.

B. Fees:

(1) Filing fees for specific documents are:

(a) aApplications, petitions, and all other filings requiring a new docket number, except for formal complaints and advice notices: a fee of \$100.00 each applies, and is required at time of filing;

(b) formal complaints: a fee of \$25.00 each applies, and is required at time of filing; and

EXHIBIT A

(c) ~~a~~Advice notices: a fee of \$10.00 applies to each proposed rate, rule, or form and is required at time of filing.

(2) **Electronically filed documents that are required by law to be submitted with a filing fee:**

(a) unless the commission's administrative services division director authorizes an alternative method of payment, the person ~~or entity~~ electronically filing documents that require a filing fee shall include as an attachment to the filing transmittal email a scan (PDF) or photograph (JPEG) of the filing fee, made by check or money order payable to the commission, to show proof of payment at time of filing. The scan or photograph of the check or money order shall be a separate electronic document from the document to be filed;

(b) unless the commission's administrative services division director authorizes an alternative method of payment, the person ~~or entity~~ electronically filing documents shall promptly mail the check or money order to the commission (attn: Records Bureau, P.O. Box 1269, Santa Fe, NM 87504-1269) along with a copy of the cover page for the document that the fee is associated with to assist the chief clerk or chief clerk's designee with making sure the filing fee is properly applied; and

(c) unless the commission's administrative services division director authorizes an alternative method of payment, after receipt of the electronically filed document per Subparagraph (a) of Paragraph (2) of this subsection, the records chief clerk or chief clerk's designee shall issue a ~~case~~-docket number (if applicable) and shall upload the document into e-docket.

(3) Unless the commission's administrative services division director authorizes an alternative method of payment, all application fees or other charges required by law to be paid along with the filing of a document shall be paid to the commission by check or money order at the time of filing ~~a hard copy by regular mail or in person at the commission offices~~ unless the commission authorizes an alternative form of payment.

(4) No pleading or document shall be accepted without payment of required fees ~~and submission of the required number of copies~~ by the filing person ~~or entity~~, unless the commission or presiding officer directs otherwise.

(5) The fee for copies of papers, testimony, records, or audio recordings on electronic storage media shall be the charge set by the commission's inspection of public records policy posted on the commission's website.

(6) For paper copies of pleadings or documents that are not retrievable on electronic storage media maintained by the commission, the chief clerk or chief clerk's designee may charge a fee in accordance with the commission's inspection of public records policy posted on the commission's website.

C. Construction:

(1) Rule 1.2.2 NMAC, and any rules incorporated by reference, shall be construed to secure a reasonable and efficient determination of any issues.

(2) Rule 1.2.2 NMAC shall be construed liberally in the context of:

(a) ~~in the context of~~ informal proceedings; and

(b) ~~in the context of~~ informal and formal rulemaking proceedings.

D. Dockets:

(1) The commission shall maintain a docket for every formal proceeding, and each new formal proceeding shall be assigned a sequential docket number.

(2) Dockets are open to public inspection unless the commission otherwise orders.

(3) Pending and closed dockets

(a) E-docket shall list whether a docket is pending or closed.

(b) The commission shall close each pending docket at the conclusion of proceedings.

(c) A party, commenter, or other person ~~or entity~~ shall not file or attempt to file any pleading or document into a closed docket unless such pleading or document is permitted or required by statute, rule, or order ~~of the commission~~, or is accompanied by a motion to reopen the docket.

(d) The commission shall not accept the filing of any pleading or document in a closed docket and shall not upload such pleading or document to e-docket unless the filer shows that such pleading or document is permitted or required by statute, rule, or order ~~of the commission~~, or is accompanied by a motion to reopen the docket.

E. Identification of communications: Communications shall contain the name, address, e-mail address if available, and telephone number of the communicator and an appropriate reference to any commission dockets pertaining to the subject of the communication.

EXHIBIT A

F. Current information required: In all dockets, persons shall keep the information required by Subsection E of this section current, and when updating the information, shall indicate the docket numbers of all dockets in which the person is a party ~~or otherwise included on the certificate of service.~~

G. Computation of time: The time within which an act is to be done as provided in any statute, rule or order promulgated by the commission, or order issued by a presiding officer, when expressed in days, shall be computed by excluding the calendar day of the act or event from which the time begins to run and including the last calendar day, except that if the last calendar day be Saturday, Sunday, or a legal holiday, the act may be done in the next succeeding business day.

H. Extensions of time:

(1) Except as otherwise provided by law, the time by which any person ~~or entity~~ is required or allowed to act under any rule or order may be extended by the commission or presiding officer *sua sponte* for good cause, or upon a motion made before the expiration of the period prescribed or previously extended.

(2) The filing of the motion to extend time does not toll the running of the prescribed time period.

I. Dismissal: The commission may dismiss, with or without prejudice, any proceeding if the party ~~that who~~ initiated such proceeding fails to comply with statute, rule, or order, or for other good cause.

J. Automatic dismissal:

(1) ~~The office of general counsel~~ Advisory staff may file and serve a notice of dismissal in any proceeding that is inactive for six months or longer due to the actions or omissions of the applicant, petitioner, or complainant without an order by the commission or presiding officer excusing the inactivity, or without other justification.

(2) If no response to the notice is filed within 15 days, the proceeding is automatically dismissed without prejudice and the docket shall close.

K. General response deadline:

(1) Any party may respond to an application, petition, or other filing commencing a new proceeding within 20 days unless a specific response deadline is addressed in another statute, rule, or order or notice of the commission or presiding officer.

(2) Any party may reply to a response filed pursuant to this subsection within seven days.

(3) A person ~~or entity~~ filing a response or a reply pursuant to this subsection shall additionally include in the response or reply, or separately file, a motion for leave to intervene. Unless the commission or presiding officer denies a motion for leave to intervene, a timely motion for leave to intervene, not objected to by any party within 132 days of service of the motion for leave to intervene, shall be deemed approved by operation of law, provided that the commission or presiding officer after notice and public hearing, may thereafter terminate the party status of any intervenor for a failure to meet the requirements of Paragraph (2) of Subsection A of 1.2.2.23 NMAC.

(4) Responses and replies filed pursuant to this subsection shall be supported by ~~affidavit or~~ unsworn affirmation.

(5) The commission shall not consider responses and replies filed by a person ~~or entity~~ whose motion for leave to intervene is subsequently denied by the commission or presiding officer.

[1.2.2.9 NMAC - Rp, 1.2.2.8 NMAC, XX/XX/20265]

1.2.2.9 PRACTICE BEFORE THE COMMISSION:

A. An individual may appear as a party in person or through representation by an attorney licensed to practice law in New Mexico in informal and formal proceedings.

B. Entities:

(1) An entity may appear at informal proceedings and all rulemaking proceedings by an officer or employee of the entity , or by an attorney.

(2) An entity shall be represented by an attorney licensed to practice law in New Mexico in all formal proceedings, except formal rulemaking proceedings and as otherwise provided in Subsection D and E of 1.2.2.9 NMAC.

C. Commenters may appear in person or through representation by an attorney in any proceeding.

D. An attorney licensed in a jurisdiction other than New Mexico may appear at public hearings before the commission or presiding officer provided such non-resident attorney files a motion *pro hac vice* and is associated with and accompanied by an attorney licensed in New Mexico.

E. The following entities may be represented in all formal proceedings as provided:

EXHIBIT A

(1) if the party is a class C or class D water utility as defined in 17.12.1 NMAC, or is a sewer utility subject to the requirements of 17.13.970 NMAC, and:

(a) if such a water or sewer utility is a corporation or LLC whose voting shares are held by a single shareholder or closely knit group of shareholders all of whom are natural persons active in the conduct of the business, it may be represented by an officer or general manager who has been authorized to appear on behalf of the corporation; or

(b) if such a water or sewer utility is a general partnership, and the partnership has fewer than ten partners, whether limited or general, except that a husband and wife are treated as one partner for this purpose, and all partners, whether limited or general, are natural persons, it may be represented by a general partner who has been authorized to appear on behalf of the general partnership;

(2) if the party is a water and sanitation district governed by the Water and Sanitation District Act, Section 73-21-1 NMSA 1978 *et seq.*, it may be represented by an officer or employee of the water and sanitation district who has been authorized by the water and sanitation district to appear on its behalf; and

(3) if the party is a utility submitting an application relating to securities pursuant to Subsection B of Section 62-6-8 NMSA 1978, it may be represented by an officer or employee of the utility who has been authorized by the utility to appear on its behalf; however, upon a finding by the commission or the presiding officer that there is good cause to hold a public hearing on such an application, the applying utility shall be represented in that proceeding by an attorney licensed to practice law in New Mexico.

F. The commission or presiding officer may require any person claiming to represent any other person ~~or entity~~ as allowed by this rule to provide such verification or corroboration of the person's claimed representational authority as the commission or presiding officer may deem necessary.

G. Nothing in this rule shall be construed to prohibit a party from being represented in a formal proceeding by an attorney licensed to practice law in New Mexico when such representation is desired by ~~the~~ party or is required by law.

H. For matters involving owners and operators of gas and hazardous liquid pipelines and underground facilities, excavators, and one-call notification systems, ~~see attorney representation is regulated by~~ Rule 18.60.4.11 NMAC.

[1.2.2.9 NMAC - Rp, 1.2.2.9 NMAC, XX/XX/202~~6~~5]

1.2.2.10 FILING AND SERVICE:

A. Service:

(1) A person ~~or entity~~ filing a pleading, notice, compliance filing, or other document ("filer") shall promptly serve it in accordance with this section, except as otherwise provided by this rule or order of the commission or presiding officer.

(2) Service shall be made by electronic transmission.

(a) If a filer does not have the ability to serve and be served electronically, the filer shall notify the commission, and service on and by that filer shall be made by:

(i) depositing the pleading, order, notice, or document in the mail (postage prepaid) using first class or express mail;

(ii) delivering the pleading, order, notice, or document to a commercial courier service for delivery; or

(iii) hand delivery.

(b) The date of service shall be the date of deposit in the mail, delivery to a commercial courier service, hand delivery, or electronic transmission during regular business hours.

(i) When a party may or must act within a specified time after service and service is made by mail, hand delivery, or commercial courier service, three days are added after the period would otherwise expire.

(ii) Intermediate Saturdays, Sundays, and legal holidays are included in counting the added three days.

(iii) If the third day is a Saturday, Sunday, or legal holiday, the last day to act is the next business day.

(3) A filer shall attach a certificate of service, listing, by name, each person and entity served and describing the manner and date of service, to the pleading, notice, compliance filing, or other document being filed and all copies served or filed, unless otherwise directed by the commission or presiding officer.

(a) When there is no associated docket or a new docket shall not be initiated upon filing, a filer shall serve a pleading, notice, compliance filing, or other document upon the commissioners,

EXHIBIT A

commissioners' advisors, ~~chief general counsel, legal and utility division~~ advisory staff and advocacy staff directors, and apparent stakeholders. Service under this subparagraph shall be in addition to any other service required by statute, rule, or order.

(b) When the docket is closed, a filer shall serve a pleading, notice, compliance filing, or other document upon the certificate of service maintained by the commission, which shall be updated by the filer to include the current commissioners, commissioners' advisors, ~~advisory staff~~ office of general counsel, presiding officer, and advocacy staff. Service under this subparagraph shall be in addition to any other service required by statute, rule, or order.

(c) When a new docket is initiated upon filing, a filer shall serve the application, petition, pleading, notice, compliance filing, or other document that requires a new docket number upon a service list compiled by the filer designed to provide reasonable notice to commissioners, commissioners' advisors, ~~advisory staff~~ office of general counsel, advocacy staff, and apparent stakeholders. Service under this subparagraph shall be in addition to any other service required by statute, rule, or order.

(4) Service of pleadings, orders, notices, and documents on a party's named attorney is valid service upon the party for all purposes in the proceeding unless the commission or presiding officer directs otherwise.

(5) The commission shall maintain a service list for every docket. Service of pleadings, orders, notices, and documents shall be made upon all persons included on the commission's service list.

(a) A service list shall include parties and their attorney of record in all adjudicative proceedings requiring intervention after the deadline for intervention has passed, and may be revised from time to time at the commission's discretion and upon formal or informal request.

(b) The presiding officer or ~~the office of general counsel~~ advisory staff shall provide the service list to a party or member of the public upon request.

(6) When serving documents electronically each document shall be identified in the following four segment format: "[docket number]-[filing date]-[party name]-[pleading identifier]." Each name segment shall be separated by a hyphen, for example: "26-00999-UT-2026-12-31-PRC-Order."

(a) The docket number shall be the sequential number assigned by the records bureau.

(b) The filing date shall be in the form: "[four-digit year]-[two-digit month]-[two-digit day-of-month]."

(c) The party name shall utilize a single word or abbreviated form, *e.g.*, party initials, acronym, or other identifier.

(d) The pleading identifier shall identify the nature of the pleading by concise description, *e.g.* petition, application, complaint, answer, motion, brief, response, reply, *et cetera*.

B. Filing:

(1) A person ~~or entity~~ serving a pleading, notice, compliance filing, or other document shall promptly file it in accordance with this rule, except as otherwise provided by law.

(2) Any complete, correctly filed pleading, notice, compliance filing, or other document shall be accepted by the chief clerk or chief clerk's designee and shall be uploaded in the appropriate identified docket number or other location in e-docket.

(3) Upon reasonable request, all filed documents shall be made available for inspection by the chief clerk or chief clerk's designee, or the commission.

(4) The filer shall ensure that the filed document or pleading is complete and accurate.

(5) The filer shall ensure that all filed documents and pleadings do not contain, or have properly redacted, any confidential information or "protected personal identifier information" as defined by 1-079 NMRA and Section 14-2-6 NMSA 1978.

(6) The filer shall ensure that all filed documents and pleadings do not contain, or have properly redacted, any protected information that is prohibited from disclosure by any state or federal law or regulation.

(7) For a document that contains redacted confidential information or personal protective identifier information, the filer shall deliver a non-redacted version to the records bureau in accordance with Paragraph (13) of Subsection C of 1.2.2.10 NMAC.

(8) For any documents or pleadings that contain protected personal identifier information or information prohibited from disclosure by state or federal law or regulation, the filer shall be solely liable for any damages that result from filing such information with the commission.

EXHIBIT A

(9) Except as provided in Paragraph (2) of Subsection D of 1.2.2.10 NMAC, persons exempted from the electronic filing requirement may physically file documents or pleadings by:

(a) sending one original of the document or pleading to be filed via regular postal mail to: Records Bureau, P.O. Box 1269, Santa Fe, NM 87504; or

(b) to the records bureau at a commission office by delivery of one original of the document or pleading to the commission's chief clerk or chief clerk's designee during posted office hours.

C. Electronic filing:

(1) All entities shall make electronic filings except upon order of the commission or presiding officer.

(2) All persons shall make electronic filings if they have the ability to do so. Persons who lack the ability to make electronic filings are permitted to make physical filings.

(3) Electronically filed documents shall be emailed to the records bureau email address as PDF documents.

(4) Electronically filed documents shall be scanned with a regular signature or be electronically signed.

(5) Electronically filed documents shall include the email address of the person signing the document in the signature block, and if filing on behalf of a regulated entity, the email address of the regulated entity.

(6) Electronically filed documents shall be combined into one complete document, and shall include accompanying consecutively numbered attachments, if any, except in cases where the PDF exceeds size limit restrictions, and if so, the document shall comply with Paragraph (8) of Subsection C of 1.2.2.10 NMAC herein.

(7) Electronically filed documents shall include a certificate of service evidencing service upon which individuals ~~or entities~~ were served and by what manner of service.

(8) If a filer receives an "undeliverable" email due to attachment size limits, the filer shall re-send the PDF as a single document using a download link that allows for it to be downloaded from a cloud service. If it is impossible to re-send an oversized PDF via a download link it is permissible to split the PDF into multiple smaller sized files and email in batches with identifying numbers showing how the document should be combined (i.e. batch one of three, batch two of three, *et cetera*) so that the records chief clerk or chief clerk's designee may properly assemble for uploading to e-docket.

(9) The filing date for an electronically filed document shall be the date the filing email is sent if emailed during regular business hours for the commission; if emailed outside of regular business hours the document will be considered received and filed on the next regular business day.

(10) No physical hard copies of electronically filed documents or multiple copies of physically filed documents are required to be submitted unless the commission or presiding officer directs the filer to do so. At the direction of the commission or presiding officer, a designated number of copies of any filed document shall be mailed, by regular postal service mail, to the commission at any number of designated addresses.

(11) A filer shall submit documents or pleadings to the commission or presiding officer in a native document format in addition to the PDF version filed with the records bureau if a native format exists, unless doing so is unreasonably burdensome or impractical.

(12) All electronic storage media submitted pursuant to this rule shall be compatible with the commission's current computer capabilities. All electronic storage media filed shall have affixed thereto a label containing the appropriate docket number, the title of the pleading or document, and the name of the party making the filing.

(13) Confidential materials are an exception to the electronic filing requirement and shall be filed as follows:

(a) by mailing hard copies to the Records Bureau at P.O. Box 1269, Santa Fe, NM 87504, or by in-person delivery of hard copies to the commission's chief clerk or chief clerk's designee, subject to the terms of any applicable protective order;

(b) by submission to the records bureau in a separate sealed envelope within the mailing envelope; and

(c) by listing the docket number, ~~case-docket~~ caption, document name, name of filer, and other non-confidential identifying information on the outside of the sealed envelope.

(14) Parties are responsible for the timely filing of electronic documents to the same extent as with the filing of physical documents.

D. Date stamps on filed documents and pleadings:

(1) Electronic filings:

(a) The filing transmittal email for each filing, as received by the records bureau, shall be converted to a PDF and appended to every filed document or pleading before uploading to e-docket.

(b) The date and time on the filing transmittal email shall serve as the date stamp for the filed document or pleading.

(c) If the date and time on the filing transmittal email from the commission, a presiding officer, a party, or another person ~~or entity~~ reflects a date or time that is outside of the commission's regular business hours, the filed document or pleading shall be deemed to be filed the following business hour.

(d) Records bureau shall be included in the filing transmittal email.

(2) For a filing by mail or in person, the records bureau shall date stamp the original document or pleading with the date it is deemed filed before scanning and uploading to e-docket.

(a) The filer may request, and provide to the records bureau, any number of conformed copies of the filed document or pleading for the records bureau to stamp and return to the filer.

(b) If the filing is made by mail, the filer must provide a self-addressed stamped envelope for the return of the conformed copies.

E. Service contact emails:

(1) All regulated entities shall, at all times, keep a current email address on file with the commission's chief clerk or chief clerk's designee at which the regulated entity can receive service of pleadings, process, and other communication from the commission.

(2) All participants in pending dockets shall provide a current email address to the commission's chief clerk or chief clerk's designee at which they can receive service of pleadings, process, and other communication from the commission, unless the participant does not have access to email.

F. Rejection:

(1) The chief clerk or chief clerk's designee may reject pleadings and documents that are not in substantial compliance with these or other commission rules, orders of the commission or presiding officer, or applicable statutes within 30 days after filing.

(2) If rejected, the chief clerk or chief clerk's designee shall return the pleading or document with an indication of the deficiencies.

(a) A copy of the rejected pleading or document shall be retained by the chief clerk or chief clerk's designee as a public record.

(b) Acceptance of a pleading or document for filing is not a determination that the pleading or document complies with all requirements of the commission or presiding officer and is not a waiver of such requirements.

(3) Rejected pleadings or documents shall not be uploaded to e-docket and shall not become part of the record proper. If a pleading is uploaded to e-docket and later rejected, the chief clerk or chief clerk's designee shall remove it from e-docket.

G. Amendments and withdrawal of pleadings and supporting documents:

(1) Except in the case of formal complaints, pleadings may be amended or withdrawn only with leave of the commission or presiding officer and upon such conditions as the commission or presiding officer may deem appropriate.

(2) Formal complaints may be amended without leave at any time prior to the commission's issuance of a probable cause determination.

(3) Amendments to any pleading except a formal complaint shall not broaden the scope of the issues originally filed unless the commission or presiding officer exercises the discretion to allow such an amendment.

(4) Upon any amendment or withdrawal of a pleading, the commission or presiding officer may require a supplementary public notice.

(5) Direct testimony and exhibits filed may be amended or withdrawn by motion only with leave of the commission or presiding officer, who may take into consideration, among other things, any delay or prejudice to the commission or the parties which would result from the granting of the motion.

(a) The commission or presiding officer may grant or deny the motion or grant the motion only upon such conditions as are deemed appropriate.

(b) Upon any amendment or withdrawal, the commission or presiding officer may require a supplementary public notice.

EXHIBIT A

(6) A copy of any withdrawn filing shall be retained by the chief clerk or chief clerk's designee as a public record on e-docket.
[1.2.2.10 NMAC - Rp, 1.2.2.10 NMAC, XX/XX/2026~~5~~]

1.2.2.11 FORM OF PLEADINGS:

- A. Contents:** All pleadings shall be in writing, be paginated, and, if relevant, contain:
- (1) a concise and explicit statement of the authorization or other relief sought;
 - (2) a concise and explicit statement of the legal grounds for the pleading;
 - (3) the exact legal name, mailing address, principal place of business, email address, and telephone number of each proponent of the pleading and the proponent's attorney, if applicable;
 - (4) a concise and explicit statement of the facts upon which the proponent relies;
 - (5) a table of contents, if ~~more than~~ 15 pages long or longer;
 - (6) a caption for the proceeding;
 - (7) the docket number, but pleadings initiating new proceedings shall leave a space for the docket number to be assigned by records bureau;
 - (8) a title; and
 - (9) a signature of the proponent of the pleading or the proponent's attorney.
- (a)** The signature of the proponent of the pleading or the proponent's attorney constitutes a ~~certificate by the signer~~ certification that the signer has read the pleading, and that to the best of the signer's knowledge, information, and belief, there ~~is good~~ are sufficient grounds to support ~~the pleading~~; and that ~~the pleading~~ is not interposed for delay, harassment, or other obstruction of the proceeding.
- (b)** The commission or presiding officer shall strike an unsigned pleading unless it is signed promptly after the omission is called to the attention of the proponent or the proponent's attorney.
- B. Supporting exhibits:**
- (1) All pertinent and relevant data, exhibits, illustrations, and prepared testimony, if required by this or any other rule or order ~~of the commission or presiding officer~~, shall be filed along with the pleading.
 - (2) If supporting exhibits consist of tables or graphs, the specific formulae and equations used to derive the tables or graphs shall be attached as part of the supporting exhibit.
 - (3) Failure to submit all direct testimony and exhibits in support of a proposed tariff change, application, or petition at the time of filing, if required by rule or order ~~of the commission or presiding officer~~, may result in a rejection of the pleading or document without prejudice.
 - (4) Failure to comply with an order ~~of the presiding officer~~ requiring the filing of testimony and exhibits may result in the rejection of the pleading or document without prejudice.
- C. Form of papers:**
- (1) Applications, briefs, complaints, motions, petitions, and all other pleadings filed with the Commission shall conform to the requirements of Subsections (A), (B), (C), and (E) of Rule 12-305 NMRA.
 - (2) Word processor-generated applications, briefs, complaints, motions, petitions, and all other pleadings filed with the Commission shall be:
 - (a) entirely composed in the times new roman font;
 - (b) partially composed in 12-point font size for the caption, heading(s), signature block, and body text;
 - (c) partially composed in 10.5-point font size for the footnote text; and
 - (d) optical character recognition compatible.
 - (3) Citations to authorities shall generally conform to the requirements of Rule 23-112 NMRA.
 - (4) **Exceptions:**
 - (a) Interrogatories and answers to interrogatories shall conform to the form and font size requirements of this subsection, except that they may be single-spaced, unless the commission or presiding officer otherwise directs.
 - (b) Exhibits shall conform to the requirements of Subsection J or 1.2.2.35 NMAC.
 - (c) Written testimony shall conform to the requirements of Subsection I of 1.2.2.34 NMAC.
- D. Noncompliance ~~Errors and defects~~:**
- (1)** Errors or defects in pleadings which do not mislead or affect the substantial rights of the parties involved may be ~~excused~~ at the discretion of the commission or presiding officer.

EXHIBIT A

(2) A party shall confirm the accuracy, veracity, and existence of statements of law or fact asserted in a pleading and is responsible for the accuracy, veracity, and existence of the substance of such statements in its pleadings. A failure to confirm, or a failure of the accuracy, veracity, and existence of the substance in a pleading, is sufficient grounds for sanctions to be imposed.

E. A pleading filed to initiate a proceeding in a new docket shall be made in the form of a petition, application, or formal complaint.

[1.2.2.11 NMAC - Rp, 1.2.2.11 NMAC, XX/XX/2026~~5~~]

1.2.2.12 MOTIONS:

A. Motions generally:

(1) A party may file a motion at any time during the course of a proceeding while the docket is pending.

(a) ~~Notwithstanding the foregoing, if~~ the grounds for a motion are known to the movant prior to any scheduled public hearing, the motion shall be made prior to the public hearing except upon good cause shown.

(b) A movant shall not file a motion for an undocketed matter or attempt to initiate a proceeding in a new docket by filing a motion.

(2) Any motion made prior to public hearing shall be made in writing. The commission or presiding officer may require that a motion made orally during a public hearing be filed in writing.

(3) A motion shall clearly state the relief sought, the grounds therefore, and whether the motion is opposed; and if so, by whom it is opposed.

(4) All motions not specifically acted upon shall be deemed disposed of consistent with the final order ~~of the commission~~ in the proceeding.

(5) A motion based on factual allegations that do not appear of record shall be supported by ~~affidavit or~~ unsworn affirmation attached to the motion.

(6) A motion shall not be filed in a closed docket unless it is a motion to reopen the docket, accompanied by a motion to reopen the docket, or permitted by statute, rule, or order ~~of the commission~~.

(7) In proceedings assigned to a presiding officer, motions shall be made to the presiding officer, and motions shall not be made to the commission unless the presiding officer gives express permission or as otherwise permitted by statute, rule, or order.

(8) A movant shall promptly file a motion once grounds for the motion are known to the movant.

(9) A non-party may file a motion pursuant to this subsection if accompanied by a motion to intervene.

(10) A motion 15 pages long or longer shall include a table of contents and a table of authorities.

B. Motions to dismiss:

(1) A party may, at any time, move to dismiss a portion or all of a proceeding for lack of jurisdiction or probable cause, failure to meet the burden of proof, failure to comply with statute or rule of the commission, failure to state a claim upon which relief can be granted, or for other good cause ~~shown~~.

(2) The presiding officer may recommend dismissal of a proceeding, or the commission may dismiss a proceeding, for lack of jurisdiction or probable cause, failure of a party to meet its burden of proof, failure of a party to comply with statute or rule of the commission, failure of a party to state a claim upon which relief can be granted, or for other good cause ~~shown~~.

C. Responses and replies to motions:

(1) Unless otherwise provided by this rule or order of the commission or presiding officer, ~~the commission, or the presiding officer,~~ the following requirements shall apply.

(a) A non-party shall not respond and shall not be permitted to respond to a motion or reply to a response.

(b) A party wishing to respond to a motion shall file a response within 13 days of service of the motion.

(c) A party wishing to respond to a motion made within 13 days of or during a public hearing shall file a response within such time as directed by the commission or presiding officer.

(d) A party shall not file a reply to a response to a motion without leave of the commission or presiding officer. A party's motion for leave to reply shall be filed within 7 days of the response and the party's reply shall be attached to the motion.

EXHIBIT A

(e) Notwithstanding the foregoing, on a motion pertaining to discovery requests or the answers thereto, including but not limited to a motion to compel, a motion for sanctions and a motion for a protective order, a party may file a response within eight days of service of the motion.

(2) Failure to make a timely response shall be deemed a waiver of the right to respond.

(3) Written responses based on factual allegations that do not appear of record shall be supported by ~~affidavit~~ unsworn affirmation filed along with the response.

D. Briefs:

(1) A motion seeking extensions of time or continuances, and like motions directed to the discretion of the commission or presiding officer in procedural matters, may include briefs.

(2) Unless otherwise provided in this rule or waived by the commission or presiding officer, any other motion, including any substantive motion, shall include briefs, including points and authorities, addressed to the issues raised in the motion.

(3) Responses to a motion shall include briefs, including points and authorities, addressed to the issues raised in the motion.

E. Opposed and unopposed motions:

(1) The movant shall make a good faith effort to determine whether a substantive motion will be opposed.

(2) If a substantive motion will not be opposed, the movant shall so state in the motion and need not file a brief in support of the motion.

(3) An opposed motion shall state affirmatively that concurrence of other parties has been requested but denied, or it shall state why no request for concurrence was made.

(4) The movant shall not include the commission, presiding officer, or advisory staff on any email communications seeking the positions of parties.

(5) The requirements of Paragraphs (1) to (3) of Subsection E of 1.2.2.12 NMAC shall not apply to non-substantive motions.

F. Oral argument:

(1) A motion shall be decided without oral argument or an evidentiary public hearing unless the commission or presiding officer directs otherwise.

(2) Oral argument or an evidentiary public hearing on a motion may be conducted at the discretion of the commission or presiding officer.

(3) A party waives the opportunity to request oral argument or an evidentiary public hearing on a motion unless the request is stated in the motion or response to the motion.

[1.2.2.12 NMAC - Rp, 1.2.2.12 NMAC, XX/XX/2026]

1.2.2.13 COMPLAINTS:

A. The consumer relations division shall not accept an informal complaint from a person until the person has made a good faith effort to resolve the ~~complaint controversy~~ directly with the regulated entity, unless the ~~complaint controversy~~ is health or safety related. The consumer relations division may waive this requirement for good cause at its discretion.

B. The commission shall not accept a formal complaint from a person until the person has made a good faith effort to resolve the ~~formal complaint controversy~~ with the regulated entity, ~~either directly or~~ through the informal complaint process, unless the ~~formal complaint controversy~~ is health or safety related. The commission may waive this requirement for good cause.

C. **Filing without a fee; in forma pauperis:** The commission shall authorize the commencement of any complaint filed by an individual without the payment of fees and costs or security if the individual files an ~~affidavit~~ unsworn affirmation that the individual is unable to pay such costs or security.

D. **Alternative dispute resolution:** The commission may order the following mechanisms to resolve complaints or streamline matters before the commission:

- (1) settlement conferences;
- (2) mediation;
- (3) arbitration;
- (4) consent calendars;
- (5) consumer relations division decisions; or
- (6) other dispute resolution means.

EXHIBIT A

E. Discontinuance of service prohibited:

(1) A regulated entity respondent shall not discontinue service to a customer or issue a notice of discontinuance of service related to the ~~matter in dispute~~controversy while a complaint is pending, except as otherwise authorized by law or commission rule or if requested by the customer.

(2) Complainant shall continue to pay charges which are not in dispute on time and in full or complainant shall be subject to other applicable commission rules regarding disconnection or discontinuance of service.

F. **Relief:** The commission may dismiss complaints seeking relief solely in the form of monetary damages.

~~D. Prerequisite:~~

~~(1) The submission of an informal complaint is a prerequisite to filing a formal complaint, unless waived by the commission or consumer relations division for good cause.~~

~~(2) When an informal complaint is submitted, the complainant shall complete the informal complaint process prior to filing a formal complaint or seeking other commission action or relief.~~

[1.2.2.13 NMAC - Rp, 1.2.2.13 NMAC, XX/XX/2026~~5~~]

1.2.2.14 INFORMAL COMPLAINTS:

A. Generally:

(1) The commission's consumer relations division shall ~~handle~~process informal complaints against regulated persons ~~or entities~~.

(2) A commission employee who receives an informal complaint from a member of the public shall refer it to the consumer relations division.

(3) Informal complaints against owners and operators of gas and hazardous liquid pipelines and underground facilities and one-call notification systems shall be submitted directly, as appropriate, to the pipeline safety bureau.

B. Initiation:

(1) A person may initiate an informal complaint by letter, electronic mail, or other writing, via the commission's website at "prc.nm.gov", by telephone, or in person at the offices of the consumer relations division of the commission.

(2) The consumer relations division shall assist persons making informal complaints by telephone or in person in creating a written record.

(3) The consumer relations division shall endeavor to resolve informal complaints by correspondence or conference with the persons affected.

(4) Informal complaints do not toll the running of any limitations period.

C. Contents:

(1) ~~An written~~ informal complaint shall set forth:

(a) the name, telephone number, email address, utility account number if any, and address of the complainant;

(b) the name and address of the respondent against whom the informal complaint is made;

(c) the nature of the informal complaint in a concise and explicit manner;

(d) a brief statement of the facts forming the basis of the informal complaint;

(e) the relief requested; and

(f) whether the complainant attempted to resolve the informal complaint with the respondent.

(2) The written informal complaint need not contain an affidavit or unsworn affirmation.

(3) If the informal complaint does not initially contain the information described in this paragraph, a member of consumer relations division shall contact the complainant to attempt to obtain the missing information.

~~D. Prerequisite:-~~

~~(1) When an informal complaint is submitted, the complainant shall complete the informal complaint process prior to filing a formal complaint or seeking other commission action or relief.~~

~~(2) The submission of an informal complaint is not a prerequisite to filing a formal complaint.~~

DE. Commission investigation of informal complaint:

(1) Upon receipt of an informal complaint, the consumer relations division shall, when appropriate, notify the respondent within a reasonable period of time that an informal complaint has been submitted against it. The consumer relations division shall provide the respondent with a copy of the informal complaint and require an answer from the respondent.

(2) The consumer relations division shall ~~review and~~ investigate the complaint ~~and the answer~~ and notify the complainant and the respondent of the results of the investigation within 60 days of receiving the answer. The commission may extend the time for good cause.

EF. If the consumer relations division is unable to resolve an informal complaint to the satisfaction of the complainant or respondent, either party may, within 10 days after receipt of the results of the investigation:

- (1) request mediation pursuant to 1.2.2.17 NMAC;
- (2) request arbitration pursuant to 1.2.2.18 NMAC; or
- (3) file a formal complaint pursuant to 1.2.2.15 NMAC.

EG. The filing of an informal complaint or the involvement of consumer relations division shall not relieve or excuse a respondent from performing any legal duty required by statute or rule.

[1.2.2.14 NMAC - Rp, 1.2.2.14 NMAC, XX/XX/20265]

1.2.2.15 FORMAL COMPLAINTS:

A. Generally:

(1) Formal complaints shall conform to the requirements of 1.2.2.11 NMAC.

(2) A formal complaint shall be accompanied by the ~~\$25.00~~ filing fee required in Section 1.2.2.8 NMAC and Subsection B of Section 62-13-2 NMSA 1978. Pursuant to Section 62-13-2.1 NMSA 1978, the commission may order that the filing fee be refunded if the commission dismisses the complaint for lack of probable cause and determines that the complainant filed the complaint in good faith.

(3) The filing of a formal complaint shall commence a formal proceeding.

(4) A formal complaint shall allege that a regulated entity has violated a law, rule, order, tariff, certificate of public convenience and necessity, or operating authority promulgated or enforced by the commission or under the commission's jurisdiction.

(5) A formal complaint may be filed by e-mail pursuant to the rules of the commission governing electronic filing and service.

(6) If a formal complaint is filed pursuant to Subsection EF of 1.2.2.14 NMAC, it shall be filed within 130 days of receiving the results of the consumer relations division's investigation.

B. A formal complaint shall contain:

- (1) a concise and explicit statement of the relief sought;
- (2) a concise and explicit statement of the facts which the complainant alleges show a violation;
- (3) a concise and explicit statement of the evidence that the complainant possesses or may obtain through discovery to prove the alleged violation;
- (4) an identification of any laws, rules, orders, tariffs, certificates of public convenience and necessity, or operating authorities alleged to have been violated;
- (5) a concise and explicit statement describing the efforts made by the complainant to resolve the controversy with the respondent prior to the submission of the formal complaint.
- (6) the name, mailing address, email address, utility account number if any, and telephone number of the complainant and complainant's attorney if any;
- (7) the name, mailing address, and telephone number of the respondent, if known; and
- (8) an unsworn affirmation containing the following statement signed by the complainant: "Under penalty of perjury, the factual allegations in the complaint are true and correct to the best of my knowledge and belief." ~~or an affidavit sworn by the complainant.~~

C. Service of complaints; answer:

(1) A complainant shall file a formal complaint with the commission pursuant to Subsection C of 1.2.2.10 NMAC and serve the commission shall serve it upon the respondent ~~by any method of service permitted pursuant to Subsection A of 1.2.2.10 NMAC.~~

(2) ~~The complainant shall obtain a form notice from the commission and attach it to the formal complaint that instructs the respondent to-~~ The respondent shall file an answer in writing within 20 days of service of the formal complaint, ~~and states that the commission may impose administrative fines or other sanctions if the commission finds merit to the formal complaint.~~

EXHIBIT A

(3) The answer may contain an offer to satisfy the formal complaint as provided in Subsection D of 1.2.2.15 NMAC.

(4) The complainant shall file with the commission and serve the respondent with notice of any amendments to the formal complaint.

(5) If an amendment to a formal complaint is filed before the answer is filed, the respondent's time within which to answer shall be -10 days from the date of service of the amendment or the period set forth in the notice, whichever period is longer.

D. Satisfaction of complaint:

(1) If the respondent desires to satisfy the controversy raised in the formal complaint, the respondent's answer shall contain a statement of the relief which the respondent offers, a copy of which shall be contemporaneously served upon the complainant.

(a) Upon complainant's acceptance of an offer and notice to the commission, the formal complaint may be dismissed.

(b) Upon complainant's rejection of an offer, the commission may approve the offer if the commission determines it to be a reasonable and prudent form of relief and resolution to the formal complaint.

(2) If the commission approves a partial settlement of the formal complaint, the complainant may proceed with the remaining issues.

(3) If the commission dismisses a formal complaint in whole or in part because the formal complaint has been satisfied, the commission may continue or initiate further proceedings if the issues raised in the formal complaint involve a general matter of public or customer interest.

E. Contents of answers:

(1) The answer shall contain a concise and explicit statement of the respondent's defenses to each claim asserted.

(2) The respondent shall admit or deny the averments upon which the complainant relies. If the respondent is without knowledge or information sufficient to form a belief as to the truth of an averment, the answer shall so state and this shall have the effect of a denial.

(34) If the answer contains factual allegations, ~~respondent the answer~~ shall ~~attach include~~ an affidavit sworn by the respondent, or other unsworn affirmation, to the answer.

~~**F. Description of evidence:** No later than four weeks after respondent files the answer, the complainant and respondent shall each file a description of the evidence that supports their claims or defenses. At minimum, the description of evidence shall include:~~

~~(1) a list of witnesses that the complainant or respondent may call to testify during a public hearing upon the formal complaint and a summary of each witness's written testimony to be filed; and~~

~~(2) a list of any records, papers, documents, or other tangible objects which the complainant or respondent plans to introduce as evidence during a public hearing upon the formal complaint. The complainant and the respondent shall each include electronic copies of any such records, papers, documents, and tangible objects with the description of evidence.~~

FG. Disposition of complaint. Throughout the course of formal complaint proceedings, the commission shall evaluate jurisdiction, probable cause, and compliance with this rule, and may, as appropriate:

(1) grant the relief requested in whole, in part, or conditionally;
(2) grant the relief offered by the respondent in whole, in part, or conditionally;
(3) grant relief as determined by the commission;
(4) dismiss the formal complaint in whole or in part;
(5) set further proceedings on the formal complaint or on the remaining issues in the formal complaint; or

(6) ~~designate appoint~~ a hearing examiner to preside over the formal complaint or over the remaining issues in the formal complaint.

GH. Notice of public hearing:

(1) When a public hearing is required by law, rule, or order, at least 20 days prior to an initial public hearing on the merits of any formal complaint, the commission shall serve a notice of such initial public hearing upon the respondent and the complainant.

(2) The commission shall not hold a public hearing until after the commission has determined that probable cause exists to proceed with the complaint.

(3) If it is determined that the subject matter of the complaint involves a matter of general public interest, the commission or presiding officer may require a notice of the public hearing.

EXHIBIT A

(a) If required, the notice shall be published at least 20 days prior to the public hearing pursuant to Subsection C of 1.2.2.24 NMAC either in a newspaper of general circulation available in the county where the complaint originated, or in such other manner as the commission or presiding officer may deem proper under the circumstances.

(b) Costs of notice publication shall be borne by the respondent party required to publish notice.

II. Participation of advocacy staff: The commission or presiding officer may require that advocacy staff participate at any stage in the proceeding.

I. Dismissal:

(1) The commission shall dismiss a formal complaint for lack of jurisdiction or probable cause.

(2) The commission may dismiss a formal complaint at any time upon finding an unexcused non-compliance with statute, rule, or order, or for other good cause.

[1.2.2.15 NMAC - Rp, 1.2.2.15 NMAC, XX/XX/20265]

1.2.2.16 SETTLEMENT CONFERENCES:

A Nothing in this rule shall be construed to limit or discourage voluntary negotiations amongst parties to any proceeding.

B The commission may require parties to attend a settlement conference.

C Parties may, at any time, move for an order designating a mediator to assist in the resolution of issues in controversy, or if the commission deems it appropriate, the commission may on its own motion designate a mediator. If the commission designates a mediator, the mediator shall meet the criteria of 1.2.2.17 NMAC and shall have the power to pursue alternative dispute resolution techniques consistent with the objective of facilitating a voluntary resolution amongst the parties of all or some of the issues in controversy.

C. Result of settlement conference:

(1) If the parties reach a settlement agreement, then they shall file a stipulation in accordance with the provisions of this rule governing stipulations. The stipulation shall be submitted to the presiding officer or to the commission in accordance with this rule.

(2) If the parties are unable to reach an agreement through mediation, then the mediator shall issue a statement that the settlement conference was held and the docket shall proceed.

D. Inadmissibility of settlement offers: Offers of settlement and statements made in furtherance of settlement made in the course of a settlement conference are privileged and, except by agreement among all parties, shall not be admissible as evidence in any formal public hearing before the commission or presiding officer nor disclosed by the mediator voluntarily or through compulsory process.

E. Proceeding not automatically stayed: Conducting a settlement conference does not stay a formal proceeding unless the commission or presiding officer issues an order holding the procedural schedule in abeyance.

[1.2.2.16 NMAC - Rp, 1.2.2.16 NMAC, XX/XX/20265]

1.2.2.17 MEDIATION:

A. Designation of mediator: If a party makes a request for mediation, or on its own motion, the commission may, in its discretion, designate a mediator.

B. Requirements:

(1) The mediator may be a permanent or temporary employee of the commission or another state agency or any other individual, who is qualified in the matter to be mediated and is acceptable to the parties. If the parties request a mediator who is not an employee of the commission, the commission shall not approve the request unless the parties agree in writing to bear, as their own, the costs of obtaining the mediator's services.

(2) The mediator shall not be the presiding officer who is assigned to the easedocket.

(3) The mediator shall not have official, financial, or personal conflicts of interest with respect to the issues in controversy, unless such interest is fully disclosed in writing to all parties at the time the mediator is assigned by the commission and all parties agree that the mediator may serve.

(4) The mediator shall not, subsequent to serving as a mediator, participate in the proceeding as a presiding officer, advisory staff, advocacy staff, or expert witness, or as an attorney, expert witness, or representative of any party to the proceeding.

C. The mediator shall not discuss the mediation with any commissioner or presiding officer.

D. Notice of mediation:

(1) If a mediator is appointed, the mediator shall notify the parties of the time and place of the mediation and may take reasonable and proper actions to assist the parties reach settlement.

(a) The mediator may require attorneys to have their clients to be present at the mediation or to be accessible by telephone or video.

(b) The mediation shall be held as directed by the mediator.

(c) The mediation shall be held within 20 days of the date of the notice unless a party shows good cause for an extension or as otherwise directed by the mediator.

(2) Nothing in this rule shall be construed to limit additional mediations or settlement conferences.

(3) The commission or presiding officer may suspend the procedural schedule until the mediation is complete.

E. If the parties reach a settlement agreement for their dispute, in appropriate cases, the mediator shall assist the parties in preparing a writing to reflect that agreement. If the parties do not reach a settlement agreement for their dispute, the mediator shall terminate the mediation and notify the commission.

[1.2.2.17 NMAC - Rp, 1.2.2.17 NMAC, XX/XX/2026~~5~~]

1.2.2.18 ARBITRATION:

A. A party (claimant) may request arbitration of any dispute.

(1) The claimant's request shall be filed and served pursuant to 1.2.2.10 NMAC.

(2) The claimant's request shall include a concise statement of the grounds for the arbitration, the remedy sought, and an acknowledgment that the claimant has read 1.2.2.19 NMAC and agrees to be bound by its terms.

B. A regulated entity respondent shall not discontinue service to a claimant or issue a notice of discontinuance relating to the matter in dispute once the matter is in arbitration, except as otherwise authorized by law or commission rule. Claimant shall continue to pay charges that are not in dispute on time and in full or claimant shall be subject to other applicable commission rules regarding disconnection or discontinuance of service.

C. Respondent shall respond to a claimant's request for arbitration within 10 days.

(1) The response shall state whether respondent agrees to arbitration of the dispute.

(2) If the respondent agrees to arbitration, the respondent shall include in the response a concise statement of respondent's position with regard to the merits of the dispute and an acknowledgment that the respondent has read 1.2.2.19 NMAC and agrees to be bound by its terms. If the respondent does not agree to arbitration, the respondent shall so state in the response.

(3). If the respondent either fails to respond to a request for arbitration or does not agree to arbitration, the claimant retains the right to file a formal complaint.

D. Requirements:

(1) If both the claimant and the respondent agree to arbitration, the commission or presiding officer shall designate an arbitrator.

(2) The arbitrator may be any individual who is qualified in the subject matter to be arbitrated, disinterested in the dispute, and is acceptable to the parties to the arbitration.

(3) The designated arbitrator shall have no official, financial, or personal conflict of interest with respect to the issues in controversy, unless such interest is fully disclosed in writing to all parties at the time of the commission's or presiding officer's designation and all parties agree that the arbitrator may serve.

(4) The parties shall be required to indicate their consent in writing to the designated arbitrator within 10 days of the date of the commission's or presiding officer's letter of designation.

(5) If the parties request an arbitrator who is not an employee of the commission, the commission shall not approve the request unless the parties agree in writing to bear the costs as their own.

E. Any employee of the commission designated to arbitrate the matter under these provisions shall not participate in a subsequent proceeding on the dispute as a presiding officer, advisory staff, advocacy staff, staff counsel, or expert witness, or as an attorney, expert witness, or representative of any party to the proceeding.

F. The commission may assign docket numbers to arbitration proceedings for purposes of record management but the proceeding remains an informal proceeding under this rule.

[1.2.2.18 NMAC - Rp, 1.2.2.18 NMAC, XX/XX/2026~~5~~]

1.2.2.19 ARBITRATION PROCEDURES:

A. Timeline for resolution:

(1) Once designated and approved by the parties, the arbitrator shall proceed to render a decision in the arbitration proceeding within a reasonable period of time, not to exceed 90 days, unless otherwise ordered by the commission or presiding officer.

(2) If the arbitrator at any time determines that it is unlikely that the dispute can be resolved without substantially affecting the interests of other ratepayers or the public, the arbitrator may so inform the parties and terminate the proceeding without prejudice to the claimant's right to file a formal complaint.

B. Arbitration procedures:

(1) The arbitrator shall fix a time and place for a ~~public~~ hearing and shall serve notice of the public hearing on all parties at least 10 days in advance of the public hearing.

(2) The arbitrator may issue subpoenas for the attendance of witnesses and for the production of books, records, documents, and other evidence, and shall have the power to administer oaths.

(3) The parties may offer such evidence as the arbitrator may deem necessary for an understanding and determination of the dispute.

(4) The arbitrator shall decide the relevancy and materiality of the evidence offered, and the evidence's conformity to the New Mexico rules of evidence or to the rules of evidence contained in this rule is not necessary.

(5) No stenographic or electronic record shall be made of the testimony at the public hearing unless requested by a party, who shall bear the cost of the record.

C. Discovery: Discovery may be permitted but only with leave of the arbitrator who shall not allow discovery which unduly complicates, burdens, or impedes the expeditious and informal nature of the proceeding.

D. Inspection or investigation:

(1) Whenever the arbitrator deems it necessary to make an inspection or investigation in connection with the arbitration, the arbitrator shall so advise the parties, who may be present at the inspection or investigation.

(2) In the event that one or more of the parties are not present, the arbitrator shall make an oral or written report to the parties and afford them an opportunity to respond.

E. Decision:

(1) After the close of the public hearing, the arbitrator shall issue a brief written decision.

(2) The arbitrator's decision is not required to have findings of fact and conclusions of law.

(3) The arbitrator's decision shall be binding on the parties and can be implemented by the commission to the extent such implementation is necessary.

(4) The arbitrator's decision shall not be a decision of the commission and shall have no precedential effect.

F. Inadmissibility of settlement offers:

(1) Unless agreed to by all the parties, no statements, admissions, or offers of settlement made during the course of arbitration proceedings shall be admissible as evidence in any formal proceeding, nor shall the arbitrator disclose the same voluntarily or through discovery or compulsory process.

(2) Nothing in this section shall preclude the arbitrator from issuing a brief written decision describing the parties' conclusions and the bases for their statements, admissions, or offers of settlement.

G. Commission not bound: Nothing in this rule shall be construed to mean that the commission has waived its review of any decision or that the commission consents to be bound by arbitration.

[1.2.2.19 NMAC - Rp, 1.2.2.19 NMAC, XX/XX/202~~6~~5]

1.2.2.20 FORMAL STIPULATIONS:

A. Generally:

(1) The commission recognizes that the parties to a proceeding may reach compromises and seek permission to settle some or all issues in the proceeding by filing a stipulation in accordance with the commission's or presiding officer's procedural schedule.

(2) Stipulations shall be binding only if approved by the commission.

~~(3) The commission may deem the filing of a stipulation, to which the public utility applicant or petitioner is a signatory, and that would result in a substantial change to the application or petition, to be a new application or petition that initiates a new statutory or regulatory suspension or review period, if applicable; and the public utility's original application or petition shall be deemed withdrawn or abandoned.~~

B. Uncontested stipulations:

EXHIBIT A

(1) If all parties enter into a stipulation seeking permission to settle some or all of the issues in a proceeding, they shall promptly file the stipulation.

(2) When a stipulation is filed and presented that would impact customer rates, a reconciliation statement shall accompany it showing the dollar impact of the stipulation and the resulting rates. This reconciliation statement shall contain the information listed in Subsection F of 1.2.2.35 NMAC.

(3) Upon receipt of a stipulation seeking permission to settle substantive issues, the commission or presiding officer shall conduct a public hearing to determine whether the stipulation should be approved by the commission, provided that, for good cause, the commission or presiding officer may forego a public hearing. The signatories to the stipulation have the burden of supporting the stipulation with sufficient evidence and legal argument to carry their burdens of proof and persuasion.

(4) In the event that all parties enter into a stipulation for one or more issues but not of the entire case, the commission or presiding officer may, in their discretion, combine the public hearing on the stipulation with the public hearing on the contested issues.

(5) In dockets assigned to a presiding officer, the presiding officer may:

(a) determine that the stipulation should not be certified to the commission, in which event the presiding officer may indicate to the parties whether additional evidence or legal argument in support of the stipulation or amendment to the stipulation may cure any defect identified by the presiding officer; or

(b) certify the stipulation to the commission for its review.

(i) The certification shall include a recommended disposition of the stipulation.

(ii) Exceptions to the certification may be filed within 10 days of the date that the stipulation is certified to the commission, unless the commission or presiding officer directs otherwise.

(iii) Responses to exceptions may be filed within 10 days of the date that the exceptions were filed, unless the commission or presiding officer directs otherwise.

C. Contested stipulations:

(1) If multiple parties, but not all parties, enter into a stipulation seeking permission to settle some or all of the issues in a proceeding, they shall promptly file the stipulation.

(2) When a stipulation is filed and presented in a rate case, a reconciliation statement shall accompany it showing the dollar impact of the stipulation and the resulting rates. This reconciliation statement shall contain the information listed in Subsection F of 1.2.2.35 NMAC.

(3) The opponents of the stipulation shall file statements briefly setting forth the grounds upon which they oppose the stipulation in writing within five days after the stipulation is served, or orally at the public hearing, whichever occurs first. The signatories to the stipulation shall file responses as directed by the commission or presiding officer.

(4) The commission or presiding officer shall schedule the stipulation for a public hearing unless the commission or presiding officer determines that the nature and extent of the opposition is such that hearing the stipulation will not materially conserve commission and party resources. In the event that this determination is made, the commission or presiding officer may refuse to consider the stipulation. The commission or presiding officer has the discretion to combine the public hearing on a contested stipulation with the public hearing on the merits of any substantive issues not addressed by the stipulation.

(5) The commission or presiding officer shall conduct a public hearing to determine whether the stipulation shall be approved by the commission. The signatories to the stipulation have the burden of supporting the stipulation with sufficient evidence and legal argument to carry their burdens of proof and persuasion. At the public hearing, all parties shall be allowed an opportunity to present evidence and cross-examine opposing witnesses.

(6) In dockets assigned to a presiding officer, the presiding officer may:

(a) determine that the stipulation should not be certified to the commission, in which event the presiding officer may indicate to the parties whether additional evidence or legal argument in support of the stipulation or amendment to the stipulation may cure any defect identified by the presiding officer; or

(b) certify the stipulation to the commission for its review.

(i) The certification shall include a recommended disposition of the stipulation.

(ii) Exceptions to the certification may be filed within 10 days of the date that the stipulation is certified to the commission, unless the commission or presiding officer directs otherwise.

(iii) Responses to exceptions may be filed within 10 days of the date that the exceptions were filed, unless the commission or presiding officer directs otherwise.

EXHIBIT A

D. Tolling of the suspension or review period: A stipulation may include an agreement, between the public utility and all other signatories, to toll an applicable statutory or regulatory suspension or review period for a term beginning on the date that the signatories file the stipulation and ending on the date that the commission takes final action on the stipulation, but the term of the tolling of the suspension or review period shall not exceed 120 days.

(1) If the signatories agree to toll a suspension or review period in accordance with this rule, the presiding officer shall certify the stipulation to the commission for its review, unless the stipulation is *prima facie* procedurally defective.

(a) The certification shall include a recommended disposition of the stipulation.

(b) Exceptions to the certification may be filed within 10 days of the date that the stipulation is certified to the commission, unless the commission or presiding officer directs otherwise.

(c) Responses to exceptions may be filed within 10 days of the date that the exceptions were filed, unless the commission or presiding officer directs otherwise.

(2) If the public utility and all other signatories do not agree to toll a suspension or review period in accordance with this rule, the presiding officer may certify the stipulation to the commission for its review.

(a) If the presiding officer rejects the stipulation or otherwise chooses not to certify the stipulation to the commission, the presiding officer shall indicate to the signatories whether additional evidence or legal argument in support of the stipulation or amendment of the stipulation may cure any defect identified by the presiding officer.

~~(b) The stipulation's omission of an agreement to toll the applicable statutory suspension period constitutes sufficient grounds for the presiding officer to reject or to not certify the stipulation.~~

(3) Approval of a stipulation, or rejection with prejudice, constitutes final action.

~~(a) If the commission determines to reject or not conditionally approve a stipulation, then that~~ Conditional approval of a stipulation shall not constitute a final action on the stipulation and the tolling of the suspension or review period shall continue until the 120-day limit is reached or until all stipulating parties consent to the conditions of approval ~~ease.~~

~~(b) If a stipulation is rejected or if all stipulating parties do not consent to the conditions of approval,~~ The presiding officer shall issue a procedural order pursuant to 1.2.2.24 NMAC to resolve the case as the posture of the case existed prior to the filing of the stipulation.

(4) If, after the presiding officer certifies the stipulation, the commission finds that there is an issue that requires further investigation, the commission may direct the presiding officer to issue a procedural order pursuant to 1.2.2.24 NMAC to expedite an evidentiary process on that issue, but the term of the tolling of the suspension or review period shall not be extended. After the expedited evidentiary process, the commission shall issue a final action on the stipulation with reasonable promptness pursuant to Subsection C of Section 62-8-7 NMSA 1978.

E. Inadmissibility of settlement offers and rejected stipulations:

(1) Statements, admissions, or offers of settlement made during the course of negotiations of stipulations are privileged.

(2) No such statements, admissions, or offers of settlement shall be admissible as evidence in any formal public hearing, nor disclosed by any mediator designated pursuant to this rule either voluntarily or through compulsory process, unless agreed to by all the parties.

(3) If a stipulation is not approved by the commission, the terms of the proposed stipulation become inadmissible unless their admission is agreed to by all the parties.

(4) Nothing in this subsection shall preclude the signatories to a contested settlement stipulation from offering the stipulation into the record for purposes of its consideration by the commission or presiding officer.

F. Precedential effect:

(1) Signatories shall identify in their stipulation, which, if any, provisions of the stipulation should be precedential if approved.

(2) The Upon request for precedential treatment pursuant to Paragraph (1) above, or upon its own motion in the absence of a request, the commission may state, in its order approving ~~the a~~ stipulation, which, if any, provisions of the approved stipulation ~~shall be~~ precedential.

[1.2.2.20 NMAC - Rp, 1.2.2.20 NMAC, XX/XX/2026~~5~~]

1.2.2.21 PETITIONS FOR DECLARATORY ORDERS:

A. Petition: Any person ~~or entity~~ may petition the commission for a declaratory order to terminate a controversy or to remove an uncertainty with respect to the applicability to the petitioner of any statute or rule administered by the commission, any commission order, or any commission-approved tariff. Petitions for declaratory orders shall comply with the requirements for pleadings set forth in this rule and shall further set forth:

- (1) the statute, rule, order, or tariff for which an interpretation is requested;
- (2) the nature of the controversy or uncertainty which is the subject of the petition;
- (3) the manner in which the controversy or uncertainty affects the petitioner;
- (4) a complete statement of the facts and grounds prompting the petition; and
- (5) the names and addresses of any other persons directly involved in the controversy or

directly affected by the uncertainty.

B. Brief and ~~affidavits~~unsworn affirmations:

(1) A petition for a declaratory order shall be accompanied by a brief in which the petitioner sets forth its position and all facts and arguments known in support of, and in opposition to, that position.

(2) The petition shall also be accompanied by ~~affidavits~~unsworn affirmations attesting to the facts alleged in the petition or brief.

(3) Failure to comply with these requirements shall be grounds for summary dismissal of the petition.

C. Commission procedure:

(1) Upon the filing of a petition for a declaratory order, the commission shall decide whether it, in its absolute discretion, shall entertain the petition in whole or in part. If the commission decides to entertain the petition in whole or in part, the commission or the presiding officer shall order the petitioner to give such notice of the proceeding as is deemed appropriate and shall proceed to consider the matter with or without public hearing.

(2) The commission may at any time during the proceeding, in its absolute discretion, determine not to issue a declaratory order, in which case the commission shall so notify the parties.

[1.2.2.21 NMAC - Rp, 1.2.2.21 NMAC, XX/XX/202~~65~~]

1.2.2.22 COMMISSION INVESTIGATIONS AND INQUIRIES:

A. Investigations and inquiries by the commission:

(1) The commission may conduct investigations and inquiries ~~as necessary to carry out the commission's responsibilities of matters within its jurisdiction at any time.~~

(2) Advocacy staff may petition the commission to initiate an investigation or inquiry for good cause.

B. Proceedings filed by the commission at its discretion:

(1) Formal proceedings may be initiated by the commission to consider any matter within its jurisdiction either by notice, order to show cause, order to cease and desist, or other process.

(2) In such formal proceedings, the notice, order to show cause or cease and desist to a respondent, or other ~~appropriate~~ process shall contain:

(a) specifications of all the matters to be considered, which shall ~~fairly~~ indicate the statutes, rules, orders, or tariffs at issue;

(b) a demand for such information and disclosures as the commission may deem necessary for the question under investigation;

(c) notice of the time within which such information and disclosures shall be filed;

(d) if necessary, the time and place set for public hearing; and

(e) if ~~the commission deems~~ necessary, the manner of notice to the public or to ratepayers.

[1.2.2.22 NMAC - Rp, 1.2.2.22 NMAC, XX/XX/202~~65~~]

1.2.2.23 INTERVENORS; COMMENTERS:

A. Intervention:

(1) Any person, other than an initial applicant or petitioner, complainant, respondent, or advocacy staff who desires to become a party to a proceeding may file a motion requesting leave to intervene.

(2) The motion for leave to intervene shall:

(a) indicate the nature of the movant's interest in the proceeding;

(b) explain whether the movant possesses a substantial interest in the subject matter of the proceeding;

EXHIBIT A

(c) show that the movant's participation is substantially in the public interest;
(d) show that the intervention presents no undue prejudice to the other parties;
~~(e) show that the movant's participation is not duplicative or that the movant's interests are not already represented;~~
(fe) comply with the provisions of this rule governing motions and pleadings except that the motion for leave to intervene need not contain a statement of opposition pursuant to Subsection E of 1.2.2.12 NMAC;

(gf) indicate the facts relied upon as grounds for intervention; and
(hg) be served on all existing parties and other proposed intervenors of record.

B. Deadline for filing motions for leave to intervene:

(1) In formal proceedings concerning applications relating to securities, unless the commission or presiding officer orders otherwise, a movant shall file a motion for leave to intervene before the commencement of the public hearing.

(2) In formal proceedings assigned to a presiding officer, a movant shall file a motion for leave to intervene as directed by the presiding officer.

(3) In formal proceedings for which a movant files a response or reply pursuant to Subsection K of 1.2.2.8 NMAC, the movant shall include with, or separately file, a motion for leave to intervene with its response or reply.

~~(4) In all other formal proceedings except for formal rulemaking proceedings, a movant shall file a motion for leave to intervene within 60 days of the commencement of the docket, unless otherwise ordered by the commission.~~

C. **Objections to intervention:** Objections to a motion for leave to intervene shall be in writing and filed within 132 days after the service of the motion, or at the time of public hearing, whichever is earlier.

D. Disposition of motions for leave to intervene:

(1) Unless the commission or presiding officer denies a motion for leave to intervene, a timely motion for leave to intervene, not objected to by any party within 132 days of service of the motion for leave to intervene, shall be deemed approved by operation of law, provided that the commission or presiding officer after notice and public hearing, may thereafter terminate the party status of any intervenor for a failure to meet the requirements of Paragraph (2) of Subsection A of 1.2.2.23 NMAC.

(2) Whenever a motion to intervene is permitted to be filed out of time, the commission or presiding officer may deny the motion or grant the motion with limitations on grounds including, but not limited to:

- (a) failure to set forth sufficient grounds for intervention;
- (b) disruption of the proceeding resulting from the intervention;
- (c) prejudice or hardship to existing parties; or
- (d) undue broadening of the issues.

(3) Except as otherwise ordered, a grant of an untimely motion to intervene shall not be a basis for delaying or deferring any procedural schedule established prior to the grant of the motion.

(4) ~~Intervenors who are Persons~~ granted party status are bound by the agreements reached and orders entered in the proceeding prior to their intervention.

(5) As a result of an intervention, the commission or presiding officer ~~shall not allow the~~ broadening of issues unless the public interest requires it or no undue prejudice or hardship will result to other parties to the proceeding.

(6) Notwithstanding the provisions of Paragraphs (1) through (3) of Subsection D of 1.2.2.23 NMAC, where there are two or more intervenors or proposed intervenors having substantially like interests and positions, the commission or presiding officer may, to avoid unnecessary delay or duplication of effort and expense, limit the number of intervenors in the proceeding.

~~(7) A proposed intervenor shall become party to the proceeding once the motion to intervene is deemed allowed or otherwise granted under this rule. Intervenors shall have the same rights as other parties to the proceeding.~~

E. Withdrawal of intervenors:

~~(1) An intervenor may withdraw its intervention status by filing a notice and serving the notice on the persons and entities listed on the certificate of service.~~

~~(2) Withdrawal of intervention status does not withdraw any pleadings, testimony, or other documents filed by the intervenor prior to the date of withdrawal.~~

F. Pending intervention and proposed intervenors:

EXHIBIT A

(1) A proposed intervenor shall become party to the proceeding once the motion to intervene is granted or otherwise deemed approved by operation of law.

(a) Proposed intervenors shall have the same obligations as parties to the proceeding pending the disposition of the motion to intervene.

(b) A proposed intervenor's party rights vest on the date that intervention is granted or deemed approved by operation of law, unless Paragraph (c) below applies.

(c) A proposed intervenor's party rights may backdate to the date that the motion for leave to intervene was filed, as determined by the commission or presiding officer for good cause

(2) A proposed intervenor who files an unopposed motion for leave to intervene upon which the commission or presiding officer has not yet ruled, or which has not yet been deemed approved by operation of law, may temporarily act as a party and shall be temporarily treated as a party by all other parties.

(3) A proposed intervenor who files an opposed motion for leave to intervene upon which the commission or presiding officer has not yet ruled, or which has not yet been deemed approved by operation of law, may temporarily act as a party and shall be temporarily treated as a party by the other parties not in opposition. The party opposing the intervention is not required to temporarily treat the person as a party.

G. Public comment:

(1) Commenters shall be entitled to publicly make an oral statement or submit a written statement for the record, but such statement shall not be considered by the commission as evidence.

(a) If oral public comment is allowed at an open meeting, commenters may provide oral comments in person or by other means as directed by the commission.

(b) The open meeting agenda shall establish the process for public comment.

(2) Commenters shall not have party status nor have the right to introduce evidence, examine or cross-examine witnesses, to receive copies of ~~pleadings and documents~~ confidential documents, to appeal from any decisions or orders, or otherwise participate in the proceeding other than making their comments.

(3) Commenters shall submit written comments to the chief clerk or chief clerk's designee for filing into the docket of the proceeding for which the comment is made.

(4) When public comments shall be submitted:

(a) On matters related to a pending docket in which the commission or presiding officer has issued a procedural schedule, commenters ~~shall may~~ submit written comments and make oral comments according to the procedural schedule.

(b) On matters related to a pending docket in which the commission or presiding officer has not issued a procedural schedule or in which the procedural order does not address public comment, commenters ~~shall may~~ submit written comments at any time prior to the docket's closure, and commenters ~~shall may~~ make oral comments at any regular open meeting prior to the docket's closure as provided by the commission.

(c) On matters unrelated to a pending docket, commenters may submit written comments at any time, and commenters may make oral comment at any regular open meeting as provided by the commission.

[1.2.2.23 NMAC - Rp, 1.2.2.23 NMAC, XX/XX/202~~65~~]

1.2.2.24 PROCEDURAL ORDERS:

A. Contents: In formal proceedings ~~as appropriate~~, the commission or presiding officer shall issue a procedural order or orders setting forth, as appropriate:

- (1) deadlines for the completion of discovery;
- (2) deadlines for the filing of testimonies and statements of position;
- (3) deadlines for the filing of any stipulations and testimony supporting or opposing any filed stipulations;
- (4) any requirements for the filing, service, or presentation of pleadings, discovery requests, discovery responses, testimonies, exhibits, stipulations, or other documents in electronic form;
- (5) procedures for the prompt argument and disposition of any motions;
- (6) the date, time, and place of any pre-hearing conference;
- (7) the date, time, and place of ~~the any~~ public hearing ~~on the merits~~;
- (8) any reasonable limitation on discovery; and
- (9) any other relevant dates, deadlines, and procedures.

B. Modification of procedural orders: The commission or presiding officer may modify procedural orders at the commission's or presiding officer's discretion or on motion of a party.

C. Notice of public hearing:

(1) The commission shall provide reasonable notice to all parties of the time and place of each public hearing scheduled in the docket by the commission or presiding officer.

(2) The commission or presiding officer may require that a party provide public notice at least twenty (20) days prior to the date of the public hearing, unless otherwise provided by rule, or if the commission or presiding officer finds that circumstances warrant shorter notice.

(a) When public notice is required, it shall be provided by any combination of the following at the discretion of the commission or presiding officer:

~~(i) publication in a newspaper having general circulation in the area affected by the filed pleadings;~~

(ii) online publication on the website of, or print publication in, the newspaper having general circulation in the area affected by the filed pleadings;

(iii) online publication on the website of the party required to publish notice;

(iiiiv) posting on the social media accounts of the party required to publish notice;

(iv) online publication on the commission's website; or

(vi) any other means of notice determined to be appropriate by the commission or presiding officer.

(b) The party ~~that who~~ is required to publish notice shall file, on or before the date of public hearing, an ~~affidavit~~ unsworn affirmation of publication of such notice.

(c) The party required to publish the notice shall bear the cost of such publication.

(3) When statute or rule requires notice of a public hearing by publication in a newspaper of general circulation, that requirement may be satisfied by notice provided under Part (ii) of Subparagraph (a) of Paragraph (2) of Subsection C of 1.2.2.24 NMAC. The commission or presiding officer may also require any other notice under Subparagraph (a) of Paragraph (2) of Subsection C of 1.2.2.24 NMAC.

[1.2.2.24 NMAC - Rp, 1.2.2.24 NMAC, XX/XX/20265]

1.2.2.25 DISCOVERY:

A. Commission policy:

(1) The commission favors prompt and complete disclosure and exchange of information and encourages informal arrangements among the parties for this exchange.

(2) The commission encourages the timely use of discovery as a means toward effective presentations at public hearings and to avoid the use of cross-examination at public hearings for discovery purposes.

(3) The commission expects all parties to a proceeding to be familiar with the contents of all discovery requests and responses so as to avoid duplicative discovery requests and responses and avoid unnecessary expenditure of parties' time and resources in the discovery process.

B. Discovery procedures:

(1) Techniques of pre-hearing discovery permitted in state civil actions, such as interrogatories, requests for admissions, depositions, and requests for production of documents may be employed by any party.

(2) Upon experiencing any difficulties in obtaining discovery, a party may seek relief from the commission or presiding officer by motion.

(3) Nothing in this rule shall preclude the commission or the presiding officer from obtaining information by order or preclude advocacy staff from obtaining information in any lawful manner.

C. Applicability of rules of civil procedure:

(1) Discovery in commission proceedings shall be ~~governed~~ guided by the New Mexico rules of civil procedure for the district courts applicable to discovery, except where such rules are inconsistent with this rule.

(2) Any references to the "court" in the New Mexico rules of civil procedure for the district courts shall mean the "commission or presiding officer" for purposes of the commission's procedural rules.

D. Depositions:

(1) Parties shall have the right to take the testimony of any witnesses by deposition, and to compel through the commission's subpoena powers the attendance of witnesses and the production of books, documents, papers, and accounts.

EXHIBIT A

(2) Depositions may be taken and on-site inspections may be performed upon commencement of the proceeding and without prior approval of the commission or presiding officer.

(3) Notices or requests for depositions or on-site inspections shall be served on all parties unless the commission or presiding officer directs otherwise.

(4) All parties may participate in any depositions, or in any on-site inspections requested by a party under Subsection F of 1.2.2.25 NMAC, unless the commission or presiding officer directs otherwise.

E. Interrogatories:

(1) Any party may serve written interrogatories to be answered by the party served, or if the party served is a public or private corporation, by any officer or agent who shall furnish such information as is available to the party served.

(2) Interrogatories may be served after commencement of any proceeding and without leave of the commission or presiding officer.

(3) The interrogatories shall be answered separately and fully in writing under oath, and each answer shall be signed by the person or persons making it unless otherwise ordered by the commission or presiding officer.

(4) Unless objected to, answers to interrogatories shall be served in the manner provided in Subsection H of 1.2.2.25 NMAC within 152 days after the service of the interrogatories unless the commission or presiding officer extends or shortens the time, or unless the party submitting the interrogatories and the party to which the interrogatories are directed agree to a different period of time, notice of which agreement shall be filed and served on all parties. Any such agreements shall not affect the authority of the commission or presiding officer to govern commission proceedings as provided by law.

(5) Within 152 days after service of interrogatories, a party may make written objections, duly served as provided in Subsection H of 1.2.2.25 NMAC. Written objections shall:

(a) identify the interrogatory or subject matter objected to and state, with particularity, the reasons for the objections; and

(b) include copies or complete restatements of the interrogatory or interrogatories objected to, and a description of the facts and circumstances and the legal authority purporting to justify the objection.

(6) The service of objections shall not excuse the answering party from answering remaining interrogatories or subparts of interrogatories to which no objection is stated.

(7) Answers to interrogatories to which objection is made shall be deferred until a determination has been made on such objections.

F. Production of documents and things and entry upon land for inspection and other purposes:

(1) A party may serve upon any other party requests for the production or inspection of documents or things within that party's possession, custody, or control, either consolidated with interrogatories or alone.

(2) A party may serve upon any other party a request to permit entry upon designated land or other property in the possession or control of that party for the purpose of inspection, measuring, surveying, photographing, testing, or sampling the property or any designated object or operation thereon, either consolidated with the interrogatories or alone.

(3) A party may serve a request upon commencement of the proceeding and without leave of the commission or presiding officer.

(4) The request shall specify a reasonable time, place, and manner of making the inspection and performing related acts, or of copying the documents, or specify that copies of the designated documents are to be sent to the requesting party in lieu of an inspection.

(5) The request shall set forth the property or items that are to be inspected, either by individual item or by category, and shall describe each item and category with reasonable particularity.

(6) The requestor shall specify a date for the production or inspection, which date shall be not less than 152 days after the date the request is served unless the commission or presiding officer extends or shortens the time, or unless the party submitting the request for production of documents and the party to which the request is directed agree to a different period of time, notice of which agreement shall be filed and served on all other parties.

(a) Any such agreements shall not affect the authority of the commission or presiding officer to govern commission proceedings as provided by law.

EXHIBIT A

(b) If no time is specified, production shall be due 1~~52~~ days after service of the request.

(7) Within 1~~52~~ days after service of a request for production, a party may serve written objections in the form and manner provided in Subsections E and H of 1.2.2.25 NMAC. The objector shall produce, as requested, all documents or things which are not the subject of an objection.

G. Requests for admissions:

(1) The commission, presiding officer, or parties may serve upon any party requests for the admission of facts or the genuineness of documents.

(2) Copies of documents shall be served with the request.

(3) Requests may be served upon commencement of the proceeding and without leave of the commission or presiding officer.

(4) Answers to requests for admissions shall be served within 1~~52~~ days after service of the request unless the commission or presiding officer extends or shortens the time, or unless the party submitting the request for admissions and the party to which the request is directed agree to a different period of time, notice of which agreement shall be filed and served on all other parties. Any such agreements shall not affect the authority of the commission or presiding officer to govern commission proceedings as provided by law.

(5) Written objections to a request prepared in the form and manner provided in Subsection E of 1.2.2.25 NMAC shall be filed and served as provided in Subsection H of 1.2.2.25 NMAC within 1~~52~~ days of service of the requests. The filing and service of objections shall not excuse the answering party from answering the remaining requests to which no objection is stated.

H. Filing and service:

(1) Interrogatories, requests for production or inspection of documents and things, request for entry upon lands for inspection and other purposes, and requests for admissions and other written discovery requests shall be served upon the party to which such discovery is directed.

(2) Written answers, responses, or objections to discovery requests shall be served on the party making such requests.

(3) Interrogatories, requests for production or inspection of documents and things, request for entry upon lands for inspection and other purposes, requests for admissions, and other written discovery requests, and answers, responses, or objections, shall not be served upon the commission, presiding officer, or advisory staff.

(4) Discovery requests and responses, or objections thereto, and deposition transcripts, shall not be routinely filed. However, the party making a discovery request shall file a certificate indicating the date of service.

(5) Unless the commission or presiding officer directs otherwise, interrogatories, requests for production or inspection of documents and things or entry upon lands for inspection and other purposes, requests for admissions and other written discovery requests or notices, as well as written responses or objections thereto, shall be served on any other party which requests copies of such discovery requests, notices, responses or objections.

(6) A party may request copies of the written discovery materials of other parties either in one blanket request for all discovery materials throughout the proceeding, or by request specific to the discovery activity in question.

(7) At the option of a party making a discovery request or response, any such request or response including objections may additionally be presented in electronic form.

(a) Discovery requests or responses, including objections, shall be presented in electronic form in addition to or in lieu of other applicable service or filing requirements of this rule if the commission or presiding officer so orders pursuant to Subsection A of 1.2.2.24 NMAC, or pursuant to other commission rules governing electronic filing and service.

(b) The commission or presiding officer shall not require electronic filing or service by any party who does not have such capability.

I. Supplementation of responses to discovery requests: A party ~~that who~~ has responded to a request for discovery is under a duty to reasonably and promptly ~~to~~ amend or supplement -its previous response if, during the pendency of the proceeding, ~~it obtains information which the party would have been required to provide in such response if the information had been available to it at the time the party served the response~~ the party learns that the response is materially incomplete or incorrect and if additional or corrective information has not otherwise been made known during the discovery process or in writing.

J. Sanctions:

(1) The commission or presiding officer may issue an order, at its discretion, or a party may move for an order, compelling discovery or for sanctions for a party's failure to comply with 1.2.2.25 NMAC or a

EXHIBIT A

discovery order of the commission or presiding officer as provided in this Rule and the New Mexico rules of civil procedure for the district courts.

(2) A party's motion for an order compelling discovery shall include copies or complete restatements of the discovery requests or notices to which the movant seeks compelled responses or related relief, along with copies of any responses or objections to the discovery requests, notices, and any other pertinent materials.

(3) No motion to compel, or any other motion regarding any discovery dispute, shall be considered unless accompanied by a statement that the movant made a good faith effort to resolve the dispute with the party ~~that who~~ is subject of the motion and was unable to do so.

(4) ~~The commission or presiding officer may take any action authorized by law against any party who violates any discovery rule, order, or procedure of the commission and may sanction a party or the party's attorney for violation of the same. The commission or presiding officer may, upon a finding that a party violated 1.2.2.25 NMAC or a discovery order of the commission or presiding officer, impose the following sanctions on the party in violation in addition to, or in place of, penalties pursuant to Section 62-12-4 NMSA 1978 or sanctions pursuant to the New Mexico rules of civil procedure for the district courts:~~

~~(a) directing that the matters embraced in the order or other designated facts be taken as established for purposes of the action as the prevailing party claims;~~

~~(b) prohibiting the party in violation from introducing designated matters in evidence;~~

~~(c) striking pleadings in whole or in part;~~

~~(d) staying further proceedings until the party in violation obeys the rule or order;~~

~~(e) limiting the number of discovery requests the party in violation may make; or~~

~~(f) dismissing the proceeding in whole or in part.~~

K. Order for protection of parties or persons: The commission or presiding officer may issue an order for the protection of a party or person from annoyance, embarrassment, oppression, undue burden, or undue expense as may be just and reasonable, by one or more of the following means:

(1) forbidding the disclosure or discovery of information;

(2) specifying terms, including time and place or the allocation of expenses, for the disclosure or discovery of information;

(3) prescribing a discovery method other than the one selected by the party seeking discovery;

(4) forbidding inquiry into certain matters, or limiting the scope of disclosure or discovery to certain matters;

(5) designating the persons who may be present while the discovery is conducted;

(6) requiring that a deposition be sealed and opened only on order of the commission or presiding officer;

(7) requiring that a trade secret or other confidential research, development, or commercial information not be revealed or revealed only in a specified way; and

(8) requiring that the parties simultaneously file specified documents or information in sealed envelopes, to be opened as the ~~court~~ commission directs.

L. Protective orders:

(1) Any person ~~or entity~~ moving for an order to protect pleadings, documents, or classes of documents from disclosure bears the burden of establishing the person's ~~or entity's~~ right, if any, to such protection.

(2) A movant shall support a motion for an order to protect documents or information from disclosure by an affidavit ~~unsworn affirmation~~. The ~~affidavit~~ unsworn affirmation shall:

(a) satisfy the movant's burden of making a *prima facie* showing that protection is appropriate, and, if protection is sought for pleadings or documents that are to be filed, that protection is consistent with the Inspection of Public Records Act, including protectable trade secrets;

(b) be executed by the movant or a person employed by the movant who is sufficiently knowledgeable about the grounds on which protection is sought that such person can defend such claim if it is challenged; and

(c) explain with particularity the injury which would result from disclosure of the information for which protection is sought.

(3) If the commission or presiding officer deems it necessary, or if any party files a motion to compel, the commission or presiding officer may require the movant seeking the protective order to file the documents or information which are the subject of the motion in a properly identified sealed container or encrypted

EXHIBIT A

electronic file. The container or file may be opened by the commission or presiding officer prior to ruling on the motion for a protective order only for purposes of making an *in camera* inspection.

(4) The commission or presiding officer may, in ruling on the motion, provide that the documents or information not be disclosed, or that they be disclosed only in a designated manner or to designated persons.

(a) Any order granting a motion for a protective order in whole or in part shall include clear and explicit instructions to the chief clerk or chief clerk's designee regarding the limitations placed on disclosure of the documents or information subject to the order, and a reminder that sanctions may be imposed under applicable laws for its violation.

(b) The protective order shall set forth the conditions for protection and disclosure of information subject to protection under the Inspection of Public Records Act to parties to the proceeding.

(c) The order shall be included in the appropriate publicly available file in lieu of the documents or information which are the subject of the protective order.

(5) The period of time during which disclosure is limited shall be two years from the date of the final order in the ~~case~~docket, provided that the movant may request that the protective order specify a different period of protection. The movant may, prior to expiration of the protective order, move for an order extending the period of protection of the documents or information.

(6) Nothing in this rule shall be construed as waiving or altering any requirement placed upon the commission for timely disclosure and copying of public records under the Inspection of Public Records Act.

(7) In the event of a conflict between the terms of a protective order and the rules set forth in 1.2.2.25 NMAC, the protective order controls.

[1.2.2.25 NMAC - Rp, 1.2.2.25 NMAC, XX/XX/202~~6~~5]

1.2.2.26 PRE-HEARING CONFERENCES:

A. General:

(1) Commission policy:

(a) It is the policy of the commission to encourage the use of pre-hearing conferences as a means of making more effective use of hearing time and to otherwise aid in the disposition of proceedings.

(b) Clearly defining issues in advance of a public hearing and the ground rules for the conduct at a public hearing is particularly beneficial in dockets heard by the commission *en banc* and in complex or multi-party proceedings.

(2) The commission or presiding officer may, with reasonable written notice, require that all parties attend one or more pre-hearing conferences for the purpose of formulating and simplifying the issues in the proceeding or addressing other matters that may expedite orderly conduct and disposition of the proceeding. Such matters may include but are not limited to:

- (a) details of the procedural schedule;
- (b) the necessity or desirability of amendments to the pleadings;
- (c) the possibility of obtaining admissions of fact and documents which shall avoid unnecessary proof;
- (d) limitations on the number of witnesses or time allocated to particular witnesses or issues at public hearing;
- (e) procedures at the public hearing;
- (f) the distribution of written testimony and exhibits to the parties prior to the public hearing;
- (g) the consideration of any outstanding motions;
- (h) the status of any settlement negotiations and, if appropriate, identification of any interest in, and resources to support, professional assistance therewith or other alternative means of dispute resolution; or

(i) the scope of the issues to be addressed at the public hearing.

B. Attendance and preparedness:

(1) All parties shall attend a pre-hearing conference fully prepared to discuss all matters noticed for the conference and motions outstanding at the time of the conference.

(a) All parties shall be familiar with all materials filed and materials obtained through ~~formal and informal~~ discovery.

EXHIBIT A

(b) All parties shall, if feasible, communicate prior to the pre-hearing conference to ascertain the extent to which the parties may be able to agree on matters which have been noticed for conference and on any pending motions.

(2) All parties shall attend a pre-hearing conference fully authorized to make commitments with respect thereto or take positions thereon.

(3) Failure of any party to attend or be prepared for a pre-hearing conference without good cause shown shall constitute a waiver of any objection to any agreement reached or to any order or ruling made as a result of the conference.

(4) Offers of settlement and statements made in furtherance thereof, made in the course of a pre-hearing conference or at any other time, are privileged and, except by agreement among all the parties, shall not be used before the commission.

C. Submission of pre-hearing memos:

~~(1)~~ The commission or presiding officer may, in the order convening a pre-hearing conference, direct each party to file and serve ~~on all other parties~~ a pre-hearing memo which shall identify any matters designated in the order convening the pre-hearing conference, such as:

(a) all factual stipulations to which the parties have agreed or which the party submitting the statement proposes for consideration by the parties;

(b) all procedural questions or problems the party desires to raise at the pre-hearing conference and the resolution proposed;

(c) any proposal the party wishes to make for the scheduling of testimony at public hearing; or

(d) the amount of time the party desires for the cross-examination of the different witnesses at public hearing.

D. Pre-hearing orders:

(1) Subsequent to a pre-hearing conference the commission or presiding officer may issue a pre-hearing order reciting the action taken and agreements reached at the conference. The order may also identify the issues to be heard and the order of evidence to be received at the public hearing.

(2) The commission or presiding officer may direct a party or parties to prepare the form of pre-hearing order.

(a) If so directed, the party or parties shall serve it on the remaining parties at the time the party or parties file(s) it.

(b) Objections to the proposed form of order shall be filed within 12 days of service of the form unless the commission or presiding officer directs otherwise.

(3) The pre-hearing order shall control the subsequent course of the proceeding and may, by its terms, limit the issues to be heard to those designated therein, provided that the commission or presiding officer may enlarge or modify the issues or otherwise amend the pre-hearing order when the public interest or justice so requires.

[1.2.2.26 NMAC - Rp, 1.2.2.26 NMAC, XX/XX/202~~65~~]

1.2.2.27 INTERIM RELIEF:

A. Generally:

(1) Requests for interim relief may be included in a complaint, petition, application, or other pleading filed by any party.

(2) The title of the pleading shall clearly indicate that ~~such interim~~ relief is requested.

B. **Contents:** Except as provided in Section 70-3-16 NMSA 1978, in addition to the usual contents of a pleading, the pleading must allege such extraordinary facts of immediate and irreparable injury as would justify the commission's exercise of discretion by granting interim relief prior to a final decision.

C. ~~Affidavits~~ **Unsworn affirmation or testimony and exhibits:**

(1) Any pleading requesting interim relief shall be accompanied by ~~affidavit~~ **unsworn affirmation** or testimony in support of the request.

(2) Any relevant exhibits in the possession of the party making the request should be appended to the ~~affidavit~~ **unsworn affirmation** or testimony.

D. **Public ~~h~~ Hearing:** Except as provided in Section 70-3-16 NMSA 1978, requests for interim relief other than interim rate relief may be acted upon with or without public hearing.

E. **Bond:** Interim relief may be granted subject to refund and conditioned upon a bond or other adequate protection.

[1.2.2.27 NMAC - Rp, 1.2.2.27 NMAC, XX/XX/202~~65~~]

1.2.2.28 SUBPOENAS:

A. Subpoena for witnesses and documents:

(1) Any party requiring the attendance of a person from any place in the state to any designated place for the purpose of taking testimony of such person at a deposition or public hearing in a proceeding before the commission shall make written application to the commission or presiding officer requesting that a subpoena be issued to compel attendance of such witness.

(2) Likewise a written application requesting the issuance of a subpoena *duces tecum* to compel production of specific books, papers, accounts, or other documents shall also be made to the commission or presiding officer if production at deposition or public hearing is desired.

(3) Such written application shall set forth reasons supporting the issuance of the subpoena for the production of specific books, papers, and other documents.

(4) All applications for the issuance of subpoenas shall be accompanied by the proposed subpoena, a form for which is available from the commission upon request.

B. Who may issue: Subpoenas may be signed and issued by the presiding officer or by any commissioner. A copy of the signed and issued subpoena shall be filed.

C. Service and fees:

(1) Subpoenas may be served by any person authorized to serve process under the New Mexico rules of civil procedure for the district courts.

(a) The return of service shall be filed promptly after service.

(b) The return shall be by certificate if service is made by a county sheriff or the county sheriff's deputy, otherwise, the return shall be by ~~affidavit~~ unsworn affirmation.

(c) The form for the return of service is included with the form of subpoena, which shall be available from the commission upon request.

(2) The witness being subpoenaed shall receive fees in the amount and in the manner as provided in civil cases in the district courts of this state.

(3) Whenever a subpoena is issued at the request of a party, the cost of service thereof and the fee of the witness shall be borne by the requesting party.

D. Enforcement: The commission, any commissioner, or any party may seek enforcement of a subpoena pursuant to Sections 62-10-9, 63-7-1.1, 63-9-19, 63-9A-20, 63-9B-14, 63-9H-14, and 70-3-19 NMSA 1978, or other applicable law.

~~**E. Order for protection of parties or witnesses:** The commission or presiding officer may issue such orders to protect parties or witnesses from annoyances, embarrassment, or oppression as may be just and proper under the circumstances.~~

[1.2.2.28 NMAC - Rp, 1.2.2.28 NMAC, XX/XX/202~~65~~]

1.2.2.29 PRESIDING OFFICER:

A. General: The functions of a presiding officer may be performed by a commissioner or any person appointed as hearing examiner. Nothing contained in this rule shall be deemed a waiver of the commission's power of superintending control over the activities or decisions of a presiding officer.

B. Appointment of presiding officer:

(1) In all proceedings, the commission may appoint a presiding officer to preside over the proceeding. The commission shall define which dockets and to what extent the presiding officer shall preside over such ~~dockets~~.

(2) If, after public hearing, the appointed presiding officer becomes unavailable to the commission, the commission shall appoint another presiding officer to report and recommend the decision or shall otherwise proceed with the case *en banc* as it may deem appropriate, giving notice to the parties.

C. Powers of presiding officers:

(1) Presiding officers shall have the duty to conduct full, fair, and impartial public hearings, and to take appropriate action to avoid unnecessary delay in the disposition of proceedings and to maintain order.

(2) Presiding officers shall possess all powers necessary to that end, including, but not limited to, the following:

(a) to administer oaths and affirmations;

(b) to issue subpoenas and to provide for other methods of discovery;

(c) to issue orders to show cause regarding proceedings before the presiding officer;

EXHIBIT A

(d) to receive evidence and rule upon all objections and motions which do not involve final dispositions of proceedings, and to recommend to the commission rulings on objections and motions which involve final dispositions of proceedings;

(e) within their discretion, or upon direction of the commission, to certify any question to the commission for its consideration and disposition, although the commission has the discretion to refuse to review a question so certified;

(f) to order parties to hold appropriate conferences before or during the public hearing or investigation, provided that the presiding officer shall not take part in any settlement conference unless ~~their~~ the presiding officer's participation is agreed to by all parties;

(g) to regulate the course of public hearings or investigations, including the scheduling, recessing, reconvening, and adjournment thereof, unless otherwise provided by the commission;

(h) to apply the procedures of this rule subject to waivers granted pursuant to this rule;

(i) to issue bench requests;

(j) to issue orders to regulate the order and decorum of the proceeding; and

(k) to take such other action as may be necessary and appropriate to the discharge of their duties consistent with the statutory authority or other authorities under which the commission functions, and consistent with the rules and policies of the commission.

D. Duties of presiding officers:

(1) A presiding officer shall follow, comply with, and apply the laws of New Mexico, the policies of the commission as enunciated in previous orders and rules, and other applicable law.

(2) A presiding officer who is a hearing examiner shall ~~provide the commission with~~ issue a recommended decision, including findings of fact and conclusions of law, on the matter assigned to the hearing examiner as soon as practicable before the termination of any suspension period, review period, or other deadline imposed by or upon the commission.

~~(a) The recommended decision shall include findings of fact and conclusions of law.~~

~~(b) The hearing examiner shall provide the recommended decision to all parties, each commissioner, and advisory staff.~~

~~(c) The hearing examiner shall issue a recommended decision as soon as practicable before the termination of any suspension period, review period, or other deadline imposed by or imposed upon the commission.~~

[1.2.2.29 NMAC - Rp, 1.2.2.29 NMAC, XX/XX/20265]

1.2.2.30 PROCEDURAL AUTHORITY OF A SINGLE COMMISSIONER:

A. The chairperson of the commission, or any other commissioner appointed by the commission, shall preside at public hearings conducted by more than one commissioner.

B. Any commissioner may issue any procedural orders or notices, including but not limited to orders or notices:

(1) appointing a hearing examiner to preside over a proceeding;

(2) scheduling public hearings;

(3) clarifying the deadlines or issues to be considered during the proceedings;

(4) suspending the operation of an advice notice, provided that such procedural order is consistent with law and does not involve the final determination of the proceeding;

(5) extending or shortening any time period established in this rule or any ~~commission~~ order;

(6) granting leave to file an untimely motion, response, reply, or other pleading or document; and

(7) granting leave to file any other pleading or document that requires leave to file pursuant to this rule.

C. The delegation to one commissioner of procedural authority shall not narrow the authority of the hearing examiner pursuant to this rule or to other rules or orders of the commission, unless the order by the hearing examiner is inconsistent with and superseded by the procedural order of the one commissioner.

D. A party may appeal a procedural order of a single commissioner pursuant to 1.2.2.31 NMAC.
[1.2.2.30 NMAC - Rp, 1.2.2.30 NMAC, XX/XX/20265]

1.2.2.31 INTERLOCUTORY APPEALS FROM RULINGS OF THE PRESIDING OFFICER:

A. General:

(1) Rulings of the presiding officer during the course of a proceeding may only be appealed under extraordinary circumstances, as provided in this rule.

(2) The movant in any such appeal bears the burden of proving extraordinary circumstances to permit interlocutory appeal, and establishing grounds for review and reversal of a ruling of the presiding officer.

B. Motion to presiding officer to permit appeal:

(1) Any party including advocacy staff may, during the pendency of a proceeding, move that the presiding officer permit interlocutory appeal to the commission from a ruling of the presiding officer. The motion shall demonstrate that:

(a) the ruling involves a controlling question of law or policy as to which there is substantial ground for difference of opinion and that an immediate appeal to the commission from the ruling may materially advance the ultimate disposition of the proceeding; or

(b) circumstances exist which make prompt commission review of the contested ruling necessary to prevent irreparable harm to any person; and

(c) extraordinary circumstances exist to justify the filing of the motion.

(2) The motion shall be filed in writing within three days of the date of an oral ruling or service of a written ruling.

(3) Upon receipt of a motion to permit interlocutory appeal, the presiding officer shall determine according to the standards of Paragraph (1) of Subsection B of 1.2.2.31 NMAC whether to permit interlocutory appeal of the ruling to the commission.

(4) If the presiding officer permits interlocutory appeal, the presiding officer shall transmit to the commission copies of the appealed ruling and any findings of fact, conclusions of law, or opinion relating thereto, together with the appellant's motion under Paragraph (1) of Subsection B of 1.2.2.31 NMAC, and any response permitted to the motion. The presiding officer may also transmit to the commission a memorandum setting forth the relevant issues and an explanation of the rulings on the issues.

(5) If the presiding officer does not issue an order under Paragraph (3) of Subsection B of 1.2.2.31 NMAC within 12 days after the motion is filed, the motion is deemed denied.

(6) If a motion to permit interlocutory appeal is denied, the movant may appeal to the commission within three (3) days of the date of denial.

C. Commission action:

(1) Unless the commission acts upon an interlocutory appeal permitted by the presiding officer or otherwise in its discretion within 30 days after the date the appeal is permitted the ruling of the presiding officer shall be reviewed in the ordinary course of the proceeding as if an interlocutory appeal had not been made.

(2) In the event the commission decides in its discretion to hear an interlocutory appeal, it may also in its discretion:

(a) review the motions, briefs, and other documents which were before the presiding officer when the presiding officer issued the appealed ruling;

(b) require that the presiding officer transmit to the commission a memorandum explaining the appealed ruling;

(c) require submission of briefs by advocacy staff and the parties; or

(d) direct such other submissions as may assist in its consideration of the issues.

D. Interlocutory appeal not to suspend proceeding: Any decision by a presiding officer to permit interlocutory appeal, or by the commission to hear an interlocutory appeal under the provisions of this rule, shall not suspend the proceeding unless otherwise ordered by the presiding officer or the commission.

[1.2.2.31 NMAC - Rp, 1.2.2.31 NMAC, XX/XX/2026~~5~~]

1.2.2.32 PUBLIC HEARINGS:

A. Rights of parties and commenters:

~~(1) At any public hearing, all parties shall be entitled to enter an appearance, introduce evidence, examine and cross-examine witnesses, make arguments, and generally participate in the conduct of the proceeding.~~

~~(2) At any public hearing, all interested persons not already represented as a party shall be entitled to make an oral or written statement for the record as a commenter, but such statement shall not be considered by the commission as evidence. Commenters are not parties and shall not have the right to introduce~~

EXHIBIT A

~~evidence or examine or cross-examine witnesses, to receive copies of pleadings and documents, to appeal from any decisions or orders, or to otherwise participate in the proceeding other than by making their comments.~~

B. Duty to participate: Except as otherwise provided in this rule or directed by the commission or presiding officer, parties ~~that who~~ fail to attend meetings, conferences, or public hearings scheduled or that otherwise fail to participate in the proceeding are deemed to have notice of, and to waive their right to object to, all matters addressed, resolved, or determined in their absence.

C. Continuance:

(1) Any party may move for a continuance immediately upon receipt of notice of public hearing, or as soon thereafter as facts requiring such continuance come to the party's knowledge, stating in detail the reasons why a continuance is necessary and describing when the need for a continuance came to the party's knowledge.

(2) The commission or presiding officer, in passing upon a motion for a continuance, shall consider whether such motion was promptly made.

(3) The commission or presiding officer may grant such a continuance and may, at any time, order a continuance at the commission's or presiding officer's discretion.

D. Appearances:

(1) General:

(a) Parties and commenters shall enter their appearances at the beginning of the public hearing by giving their names ~~in writing~~ to the reporter who shall include the same in the record of public hearing.

(b) The presiding officer conducting the public hearing ~~may~~ shall require appearances to be stated orally so that the identity and interest of all parties and others present shall be known to those at the public hearing.

(2) Termination of party status:

(a) Notwithstanding any other provision of this rule pertaining to party status, the party status of any person failing to enter an in written appearance, ~~and if requested by the presiding officer, an oral appearance~~, terminates at the close of the period for taking such appearances at the public hearing unless otherwise ordered by the commission or presiding officer.

(b) After entering an appearance, a party shall not be unrepresented at the public hearing unless excused by the presiding officer.

(c) The commission or presiding officer may impose sanctions for violation of this provision including termination of party status.

E. Failure to appear:

(1) At the time and place set for public hearing, if an applicant, petitioner, or complainant fails to appear without having obtained a continuance in the manner specified in Subsection C of 1.2.2.32 NMAC, the commission or presiding officer may dismiss or recommend dismissal of the petition, application, or complaint with or without prejudice, or may upon good cause shown recess such public hearing for a further period to be set by the commission or presiding officer to enable said applicant, petitioner, or complainant to attend.

(2) At the time and place set for public hearing, if a respondent fails to appear without having obtained a continuance in the manner specified in Subsection C of 1.2.2.32 NMAC, the commission or presiding officer may proceed with the public hearing as scheduled and enter such orders disposing of the case as may be proper according to the evidence adduced, and the respondent failing to appear shall be presumed to have waived the right to refute or rebut such evidence and otherwise present further evidence. The commission or presiding officer may upon good cause shown recess such public hearing for a further period to be set by the commission or presiding officer to enable said respondent to attend.

F. Conduct at public hearings:

(1) All parties, witnesses, attorneys, commenters, and spectators shall conduct themselves in a respectful manner.

(a) Demonstrations or disruptions of any kind at public hearings shall not be permitted.

(b) Any disregard by parties, attorneys, or other persons of the rulings of the commission or presiding officer on matters of order and procedure may be noted on the record and treated as provided in Sections 62-10-9, 62-12-4, 63-7-23, 63-9-19, 63-9A-20, 63-9B-14, 63-9H-14, or 70-3-19 NMSA 1978, or as provided in the New Mexico rules of civil procedure for the district courts.

(2) The commission or presiding officer may, at the commission's or presiding officer's discretion, adjourn, recess, or continue any public hearing in case the conduct of witnesses, spectators, or other

EXHIBIT A

persons interferes with the proper and orderly holding of such public hearing, and for any other cause or circumstance which may prevent the proper conduct of such public hearing.

(3) The commission or presiding officer may, at the commission's or presiding officer's discretion, limit the issues to be addressed or time for providing direct testimony or cross-examination at any public hearing if necessary to promote the proper and orderly management of such public hearing.

(4) All parties, attorneys, witnesses, commenters, representatives, and spectators shall adhere to the commission's rules and resolutions on decorum. The commission or presiding officer may take any action reasonably necessary to maintain the order of the public hearing, including, at the commission's or presiding officer's discretion, the removal of any disruptive party, attorney, witness, commenter, representative, or spectator from a public hearing.

G. Consolidated public hearings: The commission, at its discretion or upon motion of a party, may order two or more proceedings involving a similar question of law or fact to be consolidated for public hearing where neither the rights of the parties nor the public interest shall be prejudiced by such procedure and where such consolidation shall not confuse the issues.

H. Joint public hearings:

(1) To the extent authorized by law, the commission may participate jointly in any hearing with any federal, state, or other regulatory agency.

(2) In joint formal proceedings, the participating agencies shall agree upon the rules of procedure to be followed.

(3) Any person entitled to appear in a representative capacity before either agency involved in the joint public hearing may appear in a joint public hearing.

I. ~~Telephonic and e~~Electronic public hearings. Public hearings may be conducted by telephone or video conference, or both, at the discretion of the commission or presiding officer.

J. Statement of position:

(1) Unless otherwise provided by order, a party shall file a statement of position no later than two weeks before the start of a public hearing. ~~unless the commission or presiding officer determines that such a requirement would add unjustified burden or expense to the proceeding, that a different deadline should be imposed, or that the contents of a required pre hearing memo would be duplicative.~~

(2) Unless otherwise provided by order ~~of the commission or presiding officer~~, the statement of position shall contain the following information:

(a) a concise summary of the party's overall position in the proceeding;

(b) a concise statement of each discrete question of fact, law, or policy that the party considers at issue, and the party's position on each.

~~(3) A statement of position is non-binding and does not carry any evidentiary weight.~~

K. Scope:

~~(1) The commission or presiding officer may limit the scope of a public hearing to include only:~~

~~(a) issues identified in the parties' statements of position; and~~

~~(b) issues otherwise deemed relevant by the commission or presiding officer.~~

~~(2) The commission or presiding officer may exclude from the public hearing issues it deems irrelevant to the proceeding, regardless of whether the issues have been identified in the parties' statements of position.~~

L. Recessing public hearing for conference:

(1) In any proceeding, the commission or presiding officer may, in the commission's or presiding officer's discretion, call the parties together for a conference prior to the taking of testimony, or may recess the public hearing for such a conference.

(2) The results of the conference shall be stated on the record.

M. Open and closed public hearings: Public hearings shall be open to the public unless closed by the commission or presiding officer for good cause.

[1.2.2.32 NMAC - Rp, 1.2.2.32 NMAC, XX/XX/20265]

1.2.2.33 TRANSCRIPTS:

A. Record of proceedings and testimony:

(1) A full and complete record of all proceedings before the commission or presiding officer in any formal public hearing and all testimony shall be made by either audio recording by a commission employee or shall be taken down and transcribed by a certified court reporter at the discretion of the presiding officer.

EXHIBIT A

(2) If the commission or presiding officer intends to have a transcript made by audio recording, the commission or presiding officer shall state this in the notice or order of hearing or proceeding.

(3) Upon receiving notice that the commission or presiding officer intends to have a transcript made by audio recording, any party can file a request to have the hearing or proceeding transcribed by a certified court reporter and the commission shall arrange a court reporter.

(a) A party requesting a court reporter for a hearing or proceeding that would otherwise be made by audio recording shall be responsible for the full cost of the court reporter's fees.

(b) A request by any party to have a hearing or proceeding transcribed by a certified court reporter shall be filed as soon as practicable before the hearing or proceeding.

(c) If a request by any party to have a hearing or proceeding transcribed by a certified court reporter is not made at least seven days prior to the hearing, the commission may be unable to accommodate the request.

B. Copies of transcripts: The commission shall file in e-docket a PDF version of any transcript it receives on the date the transcript is created or the date it is filed with the commission or the presiding officer.

C. Corrections:

(1) Suggested corrections to the transcript or record shall be offered within 13 days after the transcript is filed in the proceeding except for good cause shown, and ~~suggested corrections such suggestion~~ shall be ~~in writing and~~ served upon each party, the official reporter, and the presiding officer.

(2) Failure to timely file suggested corrections without good cause shown constitutes a waiver of objections to the transcript.

(3) Objections to the suggested corrections shall be made in writing within 13 days from the filing of the suggestions.

(4) The commission or presiding officer shall, with or without public hearing, determine what changes, if any, shall be made in the record.

(5) If no objection is made to the suggested corrections, the commission or presiding officer may, in the commission's or presiding officer's discretion, direct that the corrections be made and the manner of making them.

[1.2.2.33 NMAC - Rp, 1.2.2.34 NMAC, XX/XX/202~~65~~]

1.2.2.34 RULES OF EVIDENCE:

A. General:

(1) Subject to the other provisions of this rule, all relevant evidence is admissible which, in the opinion of the commission or presiding officer, is the best evidence most reasonably obtainable, having due regard to its necessity, competence, availability, and trustworthiness.

(2) In passing upon the admissibility of evidence, the commission or presiding officer shall give consideration to, but shall not be bound by, the New Mexico rules of evidence which govern proceedings in the courts of this State. The commission or presiding officer shall also consider the legal requirement that any final decision on the merits be supported by competent evidence.

(3) Unless otherwise directed by the commission or the presiding officer, documents that require unsworn affirmation under commission rules may be supported by ~~unsworn affidavit or sworn~~ affirmation.

(4) The commission or presiding officer shall direct the order of presentation and the receipt of evidence at its discretion.

B. Testimony under oath: All testimony to be considered by the commission or presiding officer in formal public hearings, except matters officially noticed or entered by stipulation, shall be made under oath.

C. Stipulation as to facts:

(1) The parties may, in any proceeding before the commission or presiding officer, by stipulation in writing, filed or entered in the record, agree upon the facts or any portion thereof involved in the controversy.

(a) A stipulation shall be binding upon the parties entering into the stipulation and may be regarded and used by the commission or presiding officer as evidence at the public hearing.

(b) The commission or presiding officer may, however, require proof or evidence of the facts stipulated to, notwithstanding the stipulation of the parties.

(2) In the event the parties stipulate to certain facts as part of a proposed settlement of the case, and the stipulation is not approved, the stipulated facts for purposes of the settlement shall not be binding upon the parties or used as evidence in any subsequent public hearing on the merits unless all signatories thereto agree to re-stipulate to the facts.

EXHIBIT A

D. Administrative notice:

(1) The commission or presiding officer may take administrative notice of the following matters if otherwise admissible under Subsection A of 1.2.2.34 NMAC:

- (a) rules, regulations, administrative rulings, published reports, licenses, and orders of the commission and other governmental agencies;
- (b) contents of certificates, permits, and licenses issued by the commission;
- (c) tariffs, classifications, schedules, and periodic reports regularly established by or filed as required or authorized by law or order ~~of the commission~~;
- (d) decisions, records, and transcripts in other commission proceedings;
- (e) state and federal statutes;
- (f) decisions of state and federal courts;
- (g) generally recognized technical and scientific facts; and
- (h) matters of which the courts of this state may take judicial notice.

(2) The commission or presiding officer may take administrative notice of the results of the commission's or presiding officer's inspection of any physical location or condition involved in the proceeding, and may take administrative notice on the record of the results of the commission's previous experience in similar situations and general information concerning a subject within the commission's expert knowledge.

(3) Parties requesting that administrative notice be taken of documents or portions of documents or of the contents thereof shall submit those documents or portions of documents to the commission or presiding officer in the form of exhibits except if doing so is unduly burdensome or as may otherwise be provided in this rule.

(4) The commission or presiding officer may take administrative notice, whether requested or not, subject to appropriate objection under Subsection L of 1.2.2.34 NMAC.

(5) Matters of fact noticed are admitted into evidence to the same extent as other relevant factual evidence.

E. Resolutions:

(1) Properly authenticated resolutions of the governing bodies of cities, towns, counties and other municipal corporations, and of chambers of commerce, commercial or mercantile boards of trade, agricultural or manufacturing societies, and other civic organizations shall be received in evidence if relevant.

(2) Resolutions shall be received subject to rebuttal by adversely affected parties as to the authenticity of the resolution.

(3) Recitals of fact contained in resolutions shall not be deemed proof of those facts.

F. Official records:

(1) An official rule, report, order, record, or other document prepared and issued by any governmental authority may be introduced into evidence.

(2) In cases where such official records, otherwise admissible, are contained in official publications or publications by nationally recognized reporting services and are in general circulation and readily accessible to all parties, they may be introduced by reference unless the commission or presiding officer directs otherwise, provided that proper and definite reference to the record in question is made by the party offering the same.

G. Commission files:

(1) Papers and documents on file that are relevant to the proceeding may be introduced into evidence by reference to number, date, or by any other method of identification satisfactory to the commission or presiding officer unless the commission or presiding officer directs that the paper or document or a summary thereof be presented for the record in the form of an exhibit.

(2) If only a portion of any paper or document is offered in evidence, the part so offered shall be presented for the record in the form of an exhibit.

H. Records in other proceedings: If any portion of the record in any other proceeding before the commission or presiding officer is admissible for any purpose and is offered in evidence, a true copy of such portion may be presented for the record in the form of an exhibit.

I. Prepared testimony:

(1) Prepared written testimony shall be received in evidence as exhibits with the same force and effect as though it were stated orally by the witness.

(2) All witnesses must be present at the public hearing and shall adopt, under oath, their prepared written testimony, subject to cross-examination and motions to strike unless the witness's presence at

EXHIBIT A

public hearing is waived by the commission or presiding officer upon notice to, and without objection from, the parties.

(3) Unless the commission or presiding officer directs otherwise, testimony in written form shall be prepared in accordance with the following guidelines:

- (a) the cover page shall contain the docket caption and number and the name of the witness;
- (b) all pages are to be typed or machine printed and double-spaced;
- (c) the top, bottom, and left-hand margins shall be at least 1.5 inches;
- (d) the name of the witness and the docket number, if then known, shall be typed at the top center of each page two inches from the edge;
- (e) the page number for each page shall be typed at the bottom center one inch from the edge;
- (f) a square of approximately 1.5 inches in the upper right-hand corner of each page shall be left clear for commission use;
- (g) testimony shall contain line numbers on the left-hand side of the page;
- (h) testimony shall be filed in question and answer format and be supported by ~~affidavit~~ unsworn affirmation;
- (i) testimony shall be composed in times new roman font, 12-point font size for the caption, heading(s), signature block, and body text, and 10.5-point font size for the footnote text;
- (j) the text of the document shall be optical character recognition compatible;
- (k) testimony may include attachments if prepared, sponsored, or adopted by the witness; and
- (l) the document shall explicitly state whether it was drafted, generated, or otherwise produced by ~~or with the aid of~~ artificial intelligence.

(4) Unless the commission or presiding officer directs otherwise, no documents other than pre-filed testimony and its associated attachments shall be admitted into evidence on direct examination of a witness.

J. Exhibits:

(1) Use of data in exhibits:

- (a) When supporting exhibits consist of tables of data or graphs, all formulae, equations, or other methodology used to derive the data shall be included as part of the supporting exhibit.
- (b) If data used in supporting exhibits are derived from, or supported by, complex computerized analyses, working copies of the computer models may be included on electronic storage media compatible with the commission's current computer capabilities, in lieu of printed material.

(2) **Size of exhibits:** Except by special permission of the commission or presiding officer, no specially prepared exhibits offered as evidence shall be of greater size, when folded, than 8.5 inches by 11 inches.

(3) **Marking of exhibits:** All exhibits shall be marked numerically in the order of introduction by the moving party. To the extent practicable, all exhibits, including those to be introduced on cross-examination, shall be marked before the start of public hearings on the day the witness shall be examined.

(4) Designation of part of document as evidence:

(a) When relevant and material matter offered in evidence by any party is embraced in a book, paper, or document containing other matter not material or relevant, the party offering the same shall plainly designate the matter so offered.

(b) If other matter is in such volume as would unnecessarily encumber the record, such book, paper, or document shall not be received in evidence but may be marked for identification, and, if properly authenticated, the relevant or material matter may be read into the record, or, if the commission or presiding officer so directs, a true copy of such matter in proper form shall be received as an exhibit and like copies delivered by the party offering the same to all other parties appearing at the public hearing.

(c) All parties shall be afforded an opportunity to examine the book, paper, or document, and to offer in evidence in like manner other portions thereof if found to be material and relevant.

(5) **Abstracts of documents:** When documents are numerous, and a party offers in evidence more than a limited number of such documents, an abstract shall be prepared and offered as an exhibit giving other parties reasonable opportunity to examine the abstract and the documents.

(6) **Summaries of documents:** Where a document that is being offered into evidence is voluminous, the commission or presiding officer may direct that a summary be prepared and offered as an exhibit giving other parties reasonable opportunity to examine the summary and the document. The commission or

EXHIBIT A

presiding officer may require that the summary be offered as an exhibit in addition to the summarized document or in lieu thereof.

(7) Copies of exhibits:

(a) When exhibits not attached to pleadings, as required by this rule, are offered in evidence, the original shall be furnished to the reporter.

(b) The party offering exhibits shall furnish a copy to each commissioner, the presiding officer, and advisory staff, if in attendance, and each party unless such copies have previously been furnished or the commission or presiding officer directs otherwise.

(c) The proponent shall, to the extent practicable, furnish the required copies to the reporter, each commissioner, the presiding officer, advisory staff, and the parties before the start of the public hearings on the day said proponent intends to offer the exhibits into evidence.

K. Additional evidence:

(1) At any stage of the proceeding, the commission, any commissioner, or the presiding officer may require the production of further evidence upon any issue, and all parties shall have an opportunity to respond.

(2) Additional evidence may, at the discretion of the commission, any commissioner, or the presiding officer, be in writing or presented orally.

(3) If presented orally or at a public hearing by a witness, all parties shall have an opportunity to cross-examine the witness under oath.

L. Objections ~~at evidentiary hearings before the commission:~~

(1) Any evidence offered in whatever form, and any procedural ~~errors~~matters, shall be subject to appropriate and timely objection. When objection is made to the admissibility of evidence, such evidence may be received subject to later ruling by the commission or presiding officer.

(2) The commission or presiding officer, in the commission's or presiding officer's discretion, either with or without objection, may exclude inadmissible, incompetent, cumulative, or irrelevant evidence, or order the presentation of such evidence discontinued.

(3) The evidence to be admitted at evidentiary hearings shall be material and relevant to the issue. Formal exceptions to rulings are not necessary and need not be taken.

(4) The following persons may make objections:

(a) a *pro se* party;

(b) attorney of record for a party; and

(c) a party-entity's officers, general partners, and employees who are authorized to represent the party-entity pursuant to rule 1.2.2.9 NMAC.

(5) The persons described in Paragraph (4) of this subsection shall comply with objection procedures as may be ordered by the commission or presiding officer at the commission's or presiding officer's discretion.

M. Offers of proof:

(1) A party may make an offer of proof for the record that shall consist of a statement of the substance of the evidence to which objection has been sustained.

(2) The commission or presiding officer may require offers of proof to be submitted in writing in question and answer form.

(3) The commission shall allow a party a reasonable opportunity to make an offer of proof.

N. Rebuttal evidence:

(1) A party wishing to offer rebuttal evidence not previously adduced or identified shall, at the close of the opposition's direct case, move the commission or presiding officer to allow introduction of rebuttal evidence.

(a) The movant shall indicate the nature of the evidence sought to be adduced and demonstrate why it is proper rebuttal testimony.

(b) ~~Evidence-Rebuttal evidence~~ which is merely cumulative or could have been more properly offered in the case in chief ~~is not proper rebuttal evidence~~shall not be allowed.

(2) The commission or presiding officer may permit or require rebuttal evidence to be submitted in prepared form prior to its introduction in accordance with this rule ~~prior to its introduction~~.

[1.2.2.34 NMAC - Rp, 1.2.2.35 NMAC, XX/XX/2026~~5~~]

EXHIBIT A

1.2.2.35 PROPOSED FINDINGS AND CONCLUSIONS; BRIEFS:

A. Proposed findings and conclusions:

(1) Generally:

(a) The commission or presiding officer may require parties to file proposed orders, including proposed findings and conclusions.

(b) If the commission or presiding officer requires the filing of a proposed order, the commission or presiding officer shall immediately fix the time in which the proposed order shall be filed.

(c) Proposed findings and conclusions on contested material issues shall not be included in proposed orders unless requested by the commission or presiding officer, or with all other parties' consent.

(2) Contents:

(a) The party submitting a proposed order shall clearly identify the party on the first page of the order.

(b) Each proposed finding of fact and conclusion of law shall be clearly and concisely stated and numbered.

(c) Each proposed finding of fact shall show, specifically, by appropriate transcript reference, the evidence which supports the proposed finding unless otherwise permitted by the commission or presiding officer.

B. Briefs and oral argument; right to file or argue:

(1) The commission or presiding officer may require the filing of briefs or the presentation of oral argument, or both, by the parties. Requests for the filing of briefs or oral argument shall be made before or at the close of the public hearing, and may be made in writing or orally on the record.

(2) The commission or presiding officer shall give parties an opportunity to make argument, upon request, but the manner of presentation, whether written, oral, or both, shall be at the discretion of the commission or presiding officer.

(3) The commission or presiding officer shall have the discretion to set page limits for briefs, limit the time allocated to each party for oral argument, or conduct an oral argument by telephone conference call.

C. Time of filing:

(1) Proposed orders and briefs:

(a) Unless otherwise ordered by the commission or presiding officer, a party shall have 20 days after the date that the complete transcript of the public hearing is filed with the commission to file whatever proposed orders and briefs are required by the commission or presiding officer.

(b) A party may file a response brief 13 days after service of the opening brief(s) unless otherwise ordered by the commission or presiding officer.

(c) A party shall not file a reply brief to a response brief(s) without leave of the commission or presiding officer. If permitted, a party shall file the reply brief within 13 days of service of the response brief, unless otherwise ordered by the commission or presiding officer.

(2) **Extension:** A motion for extension of time to file a proposed order or brief shall be filed no later than three days prior to that time as set out in Paragraph (1) of Subsection C of 1.2.2.35 NMAC, except for good cause shown.

D. Filing and service of proposed orders and briefs: All proposed orders and briefs shall be filed and shall be accompanied by a certificate of service.

E. Briefs' contents generally:

(1) Briefs shall be concise and shall include transcript citations for each statement of fact or transcript reference in the form required by Subsection D of 1.2.2.33 NMAC.

(2) Briefs that are 15 pages long or longer shall contain a table of contents and a -table of authorities ~~if longer than 15 pages~~.

F. Reconciliation statements:

(1) Unless the commission or presiding officer directs otherwise, or unless a party does not have the expertise to do so, each brief filed in a proceeding that impacts rates shall contain a reconciliation statement setting forth, in dollars, the final position of the party filing the brief.

(2) The reconciliation statement shall be in a simple and concise form.

(3) In a base rate case, the reconciliation statement shall set forth:

(a) the claimed rate base for the regulated entity showing test year figures per book, adjustments, and adjusted test year figures (if rate base items are at issue the statement shall set forth on a separate sheet the contested items and their dollar effect on rate base);

EXHIBIT A

(b) an income statement showing operating revenues and expenses with test year figures per book, adjustments, and adjusted test year figures (if any expense items are at issue the statement shall set forth on a separate sheet the contested expense or revenue items in detail and the dollar effect on total company expenses or revenues of their allowance);

(c) the capital structure of the company (if there is no actual capital structure, any proposed imputed capital structure, the ratio of each type of capital to total capital, and the cost and weighted cost of each shall be shown; this schedule shall show the dollar effects of the requested return upon revenue requirements);

(d) a computation of projected state and federal taxes on adjusted figures based on statutory rates or other applicable rates; and

(e) a computation of the claimed revenue deficiency.

(4) If the information required by this subsection is clearly set forth in schedules in evidence, such schedules may be appended to the brief in lieu of a separate reconciliation statement. If a party adopts the position of another party, the party may state whose position is adopted rather than file a separate reconciliation statement.

(5) The party requesting a rate increase shall provide a proof of revenue statement.

(6) The parties may, separately from the reconciliation statement required by this subsection, show details of adjustments by account numbers, give short explanations or reasons for the adjustments, and show where these adjustments require adjustments elsewhere. The parties may also give citations to the transcript to show where the requested adjustment is supported by the record.

[1.2.2.35 NMAC - Rp, 1.2.2.36 NMAC, XX/XX/2026]

1.2.2.36 ORDERS; RECOMMENDED DECISIONS; EXCEPTIONS; REHEARING AND RECONSIDERATION:

A. Commission orders:

(1) An order issued by the commission or presiding officer is effective on the date that the order is filed unless otherwise stated in the order ~~or document~~;

(2) The commission shall issue its order in writing in every proceeding.

(a) The commission's or presiding officer's orders shall contain separately stated findings of fact and, in the commission's discretion, conclusions of law, or combined findings and conclusions, unless the order is strictly procedural.

(b) The commission or presiding officer may, in its discretion, issue an oral decision prior to the issuance of its written order.

(c) The timeliness of applications for rehearing, motions for interlocutory appeal, and notices of appeal shall be calculated from the date the commission or presiding officer ~~issues~~ files its written order.

(3) The commission may adopt a presiding officer's recommended decision.

~~(a) If a recommended decision is adopted in its entirety, the commission's order shall so state.~~

~~(b) Where the only changes between the commission order and the presiding officer's recommended decision are those that correct grammatical or typographical errors, the commission's order shall so state.~~

(4) The commission may ~~issue an order that refers to the recommended decision and indicates disagreements with the presiding officer, and the commission may modify a recommended decision and~~ make further findings and conclusions based on the record.

~~B. Recommended decisions:~~

~~(1) A hearing examiner shall provide the commission with a recommended decision on the matter assigned to the hearing examiner.~~

~~(2) The hearing examiner shall serve the recommended decision on all parties to the proceeding and the recommended decision shall contain separately stated findings of fact and conclusions of law.~~

B.C. Exceptions to recommended decisions:

(1) Filing requirements:

(a) Unless otherwise ordered by the commission or presiding officer, exceptions may be filed by any party within 13 days after the recommended decision is ~~issued~~ filed.

(b) Unless otherwise ordered by the commission or presiding officer or by prior written approval of the commission or presiding officer, exceptions shall be no longer than 40 pages. A summary of

EXHIBIT A

argument, identifying with particularity, and numbering the points excepted to, of no more than five pages, shall be included with the exceptions and does not count toward the 40~~-~~page limit.

(c) Unless otherwise ordered by the commission or presiding officer, responses to exceptions may be filed within eight days after the exceptions have been filed.

(d) Unless otherwise ordered by the commission or presiding officer or by prior written approval of the commission or presiding officer, responses to exceptions shall be no longer than 35~~-~~pages. A summary of argument of no more than three pages shall be included with a response and does not count toward the 35~~-~~page limit.

(e) Replies to responses to exceptions shall not be filed without leave of the commission or presiding officer.

(f) Unless otherwise ordered by the commission or presiding officer or by prior written approval of the commission or presiding officer, replies to responses shall be no longer than 15 pages. A summary of argument of no more than two~~-~~ pages shall be included with a reply and does not count toward the 15~~-~~ page limit.

(g) Any exception, response, or reply 15 pages long or longer shall include a table of contents and a table of authorities. Tables of contents and authorities shall not count toward any page limitation.

(2) **Contents:**

(a) Responses shall not raise matters which were not raised in the exceptions of a party.

(b) Exceptions and any responses shall specifically set forth:
(i) the precise portions of the proposed decision to which the exception is taken or response to exception is made;

(ii) the reason for the exception or response;

(iii) authorities on which the party relies, and specific citations to the record in the form required by Subsection D of 1.2.2.33 NMAC; and

(iv) in ~~rate-eases~~proceedings impacting rates, reconciliation statements containing the information listed in Subsection F of 1.2.2.35 NMAC.

(3) **Filing ~~and service~~:** Exceptions and responses shall be filed ~~and accompanied by a certificate of service~~.

CD. Oral argument to commission after recommended decision:

(1) Any party may petition the commission for oral argument after the issuance of a recommended decision.

(2) An oral argument request may be included in a brief on exceptions or a response, but it shall be filed no later than the last day to file responses.

(3) The commission in its discretion may allow oral argument. If it allows oral argument, it may in its discretion conduct oral argument in person or by video or telephone conference call.

DE. Reopening proceedings:

(1) **Motion to reopen:** A party to a formal proceeding may file a motion, in a pending docket after the issuance of a recommended decision or final order, or in a closed docket, to reopen the formal proceeding for the taking of additional evidence and argument.

(2) **Contents:** A motion to reopen shall specify those facts claimed to constitute grounds in justification thereof, including material changes of fact or law alleged to have occurred since the conclusion of the public hearing, and shall contain a brief statement of proposed additional evidence and an explanation as to why such evidence was not previously produced.

(3) **Responses and replies:**

(a) A party may file a response within 13 days following the service of any motion to reopen.

(b) A party shall not file a reply without leave of the commission.

(4) The commission on its own motion may, at any time, reopen any proceeding for good cause.

EF. Rehearing and Reconsideration:

(1) **Motions generally:**

(a) Any party may, within 30 days after ~~issuance~~filing of an order by the commission, move for rehearing or reconsideration of the order with respect to any issue determined in the proceeding relating to Chapter 62 of the New Mexico statutes, pursuant to Section 62-10-16 NMSA 1978.

EXHIBIT A

(b) Any party may, within 10 days after ~~issuance-filing~~ of an order by the commission, move for rehearing or reconsideration of the order with respect to any issue determined in the proceeding relating to all other statutes not included in Chapter 62.

(c) The motion shall specify the issues upon which the movant requests rehearing or reconsideration and the grounds on which the movant considers the order to be unlawful, unjust, or unreasonable with regard to each issue.

(d) Any person ~~or entity that who~~ has not been granted party status to a proceeding may not file a motion for rehearing or reconsideration in the proceeding.

(2) Responses and replies to motions:

(a) Any party may file, within seven days, a response in writing to a motion for rehearing or reconsideration filed pursuant to Section 62-10-16 NMSA 1978 and Subparagraph (a) of Paragraph (1) of Subsection F of 1.2.2.36 NMAC. Replies to responses shall not be permitted without leave of the commission or presiding officer.

(b) Any party may file, within five days, a response in writing to any motion for rehearing or reconsideration filed pursuant to Subparagraph (b) of Paragraph (1) of Subsection F of 1.2.2.36 NMAC. Replies to responses shall not be permitted without leave of the commission or presiding officer.

(3) New evidence:

(a) A motion for rehearing or reconsideration may seek modification of the order with or without introduction of additional evidence.

(b) If the movant or any party ~~that who~~ opposes or supports the motion seeks to introduce additional evidence on any matter, the new evidence shall be specified and supported by ~~affidavit~~unsworn affirmation, and it shall be accompanied by a statement of the reasons why the new evidence was not previously introduced.

(c) Any new evidence furnished in support of the motion or response shall be considered by the commission only for purposes of the commission's decision on the motion and shall not be considered as evidence pertaining to the order subject to rehearing or reconsideration.

(4) **Effect of filing motion:** The filing of a motion for rehearing or reconsideration shall not excuse a party from complying with or obeying any order or any requirement of an order ~~of the commission~~, nor shall it operate in any manner to stay or postpone the enforcement thereof, except as the commission may by order direct, as provided by law.

(5) **Oral argument:** If the commission in its discretion grants oral argument on a motion for rehearing, the commission's order shall not thereby be automatically vacated.

(6) Disposition of motions:

(a) For a motion for rehearing or reconsideration filed pursuant to Subparagraph (a) of Paragraph (1) of Subsection F of 1.2.2.36 NMAC, the commission may grant or deny the motion within 20 days.

(i) If the commission does not act within 20 days, the motion for rehearing or reconsideration is denied by operation of law.

(ii) If the commission grants or denies a motion for rehearing or reconsideration within 20 days, it may later issue an explanation for its decision, but not longer than 28 days after granting or denying the motion.

(b) For a motion for rehearing or reconsideration filed pursuant to Subparagraph (b) of Paragraph (1) of Subsection F of 1.2.2.36 NMAC, the commission may grant or deny the motion at any time within 20 days after the order has been issued and prior to the expiration of the period prescribed for filing of responses.

(i) If the commission does not act on a motion for rehearing within 20 days after the order has been issued, the motion shall be deemed denied.

(ii) If the commission grants or denies a motion for rehearing or reconsideration within 20 days, it may later issue an explanation for its decision, but not longer than 60 days after granting or denying the motion.

(c) The commission shall limit the rehearing to some or all of the matters raised in the motion, except that matters that are not expressly raised in the motion may need to be reheard in light of matters that are expressly raised in the motion.

(d) On rehearing the commission, in its discretion, may receive some or all of the new evidence specified in the motions or responses subject to cross-examination, restrict the rehearing or reconsideration to modification of its order without introduction of new evidence, or dispose of the motion without public hearing.

EXHIBIT A

(e) If the commission grants the motion in whole or in part, the order being reheard or reconsidered shall be deemed vacated and no order or decision at that time shall exist in the proceeding.

(7) **New order:** After granting any rehearing or reconsideration, the commission shall enter a new order which may incorporate by reference any portion of the previously issued order which the commission vacated.

FG. Errata notice:

(1) The commission, any commissioner, or a presiding officer may correct typographical errors, omissions, or other non-substantial errors in ~~commission~~ orders through the issuance of errata notices. The issuance of an errata notice shall not affect the finality of the decision or order corrected, and it shall not affect the time periods for any duty imposed by the decision or order.

(2) A party may correct typographical errors, omissions, or other non-substantial errors in its pleadings or documents through the filing of an errata notice, which shall conform to the rule governing pleadings.

GH. Notice of appeal:

(1) Notices of appeal of commission decisions shall be filed pursuant to applicable statutes, including but not limited to Sections 62-11-1, 63-7-1.1, 63-9-16, 63-9A-14, 63-9B-9, 63-9H-12, and 70-3-15 NMSA 1978.

(2) Notices of appeal shall be served on each commissioner, commissioners' advisors, chief ~~general~~ counsel, the commission's appellate specialist, advocacy staff, and all persons listed on the certificate of service for the docket from which the appeal is taken.

HH. Final order compliance filings and variances:

(1) Filings in compliance with, and motions for variances from, commission final orders shall be filed under the same docket number as that of the final order, unless otherwise ordered by the commission.

(2) Requests for extensions of time to meet compliance provisions contained in final orders shall be in writing and shall explain why an extension of time is requested. Requests shall be filed under the same docket number as that of the final order.

[1.2.2.36 NMAC - Rp, 1.2.2.37 NMAC, XX/XX/202~~65~~]

1.2.2.37 RECUSAL:

A. Recusal of a hearing examiner:

(1) A hearing examiner shall self-recuse when, in the hearing examiner's discretion, the hearing examiner determines that the hearing examiner is unable to make a fair and impartial decision, or in which the hearing examiner determines that there exists reasonable doubt about whether the hearing examiner is able to make a fair and impartial decision.

(2) Any party may file a motion to request that the hearing examiner self-recuse or for the commission to recuse the hearing examiner

(a) A party's motion shall be supported by an ~~affidavit~~ unsworn affirmation setting forth the alleged grounds for recusal.

(b) If the motion is for self-recusal and the hearing examiner declines to self-recuse, the hearing examiner shall respond within 30 days, or as otherwise ordered by the commission, addressing the ~~requirements~~ considerations of ~~Sub~~ Paragraphs (1a) through (4d) of Paragraph (3) of Subsection A of ~~62-19-7 NMSA 1978~~ 1.2.2.37 NMAC.

(c) If the motion is for commission recusal of the hearing examiner, then the commission shall promptly issue a determination.

B. Recusal of a commissioner:

(1) A commissioner shall self-recuse when, in the commissioner's discretion, the commissioner determines that the commissioner is unable to make a fair and impartial decision, or in which the commissioner determines that there exists reasonable doubt about whether the commissioner is able to make a fair and impartial decision.

(2) Any party may file a motion to request that the commissioner self-recuse.

(a) A party's motion shall be supported by an ~~affidavit~~ unsworn affirmation setting forth the alleged grounds for recusal.

(b) If the commissioner declines to self-recuse, the commissioner shall respond within 30 days addressing the requirements of ~~Sub~~ Paragraphs (1a) through (4d) of Paragraph (3) of Subsection ~~AB~~ of ~~62-19-7 NMSA 1978~~ 1.2.2.37 NMAC.

(c) Unless otherwise provided by law, no commissioner shall rule on or vote on a motion to recuse any other commissioner.

EXHIBIT A

[1.2.2.37 NMAC - Rp, 1.2.2.38 NMAC, XX/XX/202~~65~~]

~~1.2.2.38~~ **ARTIFICIAL INTELLIGENCE:**

~~A. A pleading or document submitted to the commission, the text of which was drafted, generated, or otherwise produced by or with the aid of AI, shall be clearly identified as such in a discrete statement within the pleading or document.~~

~~B. A party shall maintain records sufficient to identify the portion of the pleading or document which was drafted, generated, or otherwise produced by or with the aid of AI.~~

~~C. A party shall not file pleadings or documents that contain AI hallucinated statements of fact or law, including citations to authority that are fictitious or nonexistent, or statements unable to be corroborated.~~

~~D. A party's failure to conform to the requirements of this section, or failure to confirm the accuracy, veracity, or existence of a statement of law or fact that was drafted, generated, or otherwise produced by or with the aid of AI, is sufficient grounds for sanctions.~~

[1.2.2.38 NMAC - Rp, 1.2.2.39 NMAC, XX/XX/2025]

~~1.2.2.38~~⁸⁹ **DECORUM:**

A. Commission policy:

~~(1) The purpose of commission proceedings is to regulate and supervise public utilities in a way that is reasonable, prudent, and that promotes the public interest.~~

~~(12) Commission proceedings should be conducted with fitting dignity and decorum, in a manner conducive to undisturbed deliberation, indicative of their importance to the public and to the participants, and in an atmosphere that bespeaks the responsibilities of the commission.~~

~~(2) All persons present at commission proceedings shall adhere to the commission's decorum resolutions that the commission may adopt from time to time.~~

B. Attire:

~~(1) All persons present at commission proceedings except public comment hearings, whether in person or virtual, shall dress in a dignified manner at all times.~~

~~(2) The commission shall not permit attire or dress so flamboyant, disheveled, or revealing as to create a distraction to the orderly conduct of commission proceedings.~~

C. All persons present in person at commission proceedings shall:

~~(1) set their telephones, laptops, and other portable electronic devices to silent mode; and~~

~~(2) not use their telephones, laptops, and other portable electronic devices in any manner that disrupts a court proceeding.~~

~~**BD.** A person's failure to comply with the requirements of this section may subject that person, or the entity that the person represents, to sanctions.~~

~~**CE.** The commission or presiding officer may, at the commission's or presiding officer's discretion, remove any disruptive person from an in-person or virtual proceeding.~~

[1.2.2.3~~89~~⁹⁰ NMAC - N, XX/XX/202~~65~~]

~~1.2.2.39~~⁴⁰ **VARIANCE:**

A. Any person ~~or entity~~ may request a variance from a requirement of any rule or order by filing a motion in a pending docket for which the person ~~or entity~~ is a party, or by petition in a new docket.

B. A person shall support a variance request with an affidavit-unsworn affirmation signed by the person. An entity shall support a variance request with an affidavit-unsworn affirmation signed by an officer or general partner of the entity, or by an employee with authority to sign for the entity.

C. Any person ~~or entity~~ requesting a variance may include an additional request that the commission stay the portion of the rule or order specified in the variance request.

D. The commission may, at its discretion, require an informal conference or formal evidentiary public hearing prior to making its determination.

E. A motion or petition for variance shall:

(1) identify the section of the rule or order from which the variance is requested;

(2) describe the situation that necessitates the variance;

(3) describe the effect of complying with the rule or order on the person ~~or entity~~ if the

variance is not granted;

(4) describe the result that the variance may produce if granted;

(5) explain why the variance is in the public interest, and

EXHIBIT A

(6) be proposed in good faith.

F. Responses to petitions for a variance, and replies to responses, shall be controlled by Subsection ~~KC~~ of 1.2.2. ~~842~~ NMAC, except that the commission may permit responses by non-parties at its discretion.

G. The commission may, *sua sponte*, issue a variance from a requirement of any rule or ~~commission~~ order ~~for good cause if in the public interest~~, except when precluded by law.

H. The presiding officer may, *sua sponte*, issue a variance from a requirement of any procedural rule or order ~~of the presiding officer for good cause if in the public interest~~, except when precluded by law.
[1.2.2. ~~3940~~ NMAC - Rp, 1.2.2.40 NMAC, XX/XX/202~~65~~]

HISTORY OF 1.2.2 NMAC:

Pre NMAC History:

NMPUC Rule 110, Rules of Practice and Procedure, filed 10/4/93 (by former Public Utility Commission);
SCC 78-2, Order (no number), Docket No. 857, In the Matter of the Adoption of Rules of Practice and Procedure for all Cases Before the N.M. SCC, filed 10/24/78;
SCC 85-11, Rules of Procedure of New Mexico State Corporation Commission, filed 10/15/85 (by former NM State Corporation Commission).

History of Repealed Material:

17 NMAC 1.2, Public Utilities and Utility Services, Utilities General Provisions, Utility Division Procedures (filed 12/14/1998) repealed 9/1/2008.
18.1.2 NMAC, Transportation and Highways, Transportation General Provisions, Transportation Division Procedures (filed 12/10/2002) repealed 9/1/2008.

Other History:

NMPUC Rule 110, Rules of Practice and Procedure (filed 10/4/1993) and SCC 85-11, Rules of Procedure of New Mexico State Corporation Commission (filed 10/15/1985) were renumbered, reformatted, amended and replaced by 17 NMAC 1.2, Public Utilities and Utility Services, Utilities General Provisions, Utility Division Procedures, effective 12/31/1998.

That applicable portion of 17 NMAC 1.2, Public Utilities and Utility Services, Utilities General Provisions, Utility Division Procedures (filed 12/14/1998) and 18.1.2 NMAC, Transportation and Highways, Transportation General Provisions, Transportation Division Procedures (filed 12/10/2002) were renumbered, reformatted, amended and replaced by 1.2.2 NMAC, General Government Administration, Administrative Procedures, Public Regulation Commission Rules of Procedure, effective 9/1/2008.

TITLE 1 GENERAL GOVERNMENT ADMINISTRATION
CHAPTER 2 ADMINISTRATIVE PROCEDURES
PART 2 PUBLIC REGULATION COMMISSION RULES OF PRACTICE AND PROCEDURE

1.2.2.1 ISSUING AGENCY: New Mexico public regulation commission.
[1.2.2.1 NMAC – Rp, 1.2.2.1 NMAC, XX/XX/2026]

1.2.2.2 SCOPE: This rule applies to all commission proceedings. Other rules governing specialized proceedings or matters shall govern in the event of a conflict with this rule.
[1.2.2.2 NMAC - Rp, 1.2.2.2 NMAC, XX/XX/2026]

1.2.2.3 STATUTORY AUTHORITY: Sections 62-8-3, 62-13-2, 62-14-9.1, 62-14-10, 62-19-9, 62-19-21, 63-7-23, 63-9-11, 63-9A-5.1, 63-9A-11, 63-9B-5, 63-9H-10, and 70-3-13 NMSA 1978.
[1.2.2.3 NMAC - Rp, 1.2.2.3 NMAC, XX/XX/2026]

1.2.2.4 DURATION: Permanent.
[1.2.2.4 NMAC - Rp, 1.2.2.4 NMAC, XX/XX/2026]

1.2.2.5 EFFECTIVE DATE: [MONTH] [DAY,] 2026, unless a later date is cited at the end of a section.
[1.2.2.5 NMAC - Rp, 1.2.2.5 NMAC, XX/XX/2026]

1.2.2.6 OBJECTIVE: The objective of this rule is to establish procedures for handling matters that come before the commission within its jurisdiction.
[1.2.2.6 NMAC - Rp, 1.2.2.6 NMAC, XX/XX/2026]

1.2.2.7 DEFINITIONS: In addition to the definitions contained in Sections 3-29-2, 62-3-3, 62-14-2, 62-19-2, 63-9-2, 63-9A-3, 63-9H-3, and 70-3-12 NMSA 1978, as used in this rule:

A. Definitions beginning with “A”:

(1) **advisory staff** means the commission personnel assigned pursuant to 62-19-25 NMSA 1978 to advise and assist the commission, but who do not represent advocacy staff in proceedings before the commission, ;

(2) **applicant** means a person who files an application with the commission;

(3) **advocacy staff** means the commission personnel assigned pursuant to 62-19-25 NMSA 1978 to participate as a party in commission proceedings without being required to intervene; who advocate for policies and positions independently from the commission, hearing examiners, and advisory staff; and who do not have the right of statutory appeal; and

(4) **artificial intelligence (AI)** means a machine-based system or tool that can, for a given set of human-defined objectives or parameters, make predictions, recommendations, or decisions influencing real or virtual environments.

B. Definitions beginning with “B”: [RESERVED]

C. Definitions beginning with “C”:

(1) **commenter** means a person who enters an oral or written comment into the record of a proceeding before the commission or presiding officer but who is not a party to the proceeding;

(2) **complainant** means a person who files an informal or formal complaint alleging any action or omission of a person in violation of any law, rule, or order issued, enforced, administered, or promulgated by the commission, or who requests commission assistance to resolve any issue, within the commission’s jurisdiction, that the complainant has with a regulated person; and

(3) **corporation** means domestic and foreign corporations, limited liability companies, cooperative associations, sanitary projects act associations, water users associations, waterworks corporations, and foreign business trusts as those terms are defined in Section 3-29-2 and Chapter 53, NMSA 1978, that are subject to commission regulation.

D. Definitions beginning with “D”: document means, except as otherwise used in the provisions of this rule governing discovery and formal complaints, any submission in a formal proceeding, including pleadings, or which is required to be filed by commission rule or order outside a formal proceeding.

E. Definitions beginning with “E”:

EXHIBIT B

(1) **e-docket** means the commission's electronic docketing and document management system;

(2) **electronic** means relating to technology having electrical, digital, magnetic, wireless, telephonic, optical, electromagnetic, or similar capabilities;

(3) **electronic signature** means a full, printed name of the person responsible for the electronic version of the document by scanned or other electronic reproduction of the signature or by typing in the signature line the notation "/s/" followed by the name of the person signing the original document and including the email address of the person signing;

(4) **electronic storage media** means any physical device used to store electronic data; and

(5) **electronic filing** means the filing procedures for set forth in 1.2.2.10 NMAC.

F. Definitions beginning with "F":

(1) **file, filed, or filing** means submitting by email to the records bureau, unless otherwise permitted by Subsections D and B of 1.2.2.10 NMAC, and acceptance by the chief clerk or the chief clerk's designee; and

(2) **formal proceedings** means all matters to which the commission assigns docket numbers and enters on the docket for decision except for rulemaking proceedings prior to the issuance of a notice of proposed rulemaking.

G. Definitions beginning with "G": [RESERVED]

H. Definitions beginning with "H": hearing examiner means a person, except a commissioner, appointed by the commission to preside over any matter before the commission pursuant to Section 62-19-20 NMSA 1978.

I. Definitions beginning with "I":

(1) **informal proceedings** means any matters handled outside a formal proceeding by the commission or its advisory staff, advocacy staff, or consumer relations division, including informal complaints and rulemaking proceedings prior to the issuance of a notice of proposed rulemaking; and

(2) **intervenor** means a person permitted by the commission or presiding officer to participate as a party in a proceeding pursuant to 1.2.2.23 NMAC.

J. Definitions beginning with "J": JPEG means the "joint photographic experts group" electronic file type.

K. Definitions beginning with "K": [RESERVED]

L. Definitions beginning with "L": [RESERVED]

M. Definitions beginning with "M": mediator means a person assigned by the commission or presiding officer to facilitate resolution of disputes pending before the commission.

N. Definitions beginning with "N": [RESERVED]

O. Definitions beginning with "O": [RESERVED]

P. Definitions beginning with "P":

(1) **party** means a person who initiates a commission proceeding by filing an application, petition, or complaint; or whom the commission or presiding officer names as a respondent; or a person whom the commission or presiding officer grants leave to intervene; and a party is classified as an applicant, petitioner, complainant, respondent, intervenor, or advocacy staff;

(2) **PDF** means the "portable document format" electronic file type;

(3) **petitioner** means a person who files a petition with the commission;

(4) **pleading** means an application, petition, complaint, answer, motion, response to motion, exception, brief, or other formal written statement filed in any formal proceeding;

(5) **presiding officer** means a commissioner, or a hearing examiner, appointed to preside over any matter before the commission;

(6) **probable cause** means the legal standard that is satisfied when the record contains alleged facts that, if proven, would constitute a violation of any laws, rules, or other authorities within the commission's jurisdiction;

(7) **proceeding** means a process initiated for commission action;

(9) **proposed intervenor** means a person who files a motion for leave to intervene upon which the commission or presiding officer has not yet ruled, or which has not yet been deemed approved by operation of law; and

(10) **public hearing** means a proceeding that affords an opportunity for parties to present such evidence, argument, or other appropriate matters as the commission or presiding officer(s) deems relevant or material to the issues.

Q. Definitions beginning with “Q.”: [RESERVED]

R. Definitions beginning with “R”:

(1) **records bureau email address** means “prc.records@prc.nm.gov” or another records bureau email address, as provided on the commission’s website;

(2) **regular business hours** means 8:00 a.m. to 12:00 p.m. and 1:00 p.m. to 5:00 p.m., prevailing mountain time, Monday through Friday, excluding State holidays;

(3) **regulated entity** means a utility, telecommunications provider, community solar subscriber organization, or owner or operator of gas and hazardous liquid pipelines and underground facilities or one-call notification system that is subject to the jurisdiction of the commission; and

(4) **respondent** means a person against whom a complaint is filed or a person subject to the jurisdiction of the commission against whom the commission issues notice instituting a proceeding, investigation, or inquiry of the commission.

S. Definitions beginning with “S”: [RESERVED]

T. Definitions beginning with “T”: [RESERVED]

U. Definitions beginning with “U”: unsworn affirmation means a verification in lieu of an affidavit pursuant to 1-011(B) NMRA of the rules of civil procedure

V. Definitions beginning with “V”: [RESERVED]

W. Definitions beginning with “W”: [RESERVED]

X. Definitions beginning with “X”: [RESERVED]

Y. Definitions beginning with “Y”: [RESERVED]

Z. Definitions beginning with “Z”: [RESERVED]

[1.2.2.9 NMAC - Rp, 1.2.2.7 NMAC, XX/XX/2026]

1.2.2.8 GENERAL PROVISIONS:

A. Public records:

(1) Except when the commission or presiding officer directs otherwise, all pleadings, orders, communications, exhibits, or other documents shall become matters of public record as of the day and time of their filing.

(2) The commission shall permit any person to examine any such public record, unless subject to a protective order, or otherwise protectable under the Inspection of Public Records Act.

(3) Without written permission, no person shall take an original commission record from the commission’s premises.

(4) Arrangements to examine records or to obtain copies of records shall be made through the chief clerk or the chief clerk’s designee.

B. Fees:

(1) Filing fees for specific documents are:

(a) applications, petitions, and all other filings requiring a new docket number, except for formal complaints and advice notices: a fee of \$100.00 each applies, and is required at time of filing;

(b) formal complaints: a fee of \$25.00 each applies, and is required at time of filing; and

(c) advice notices: a fee of \$10.00 applies to each proposed rate, rule, or form and is required at time of filing.

(2) Electronically filed documents that are required by law to be submitted with a filing fee:

(a) unless the commission’s administrative services division director authorizes an alternative method of payment, the person electronically filing documents that require a filing fee shall include as an attachment to the filing transmittal email a scan (PDF) or photograph (JPEG) of the filing fee, made by check or money order payable to the commission, to show proof of payment at time of filing. The scan or photograph of the check or money order shall be a separate electronic document from the document to be filed;

(b) unless the commission’s administrative services division director authorizes an alternative method of payment, the person electronically filing documents shall promptly mail the check or money order to the commission (attn: Records Bureau, P.O. Box 1269, Santa Fe, NM 87504-1269) along with a copy of the cover page for the document that the fee is associated with to assist the chief clerk or chief clerk’s designee with making sure the filing fee is properly applied; and

EXHIBIT B

(c) unless the commission's administrative services division director authorizes an alternative method of payment, after receipt of the electronically filed document per Subparagraph (a) of Paragraph (2) of this subsection, the records chief clerk or chief clerk's designee shall issue a docket number (if applicable) and shall upload the document into e-docket.

(3) Unless the commission's administrative services division director authorizes an alternative method of payment, all application fees or other charges required by law to be paid along with the filing of a document shall be paid to the commission by check or money order at the time of filing unless the commission authorizes an alternative form of payment.

(4) No pleading or document shall be accepted without payment of required fees by the filing person, unless the commission or presiding officer directs otherwise.

(5) The fee for copies of papers, testimony, records, or audio recordings on electronic storage media shall be the charge set by the commission's inspection of public records policy posted on the commission's website.

(6) For paper copies of pleadings or documents that are not retrievable on electronic storage media maintained by the commission, the chief clerk or chief clerk's designee may charge a fee in accordance with the commission's inspection of public records policy posted on the commission's website.

C. Construction:

(1) Rule 1.2.2 NMAC, and any rules incorporated by reference, shall be construed to secure a reasonable and efficient determination of any issues.

(2) Rule 1.2.2 NMAC shall be construed liberally in the context of:

(a) informal proceedings; and

(b) informal and formal rulemaking proceedings.

D. Dockets:

(1) The commission shall maintain a docket for every formal proceeding, and each new formal proceeding shall be assigned a sequential docket number.

(2) Dockets are open to public inspection unless the commission otherwise orders.

(3) Pending and closed dockets

(a) E-docket shall list whether a docket is pending or closed.

(b) The commission shall close each pending docket at the conclusion of proceedings.

(c) A party, commenter, or other person shall not file or attempt to file any pleading or document into a closed docket unless such pleading or document is permitted or required by statute, rule, or order, or is accompanied by a motion to reopen the docket.

(d) The commission shall not accept the filing of any pleading or document in a closed docket and shall not upload such pleading or document to e-docket unless the filer shows that such pleading or document is permitted or required by statute, rule, or order, or is accompanied by a motion to reopen the docket.

E. Identification of communications: Communications shall contain the name, address, e-mail address if available, and telephone number of the communicator and an appropriate reference to any commission dockets pertaining to the subject of the communication.

F. Current information required: In all dockets, persons shall keep the information required by Subsection E of this section current, and when updating the information, shall indicate the docket numbers of all dockets in which the person is a party.

G. Computation of time: The time within which an act is to be done as provided in any statute, rule or order promulgated by the commission, or order issued by a presiding officer, when expressed in days, shall be computed by excluding the calendar day of the act or event from which the time begins to run and including the last calendar day, except that if the last calendar day be Saturday, Sunday, or a legal holiday, the act may be done in the next succeeding business day.

H. Extensions of time:

(1) Except as otherwise provided by law, the time by which any person is required or allowed to act under any rule or order may be extended by the commission or presiding officer *sua sponte* for good cause, or upon a motion made before the expiration of the period prescribed or previously extended.

(2) The filing of the motion to extend time does not toll the running of the prescribed time period.

I. Dismissal: The commission may dismiss, with or without prejudice, any proceeding if the party who initiated such proceeding fails to comply with statute, rule, or order, or for other good cause.

J. Automatic dismissal:

(1) Advisory staff may file and serve a notice of dismissal in any proceeding that is inactive for six months or longer due to the actions or omissions of the applicant, petitioner, or complainant without an order by the commission or presiding officer excusing the inactivity, or without other justification.

(2) If no response to the notice is filed within 15 days, the proceeding is automatically dismissed without prejudice and the docket shall close.

K. General response deadline:

(1) Any party may respond to an application, petition, or other filing commencing a new proceeding within 20 days unless a specific response deadline is addressed in another statute, rule, or order or notice of the commission or presiding officer.

(2) Any party may reply to a response filed pursuant to this subsection within seven days.

(3) A person filing a response or a reply pursuant to this subsection shall additionally include in the response or reply, or separately file, a motion for leave to intervene. Unless the commission or presiding officer denies a motion for leave to intervene, a timely motion for leave to intervene, not objected to by any party within 13 days of service of the motion for leave to intervene, shall be deemed approved by operation of law, provided that the commission or presiding officer after notice and public hearing, may thereafter terminate the party status of any intervenor for a failure to meet the requirements of Paragraph (2) of Subsection A of 1.2.2.23 NMAC.

(4) Responses and replies filed pursuant to this subsection shall be supported by unsworn affirmation.

(5) The commission shall not consider responses and replies filed by a person whose motion for leave to intervene is subsequently denied by the commission or presiding officer.

[1.2.2.9 NMAC - Rp, 1.2.2.8 NMAC, XX/XX/2026]

1.2.2.9 PRACTICE BEFORE THE COMMISSION:

A. An individual may appear as a party in person or through representation by an attorney licensed to practice law in New Mexico in informal and formal proceedings.

B. Entities:

(1) An entity may appear at informal proceedings and all rulemaking proceedings by an officer or employee of the entity, or by an attorney.

(2) An entity shall be represented by an attorney licensed to practice law in New Mexico in all formal proceedings, except formal rulemaking proceedings and as otherwise provided in Subsection D and E of 1.2.2.9 NMAC.

C. Commenters may appear in person or through representation by an attorney in any proceeding.

D. An attorney licensed in a jurisdiction other than New Mexico may appear at public hearings before the commission or presiding officer provided such non-resident attorney files a motion *pro hac vice* and is associated with and accompanied by an attorney licensed in New Mexico.

E. The following entities may be represented in all formal proceedings as provided:

(1) if the party is a class C or class D water utility as defined in 17.12.1 NMAC, or is a sewer utility subject to the requirements of 17.13.970 NMAC, and:

(a) if such a water or sewer utility is a corporation or LLC whose voting shares are held by a single shareholder or closely knit group of shareholders all of whom are natural persons active in the conduct of the business, it may be represented by an officer or general manager who has been authorized to appear on behalf of the corporation; or

(b) if such a water or sewer utility is a general partnership, and the partnership has fewer than ten partners, whether limited or general, except that a husband and wife are treated as one partner for this purpose, and all partners, whether limited or general, are natural persons, it may be represented by a general partner who has been authorized to appear on behalf of the general partnership;

(2) if the party is a water and sanitation district governed by the Water and Sanitation District Act, Section 73-21-1 NMSA 1978 *et seq.*, it may be represented by an officer or employee of the water and sanitation district who has been authorized by the water and sanitation district to appear on its behalf; and

(3) if the party is a utility submitting an application relating to securities pursuant to Subsection B of Section 62-6-8 NMSA 1978, it may be represented by an officer or employee of the utility who has been authorized by the utility to appear on its behalf; however, upon a finding by the commission or the presiding officer that there is good cause to hold a public hearing on such an application, the applying utility shall be represented in that proceeding by an attorney licensed to practice law in New Mexico.

F. The commission or presiding officer may require any person claiming to represent any other person as allowed by this rule to provide such verification or corroboration of the person's claimed representational authority as the commission or presiding officer may deem necessary.

G. Nothing in this rule shall be construed to prohibit a party from being represented in a formal proceeding by an attorney licensed to practice law in New Mexico when such representation is desired by the party or is required by law.

H. For matters involving owners and operators of gas and hazardous liquid pipelines and underground facilities, excavators, and one-call notification systems, attorney representation is regulated by Rule 18.60.4.11 NMAC.

[1.2.2.9 NMAC - Rp, 1.2.2.9 NMAC, XX/XX/2026]

1.2.2.10 FILING AND SERVICE:

A. Service:

(1) A person filing a pleading, notice, compliance filing, or other document ("filer") shall promptly serve it in accordance with this section, except as otherwise provided by this rule or order of the commission or presiding officer.

(2) Service shall be made by electronic transmission.

(a) If a filer does not have the ability to serve and be served electronically, the filer shall notify the commission, and service on and by that filer shall be made by:

(i) depositing the pleading, order, notice, or document in the mail (postage prepaid) using first class or express mail;

(ii) delivering the pleading, order, notice, or document to a commercial courier service for delivery; or

(iii) hand delivery.

(b) The date of service shall be the date of deposit in the mail, delivery to a commercial courier service, hand delivery, or electronic transmission during regular business hours.

(i) When a party may or must act within a specified time after service and service is made by mail, hand delivery, or commercial courier service, three days are added after the period would otherwise expire.

(ii) Intermediate Saturdays, Sundays, and legal holidays are included in counting the added three days.

(iii) If the third day is a Saturday, Sunday, or legal holiday, the last day to act is the next business day.

(3) A filer shall attach a certificate of service, listing, by name, each person and entity served and describing the manner and date of service, to the pleading, notice, compliance filing, or other document being filed and all copies served or filed, unless otherwise directed by the commission or presiding officer.

(a) When there is no associated docket or a new docket shall not be initiated upon filing, a filer shall serve a pleading, notice, compliance filing, or other document upon the commissioners, commissioners' advisors, advisory staff and advocacy staff directors, and apparent stakeholders. Service under this subparagraph shall be in addition to any other service required by statute, rule, or order.

(b) When the docket is closed, a filer shall serve a pleading, notice, compliance filing, or other document upon the certificate of service maintained by the commission, which shall be updated by the filer to include the current commissioners, commissioners' advisors, advisory staff, presiding officer, and advocacy staff. Service under this subparagraph shall be in addition to any other service required by statute, rule, or order.

(c) When a new docket is initiated upon filing, a filer shall serve the application, petition, pleading, notice, compliance filing, or other document that requires a new docket number upon a service list compiled by the filer designed to provide reasonable notice to commissioners, commissioners' advisors, advisory staff, advocacy staff, and apparent stakeholders. Service under this subparagraph shall be in addition to any other service required by statute, rule, or order.

(4) Service of pleadings, orders, notices, and documents on a party's named attorney is valid service upon the party for all purposes in the proceeding unless the commission or presiding officer directs otherwise.

(5) The commission shall maintain a service list for every docket. Service of pleadings, orders, notices, and documents shall be made upon all persons included on the commission's service list.

EXHIBIT B

(a) A service list shall include parties and their attorney of record in all adjudicative proceedings requiring intervention after the deadline for intervention has passed, and may be revised from time to time at the commission's discretion and upon formal or informal request.

(b) The presiding officer or advisory staff shall provide the service list to a party or member of the public upon request.

(6) When serving documents electronically each document shall be identified in the following four segment format: "[docket number]-[filing date]-[party name]-[pleading identifier]." Each name segment shall be separated by a hyphen, for example: "26-00999-UT-2026-12-31-PRC-Order."

(a) The docket number shall be the sequential number assigned by the records bureau.

(b) The filing date shall be in the form: "[four-digit year]-[two-digit month]-[two-digit day-of-month]."

(c) The party name shall utilize a single word or abbreviated form, *e.g.*, party initials, acronym, or other identifier.

(d) The pleading identifier shall identify the nature of the pleading by concise description, *e.g.* petition, application, complaint, answer, motion, brief, response, reply, *et cetera*.

B. Filing:

(1) A person serving a pleading, notice, compliance filing, or other document shall promptly file it in accordance with this rule, except as otherwise provided by law.

(2) Any complete, correctly filed pleading, notice, compliance filing, or other document shall be accepted by the chief clerk or chief clerk's designee and shall be uploaded in the appropriate identified docket number or other location in e-docket.

(3) Upon reasonable request, all filed documents shall be made available for inspection by the chief clerk or chief clerk's designee, or the commission.

(4) The filer shall ensure that the filed document or pleading is complete and accurate.

(5) The filer shall ensure that all filed documents and pleadings do not contain, or have properly redacted, any confidential information or "protected personal identifier information" as defined by 1-079 NMRA and Section 14-2-6 NMSA 1978.

(6) The filer shall ensure that all filed documents and pleadings do not contain, or have properly redacted, any protected information that is prohibited from disclosure by any state or federal law or regulation.

(7) For a document that contains redacted confidential information or personal protective identifier information, the filer shall deliver a non-redacted version to the records bureau in accordance with Paragraph (13) of Subsection C of 1.2.2.10 NMAC.

(8) For any documents or pleadings that contain protected personal identifier information or information prohibited from disclosure by state or federal law or regulation, the filer shall be solely liable for any damages that result from filing such information with the commission.

(9) Except as provided in Paragraph (2) of Subsection D of 1.2.2.10 NMAC, persons exempted from the electronic filing requirement may physically file documents or pleadings by:

(a) sending one original of the document or pleading to be filed via regular postal mail to: Records Bureau, P.O. Box 1269, Santa Fe, NM 87504; or

(b) to the records bureau at a commission office by delivery of one original of the document or pleading to the commission's chief clerk or chief clerk's designee during posted office hours.

C. Electronic filing:

(1) All entities shall make electronic filings except upon order of the commission or presiding officer.

(2) All persons shall make electronic filings if they have the ability to do so. Persons who lack the ability to make electronic filings are permitted to make physical filings.

(3) Electronically filed documents shall be emailed to the records bureau email address as PDF documents.

(4) Electronically filed documents shall be scanned with a regular signature or be electronically signed.

(5) Electronically filed documents shall include the email address of the person signing the document in the signature block, and if filing on behalf of a regulated entity, the email address of the regulated entity.

EXHIBIT B

(6) Electronically filed documents shall be combined into one complete document, and shall include accompanying consecutively numbered attachments, if any, except in cases where the PDF exceeds size limit restrictions, and if so, the document shall comply with Paragraph (8) of Subsection C of 1.2.2.10 NMAC herein.

(7) Electronically filed documents shall include a certificate of service evidencing service upon which individuals were served and by what manner of service.

(8) If a filer receives an “undeliverable” email due to attachment size limits, the filer shall re-send the PDF as a single document using a download link that allows for it to be downloaded from a cloud service. If it is impossible to re-send an oversized PDF via a download link it is permissible to split the PDF into multiple smaller sized files and email in batches with identifying numbers showing how the document should be combined (i.e. batch one of three, batch two of three, *et cetera*) so that the records chief clerk or chief clerk’s designee may properly assemble for uploading to e-docket.

(9) The filing date for an electronically filed document shall be the date the filing email is sent if emailed during regular business hours for the commission; if emailed outside of regular business hours the document will be considered received and filed on the next regular business day.

(10) No physical hard copies of electronically filed documents or multiple copies of physically filed documents are required to be submitted unless the commission or presiding officer directs the filer to do so. At the direction of the commission or presiding officer, a designated number of copies of any filed document shall be mailed, by regular postal service mail, to the commission at any number of designated addresses.

(11) A filer shall submit documents or pleadings to the commission or presiding officer in a native document format in addition to the PDF version filed with the records bureau if a native format exists, unless doing so is unreasonably burdensome or impractical.

(12) All electronic storage media submitted pursuant to this rule shall be compatible with the commission’s current computer capabilities. All electronic storage media filed shall have affixed thereto a label containing the appropriate docket number, the title of the pleading or document, and the name of the party making the filing.

(13) Confidential materials are an exception to the electronic filing requirement and shall be filed as follows:

(a) by mailing hard copies to the Records Bureau at P.O. Box 1269, Santa Fe, NM 87504, or by in-person delivery of hard copies to the commission’s chief clerk or chief clerk’s designee, subject to the terms of any applicable protective order;

(b) by submission to the records bureau in a separate sealed envelope within the mailing envelope; and

(c) by listing the docket number, docket caption, document name, name of filer, and other non-confidential identifying information on the outside of the sealed envelope.

(14) Parties are responsible for the timely filing of electronic documents to the same extent as with the filing of physical documents.

D. Date stamps on filed documents and pleadings:

(1) Electronic filings:

(a) The filing transmittal email for each filing, as received by the records bureau, shall be converted to a PDF and appended to every filed document or pleading before uploading to e-docket.

(b) The date and time on the filing transmittal email shall serve as the date stamp for the filed document or pleading.

(c) If the date and time on the filing transmittal email from the commission, a presiding officer, a party, or another person reflects a date or time that is outside of the commission’s regular business hours, the filed document or pleading shall be deemed to be filed the following business hour.

(d) Records bureau shall be included in the filing transmittal email.

(2) For a filing by mail or in person, the records bureau shall date stamp the original document or pleading with the date it is deemed filed before scanning and uploading to e-docket.

(a) The filer may request, and provide to the records bureau, any number of conformed copies of the filed document or pleading for the records bureau to stamp and return to the filer.

(b) If the filing is made by mail, the filer must provide a self-addressed stamped envelope for the return of the conformed copies.

E. Service contact emails:

(1) All regulated entities shall, at all times, keep a current email address on file with the commission's chief clerk or chief clerk's designee at which the regulated entity can receive service of pleadings, process, and other communication from the commission.

(2) All participants in pending dockets shall provide a current email address to the commission's chief clerk or chief clerk's designee at which they can receive service of pleadings, process, and other communication from the commission, unless the participant does not have access to email.

F. Rejection:

(1) The chief clerk or chief clerk's designee may reject pleadings and documents that are not in substantial compliance with these or other commission rules, orders of the commission or presiding officer, or applicable statutes within 30 days after filing.

(2) If rejected, the chief clerk or chief clerk's designee shall return the pleading or document with an indication of the deficiencies.

(a) A copy of the rejected pleading or document shall be retained by the chief clerk or chief clerk's designee as a public record.

(b) Acceptance of a pleading or document for filing is not a determination that the pleading or document complies with all requirements of the commission or presiding officer and is not a waiver of such requirements.

(3) Rejected pleadings or documents shall not be uploaded to e-docket and shall not become part of the record proper. If a pleading is uploaded to e-docket and later rejected, the chief clerk or chief clerk's designee shall remove it from e-docket.

G. Amendments and withdrawal of pleadings and supporting documents:

(1) Except in the case of formal complaints, pleadings may be amended or withdrawn only with leave of the commission or presiding officer and upon such conditions as the commission or presiding officer may deem appropriate.

(2) Formal complaints may be amended without leave at any time prior to the commission's issuance of a probable cause determination.

(3) Amendments to any pleading except a formal complaint shall not broaden the scope of the issues originally filed unless the commission or presiding officer exercises the discretion to allow such an amendment.

(4) Upon any amendment or withdrawal of a pleading, the commission or presiding officer may require a supplementary public notice.

(5) Direct testimony and exhibits filed may be amended or withdrawn by motion only with leave of the commission or presiding officer, who may take into consideration, among other things, any delay or prejudice to the commission or the parties which would result from the granting of the motion.

(a) The commission or presiding officer may grant or deny the motion or grant the motion only upon such conditions as are deemed appropriate.

(b) Upon any amendment or withdrawal, the commission or presiding officer may require a supplementary public notice.

(6) A copy of any withdrawn filing shall be retained by the chief clerk or chief clerk's designee as a public record on e-docket.

[1.2.2.10 NMAC - Rp, 1.2.2.10 NMAC, XX/XX/2026]

1.2.2.11 FORM OF PLEADINGS:

A. Contents: All pleadings shall be in writing, be paginated, and, if relevant, contain:

- (1) a concise and explicit statement of the authorization or other relief sought;
- (2) a concise and explicit statement of the legal grounds for the pleading;
- (3) the exact legal name, mailing address, principal place of business, email address, and telephone number of each proponent of the pleading and the proponent's attorney, if applicable;
- (4) a concise and explicit statement of the facts upon which the proponent relies;
- (5) a table of contents, if 15 pages long or longer;
- (6) a caption for the proceeding;
- (7) the docket number, but pleadings initiating new proceedings shall leave a space for the docket number to be assigned by records bureau;
- (8) a title; and
- (9) a signature of the proponent of the pleading or the proponent's attorney.

EXHIBIT B

(a) The signature of the proponent of the pleading or the proponent's attorney constitutes a certification that the signer has read the pleading, and that to the best of the signer's knowledge, information, and belief, there are sufficient grounds to support the pleading; and that the pleading is not interposed for delay, harassment, or other obstruction of the proceeding.

(b) The commission or presiding officer shall strike an unsigned pleading unless it is signed promptly after the omission is called to the attention of the proponent or the proponent's attorney.

B. Supporting exhibits:

(1) All pertinent and relevant data, exhibits, illustrations, and prepared testimony, if required by this or any other rule or order, shall be filed along with the pleading.

(2) If supporting exhibits consist of tables or graphs, the specific formulae and equations used to derive the tables or graphs shall be attached as part of the supporting exhibit.

(3) Failure to submit all direct testimony and exhibits in support of a proposed tariff change, application, or petition at the time of filing, if required by rule or order, may result in a rejection of the pleading or document without prejudice.

(4) Failure to comply with an order requiring the filing of testimony and exhibits may result in the rejection of the pleading or document without prejudice.

C. Form of papers:

(1) Applications, briefs, complaints, motions, petitions, and all other pleadings filed with the Commission shall conform to the requirements of Subsections A, B, C, and E of Rule 12-305 NMRA.

(2) Word processor-generated applications, briefs, complaints, motions, petitions, and all other pleadings filed with the Commission shall be:

(a) entirely composed in the times new roman font;

(b) partially composed in 12-point font size for the caption, heading(s), signature block, and body text;

(c) partially composed in 10.5-point font size for the footnote text; and

(d) optical character recognition compatible.

(3) Citations to authorities shall generally conform to the requirements of Rule 23-112 NMRA.

(4) Exceptions:

(a) Interrogatories and answers to interrogatories shall conform to the form and font size requirements of this subsection, except that they may be single-spaced, unless the commission or presiding officer otherwise directs.

(b) Exhibits shall conform to the requirements of Subsection J or 1.2.2.35 NMAC.

(c) Written testimony shall conform to the requirements of Subsection I of 1.2.2.34 NMAC.

D. Noncompliance:

(1) Errors or defects in pleadings which do not mislead or affect the substantial rights of the parties involved may be excused at the discretion of the commission or presiding officer.

(2) A party shall confirm the accuracy, veracity, and existence of statements of law or fact asserted in a pleading and is responsible for the accuracy, veracity, and existence of the substance of such statements in its pleadings. A failure to confirm, or a failure of the accuracy, veracity, and existence of the substance in a pleading, is sufficient grounds for sanctions to be imposed.

E. A pleading filed to initiate a proceeding in a new docket shall be made in the form of a petition, application, or formal complaint.

[1.2.2.11 NMAC - Rp, 1.2.2.11 NMAC, XX/XX/2026]

1.2.2.12 MOTIONS:

A. Motions generally:

(1) A party may file a motion at any time during the course of a proceeding while the docket is pending.

(a) If the grounds for a motion are known to the movant prior to any scheduled public hearing, the motion shall be made prior to the public hearing except upon good cause shown.

(b) A movant shall not file a motion for an undocketed matter or attempt to initiate a proceeding in a new docket by filing a motion.

(2) Any motion made prior to public hearing shall be made in writing. The commission or presiding officer may require that a motion made orally during a public hearing be filed in writing.

EXHIBIT B

(3) A motion shall clearly state the relief sought, the grounds therefore, and whether the motion is opposed; and if so, by whom it is opposed.

(4) All motions not specifically acted upon shall be deemed disposed of consistent with the final order in the proceeding.

(5) A motion based on factual allegations that do not appear of record shall be supported by unsworn affirmation attached to the motion.

(6) A motion shall not be filed in a closed docket unless it is a motion to reopen the docket, accompanied by a motion to reopen the docket, or permitted by statute, rule, or order.

(7) In proceedings assigned to a presiding officer, motions shall be made to the presiding officer, and motions shall not be made to the commission unless the presiding officer gives express permission or as otherwise permitted by statute, rule, or order.

(8) A movant shall promptly file a motion once grounds for the motion are known to the movant.

(9) A non-party may file a motion pursuant to this subsection if accompanied by a motion to intervene.

(10) A motion 15 pages long or longer shall include a table of contents and a table of authorities.

B. Motions to dismiss:

(1) A party may, at any time, move to dismiss a portion or all of a proceeding for lack of jurisdiction or probable cause, failure to meet the burden of proof, failure to comply with statute or rule of the commission, failure to state a claim upon which relief can be granted, or for other good cause.

(2) The presiding officer may recommend dismissal of a proceeding, or the commission may dismiss a proceeding, for lack of jurisdiction or probable cause, failure of a party to meet its burden of proof, failure of a party to comply with statute or rule of the commission, failure of a party to state a claim upon which relief can be granted, or for other good cause.

C. Responses and replies to motions:

(1) Unless otherwise provided by this rule or order of the commission or presiding officer, the following requirements shall apply.

(a) A non-party shall not respond and shall not be permitted to respond to a motion or reply to a response.

(b) A party wishing to respond to a motion shall file a response within 13 days of service of the motion.

(c) A party wishing to respond to a motion made within 13 days of or during a public hearing shall file a response within such time as directed by the commission or presiding officer.

(d) A party shall not file a reply to a response to a motion without leave of the commission or presiding officer. A party's motion for leave to reply shall be filed within 7 days of the response and the party's reply shall be attached to the motion.

(e) Notwithstanding the foregoing, on a motion pertaining to discovery requests or the answers thereto, including but not limited to a motion to compel, a motion for sanctions and a motion for a protective order, a party may file a response within eight days of service of the motion.

(2) Failure to make a timely response shall be deemed a waiver of the right to respond.

(3) Written responses based on factual allegations that do not appear of record shall be supported by unsworn affirmation filed along with the response.

D. Briefs:

(1) A motion seeking extensions of time or continuances, and like motions directed to the discretion of the commission or presiding officer in procedural matters, may include briefs.

(2) Unless otherwise provided in this rule or waived by the commission or presiding officer, any other motion, including any substantive motion, shall include briefs, including points and authorities, addressed to the issues raised in the motion.

(3) Responses to a motion shall include briefs, including points and authorities, addressed to the issues raised in the motion.

E. Opposed and unopposed motions:

(1) The movant shall make a good faith effort to determine whether a substantive motion will be opposed.

(2) If a substantive motion will not be opposed, the movant shall so state in the motion and need not file a brief in support of the motion.

(3) An opposed motion shall state affirmatively that concurrence of other parties has been requested but denied, or it shall state why no request for concurrence was made.

(4) The movant shall not include the commission, presiding officer, or advisory staff on any email communications seeking the positions of parties.

(5) The requirements of Paragraphs (1) to (3) of Subsection E of 1.2.2.12 NMAC shall not apply to non-substantive motions.

F. Oral argument:

(1) A motion shall be decided without oral argument or an evidentiary public hearing unless the commission or presiding officer directs otherwise.

(2) Oral argument or an evidentiary public hearing on a motion may be conducted at the discretion of the commission or presiding officer.

(3) A party waives the opportunity to request oral argument or an evidentiary public hearing on a motion unless the request is stated in the motion or response to the motion.

[1.2.2.12 NMAC - Rp, 1.2.2.12 NMAC, XX/XX/2026]

1.2.2.13 COMPLAINTS:

A. The consumer relations division shall not accept an informal complaint from a person until the person has made a good faith effort to resolve the controversy directly with the regulated entity, unless the controversy is health or safety related. The consumer relations division may waive this requirement for good cause.

B. The commission shall not accept a formal complaint from a person until the person has made a good faith effort to resolve the controversy with the regulated entity through the informal complaint process, unless the controversy is health or safety related. The commission may waive this requirement for good cause.

C. Filing without a fee; in forma pauperis: The commission shall authorize the commencement of any complaint filed by an individual without the payment of fees and costs or security if the individual files an unsworn affirmation that the individual is unable to pay such costs or security.

D. Alternative dispute resolution: The commission may order the following mechanisms to resolve complaints or streamline matters before the commission:

- (1) settlement conferences;
- (2) mediation;
- (3) arbitration;
- (4) consent calendars;
- (5) consumer relations division decisions; or
- (6) other dispute resolution means.

E. Discontinuance of service prohibited:

(1) A regulated entity respondent shall not discontinue service to a customer or issue a notice of discontinuance of service related to the controversy while a complaint is pending, except as otherwise authorized by law or commission rule or if requested by the customer.

(2) Complainant shall continue to pay charges which are not in dispute on time and in full or complainant shall be subject to other applicable commission rules regarding disconnection or discontinuance of service.

F. Relief: The commission may dismiss complaints seeking relief solely in the form of monetary damages.

D. Prerequisite:

(1) The submission of an informal complaint is a prerequisite to filing a formal complaint, unless waived by the commission or consumer relations division for good cause.

(2) When an informal complaint is submitted, the complainant shall complete the informal complaint process prior to filing a formal complaint or seeking other commission action or relief.[1.2.2.13 NMAC - Rp, 1.2.2.13 NMAC, XX/XX/2026]

1.2.2.14 INFORMAL COMPLAINTS:

A. Generally:

(1) The commission's consumer relations division shall process informal complaints against regulated persons.

(2) A commission employee who receives an informal complaint from a member of the public shall refer it to the consumer relations division.

EXHIBIT B

(3) Informal complaints against owners and operators of gas and hazardous liquid pipelines and underground facilities and one-call notification systems shall be submitted directly, as appropriate, to the pipeline safety bureau.

B. Initiation:

(1) A person may initiate an informal complaint by letter, electronic mail, or other writing, via the commission's website at "prc.nm.gov", by telephone, or in person at the offices of the consumer relations division of the commission.

(2) The consumer relations division shall assist persons making informal complaints by telephone or in person in creating a written record.

(3) The consumer relations division shall endeavor to resolve informal complaints by correspondence or conference with the persons affected.

(4) Informal complaints do not toll the running of any limitations period.

C. Contents:

(1) An informal complaint shall set forth:

(a) the name, telephone number, email address, utility account number if any, and address of the complainant;

(b) the name and address of the respondent against whom the informal complaint is made;

(c) the nature of the informal complaint in a concise and explicit manner;

(d) a brief statement of the facts forming the basis of the informal complaint;

(e) the relief requested; and

(f) whether the complainant attempted to resolve the informal complaint with the respondent.

(2) The written informal complaint need not contain an affidavit or unsworn affirmation.

(3) If the informal complaint does not initially contain the information described in this paragraph, a member of consumer relations division shall contact the complainant to attempt to obtain the missing information.

D. Commission investigation of informal complaint:

(1) Upon receipt of an informal complaint, the consumer relations division shall, when appropriate, notify the respondent within a reasonable period of time that an informal complaint has been submitted against it. The consumer relations division shall provide the respondent with a copy of the informal complaint and require an answer from the respondent.

(2) The consumer relations division shall investigate the complaint and notify the complainant and the respondent of the results of the investigation within 60 days of receiving the answer. The commission may extend the time for good cause.

E. If the consumer relations division is unable to resolve an informal complaint to the satisfaction of the complainant or respondent, either party may, within 10 days after receipt of the results of the investigation:

(1) request mediation pursuant to 1.2.2.17 NMAC;

(2) request arbitration pursuant to 1.2.2.18 NMAC; or

(3) file a formal complaint pursuant to 1.2.2.15 NMAC.

F. The filing of an informal complaint or the involvement of consumer relations division shall not relieve or excuse a respondent from performing any legal duty required by statute or rule.
[1.2.2.14 NMAC - Rp, 1.2.2.14 NMAC, XX/XX/2026]

1.2.2.15 FORMAL COMPLAINTS:

A. Generally:

(1) Formal complaints shall conform to the requirements of 1.2.2.11 NMAC.

(2) A formal complaint shall be accompanied by the filing fee required in Section 1.2.2.8 NMAC and Subsection B of Section 62-13-2 NMSA 1978. Pursuant to Section 62-13-2.1 NMSA 1978, the commission may order that the filing fee be refunded if the commission dismisses the complaint for lack of probable cause and determines that the complainant filed the complaint in good faith.

(3) The filing of a formal complaint shall commence a formal proceeding.

(4) A formal complaint shall allege that a regulated entity has violated a law, rule, order, tariff, certificate of public convenience and necessity, or operating authority promulgated or enforced by the commission or under the commission's jurisdiction.

EXHIBIT B

(5) A formal complaint may be filed by e-mail pursuant to the rules of the commission governing electronic filing and service.

(6) If a formal complaint is filed pursuant to Subsection E of 1.2.2.14 NMAC, it shall be filed within 10 days of receiving the results of the consumer relations division's investigation.

B. A formal complaint shall contain:

- (1) a concise and explicit statement of the relief sought;
- (2) a concise and explicit statement of the facts which the complainant alleges show a violation;
- (3) a concise and explicit statement of the evidence that the complainant possesses or may obtain through discovery to prove the alleged violation;
- (4) an identification of any laws, rules, orders, tariffs, certificates of public convenience and necessity, or operating authorities alleged to have been violated;
- (5) a concise and explicit statement describing the efforts made by the complainant to resolve the controversy with the respondent prior to the submission of the formal complaint.
- (6) the name, mailing address, email address, utility account number if any, and telephone number of the complainant and complainant's attorney if any;
- (7) the name, mailing address, and telephone number of the respondent, if known; and
- (8) an unsworn affirmation containing the following statement signed by the complainant: "Under penalty of perjury, the factual allegations in the complaint are true and correct to the best of my knowledge and belief."

C. Service of complaints; answer:

- (1) A complainant shall file a formal complaint with the commission pursuant to Subsection C of 1.2.2.10 NMAC and the commission shall serve it upon the respondent.
- (2) The respondent shall file an answer within 20 days of service of the formal complaint.
- (3) The answer may contain an offer to satisfy the formal complaint as provided in Subsection D of 1.2.2.15 NMAC.
- (4) The complainant shall file with the commission and serve the respondent with notice of any amendments to the formal complaint.
- (5) If an amendment to a formal complaint is filed before the answer is filed, the respondent's time within which to answer shall be 10 days from the date of service of the amendment or the period set forth in the notice, whichever period is longer.

D. Satisfaction of complaint:

- (1) If the respondent desires to satisfy the controversy raised in the formal complaint, the respondent's answer shall contain a statement of the relief which the respondent offers, a copy of which shall be contemporaneously served upon the complainant.
 - (a) Upon complainant's acceptance of an offer and notice to the commission, the formal complaint may be dismissed.
 - (b) Upon complainant's rejection of an offer, the commission may approve the offer if the commission determines it to be a reasonable and prudent form of relief and resolution to the formal complaint.
- (2) If the commission approves a partial settlement of the formal complaint, the complainant may proceed with the remaining issues.
- (3) If the commission dismisses a formal complaint in whole or in part because the formal complaint has been satisfied, the commission may continue or initiate further proceedings if the issues raised in the formal complaint involve a general matter of public or customer interest.

E. Contents of answers:

- (1) The answer shall contain a concise and explicit statement of the respondent's defenses to each claim asserted.
- (2) The respondent shall admit or deny the averments upon which the complainant relies. If the respondent is without knowledge or information sufficient to form a belief as to the truth of an averment, the answer shall so state and this shall have the effect of a denial.
- (3) If the answer contains factual allegations, the answer shall include an unsworn affirmation.

F. Disposition of complaint. Throughout the course of formal complaint proceedings, the commission shall evaluate jurisdiction, probable cause, and compliance with this rule, and may, as appropriate:

- (1) grant the relief requested in whole, in part, or conditionally;
- (2) grant the relief offered by the respondent in whole, in part, or conditionally;

- (3) grant relief as determined by the commission;
- (4) dismiss the formal complaint in whole or in part;
- (5) set further proceedings on the formal complaint or on the remaining issues in the formal complaint; or
- (6) appoint a hearing examiner to preside over the formal complaint or over the remaining issues in the formal complaint.

G. Notice of public hearing:

(1) When a public hearing is required by law, rule, or order, at least 20 days prior to an initial public hearing on the merits of any formal complaint, the commission shall serve a notice of such initial public hearing upon the respondent and the complainant.

(2) The commission shall not hold a public hearing until after the commission has determined that probable cause exists to proceed with the complaint.

(3) If it is determined that the subject matter of the complaint involves a matter of general public interest, the commission or presiding officer may require a notice of the public hearing.

(a) If required, the notice shall be published at least 20 days prior to the public hearing pursuant to Subsection C of 1.2.2.24 NMAC.

(b) Costs of notice publication shall be borne by the party required to publish notice.

H. Participation of advocacy staff: The commission or presiding officer may require that advocacy staff participate at any stage in the proceeding.

I. Dismissal:

(1) The commission shall dismiss a formal complaint for lack of jurisdiction or probable cause.

(2) The commission may dismiss a formal complaint at any time upon finding an unexcused non-compliance with statute, rule, or order, or for other good cause.
[1.2.2.15 NMAC - Rp, 1.2.2.15 NMAC, XX/XX/2026]

1.2.2.16 SETTLEMENT CONFERENCES:

A Nothing in this rule shall be construed to limit or discourage voluntary negotiations amongst parties to any proceeding.

B The commission may require parties to attend a settlement conference.

C Parties may, at any time, move for an order designating a mediator to assist in the resolution of issues in controversy, or if the commission deems it appropriate, the commission may on its own motion designate a mediator. If the commission designates a mediator, the mediator shall meet the criteria of 1.2.2.17 NMAC and shall have the power to pursue alternative dispute resolution techniques consistent with the objective of facilitating a voluntary resolution amongst the parties of all or some of the issues in controversy.

C. Result of settlement conference:

(1) If the parties reach a settlement agreement, then they shall file a stipulation in accordance with the provisions of this rule governing stipulations. The stipulation shall be submitted to the presiding officer or to the commission in accordance with this rule.

(2) If the parties are unable to reach an agreement through mediation, then the mediator shall issue a statement that the settlement conference was held and the docket shall proceed.

D. Inadmissibility of settlement offers: Offers of settlement and statements made in furtherance of settlement made in the course of a settlement conference are privileged and, except by agreement among all parties, shall not be admissible as evidence in any formal public hearing before the commission or presiding officer nor disclosed by the mediator voluntarily or through compulsory process.

E. Proceeding not automatically stayed: Conducting a settlement conference does not stay a formal proceeding unless the commission or presiding officer issues an order holding the procedural schedule in abeyance.

[1.2.2.16 NMAC - Rp, 1.2.2.16 NMAC, XX/XX/2026]

1.2.2.17 MEDIATION:

A. Designation of mediator: If a party makes a request for mediation, or on its own motion, the commission may, in its discretion, designate a mediator.

B. Requirements:

(1) The mediator may be a permanent or temporary employee of the commission or another state agency or any other individual, who is qualified in the matter to be mediated and is acceptable to the parties. If

EXHIBIT B

the parties request a mediator who is not an employee of the commission, the commission shall not approve the request unless the parties agree in writing to bear, as their own, the costs of obtaining the mediator's services.

(2) The mediator shall not be the presiding officer who is assigned to the docket.

(3) The mediator shall not have official, financial, or personal conflicts of interest with respect to the issues in controversy, unless such interest is fully disclosed in writing to all parties at the time the mediator is assigned by the commission and all parties agree that the mediator may serve.

(4) The mediator shall not, subsequent to serving as a mediator, participate in the proceeding as a presiding officer, advisory staff, advocacy staff, or expert witness, or as an attorney, expert witness, or representative of any party to the proceeding.

C. The mediator shall not discuss the mediation with any commissioner or presiding officer.

D. Notice of mediation:

(1) If a mediator is appointed, the mediator shall notify the parties of the time and place of the mediation and may take reasonable and proper actions to assist the parties reach settlement.

(a) The mediator may require attorneys to have their clients to be present at the mediation or to be accessible by telephone or video.

(b) The mediation shall be held as directed by the mediator.

(c) The mediation shall be held within 20 days of the date of the notice unless a party shows good cause for an extension or as otherwise directed by the mediator.

(2) Nothing in this rule shall be construed to limit additional mediations or settlement conferences.

(3) The commission or presiding officer may suspend the procedural schedule until the mediation is complete.

E. If the parties reach a settlement agreement for their dispute, in appropriate cases, the mediator shall assist the parties in preparing a writing to reflect that agreement. If the parties do not reach a settlement agreement for their dispute, the mediator shall terminate the mediation and notify the commission.

[1.2.2.17 NMAC - Rp, 1.2.2.17 NMAC, XX/XX/2026]

1.2.2.18 ARBITRATION:

A. A party (claimant) may request arbitration of any dispute.

(1) The claimant's request shall be filed and served pursuant to 1.2.2.10 NMAC.

(2) The claimant's request shall include a concise statement of the grounds for the arbitration, the remedy sought, and an acknowledgment that the claimant has read 1.2.2.19 NMAC and agrees to be bound by its terms.

B. A regulated entity respondent shall not discontinue service to a claimant or issue a notice of discontinuance relating to the matter in dispute once the matter is in arbitration, except as otherwise authorized by law or commission rule. Claimant shall continue to pay charges that are not in dispute on time and in full or claimant shall be subject to other applicable commission rules regarding disconnection or discontinuance of service.

C. Respondent shall respond to a claimant's request for arbitration within 10 days.

(1) The response shall state whether respondent agrees to arbitration of the dispute.

(2) If the respondent agrees to arbitration, the respondent shall include in the response a concise statement of respondent's position with regard to the merits of the dispute and an acknowledgment that the respondent has read 1.2.2.19 NMAC and agrees to be bound by its terms. If the respondent does not agree to arbitration, the respondent shall so state in the response.

(3). If the respondent either fails to respond to a request for arbitration or does not agree to arbitration, the claimant retains the right to file a formal complaint.

D. Requirements:

(1) If both the claimant and the respondent agree to arbitration, the commission or presiding officer shall designate an arbitrator.

(2) The arbitrator may be any individual who is qualified in the subject matter to be arbitrated, disinterested in the dispute, and is acceptable to the parties to the arbitration.

(3) The designated arbitrator shall have no official, financial, or personal conflict of interest with respect to the issues in controversy, unless such interest is fully disclosed in writing to all parties at the time of the commission's or presiding officer's designation and all parties agree that the arbitrator may serve.

(4) The parties shall be required to indicate their consent in writing to the designated arbitrator within 10 days of the date of the commission's or presiding officer's letter of designation.

(5) If the parties request an arbitrator who is not an employee of the commission, the commission shall not approve the request unless the parties agree in writing to bear the costs as their own.

E. Any employee of the commission designated to arbitrate the matter under these provisions shall not participate in a subsequent proceeding on the dispute as a presiding officer, advisory staff, advocacy staff, staff counsel, or expert witness, or as an attorney, expert witness, or representative of any party to the proceeding.

F. The commission may assign docket numbers to arbitration proceedings for purposes of record management but the proceeding remains an informal proceeding under this rule.

[1.2.2.18 NMAC - Rp, 1.2.2.18 NMAC, XX/XX/2026]

1.2.2.19 ARBITRATION PROCEDURES:

A. Timeline for resolution:

(1) Once designated and approved by the parties, the arbitrator shall proceed to render a decision in the arbitration proceeding within a reasonable period of time, not to exceed 90 days, unless otherwise ordered by the commission or presiding officer.

(2) If the arbitrator at any time determines that it is unlikely that the dispute can be resolved without substantially affecting the interests of other ratepayers or the public, the arbitrator may so inform the parties and terminate the proceeding without prejudice to the claimant's right to file a formal complaint.

B. Arbitration procedures:

(1) The arbitrator shall fix a time and place for a hearing and shall serve notice of the public hearing on all parties at least 10 days in advance of the public hearing.

(2) The arbitrator may issue subpoenas for the attendance of witnesses and for the production of books, records, documents, and other evidence, and shall have the power to administer oaths.

(3) The parties may offer such evidence as the arbitrator may deem necessary for an understanding and determination of the dispute.

(4) The arbitrator shall decide the relevancy and materiality of the evidence offered, and the evidence's conformity to the New Mexico rules of evidence or to the rules of evidence contained in this rule is not necessary.

(5) No stenographic or electronic record shall be made of the testimony at the public hearing unless requested by a party, who shall bear the cost of the record.

C. **Discovery:** Discovery may be permitted but only with leave of the arbitrator who shall not allow discovery which unduly complicates, burdens, or impedes the expeditious and informal nature of the proceeding.

D. Inspection or investigation:

(1) Whenever the arbitrator deems it necessary to make an inspection or investigation in connection with the arbitration, the arbitrator shall so advise the parties, who may be present at the inspection or investigation.

(2) In the event that one or more of the parties are not present, the arbitrator shall make an oral or written report to the parties and afford them an opportunity to respond.

E. Decision:

(1) After the close of the public hearing, the arbitrator shall issue a brief written decision.

(2) The arbitrator's decision is not required to have findings of fact and conclusions of law.

(3) The arbitrator's decision shall be binding on the parties and can be implemented by the commission to the extent such implementation is necessary.

(4) The arbitrator's decision shall not be a decision of the commission and shall have no precedential effect.

F. Inadmissibility of settlement offers:

(1) Unless agreed to by all the parties, no statements, admissions, or offers of settlement made during the course of arbitration proceedings shall be admissible as evidence in any formal proceeding, nor shall the arbitrator disclose the same voluntarily or through discovery or compulsory process.

(2) Nothing in this section shall preclude the arbitrator from issuing a brief written decision describing the parties' conclusions and the bases for their statements, admissions, or offers of settlement.

G. **Commission not bound:** Nothing in this rule shall be construed to mean that the commission has waived its review of any decision or that the commission consents to be bound by arbitration.

[1.2.2.19 NMAC - Rp, 1.2.2.19 NMAC, XX/XX/2026]

1.2.2.20 FORMAL STIPULATIONS:

A. Generally:

(1) The commission recognizes that the parties to a proceeding may reach compromises and seek permission to settle some or all issues in the proceeding by filing a stipulation in accordance with the commission's or presiding officer's procedural schedule.

(2) Stipulations shall be binding only if approved by the commission.

B. Uncontested stipulations:

(1) If all parties enter into a stipulation seeking permission to settle some or all of the issues in a proceeding, they shall promptly file the stipulation.

(2) When a stipulation is filed and presented that would impact customer rates, a reconciliation statement shall accompany it showing the dollar impact of the stipulation and the resulting rates. This reconciliation statement shall contain the information listed in Subsection F of 1.2.2.35 NMAC.

(3) Upon receipt of a stipulation seeking permission to settle substantive issues, the commission or presiding officer shall conduct a public hearing to determine whether the stipulation should be approved by the commission, provided that, for good cause, the commission or presiding officer may forego a public hearing. The signatories to the stipulation have the burden of supporting the stipulation with sufficient evidence and legal argument to carry their burdens of proof and persuasion.

(4) In the event that all parties enter into a stipulation for one or more issues but not of the entire case, the commission or presiding officer may, in their discretion, combine the public hearing on the stipulation with the public hearing on the contested issues.

(5) In dockets assigned to a presiding officer, the presiding officer may:

- (a) determine that the stipulation should not be certified to the commission, in which event the presiding officer may indicate to the parties whether additional evidence or legal argument in support of the stipulation or amendment to the stipulation may cure any defect identified by the presiding officer; or
- (b) certify the stipulation to the commission for its review.
 - (i) The certification shall include a recommended disposition of the stipulation.

- (ii) Exceptions to the certification may be filed within 10 days of the date that the stipulation is certified to the commission, unless the commission or presiding officer directs otherwise.

- (iii) Responses to exceptions may be filed within 10 days of the date that the exceptions were filed, unless the commission or presiding officer directs otherwise.

C. Contested stipulations:

(1) If multiple parties, but not all parties, enter into a stipulation seeking permission to settle some or all of the issues in a proceeding, they shall promptly file the stipulation.

(2) When a stipulation is filed and presented in a rate case, a reconciliation statement shall accompany it showing the dollar impact of the stipulation and the resulting rates. This reconciliation statement shall contain the information listed in Subsection F of 1.2.2.35 NMAC.

(3) The opponents of the stipulation shall file statements briefly setting forth the grounds upon which they oppose the stipulation in writing within five days after the stipulation is served, or orally at the public hearing, whichever occurs first. The signatories to the stipulation shall file responses as directed by the commission or presiding officer.

(4) The commission or presiding officer shall schedule the stipulation for a public hearing unless the commission or presiding officer determines that the nature and extent of the opposition is such that hearing the stipulation will not materially conserve commission and party resources. In the event that this determination is made, the commission or presiding officer may refuse to consider the stipulation. The commission or presiding officer has the discretion to combine the public hearing on a contested stipulation with the public hearing on the merits of any substantive issues not addressed by the stipulation.

(5) The commission or presiding officer shall conduct a public hearing to determine whether the stipulation shall be approved by the commission. The signatories to the stipulation have the burden of supporting the stipulation with sufficient evidence and legal argument to carry their burdens of proof and persuasion. At the public hearing, all parties shall be allowed an opportunity to present evidence and cross-examine opposing witnesses.

(6) In dockets assigned to a presiding officer, the presiding officer may:

- (a) determine that the stipulation should not be certified to the commission, in which event the presiding officer may indicate to the parties whether additional evidence or legal argument in support of the stipulation or amendment to the stipulation may cure any defect identified by the presiding officer; or

(b) certify the stipulation to the commission for its review.
(i) The certification shall include a recommended disposition of the stipulation.

(ii) Exceptions to the certification may be filed within 10 days of the date that the stipulation is certified to the commission, unless the commission or presiding officer directs otherwise.

(iii) Responses to exceptions may be filed within 10 days of the date that the exceptions were filed, unless the commission or presiding officer directs otherwise.

D. Tolling of the suspension or review period: A stipulation may include an agreement, between the public utility and all other signatories, to toll an applicable statutory or regulatory suspension or review period for a term beginning on the date that the signatories file the stipulation and ending on the date that the commission takes final action on the stipulation, but the term of the tolling of the suspension or review period shall not exceed 120 days.

(1) If the signatories agree to toll a suspension or review period in accordance with this rule, the presiding officer shall certify the stipulation to the commission for its review, unless the stipulation is *prima facie* procedurally defective.

(a) The certification shall include a recommended disposition of the stipulation.

(b) Exceptions to the certification may be filed within 10 days of the date that the stipulation is certified to the commission, unless the commission or presiding officer directs otherwise.

(c) Responses to exceptions may be filed within 10 days of the date that the exceptions were filed, unless the commission or presiding officer directs otherwise.

(2) If the public utility and all other signatories do not agree to toll a suspension or review period in accordance with this rule, the presiding officer may certify the stipulation to the commission for its review. If the presiding officer rejects the stipulation or otherwise chooses not to certify the stipulation to the commission, the presiding officer shall indicate to the signatories whether additional evidence or legal argument in support of the stipulation or amendment of the stipulation may cure any defect identified by the presiding officer.

(3) Approval of a stipulation, or rejection with prejudice, constitutes final action.

(a) Conditional approval of a stipulation shall not constitute a final action on the stipulation and the tolling of the suspension or review period shall continue until the 120-day limit is reached or until all stipulating parties consent to the conditions of approval.

(b) If a stipulation is rejected or if all stipulating parties do not consent to the conditions of approval, the presiding officer shall issue a procedural order pursuant to 1.2.2.24 NMAC to resolve the case as the posture of the case existed prior to the filing of the stipulation.

(4) If, after the presiding officer certifies the stipulation, the commission finds that there is an issue that requires further investigation, the commission may direct the presiding officer to issue a procedural order pursuant to 1.2.2.24 NMAC to expedite an evidentiary process on that issue, but the term of the tolling of the suspension or review period shall not be extended. After the expedited evidentiary process, the commission shall issue a final action on the stipulation with reasonable promptness pursuant to Subsection C of Section 62-8-7 NMSA 1978.

E. Inadmissibility of settlement offers and rejected stipulations:

(1) Statements, admissions, or offers of settlement made during the course of negotiations of stipulations are privileged.

(2) No such statements, admissions, or offers of settlement shall be admissible as evidence in any formal public hearing, nor disclosed by any mediator designated pursuant to this rule either voluntarily or through compulsory process, unless agreed to by all the parties.

(3) If a stipulation is not approved by the commission, the terms of the proposed stipulation become inadmissible unless their admission is agreed to by all the parties.

(4) Nothing in this subsection shall preclude the signatories to a contested settlement stipulation from offering the stipulation into the record for purposes of its consideration by the commission or presiding officer.

F. Precedential effect:

(1) Signatories shall identify in their stipulation, which, if any, provisions of the stipulation should be precedential if approved.

(2) Upon request for precedential treatment pursuant to Paragraph (1) above, or upon its own motion in the absence of a request, the commission may state, in its order approving a stipulation, which, if any, provisions of the approved stipulation are precedential.

[1.2.2.20 NMAC - Rp, 1.2.2.20 NMAC, XX/XX/2026]

1.2.2.21 PETITIONS FOR DECLARATORY ORDERS:

A. Petition: Any person may petition the commission for a declaratory order to terminate a controversy or to remove an uncertainty with respect to the applicability to the petitioner of any statute or rule administered by the commission, any commission order, or any commission-approved tariff. Petitions for declaratory orders shall comply with the requirements for pleadings set forth in this rule and shall further set forth:

- (1) the statute, rule, order, or tariff for which an interpretation is requested;
- (2) the nature of the controversy or uncertainty which is the subject of the petition;
- (3) the manner in which the controversy or uncertainty affects the petitioner;
- (4) a complete statement of the facts and grounds prompting the petition; and
- (5) the names and addresses of any other persons directly involved in the controversy or

directly affected by the uncertainty.

B. Brief and unsworn affirmations:

(1) A petition for a declaratory order shall be accompanied by a brief in which the petitioner sets forth its position and all facts and arguments known in support of, and in opposition to, that position.

(2) The petition shall also be accompanied by unsworn affirmations attesting to the facts alleged in the petition or brief.

(3) Failure to comply with these requirements shall be grounds for summary dismissal of the petition.

C. Commission procedure:

(1) Upon the filing of a petition for a declaratory order, the commission shall decide whether it, in its absolute discretion, shall entertain the petition in whole or in part. If the commission decides to entertain the petition in whole or in part, the commission or the presiding officer shall order the petitioner to give such notice of the proceeding as is deemed appropriate and shall proceed to consider the matter with or without public hearing.

(2) The commission may at any time during the proceeding, in its absolute discretion, determine not to issue a declaratory order, in which case the commission shall so notify the parties.

[1.2.2.21 NMAC - Rp, 1.2.2.21 NMAC, XX/XX/2026]

1.2.2.22 COMMISSION INVESTIGATIONS AND INQUIRIES:

A. Investigations and inquiries by the commission:

(1) The commission may conduct investigations and inquiries of matters within its jurisdiction at any time.

(2) Advocacy staff may petition the commission to initiate an investigation or inquiry for good cause.

B. Proceedings filed by the commission at its discretion:

(1) Formal proceedings may be initiated by the commission to consider any matter within its jurisdiction either by notice, order to show cause, order to cease and desist, or other process.

(2) In such formal proceedings, the notice, order to show cause or cease and desist to a respondent, or other process shall contain:

(a) specifications of all the matters to be considered, which shall indicate the statutes, rules, orders, or tariffs at issue;

(b) a demand for such information and disclosures as the commission may deem necessary for the question under investigation;

(c) notice of the time within which such information and disclosures shall be filed;

(d) if necessary, the time and place set for public hearing; and

(e) if necessary, the manner of notice to the public or to ratepayers.

[1.2.2.22 NMAC - Rp, 1.2.2.22 NMAC, XX/XX/2026]

1.2.2.23 INTERVENORS; COMMENTERS:

A. Intervention:

(1) Any person, other than an initial applicant or petitioner, complainant, respondent, or advocacy staff who desires to become a party to a proceeding may file a motion requesting leave to intervene.

(2) The motion for leave to intervene shall:

(a) indicate the nature of the movant's interest in the proceeding;

(b) explain whether the movant possesses a substantial interest in the subject matter of the proceeding;

(c) show that the movant's participation is substantially in the public interest;

(d) show that the intervention presents no undue prejudice to the other parties;
(e) show that the movant's participation is not duplicative or that the movant's interests are not already represented;
(f) comply with the provisions of this rule governing motions and pleadings except that the motion for leave to intervene need not contain a statement of opposition pursuant to Subsection E of 1.2.2.12 NMAC;

(g) indicate the facts relied upon as grounds for intervention; and
(h) be served on all existing parties and other proposed intervenors of record.

B. Deadline for filing motions for leave to intervene:

(1) In formal proceedings concerning applications relating to securities, unless the commission or presiding officer orders otherwise, a movant shall file a motion for leave to intervene before the commencement of the public hearing.

(2) In formal proceedings assigned to a presiding officer, a movant shall file a motion for leave to intervene as directed by the presiding officer.

(3) In formal proceedings for which a movant files a response or reply pursuant to Subsection K of 1.2.2.8 NMAC, the movant shall include with, or separately file, a motion for leave to intervene with its response or reply.

C. Objections to intervention: Objections to a motion for leave to intervene shall be in writing and filed within 13 days after the service of the motion, or at the time of public hearing, whichever is earlier.

D. Disposition of motions for leave to intervene:

(1) Unless the commission or presiding officer denies a motion for leave to intervene, a timely motion for leave to intervene, not objected to by any party within 13 days of service of the motion for leave to intervene, shall be deemed approved by operation of law, provided that the commission or presiding officer after notice and public hearing, may thereafter terminate the party status of any intervenor for a failure to meet the requirements of Paragraph (2) of Subsection A of 1.2.2.23 NMAC.

(2) Whenever a motion to intervene is permitted to be filed out of time, the commission or presiding officer may deny the motion or grant the motion with limitations on grounds including, but not limited to:

- (a) failure to set forth sufficient grounds for intervention;
- (b) disruption of the proceeding resulting from the intervention;
- (c) prejudice or hardship to existing parties; or
- (d) undue broadening of the issues.

(3) Except as otherwise ordered, a grant of an untimely motion to intervene shall not be a basis for delaying or deferring any procedural schedule established prior to the grant of the motion.

(4) Persons granted party status are bound by the agreements reached and orders entered in the proceeding prior to their intervention.

(5) As a result of an intervention, the commission or presiding officer shall not allow the broadening of issues unless the public interest requires it or no undue prejudice or hardship will result to other parties to the proceeding.

(6) Notwithstanding the provisions of Paragraphs (1) through (3) of Subsection D of 1.2.2.23 NMAC, where there are two or more intervenors or proposed intervenors having substantially like interests and positions, the commission or presiding officer may, to avoid unnecessary delay or duplication of effort and expense, limit the number of intervenors in the proceeding.

E. Withdrawal of intervenors:

(1) An intervenor may withdraw its intervention status by filing a notice.

(2) Withdrawal of intervention status does not withdraw any pleadings, testimony, or other documents filed by the intervenor prior to the date of withdrawal.

F. Pending intervention and proposed intervenors:

(1) A proposed intervenor shall become party to the proceeding once the motion to intervene is granted or otherwise deemed approved by operation of law.

(a) Proposed intervenors shall have the same obligations as parties to the proceeding pending the disposition of the motion to intervene.

(b) A proposed intervenor's party rights vest on the date that intervention is granted or deemed approved by operation of law, unless Paragraph (c) below applies.

(c) A proposed intervenor's party rights may backdate to the date that the motion for leave to intervene was filed, as determined by the commission or presiding officer for good cause

(2) A proposed intervenor who files an unopposed motion for leave to intervene upon which

EXHIBIT B

the commission or presiding officer has not yet ruled, or which has not yet been deemed approved by operation of law, may temporarily act as a party and shall be temporarily treated as a party by all other parties.

(3) A proposed intervenor who files an opposed motion for leave to intervene upon which the commission or presiding officer has not yet ruled, or which has not yet been deemed approved by operation of law, may temporarily act as a party and shall be temporarily treated as a party by the other parties not in opposition. The party opposing the intervention is not required to temporarily treat the person as a party.

G. Public comment:

(1) Commenters shall be entitled to publicly make an oral statement or submit a written statement for the record, but such statement shall not be considered by the commission as evidence.

(a) If oral public comment is allowed at an open meeting, commenters may provide oral comments in person or by other means as directed by the commission.

(b) The open meeting agenda shall establish the process for public comment.

(2) Commenters shall not have party status nor have the right to introduce evidence, examine or cross-examine witnesses, to receive copies of confidential documents, to appeal from any decisions or orders, or otherwise participate in the proceeding other than making their comments.

(3) Commenters shall submit written comments to the chief clerk or chief clerk's designee for filing into the docket of the proceeding for which the comment is made.

(4) When public comments shall be submitted:

(a) On matters related to a pending docket in which the commission or presiding officer has issued a procedural schedule, commenters may submit written comments and make oral comments according to the procedural schedule.

(b) On matters related to a pending docket in which the commission or presiding officer has not issued a procedural schedule or in which the procedural order does not address public comment, commenters may submit written comments at any time prior to the docket's closure, and commenters may make oral comments at any regular open meeting prior to the docket's closure as provided by the commission.

(c) On matters unrelated to a pending docket, commenters may submit written comments at any time, and commenters may make oral comment at any regular open meeting as provided by the commission.

[1.2.2.23 NMAC - Rp, 1.2.2.23 NMAC, XX/XX/2026]

1.2.2.24 PROCEDURAL ORDERS:

A. Contents: In formal proceedings, the commission or presiding officer shall issue a procedural order or orders setting forth, as appropriate:

- (1) deadlines for the completion of discovery;
- (2) deadlines for the filing of testimonies and statements of position;
- (3) deadlines for the filing of any stipulations and testimony supporting or opposing any filed stipulations;
- (4) any requirements for the filing, service, or presentation of pleadings, discovery requests, discovery responses, testimonies, exhibits, stipulations, or other documents in electronic form;
- (5) procedures for the prompt argument and disposition of any motions;
- (6) the date, time, and place of any pre-hearing conference;
- (7) the date, time, and place of any public hearing;
- (8) any reasonable limitation on discovery; and
- (9) any other relevant dates, deadlines, and procedures.

B. Modification of procedural orders: The commission or presiding officer may modify procedural orders at the commission's or presiding officer's discretion or on motion of a party.

C. Notice of public hearing:

(1) The commission shall provide reasonable notice to all parties of the time and place of each public hearing scheduled in the docket by the commission or presiding officer.

(2) The commission or presiding officer may require that a party provide public notice at least twenty (20) days prior to the date of the public hearing, unless otherwise provided by rule, or if the commission or presiding officer finds that circumstances warrant shorter notice.

(a) When public notice is required, it shall be provided by any combination of the following at the discretion of the commission or presiding officer:

(i) online publication on the website of, or print publication in, the newspaper having general circulation in the area affected by the filed pleadings;

notice;

(ii) online publication on the website of the party required to publish

notice;

(iii) posting on the social media accounts of the party required to publish

(iv) online publication on the commission's website; or

(v) any other means of notice determined to be appropriate by the

commission or presiding officer.

(b) The party who is required to publish notice shall file, on or before the date of public hearing, an unsworn affirmation of publication of such notice.

(c) The party required to publish the notice shall bear the cost of such publication.

(3) When statute or rule requires notice of a public hearing by publication in a newspaper of general circulation, that requirement may be satisfied by notice provided under Part (ii) of Subparagraph (a) of Paragraph (2) of Subsection C of 1.2.2.24 NMAC. The commission or presiding officer may also require any other notice under Subparagraph (a) of Paragraph (2) of Subsection C of 1.2.2.24 NMAC.

[1.2.2.24 NMAC - Rp, 1.2.2.24 NMAC, XX/XX/2026]

1.2.2.25 DISCOVERY:

A. Commission policy:

(1) The commission favors prompt and complete disclosure and exchange of information and encourages informal arrangements among the parties for this exchange.

(2) The commission encourages the timely use of discovery as a means toward effective presentations at public hearings and to avoid the use of cross-examination at public hearings for discovery purposes.

(3) The commission expects all parties to a proceeding to be familiar with the contents of all discovery requests and responses so as to avoid duplicative discovery requests and responses and avoid unnecessary expenditure of parties' time and resources in the discovery process.

B. Discovery procedures:

(1) Techniques of pre-hearing discovery permitted in state civil actions, such as interrogatories, requests for admissions, depositions, and requests for production of documents may be employed by any party.

(2) Upon experiencing any difficulties in obtaining discovery, a party may seek relief from the commission or presiding officer by motion.

(3) Nothing in this rule shall preclude the commission or the presiding officer from obtaining information by order or preclude advocacy staff from obtaining information in any lawful manner.

C. Applicability of rules of civil procedure:

(1) Discovery in commission proceedings shall be guided by the New Mexico rules of civil procedure for the district courts applicable to discovery, except where such rules are inconsistent with this rule.

(2) Any references to the "court" in the New Mexico rules of civil procedure for the district courts shall mean the "commission or presiding officer" for purposes of the commission's procedural rules.

D. Depositions:

(1) Parties shall have the right to take the testimony of any witnesses by deposition, and to compel through the commission's subpoena powers the attendance of witnesses and the production of books, documents, papers, and accounts.

(2) Depositions may be taken and on-site inspections may be performed upon commencement of the proceeding and without prior approval of the commission or presiding officer.

(3) Notices or requests for depositions or on-site inspections shall be served on all parties unless the commission or presiding officer directs otherwise.

(4) All parties may participate in any depositions, or in any on-site inspections requested by a party under Subsection F of 1.2.2.25 NMAC, unless the commission or presiding officer directs otherwise.

E. Interrogatories:

(1) Any party may serve written interrogatories to be answered by the party served, or if the party served is a public or private corporation, by any officer or agent who shall furnish such information as is available to the party served.

(2) Interrogatories may be served after commencement of any proceeding and without leave of the commission or presiding officer.

EXHIBIT B

(3) The interrogatories shall be answered separately and fully in writing under oath, and each answer shall be signed by the person or persons making it unless otherwise ordered by the commission or presiding officer.

(4) Unless objected to, answers to interrogatories shall be served in the manner provided in Subsection H of 1.2.2.25 NMAC within 15 days after the service of the interrogatories unless the commission or presiding officer extends or shortens the time, or unless the party submitting the interrogatories and the party to which the interrogatories are directed agree to a different period of time, notice of which agreement shall be filed and served on all parties. Any such agreements shall not affect the authority of the commission or presiding officer to govern commission proceedings as provided by law.

(5) Within 15 days after service of interrogatories, a party may make written objections, duly served as provided in Subsection H of 1.2.2.25 NMAC. Written objections shall:

(a) identify the interrogatory or subject matter objected to and state, with particularity, the reasons for the objections; and

(b) include copies or complete restatements of the interrogatory or interrogatories objected to, and a description of the facts and circumstances and the legal authority purporting to justify the objection.

(6) The service of objections shall not excuse the answering party from answering remaining interrogatories or subparts of interrogatories to which no objection is stated.

(7) Answers to interrogatories to which objection is made shall be deferred until a determination has been made on such objections.

F. Production of documents and things and entry upon land for inspection and other purposes:

(1) A party may serve upon any other party requests for the production or inspection of documents or things within that party's possession, custody, or control, either consolidated with interrogatories or alone.

(2) A party may serve upon any other party a request to permit entry upon designated land or other property in the possession or control of that party for the purpose of inspection, measuring, surveying, photographing, testing, or sampling the property or any designated object or operation thereon, either consolidated with the interrogatories or alone.

(3) A party may serve a request upon commencement of the proceeding and without leave of the commission or presiding officer.

(4) The request shall specify a reasonable time, place, and manner of making the inspection and performing related acts, or of copying the documents, or specify that copies of the designated documents are to be sent to the requesting party in lieu of an inspection.

(5) The request shall set forth the property or items that are to be inspected, either by individual item or by category, and shall describe each item and category with reasonable particularity.

(6) The requestor shall specify a date for the production or inspection, which date shall be not less than 15 days after the date the request is served unless the commission or presiding officer extends or shortens the time, or unless the party submitting the request for production of documents and the party to which the request is directed agree to a different period of time, notice of which agreement shall be filed and served on all other parties.

(a) Any such agreements shall not affect the authority of the commission or presiding officer to govern commission proceedings as provided by law.

(b) If no time is specified, production shall be due 15 days after service of the request.

(7) Within 15 days after service of a request for production, a party may serve written objections in the form and manner provided in Subsections E and H of 1.2.2.25 NMAC. The objector shall produce, as requested, all documents or things which are not the subject of an objection.

G. Requests for admissions:

(1) The commission, presiding officer, or parties may serve upon any party requests for the admission of facts or the genuineness of documents.

(2) Copies of documents shall be served with the request.

(3) Requests may be served upon commencement of the proceeding and without leave of the commission or presiding officer.

(4) Answers to requests for admissions shall be served within 15 days after service of the request unless the commission or presiding officer extends or shortens the time, or unless the party submitting the

EXHIBIT B

request for admissions and the party to which the request is directed agree to a different period of time, notice of which agreement shall be filed and served on all other parties. Any such agreements shall not affect the authority of the commission or presiding officer to govern commission proceedings as provided by law.

(5) Written objections to a request prepared in the form and manner provided in Subsection E of 1.2.2.25 NMAC shall be filed and served as provided in Subsection H of 1.2.2.25 NMAC within 15 days of service of the requests. The filing and service of objections shall not excuse the answering party from answering the remaining requests to which no objection is stated.

H. Filing and service:

(1) Interrogatories, requests for production or inspection of documents and things, request for entry upon lands for inspection and other purposes, and requests for admissions and other written discovery requests shall be served upon the party to which such discovery is directed.

(2) Written answers, responses, or objections to discovery requests shall be served on the party making such requests.

(3) Interrogatories, requests for production or inspection of documents and things, request for entry upon lands for inspection and other purposes, requests for admissions, and other written discovery requests, and answers, responses, or objections, shall not be served upon the commission, presiding officer, or advisory staff.

(4) Discovery requests and responses, or objections thereto, and deposition transcripts, shall not be routinely filed. However, the party making a discovery request shall file a certificate indicating the date of service.

(5) Unless the commission or presiding officer directs otherwise, interrogatories, requests for production or inspection of documents and things or entry upon lands for inspection and other purposes, requests for admissions and other written discovery requests or notices, as well as written responses or objections thereto, shall be served on any other party which requests copies of such discovery requests, notices, responses or objections.

(6) A party may request copies of the written discovery materials of other parties either in one blanket request for all discovery materials throughout the proceeding, or by request specific to the discovery activity in question.

(7) At the option of a party making a discovery request or response, any such request or response including objections may additionally be presented in electronic form.

(a) Discovery requests or responses, including objections, shall be presented in electronic form in addition to or in lieu of other applicable service or filing requirements of this rule if the commission or presiding officer so orders pursuant to Subsection A of 1.2.2.24 NMAC, or pursuant to other commission rules governing electronic filing and service.

(b) The commission or presiding officer shall not require electronic filing or service by any party who does not have such capability.

I. Supplementation of responses to discovery requests: A party who has responded to a request for discovery is under a duty to reasonably and promptly amend or supplement its previous response if, during the pendency of the proceeding, the party learns that the response is materially incomplete or incorrect and if additional or corrective information has not otherwise been made known during the discovery process or in writing.

J. Sanctions:

(1) The commission or presiding officer may issue an order, at its discretion, or a party may move for an order, compelling discovery or for sanctions for a party's failure to comply with 1.2.2.25 NMAC or a discovery order of the commission or presiding officer as provided in this Rule and the New Mexico rules of civil procedure for the district courts.

(2) A party's motion for an order compelling discovery shall include copies or complete restatements of the discovery requests or notices to which the movant seeks compelled responses or related relief, along with copies of any responses or objections to the discovery requests, notices, and any other pertinent materials.

(3) No motion to compel, or any other motion regarding any discovery dispute, shall be considered unless accompanied by a statement that the movant made a good faith effort to resolve the dispute with the party who is subject of the motion and was unable to do so.

(4) The commission or presiding officer may take any action authorized by law against any party who violates any discovery rule, order, or procedure of the commission and may sanction a party or the party's attorney for violation of the same.

K. Order for protection of parties or persons: The commission or presiding officer may issue an order for the protection of a party or person from annoyance, embarrassment, oppression, undue burden, or undue expense as may be just and reasonable, by one or more of the following means:

EXHIBIT B

- (1) forbidding the disclosure or discovery of information;
- (2) specifying terms, including time and place or the allocation of expenses, for the disclosure or discovery of information;
- (3) prescribing a discovery method other than the one selected by the party seeking discovery;
- (4) forbidding inquiry into certain matters, or limiting the scope of disclosure or discovery to certain matters;
- (5) designating the persons who may be present while the discovery is conducted;
- (6) requiring that a deposition be sealed and opened only on order of the commission or presiding officer;
- (7) requiring that a trade secret or other confidential research, development, or commercial information not be revealed or revealed only in a specified way; and
- (8) requiring that the parties simultaneously file specified documents or information in sealed envelopes, to be opened as the commission directs.

L. Protective orders:

- (1) Any person moving for an order to protect pleadings, documents, or classes of documents from disclosure bears the burden of establishing the person's right, if any, to such protection.
- (2) A movant shall support a motion for an order to protect documents or information from disclosure by an unsworn affirmation. The unsworn affirmation shall:
 - (a) satisfy the movant's burden of making a *prima facie* showing that protection is appropriate, and, if protection is sought for pleadings or documents that are to be filed, that protection is consistent with the Inspection of Public Records Act, including protectable trade secrets;
 - (b) be executed by the movant or a person employed by the movant who is sufficiently knowledgeable about the grounds on which protection is sought that such person can defend such claim if it is challenged; and
 - (c) explain with particularity the injury which would result from disclosure of the information for which protection is sought.
- (3) If the commission or presiding officer deems it necessary, or if any party files a motion to compel, the commission or presiding officer may require the movant seeking the protective order to file the documents or information which are the subject of the motion in a properly identified sealed container or encrypted electronic file. The container or file may be opened by the commission or presiding officer prior to ruling on the motion for a protective order only for purposes of making an *in camera* inspection.
- (4) The commission or presiding officer may, in ruling on the motion, provide that the documents or information not be disclosed, or that they be disclosed only in a designated manner or to designated persons.
 - (a) Any order granting a motion for a protective order in whole or in part shall include clear and explicit instructions to the chief clerk or chief clerk's designee regarding the limitations placed on disclosure of the documents or information subject to the order, and a reminder that sanctions may be imposed under applicable laws for its violation.
 - (b) The protective order shall set forth the conditions for protection and disclosure of information subject to protection under the Inspection of Public Records Act to parties to the proceeding.
 - (c) The order shall be included in the appropriate publicly available file in lieu of the documents or information which are the subject of the protective order.
- (5) The period of time during which disclosure is limited shall be two years from the date of the final order in the docket, provided that the movant may request that the protective order specify a different period of protection. The movant may, prior to expiration of the protective order, move for an order extending the period of protection of the documents or information.
- (6) Nothing in this rule shall be construed as waiving or altering any requirement placed upon the commission for timely disclosure and copying of public records under the Inspection of Public Records Act.
- (7) In the event of a conflict between the terms of a protective order and the rules set forth in 1.2.2.25 NMAC, the protective order controls.

[1.2.2.25 NMAC - Rp, 1.2.2.25 NMAC, XX/XX/2026]

1.2.2.26 PRE-HEARING CONFERENCES:

A. General:

(1) Commission policy:

(a) It is the policy of the commission to encourage the use of pre-hearing conferences as a means of making more effective use of hearing time and to otherwise aid in the disposition of proceedings.

(b) Clearly defining issues in advance of a public hearing and the ground rules for the conduct at a public hearing is particularly beneficial in dockets heard by the commission *en banc* and in complex or multi-party proceedings.

(2) The commission or presiding officer may, with reasonable written notice, require that all parties attend one or more pre-hearing conferences for the purpose of formulating and simplifying the issues in the proceeding or addressing other matters that may expedite orderly conduct and disposition of the proceeding. Such matters may include but are not limited to:

- (a) details of the procedural schedule;
- (b) the necessity or desirability of amendments to the pleadings;
- (c) the possibility of obtaining admissions of fact and documents which shall avoid unnecessary proof;
- (d) limitations on the number of witnesses or time allocated to particular witnesses or issues at public hearing;
- (e) procedures at the public hearing;
- (f) the distribution of written testimony and exhibits to the parties prior to the public hearing;
- (g) the consideration of any outstanding motions;
- (h) the status of any settlement negotiations and, if appropriate, identification of any interest in, and resources to support, professional assistance therewith or other alternative means of dispute resolution; or
- (i) the scope of the issues to be addressed at the public hearing.

B. Attendance and preparedness:

(1) All parties shall attend a pre-hearing conference fully prepared to discuss all matters noticed for the conference and motions outstanding at the time of the conference.

(a) All parties shall be familiar with all materials filed and materials obtained through discovery.

(b) All parties shall, if feasible, communicate prior to the pre-hearing conference to ascertain the extent to which the parties may be able to agree on matters which have been noticed for conference and on any pending motions.

(2) All parties shall attend a pre-hearing conference fully authorized to make commitments with respect thereto or take positions thereon.

(3) Failure of any party to attend or be prepared for a pre-hearing conference without good cause shown shall constitute a waiver of any objection to any agreement reached or to any order or ruling made as a result of the conference.

(4) Offers of settlement and statements made in furtherance thereof, made in the course of a pre-hearing conference or at any other time, are privileged and, except by agreement among all the parties, shall not be used before the commission.

C. Submission of pre-hearing memos: The commission or presiding officer may, in the order convening a pre-hearing conference, direct each party to file and serve a pre-hearing memo which shall identify any matters designated in the order convening the pre-hearing conference, such as:

- (a) all factual stipulations to which the parties have agreed or which the party submitting the statement proposes for consideration by the parties;
- (b) all procedural questions or problems the party desires to raise at the pre-hearing conference and the resolution proposed;
- (c) any proposal the party wishes to make for the scheduling of testimony at public hearing; or
- (d) the amount of time the party desires for the cross-examination of the different witnesses at public hearing.

D. Pre-hearing orders:

(1) Subsequent to a pre-hearing conference the commission or presiding officer may issue a pre-hearing order reciting the action taken and agreements reached at the conference. The order may also identify the issues to be heard and the order of evidence to be received at the public hearing.

(2) The commission or presiding officer may direct a party or parties to prepare the form of pre-hearing order.

(a) If so directed, the party or parties shall serve it on the remaining parties at the time the party or parties file(s) it.

(b) Objections to the proposed form of order shall be filed within 12 days of service of the form unless the commission or presiding officer directs otherwise.

(3) The pre-hearing order shall control the subsequent course of the proceeding and may, by its terms, limit the issues to be heard to those designated therein, provided that the commission or presiding officer may enlarge or modify the issues or otherwise amend the pre-hearing order when the public interest or justice so requires.

[1.2.2.26 NMAC - Rp, 1.2.2.26 NMAC, XX/XX/2026]

1.2.2.27 INTERIM RELIEF:

A. Generally:

(1) Requests for interim relief may be included in a complaint, petition, application, or other pleading filed by any party.

(2) The title of the pleading shall clearly indicate that interim relief is requested.

B. Contents: Except as provided in Section 70-3-16 NMSA 1978, in addition to the usual contents of a pleading, the pleading must allege such extraordinary facts of immediate and irreparable injury as would justify the commission's exercise of discretion by granting interim relief prior to a final decision.

C. Unsworn affirmation or testimony and exhibits:

(1) Any pleading requesting interim relief shall be accompanied by unsworn affirmation or testimony in support of the request.

(2) Any relevant exhibits in the possession of the party making the request should be appended to the unsworn affirmation or testimony.

D. Public hearing: Except as provided in Section 70-3-16 NMSA 1978, requests for interim relief other than interim rate relief may be acted upon with or without public hearing.

E. Bond: Interim relief may be granted subject to refund and conditioned upon a bond or other adequate protection.

[1.2.2.27 NMAC - Rp, 1.2.2.27 NMAC, XX/XX/2026]

1.2.2.28 SUBPOENAS:

A. Subpoena for witnesses and documents:

(1) Any party requiring the attendance of a person from any place in the state to any designated place for the purpose of taking testimony of such person at a deposition or public hearing in a proceeding before the commission shall make written application to the commission or presiding officer requesting that a subpoena be issued to compel attendance of such witness.

(2) Likewise a written application requesting the issuance of a subpoena *duces tecum* to compel production of specific books, papers, accounts, or other documents shall also be made to the commission or presiding officer if production at deposition or public hearing is desired.

(3) Such written application shall set forth reasons supporting the issuance of the subpoena for the production of specific books, papers, and other documents.

(4) All applications for the issuance of subpoenas shall be accompanied by the proposed subpoena, a form for which is available from the commission upon request.

B. Who may issue: Subpoenas may be signed and issued by the presiding officer or by any commissioner. A copy of the signed and issued subpoena shall be filed.

C. Service and fees:

(1) Subpoenas may be served by any person authorized to serve process under the New Mexico rules of civil procedure for the district courts.

(a) The return of service shall be filed promptly after service.

(b) The return shall be by certificate if service is made by a county sheriff or the county sheriff's deputy, otherwise, the return shall be by unsworn affirmation.

EXHIBIT B

(c) The form for the return of service is included with the form of subpoena, which shall be available from the commission upon request.

(2) The witness being subpoenaed shall receive fees in the amount and in the manner as provided in civil cases in the district courts of this state.

(3) Whenever a subpoena is issued at the request of a party, the cost of service thereof and the fee of the witness shall be borne by the requesting party.

D. Enforcement: The commission, any commissioner, or any party may seek enforcement of a subpoena pursuant to Sections 62-10-9, 63-7-1.1, 63-9-19, 63-9A-20, 63-9B-14, 63-9H-14, and 70-3-19 NMSA 1978, or other applicable law.

[1.2.2.28 NMAC - Rp, 1.2.2.28 NMAC, XX/XX/2026]

1.2.2.29 PRESIDING OFFICER:

A. General: The functions of a presiding officer may be performed by a commissioner or any person appointed as hearing examiner. Nothing contained in this rule shall be deemed a waiver of the commission's power of superintending control over the activities or decisions of a presiding officer.

B. Appointment of presiding officer:

(1) In all proceedings, the commission may appoint a presiding officer to preside over the proceeding. The commission shall define which dockets and to what extent the presiding officer shall preside over such dockets.

(2) If, after public hearing, the appointed presiding officer becomes unavailable to the commission, the commission shall appoint another presiding officer to report and recommend the decision or shall otherwise proceed with the case *en banc* as it may deem appropriate, giving notice to the parties.

C. Powers of presiding officers:

(1) Presiding officers shall have the duty to conduct full, fair, and impartial public hearings, and to take appropriate action to avoid unnecessary delay in the disposition of proceedings and to maintain order.

(2) Presiding officers shall possess all powers necessary to that end, including, but not limited to, the following:

- (a) to administer oaths and affirmations;
- (b) to issue subpoenas and to provide for other methods of discovery;
- (c) to issue orders to show cause regarding proceedings before the presiding officer;
- (d) to receive evidence and rule upon all objections and motions which do not involve final dispositions of proceedings, and to recommend to the commission rulings on objections and motions which involve final dispositions of proceedings;

(e) within their discretion, or upon direction of the commission, to certify any question to the commission for its consideration and disposition, although the commission has the discretion to refuse to review a question so certified;

(f) to order parties to hold appropriate conferences before or during the public hearing or investigation, provided that the presiding officer shall not take part in any settlement conference unless the presiding officer's participation is agreed to by all parties;

(g) to regulate the course of public hearings or investigations, including the scheduling, recessing, reconvening, and adjournment thereof, unless otherwise provided by the commission;

(h) to apply the procedures of this rule subject to waivers granted pursuant to this rule;

- (i) to issue bench requests;
- (j) to issue orders to regulate the order and decorum of the proceeding; and
- (k) to take such other action as may be necessary and appropriate to the discharge of their duties consistent with the statutory authority or other authorities under which the commission functions, and consistent with the rules and policies of the commission.

D. Duties of presiding officers:

(1) A presiding officer shall follow, comply with, and apply the laws of New Mexico, the policies of the commission as enunciated in previous orders and rules, and other applicable law.

(2) A presiding officer who is a hearing examiner shall issue a recommended decision, including findings of fact and conclusions of law, on the matter assigned to the hearing examiner as soon as practicable before the termination of any suspension period, review period, or other deadline imposed by or upon the commission.

[1.2.2.29 NMAC - Rp, 1.2.2.29 NMAC, XX/XX/2026]

1.2.2.30 PROCEDURAL AUTHORITY OF A SINGLE COMMISSIONER:

A. The chairperson of the commission, or any other commissioner appointed by the commission, shall preside at public hearings conducted by more than one commissioner.

B. Any commissioner may issue any procedural orders or notices, including but not limited to orders or notices:

- (1) appointing a hearing examiner to preside over a proceeding;
- (2) scheduling public hearings;
- (3) clarifying the deadlines or issues to be considered during the proceedings;
- (4) suspending the operation of an advice notice, provided that such procedural order is consistent with law and does not involve the final determination of the proceeding;
- (5) extending or shortening any time period established in this rule or any order;
- (6) granting leave to file an untimely motion, response, reply, or other pleading or document;

and

- (7) granting leave to file any other pleading or document that requires leave to file pursuant to this rule.

C. The delegation to one commissioner of procedural authority shall not narrow the authority of the hearing examiner pursuant to this rule or to other rules or orders of the commission, unless the order by the hearing examiner is inconsistent with and superseded by the procedural order of the one commissioner.

D. A party may appeal a procedural order of a single commissioner pursuant to 1.2.2.31 NMAC. [1.2.2.30 NMAC - Rp, 1.2.2.30 NMAC, XX/XX/2026]

1.2.2.31 INTERLOCUTORY APPEALS FROM RULINGS OF THE PRESIDING OFFICER:

A. General:

(1) Rulings of the presiding officer during the course of a proceeding may only be appealed under extraordinary circumstances, as provided in this rule.

(2) The movant in any such appeal bears the burden of proving extraordinary circumstances to permit interlocutory appeal, and establishing grounds for review and reversal of a ruling of the presiding officer.

B. Motion to presiding officer to permit appeal:

(1) Any party including advocacy staff may, during the pendency of a proceeding, move that the presiding officer permit interlocutory appeal to the commission from a ruling of the presiding officer. The motion shall demonstrate that:

(a) the ruling involves a controlling question of law or policy as to which there is substantial ground for difference of opinion and that an immediate appeal to the commission from the ruling may materially advance the ultimate disposition of the proceeding; or

(b) circumstances exist which make prompt commission review of the contested ruling necessary to prevent irreparable harm to any person; and

(c) extraordinary circumstances exist to justify the filing of the motion.

(2) The motion shall be filed in writing within three days of the date of an oral ruling or service of a written ruling.

(3) Upon receipt of a motion to permit interlocutory appeal, the presiding officer shall determine according to the standards of Paragraph (1) of Subsection B of 1.2.2.31 NMAC whether to permit interlocutory appeal of the ruling to the commission.

(4) If the presiding officer permits interlocutory appeal, the presiding officer shall transmit to the commission copies of the appealed ruling and any findings of fact, conclusions of law, or opinion relating thereto, together with the appellant's motion under Paragraph (1) of Subsection B of 1.2.2.31 NMAC, and any response permitted to the motion. The presiding officer may also transmit to the commission a memorandum setting forth the relevant issues and an explanation of the rulings on the issues.

(5) If the presiding officer does not issue an order under Paragraph (3) of Subsection B of 1.2.2.31 NMAC within 12 days after the motion is filed, the motion is deemed denied.

(6) If a motion to permit interlocutory appeal is denied, the movant may appeal to the commission within three days of the date of denial.

C. Commission action:

(1) Unless the commission acts upon an interlocutory appeal permitted by the presiding officer or otherwise in its discretion within 30 days after the date the appeal is permitted the ruling of the presiding officer shall be reviewed in the ordinary course of the proceeding as if an interlocutory appeal had not been made.

(2) In the event the commission decides in its discretion to hear an interlocutory appeal, it may also in its discretion:

- (a) review the motions, briefs, and other documents which were before the presiding officer when the presiding officer issued the appealed ruling;
- (b) require that the presiding officer transmit to the commission a memorandum explaining the appealed ruling;
- (c) require submission of briefs by advocacy staff and the parties; or
- (d) direct such other submissions as may assist in its consideration of the issues.

D. Interlocutory appeal not to suspend proceeding: Any decision by a presiding officer to permit interlocutory appeal, or by the commission to hear an interlocutory appeal under the provisions of this rule, shall not suspend the proceeding unless otherwise ordered by the presiding officer or the commission.
[1.2.2.31 NMAC - Rp, 1.2.2.31 NMAC, XX/XX/2026]

1.2.2.32 PUBLIC HEARINGS:

A. Rights of parties: At any public hearing, all parties shall be entitled to enter an appearance, introduce evidence, examine and cross-examine witnesses, make arguments, and generally participate in the conduct of the proceeding.

B. Duty to participate: Except as otherwise provided in this rule or directed by the commission or presiding officer, parties who fail to attend meetings, conferences, or public hearings scheduled or that otherwise fail to participate in the proceeding are deemed to have notice of, and to waive their right to object to, all matters addressed, resolved, or determined in their absence.

C. Continuance:

(1) Any party may move for a continuance immediately upon receipt of notice of public hearing, or as soon thereafter as facts requiring such continuance come to the party's knowledge, stating in detail the reasons why a continuance is necessary and describing when the need for a continuance came to the party's knowledge.

(2) The commission or presiding officer, in passing upon a motion for a continuance, shall consider whether such motion was promptly made.

(3) The commission or presiding officer may grant such a continuance and may, at any time, order a continuance at the commission's or presiding officer's discretion.

D. Appearances:

(1) General:

(a) Parties and commenters shall enter their appearances at the beginning of the public hearing by giving their names to the reporter who shall include the same in the record of public hearing.

(b) The presiding officer conducting the public hearing shall require appearances to be stated orally so that the identity and interest of all parties and others present shall be known to those at the public hearing.

(2) Termination of party status:

(a) Notwithstanding any other provision of this rule pertaining to party status, the party status of any person failing to enter an appearance terminates at the close of the period for taking such appearances at the public hearing unless otherwise ordered by the commission or presiding officer.

(b) After entering an appearance, a party shall not be unrepresented at the public hearing unless excused by the presiding officer.

(c) The commission or presiding officer may impose sanctions for violation of this provision including termination of party status.

E. Failure to appear:

(1) At the time and place set for public hearing, if an applicant, petitioner, or complainant fails to appear without having obtained a continuance in the manner specified in Subsection C of 1.2.2.32 NMAC, the commission or presiding officer may dismiss or recommend dismissal of the petition, application, or complaint with or without prejudice, or may upon good cause shown recess such public hearing for a further period to be set by the commission or presiding officer to enable said applicant, petitioner, or complainant to attend.

(2) At the time and place set for public hearing, if a respondent fails to appear without having obtained a continuance in the manner specified in Subsection C of 1.2.2.32 NMAC, the commission or presiding officer may proceed with the public hearing as scheduled and enter such orders disposing of the case as may be proper according to the evidence adduced, and the respondent failing to appear shall be presumed to have waived the right to refute or rebut such evidence and otherwise present further evidence. The commission or presiding officer

EXHIBIT B

may upon good cause shown recess such public hearing for a further period to be set by the commission or presiding officer to enable said respondent to attend.

F. Conduct at public hearings:

(1) All parties, witnesses, attorneys, commenters, and spectators shall conduct themselves in a respectful manner.

(a) Demonstrations or disruptions of any kind at public hearings shall not be permitted.

(b) Any disregard by parties, attorneys, or other persons of the rulings of the commission or presiding officer on matters of order and procedure may be noted on the record and treated as provided in Sections 62-10-9, 62-12-4, 63-7-23, 63-9-19, 63-9A-20, 63-9B-14, 63-9H-14, or 70-3-19 NMSA 1978, or as provided in the New Mexico rules of civil procedure for the district courts.

(2) The commission or presiding officer may, at the commission's or presiding officer's discretion, adjourn, recess, or continue any public hearing in case the conduct of witnesses, spectators, or other persons interferes with the proper and orderly holding of such public hearing, and for any other cause or circumstance which may prevent the proper conduct of such public hearing.

(3) The commission or presiding officer may, at the commission's or presiding officer's discretion, limit the issues to be addressed or time for providing direct testimony or cross-examination at any public hearing if necessary to promote the proper and orderly management of such public hearing.

(4) All parties, attorneys, witnesses, commenters, representatives, and spectators shall adhere to the commission's rules and resolutions on decorum. The commission or presiding officer may take any action reasonably necessary to maintain the order of the public hearing, including, at the commission's or presiding officer's discretion, the removal of any disruptive party, attorney, witness, commenter, representative, or spectator from a public hearing.

G. Consolidated public hearings: The commission, at its discretion or upon motion of a party, may order two or more proceedings involving a similar question of law or fact to be consolidated for public hearing where neither the rights of the parties nor the public interest shall be prejudiced by such procedure and where such consolidation shall not confuse the issues.

H. Joint public hearings:

(1) To the extent authorized by law, the commission may participate jointly in any hearing with any federal, state, or other regulatory agency.

(2) In joint formal proceedings, the participating agencies shall agree upon the rules of procedure to be followed.

(3) Any person entitled to appear in a representative capacity before either agency involved in the joint public hearing may appear in a joint public hearing.

I. Electronic public hearings. Public hearings may be conducted by telephone or video conference, or both, at the discretion of the commission or presiding officer.

J. Statement of position:

(1) Unless otherwise provided by order, a party shall file a statement of position no later than two weeks before the start of a public hearing.

(2) Unless otherwise provided by order, the statement of position shall contain the following information:

(a) a concise summary of the party's overall position in the proceeding;

(b) a concise statement of each discrete question of fact, law, or policy that the party considers at issue, and the party's position on each.

(3) A statement of position is non-binding and does not carry any evidentiary weight.

K. Scope:

(1) The commission or presiding officer may limit the scope of a public hearing to include only:

(a) issues identified in the parties' statements of position; and

(b) issues otherwise deemed relevant by the commission or presiding officer.

(2) The commission or presiding officer may exclude from the public hearing issues it deems irrelevant to the proceeding, regardless of whether the issues have been identified in the parties' statements of position.

L. Recessing public hearing for conference:

(1) In any proceeding, the commission or presiding officer may, in the commission's or presiding officer's discretion, call the parties together for a conference prior to the taking of testimony, or may recess the public hearing for such a conference.

(2) The results of the conference shall be stated on the record.

M. Open and closed public hearings: Public hearings shall be open to the public unless closed by the commission or presiding officer for good cause.

[1.2.2.32 NMAC - Rp, 1.2.2.32 NMAC, XX/XX/2026]

1.2.2.33 TRANSCRIPTS:

A. Record of proceedings and testimony:

(1) A full and complete record of all proceedings before the commission or presiding officer in any formal public hearing and all testimony shall be made by either audio recording by a commission employee or shall be taken down and transcribed by a certified court reporter at the discretion of the presiding officer.

(2) If the commission or presiding officer intends to have a transcript made by audio recording, the commission or presiding officer shall state this in the notice or order of hearing or proceeding.

(3) Upon receiving notice that the commission or presiding officer intends to have a transcript made by audio recording, any party can file a request to have the hearing or proceeding transcribed by a certified court reporter and the commission shall arrange a court reporter.

(a) A party requesting a court reporter for a hearing or proceeding that would otherwise be made by audio recording shall be responsible for the full cost of the court reporter's fees.

(b) A request by any party to have a hearing or proceeding transcribed by a certified court reporter shall be filed as soon as practicable before the hearing or proceeding.

(c) If a request by any party to have a hearing or proceeding transcribed by a certified court reporter is not made at least seven days prior to the hearing, the commission may be unable to accommodate the request.

B. Copies of transcripts: The commission shall file in e-docket a PDF version of any transcript it receives on the date the transcript is created or the date it is filed with the commission or the presiding officer.

C. Corrections:

(1) Suggested corrections to the transcript or record shall be offered within 13 days after the transcript is filed in the proceeding except for good cause shown, and suggested corrections shall be served upon each party, the official reporter, and the presiding officer.

(2) Failure to timely file suggested corrections without good cause shown constitutes a waiver of objections to the transcript.

(3) Objections to the suggested corrections shall be made in writing within 13 days from the filing of the suggestions.

(4) The commission or presiding officer shall, with or without public hearing, determine what changes, if any, shall be made in the record.

(5) If no objection is made to the suggested corrections, the commission or presiding officer may, in the commission's or presiding officer's discretion, direct that the corrections be made and the manner of making them.

[1.2.2.33 NMAC - Rp, 1.2.2.34 NMAC, XX/XX/2026]

1.2.2.34 RULES OF EVIDENCE:

A. General:

(1) Subject to the other provisions of this rule, all relevant evidence is admissible which, in the opinion of the commission or presiding officer, is the best evidence most reasonably obtainable, having due regard to its necessity, competence, availability, and trustworthiness.

(2) In passing upon the admissibility of evidence, the commission or presiding officer shall give consideration to, but shall not be bound by, the New Mexico rules of evidence which govern proceedings in the courts of this State. The commission or presiding officer shall also consider the legal requirement that any final decision on the merits be supported by competent evidence.

(3) Unless otherwise directed by the commission or the presiding officer, documents that require unsworn affirmation under commission rules may be supported by affidavit or sworn affirmation.

(4) The commission or presiding officer shall direct the order of presentation and the receipt of evidence at its discretion.

EXHIBIT B

B. Testimony under oath: All testimony to be considered by the commission or presiding officer in formal public hearings, except matters officially noticed or entered by stipulation, shall be made under oath.

C. Stipulation as to facts:

(1) The parties may, in any proceeding before the commission or presiding officer, by stipulation in writing, filed or entered in the record, agree upon the facts or any portion thereof involved in the controversy.

(a) A stipulation shall be binding upon the parties entering into the stipulation and may be regarded and used by the commission or presiding officer as evidence at the public hearing.

(b) The commission or presiding officer may, however, require proof or evidence of the facts stipulated to, notwithstanding the stipulation of the parties.

(2) In the event the parties stipulate to certain facts as part of a proposed settlement of the case, and the stipulation is not approved, the stipulated facts for purposes of the settlement shall not be binding upon the parties or used as evidence in any subsequent public hearing on the merits unless all signatories thereto agree to re-stipulate to the facts.

D. Administrative notice:

(1) The commission or presiding officer may take administrative notice of the following matters if otherwise admissible under Subsection A of 1.2.2.34 NMAC:

(a) rules, regulations, administrative rulings, published reports, licenses, and orders of the commission and other governmental agencies;

(b) contents of certificates, permits, and licenses issued by the commission;

(c) tariffs, classifications, schedules, and periodic reports regularly established by or filed as required or authorized by law or order;

(d) decisions, records, and transcripts in other commission proceedings;

(e) state and federal statutes;

(f) decisions of state and federal courts;

(g) generally recognized technical and scientific facts; and

(h) matters of which the courts of this state may take judicial notice.

(2) The commission or presiding officer may take administrative notice of the results of the commission's or presiding officer's inspection of any physical location or condition involved in the proceeding, and may take administrative notice on the record of the results of the commission's previous experience in similar situations and general information concerning a subject within the commission's expert knowledge.

(3) Parties requesting that administrative notice be taken of documents or portions of documents or of the contents thereof shall submit those documents or portions of documents to the commission or presiding officer in the form of exhibits except if doing so is unduly burdensome or as may otherwise be provided in this rule.

(4) The commission or presiding officer may take administrative notice, whether requested or not, subject to appropriate objection under Subsection L of 1.2.2.34 NMAC.

(5) Matters of fact noticed are admitted into evidence to the same extent as other relevant factual evidence.

E. Resolutions:

(1) Properly authenticated resolutions of the governing bodies of cities, towns, counties and other municipal corporations, and of chambers of commerce, commercial or mercantile boards of trade, agricultural or manufacturing societies, and other civic organizations shall be received in evidence if relevant.

(2) Resolutions shall be received subject to rebuttal by adversely affected parties as to the authenticity of the resolution.

(3) Recitals of fact contained in resolutions shall not be deemed proof of those facts.

F. Official records:

(1) An official rule, report, order, record, or other document prepared and issued by any governmental authority may be introduced into evidence.

(2) In cases where such official records, otherwise admissible, are contained in official publications or publications by nationally recognized reporting services and are in general circulation and readily accessible to all parties, they may be introduced by reference unless the commission or presiding officer directs otherwise, provided that proper and definite reference to the record in question is made by the party offering the same.

EXHIBIT B

G. Commission files:

(1) Papers and documents on file that are relevant to the proceeding may be introduced into evidence by reference to number, date, or by any other method of identification satisfactory to the commission or presiding officer unless the commission or presiding officer directs that the paper or document or a summary thereof be presented for the record in the form of an exhibit.

(2) If only a portion of any paper or document is offered in evidence, the part so offered shall be presented for the record in the form of an exhibit.

H. Records in other proceedings: If any portion of the record in any other proceeding before the commission or presiding officer is admissible for any purpose and is offered in evidence, a true copy of such portion may be presented for the record in the form of an exhibit.

I. Prepared testimony:

(1) Prepared written testimony shall be received in evidence as exhibits with the same force and effect as though it were stated orally by the witness.

(2) All witnesses must be present at the public hearing and shall adopt, under oath, their prepared written testimony, subject to cross-examination and motions to strike unless the witness's presence at public hearing is waived by the commission or presiding officer upon notice to, and without objection from, the parties.

(3) Unless the commission or presiding officer directs otherwise, testimony in written form shall be prepared in accordance with the following guidelines:

(a) the cover page shall contain the docket caption and number and the name of the witness;

(b) all pages are to be typed or machine printed and double-spaced;

(c) the top, bottom, and left-hand margins shall be at least 1.5 inches;

(d) the name of the witness and the docket number, if then known, shall be typed at the top center of each page two inches from the edge;

(e) the page number for each page shall be typed at the bottom center one inch from the edge;

(f) a square of approximately 1.5 inches in the upper right-hand corner of each page shall be left clear for commission use;

(g) testimony shall contain line numbers on the left-hand side of the page;

(h) testimony shall be filed in question and answer format and be supported by unsworn affirmation;

(i) testimony shall be composed in times new roman font, 12-point font size for the caption, heading(s), signature block, and body text, and 10.5-point font size for the footnote text;

(j) the text of the document shall be optical character recognition compatible;

(k) testimony may include attachments if prepared, sponsored, or adopted by the witness; and

(l) the document shall explicitly state whether it was drafted, generated, or otherwise produced by artificial intelligence.

(4) Unless the commission or presiding officer directs otherwise, no documents other than pre-filed testimony and its associated attachments shall be admitted into evidence on direct examination of a witness.

J. Exhibits:

(1) Use of data in exhibits:

(a) When supporting exhibits consist of tables of data or graphs, all formulae, equations, or other methodology used to derive the data shall be included as part of the supporting exhibit.

(b) If data used in supporting exhibits are derived from, or supported by, complex computerized analyses, working copies of the computer models may be included on electronic storage media compatible with the commission's current computer capabilities, in lieu of printed material.

(2) **Size of exhibits:** Except by special permission of the commission or presiding officer, no specially prepared exhibits offered as evidence shall be of greater size, when folded, than 8.5 inches by 11 inches.

(3) **Marking of exhibits:** All exhibits shall be marked numerically in the order of introduction by the moving party. To the extent practicable, all exhibits, including those to be introduced on cross-examination, shall be marked before the start of public hearings on the day the witness shall be examined.

(4) Designation of part of document as evidence:

(a) When relevant and material matter offered in evidence by any party is embraced in a book, paper, or document containing other matter not material or relevant, the party offering the same shall plainly designate the matter so offered.

(b) If other matter is in such volume as would unnecessarily encumber the record, such book, paper, or document shall not be received in evidence but may be marked for identification, and, if properly authenticated, the relevant or material matter may be read into the record, or, if the commission or presiding officer so directs, a true copy of such matter in proper form shall be received as an exhibit and like copies delivered by the party offering the same to all other parties appearing at the public hearing.

(c) All parties shall be afforded an opportunity to examine the book, paper, or document, and to offer in evidence in like manner other portions thereof if found to be material and relevant.

(5) Abstracts of documents: When documents are numerous, and a party offers in evidence more than a limited number of such documents, an abstract shall be prepared and offered as an exhibit giving other parties reasonable opportunity to examine the abstract and the documents.

(6) Summaries of documents: Where a document that is being offered into evidence is voluminous, the commission or presiding officer may direct that a summary be prepared and offered as an exhibit giving other parties reasonable opportunity to examine the summary and the document. The commission or presiding officer may require that the summary be offered as an exhibit in addition to the summarized document or in lieu thereof.

(7) Copies of exhibits:

(a) When exhibits not attached to pleadings, as required by this rule, are offered in evidence, the original shall be furnished to the reporter.

(b) The party offering exhibits shall furnish a copy to each commissioner, the presiding officer, and advisory staff, if in attendance, and each party unless such copies have previously been furnished or the commission or presiding officer directs otherwise.

(c) The proponent shall, to the extent practicable, furnish the required copies to the reporter, each commissioner, the presiding officer, advisory staff, and the parties before the start of the public hearings on the day said proponent intends to offer the exhibits into evidence.

K. Additional evidence:

(1) At any stage of the proceeding, the commission, any commissioner, or the presiding officer may require the production of further evidence upon any issue, and all parties shall have an opportunity to respond.

(2) Additional evidence may, at the discretion of the commission, any commissioner, or the presiding officer, be in writing or presented orally.

(3) If presented orally or at a public hearing by a witness, all parties shall have an opportunity to cross-examine the witness under oath.

L. Objections:

(1) Any evidence offered in whatever form, and any procedural matters, shall be subject to appropriate and timely objection. When objection is made to the admissibility of evidence, such evidence may be received subject to later ruling by the commission or presiding officer.

(2) The commission or presiding officer, in the commission's or presiding officer's discretion, either with or without objection, may exclude inadmissible, incompetent, cumulative, or irrelevant evidence, or order the presentation of such evidence discontinued.

(3) The evidence to be admitted at evidentiary hearings shall be material and relevant to the issue. Formal exceptions to rulings are not necessary and need not be taken.

(4) The following persons may make objections:

(a) a *pro se* party;

(b) attorney of record for a party; and

(c) a party-entity's officers, general partners, and employees who are authorized to represent the party-entity pursuant to rule 1.2.2.9 NMAC.

(5) The persons described in Paragraph (4) of this subsection shall comply with objection procedures as may be ordered by the commission or presiding officer at the commission's or presiding officer's discretion.

M. Offers of proof:

(1) A party may make an offer of proof for the record that shall consist of a statement of the substance of the evidence to which objection has been sustained.

(2) The commission or presiding officer may require offers of proof to be submitted in writing in question and answer form.

(3) The commission shall allow a party a reasonable opportunity to make an offer of proof.

N. Rebuttal evidence:

(1) A party wishing to offer rebuttal evidence not previously adduced or identified shall, at the close of the opposition's direct case, move the commission or presiding officer to allow introduction of rebuttal evidence.

(a) The movant shall indicate the nature of the evidence sought to be adduced and demonstrate why it is proper rebuttal testimony.

(b) Rebuttal evidence which is merely cumulative or could have been more properly offered in the case in chief shall not be allowed.

(2) The commission or presiding officer may permit or require rebuttal evidence to be submitted in prepared form prior to its introduction in accordance with this rule.

[1.2.2.34 NMAC - Rp, 1.2.2.35 NMAC, XX/XX/2026]

1.2.2.35 PROPOSED FINDINGS AND CONCLUSIONS; BRIEFS:

A. Proposed findings and conclusions:

(1) Generally:

(a) The commission or presiding officer may require parties to file proposed orders, including proposed findings and conclusions.

(b) If the commission or presiding officer requires the filing of a proposed order, the commission or presiding officer shall immediately fix the time in which the proposed order shall be filed.

(c) Proposed findings and conclusions on contested material issues shall not be included in proposed orders unless requested by the commission or presiding officer, or with all other parties' consent.

(2) Contents:

(a) The party submitting a proposed order shall clearly identify the party on the first page of the order.

(b) Each proposed finding of fact and conclusion of law shall be clearly and concisely stated and numbered.

(c) Each proposed finding of fact shall show, specifically, by appropriate transcript reference, the evidence which supports the proposed finding unless otherwise permitted by the commission or presiding officer.

B. Briefs and oral argument; right to file or argue:

(1) The commission or presiding officer may require the filing of briefs or the presentation of oral argument, or both, by the parties. Requests for the filing of briefs or oral argument shall be made before or at the close of the public hearing, and may be made in writing or orally on the record.

(2) The commission or presiding officer shall give parties an opportunity to make argument, upon request, but the manner of presentation, whether written, oral, or both, shall be at the discretion of the commission or presiding officer.

(3) The commission or presiding officer shall have the discretion to set page limits for briefs, limit the time allocated to each party for oral argument, or conduct an oral argument by telephone conference call.

C. Time of filing:

(1) Proposed orders and briefs:

(a) Unless otherwise ordered by the commission or presiding officer, a party shall have 20 days after the date that the complete transcript of the public hearing is filed with the commission to file whatever proposed orders and briefs are required by the commission or presiding officer.

(b) A party may file a response brief 13 days after service of the opening brief(s) unless otherwise ordered by the commission or presiding officer.

(c) A party shall not file a reply brief to a response brief(s) without leave of the commission or presiding officer. If permitted, a party shall file the reply brief within 13 days of service of the response brief, unless otherwise ordered by the commission or presiding officer.

(2) **Extension:** A motion for extension of time to file a proposed order or brief shall be filed no later than three days prior to that time as set out in Paragraph (1) of Subsection C of 1.2.2.35 NMAC, except for good cause shown.

D. Filing: All proposed orders and briefs shall be filed.

E. Briefs' contents generally:

- (1) Briefs shall be concise and shall include transcript citations for each statement of fact or transcript reference in the form required by Subsection D of 1.2.2.33 NMAC.
- (2) Briefs that are 15 pages long or longer shall contain a table of contents and a table of authorities.

F. Reconciliation statements:

- (1) Unless the commission or presiding officer directs otherwise, or unless a party does not have the expertise to do so, each brief filed in a proceeding that impacts rates shall contain a reconciliation statement setting forth, in dollars, the final position of the party filing the brief.
 - (2) The reconciliation statement shall be in a simple and concise form.
 - (3) In a base rate case, the reconciliation statement shall set forth:
 - (a) the claimed rate base for the regulated entity showing test year figures per book, adjustments, and adjusted test year figures (if rate base items are at issue the statement shall set forth on a separate sheet the contested items and their dollar effect on rate base);
 - (b) an income statement showing operating revenues and expenses with test year figures per book, adjustments, and adjusted test year figures (if any expense items are at issue the statement shall set forth on a separate sheet the contested expense or revenue items in detail and the dollar effect on total company expenses or revenues of their allowance);
 - (c) the capital structure of the company (if there is no actual capital structure, any proposed imputed capital structure, the ratio of each type of capital to total capital, and the cost and weighted cost of each shall be shown; this schedule shall show the dollar effects of the requested return upon revenue requirements);
 - (d) a computation of projected state and federal taxes on adjusted figures based on statutory rates or other applicable rates; and
 - (e) a computation of the claimed revenue deficiency.
 - (4) If the information required by this subsection is clearly set forth in schedules in evidence, such schedules may be appended to the brief in lieu of a separate reconciliation statement. If a party adopts the position of another party, the party may state whose position is adopted rather than file a separate reconciliation statement.
 - (5) The party requesting a rate increase shall provide a proof of revenue statement.
 - (6) The parties may, separately from the reconciliation statement required by this subsection, show details of adjustments by account numbers, give short explanations or reasons for the adjustments, and show where these adjustments require adjustments elsewhere. The parties may also give citations to the transcript to show where the requested adjustment is supported by the record.
- [1.2.2.35 NMAC - Rp, 1.2.2.36 NMAC, XX/XX/2026]

1.2.2.36 ORDERS; RECOMMENDED DECISIONS; EXCEPTIONS; REHEARING AND RECONSIDERATION:

A. Commission orders:

- (1) An order issued by the commission or presiding officer is effective on the date that the order is filed unless otherwise stated in the order;
- (2) The commission shall issue its order in writing in every proceeding.
 - (a) The commission's or presiding officer's orders shall contain separately stated findings of fact and, in the commission's discretion, conclusions of law, or combined findings and conclusions, unless the order is strictly procedural.
 - (b) The commission or presiding officer may, in its discretion, issue an oral decision prior to the issuance of its written order.
 - (c) The timeliness of applications for rehearing, motions for interlocutory appeal, and notices of appeal shall be calculated from the date the commission or presiding officer files its written order.
- (3) The commission may adopt a presiding officer's recommended decision. If a recommended decision is adopted in its entirety, the commission's order shall so state.
- (4) The commission may modify a recommended decision and make further findings and conclusions based on the record.

B. Exceptions to recommended decisions:

(1) Filing requirements:

- (a) Unless otherwise ordered by the commission or presiding officer, exceptions may be filed by any party within 13 days after the recommended decision is filed.

EXHIBIT B

(b) Unless otherwise ordered by the commission or presiding officer or by prior written approval of the commission or presiding officer, exceptions shall be no longer than 40 pages. A summary of argument, identifying with particularity, and numbering the points excepted to, of no more than five pages, shall be included with the exceptions and does not count toward the 40-page limit.

(c) Unless otherwise ordered by the commission or presiding officer, responses to exceptions may be filed within eight days after the exceptions have been filed.

(d) Unless otherwise ordered by the commission or presiding officer or by prior written approval of the commission or presiding officer, responses to exceptions shall be no longer than 35 pages. A summary of argument of no more than three pages shall be included with a response and does not count toward the 35-page limit.

(e) Replies to responses to exceptions shall not be filed without leave of the commission or presiding officer.

(f) Unless otherwise ordered by the commission or presiding officer or by prior written approval of the commission or presiding officer, replies to responses shall be no longer than 15 pages. A summary of argument of no more than two pages shall be included with a reply and does not count toward the 15-page limit.

(g) Any exception, response, or reply 15 pages long or longer shall include a table of contents and a table of authorities. Tables of contents and authorities shall not count toward any page limitation.

(2) Contents:

(a) Responses shall not raise matters which were not raised in the exceptions of a party.

(b) Exceptions and any responses shall specifically set forth:

- (i) the precise portions of the proposed decision to which the exception is taken or response to exception is made;
- (ii) the reason for the exception or response;
- (iii) authorities on which the party relies, and specific citations to the record in the form required by Subsection D of 1.2.2.33 NMAC; and
- (iv) in proceedings impacting rates, reconciliation statements containing the information listed in Subsection F of 1.2.2.35 NMAC.

(3) **Filing:** Exceptions and responses shall be filed.

C. Oral argument to commission after recommended decision:

(1) Any party may petition the commission for oral argument after the issuance of a recommended decision.

(2) An oral argument request may be included in a brief on exceptions or a response, but it shall be filed no later than the last day to file responses.

(3) The commission in its discretion may allow oral argument. If it allows oral argument, it may in its discretion conduct oral argument in person or by video or telephone conference call.

D. Reopening proceedings:

(1) **Motion to reopen:** A party to a formal proceeding may file a motion, in a pending docket after the issuance of a recommended decision or final order, or in a closed docket, to reopen the formal proceeding for the taking of additional evidence and argument.

(2) **Contents:** A motion to reopen shall specify those facts claimed to constitute grounds in justification thereof, including material changes of fact or law alleged to have occurred since the conclusion of the public hearing, and shall contain a brief statement of proposed additional evidence and an explanation as to why such evidence was not previously produced.

(3) **Responses and replies:**

(a) A party may file a response within 13 days following the service of any motion to reopen.

(b) A party shall not file a reply without leave of the commission.

(4) The commission on its own motion may, at any time, reopen any proceeding for good cause.

E. Rehearing and Reconsideration:

(1) **Motions generally:**

(a) Any party may, within 30 days after filing of an order by the commission, move for rehearing or reconsideration of the order with respect to any issue determined in the proceeding relating to Chapter 62 of the New Mexico statutes, pursuant to Section 62-10-16 NMSA 1978.

EXHIBIT B

(b) Any party may, within 10 days after filing of an order by the commission, move for rehearing or reconsideration of the order with respect to any issue determined in the proceeding relating to all other statutes not included in Chapter 62.

(c) The motion shall specify the issues upon which the movant requests rehearing or reconsideration and the grounds on which the movant considers the order to be unlawful, unjust, or unreasonable with regard to each issue.

(d) Any person who has not been granted party status to a proceeding may not file a motion for rehearing or reconsideration in the proceeding.

(2) Responses and replies to motions:

(a) Any party may file, within seven days, a response in writing to a motion for rehearing or reconsideration filed pursuant to Section 62-10-16 NMSA 1978 and Subparagraph (a) of Paragraph (1) of Subsection F of 1.2.2.36 NMAC. Replies to responses shall not be permitted without leave of the commission or presiding officer.

(b) Any party may file, within five days, a response in writing to any motion for rehearing or reconsideration filed pursuant to Subparagraph (b) of Paragraph (1) of Subsection F of 1.2.2.36 NMAC. Replies to responses shall not be permitted without leave of the commission or presiding officer.

(3) New evidence:

(a) A motion for rehearing or reconsideration may seek modification of the order with or without introduction of additional evidence.

(b) If the movant or any party who opposes or supports the motion seeks to introduce additional evidence on any matter, the new evidence shall be specified and supported by unsworn affirmation, and it shall be accompanied by a statement of the reasons why the new evidence was not previously introduced.

(c) Any new evidence furnished in support of the motion or response shall be considered by the commission only for purposes of the commission's decision on the motion and shall not be considered as evidence pertaining to the order subject to rehearing or reconsideration.

(4) **Effect of filing motion:** The filing of a motion for rehearing or reconsideration shall not excuse a party from complying with or obeying any order or any requirement of an order, nor shall it operate in any manner to stay or postpone the enforcement thereof, except as the commission may by order direct, as provided by law.

(5) **Oral argument:** If the commission in its discretion grants oral argument on a motion for rehearing, the commission's order shall not thereby be automatically vacated.

(6) Disposition of motions:

(a) For a motion for rehearing or reconsideration filed pursuant to Subparagraph (a) of Paragraph (1) of Subsection F of 1.2.2.36 NMAC, the commission may grant or deny the motion within 20 days.

(i) If the commission does not act within 20 days, the motion for rehearing or reconsideration is denied by operation of law.

(ii) If the commission grants or denies a motion for rehearing or reconsideration within 20 days, it may later issue an explanation for its decision, but not longer than 28 days after granting or denying the motion.

(b) For a motion for rehearing or reconsideration filed pursuant to Subparagraph (b) of Paragraph (1) of Subsection F of 1.2.2.36 NMAC, the commission may grant or deny the motion at any time within 20 days after the order has been issued and prior to the expiration of the period prescribed for filing of responses.

(i) If the commission does not act on a motion for rehearing within 20 days after the order has been issued, the motion shall be deemed denied.

(ii) If the commission grants or denies a motion for rehearing or reconsideration within 20 days, it may later issue an explanation for its decision, but not longer than 60 days after granting or denying the motion.

(c) The commission shall limit the rehearing to some or all of the matters raised in the motion, except that matters that are not expressly raised in the motion may need to be reheard in light of matters that are expressly raised in the motion.

(d) On rehearing the commission, in its discretion, may receive some or all of the new evidence specified in the motions or responses subject to cross-examination, restrict the rehearing or reconsideration to modification of its order without introduction of new evidence, or dispose of the motion without public hearing.

EXHIBIT B

(e) If the commission grants the motion in whole or in part, the order being reheard or reconsidered shall be deemed vacated and no order or decision at that time shall exist in the proceeding.

(7) **New order:** After granting any rehearing or reconsideration, the commission shall enter a new order which may incorporate by reference any portion of the previously issued order which the commission vacated.

F. Errata notice:

(1) The commission, any commissioner, or a presiding officer may correct typographical errors, omissions, or other non-substantial errors in orders through the issuance of errata notices. The issuance of an errata notice shall not affect the finality of the decision or order corrected, and it shall not affect the time periods for any duty imposed by the decision or order.

(2) A party may correct typographical errors, omissions, or other non-substantial errors in its pleadings or documents through the filing of an errata notice, which shall conform to the rule governing pleadings.

G. Notice of appeal:

(1) Notices of appeal of commission decisions shall be filed pursuant to applicable statutes, including but not limited to Sections 62-11-1, 63-7-1.1, 63-9-16, 63-9A-14, 63-9B-9, 63-9H-12, and 70-3-15 NMSA 1978.

(2) Notices of appeal shall be served on each commissioner, commissioners' advisors, chief counsel, the commission's appellate specialist, advocacy staff, and all persons listed on the certificate of service for the docket from which the appeal is taken.

H. Final order compliance filings and variances:

(1) Filings in compliance with, and motions for variances from, commission final orders shall be filed under the same docket number as that of the final order, unless otherwise ordered by the commission.

(2) Requests for extensions of time to meet compliance provisions contained in final orders shall be in writing and shall explain why an extension of time is requested. Requests shall be filed under the same docket number as that of the final order.

[1.2.2.36 NMAC - Rp, 1.2.2.37 NMAC, XX/XX/2026]

1.2.2.37 RECUSAL:

A. Recusal of a hearing examiner:

(1) A hearing examiner shall self-recuse when, in the hearing examiner's discretion, the hearing examiner determines that the hearing examiner is unable to make a fair and impartial decision, or in which the hearing examiner determines that there exists reasonable doubt about whether the hearing examiner is able to make a fair and impartial decision.

(2) Any party may file a motion to request that the hearing examiner self-recuse or for the commission to recuse the hearing examiner

(a) A party's motion shall be supported by an unsworn affirmation setting forth the alleged grounds for recusal.

(b) If the motion is for self-recusal and the hearing examiner declines to self-recuse, the hearing examiner shall respond within 30 days, or as otherwise ordered by the commission, addressing the considerations of Paragraphs (1) through (4) of Subsection A of 62-19-7 NMSA 1978.

(c) If the motion is for commission recusal of the hearing examiner, then the commission shall promptly issue a determination.

B. Recusal of a commissioner:

(1) A commissioner shall self-recuse when, in the commissioner's discretion, the commissioner determines that the commissioner is unable to make a fair and impartial decision, or in which the commissioner determines that there exists reasonable doubt about whether the commissioner is able to make a fair and impartial decision.

(2) Any party may file a motion to request that the commissioner self-recuse.

(a) A party's motion shall be supported by an unsworn affirmation setting forth the alleged grounds for recusal.

(b) If the commissioner declines to self-recuse, the commissioner shall respond within 30 days addressing the requirements of Paragraphs (1) through (4) of Subsection A of 62-19-7 NMSA 1978.

(c) Unless otherwise provided by law, no commissioner shall rule on or vote on a motion to recuse any other commissioner.

[1.2.2.37 NMAC - Rp, 1.2.2.38 NMAC, XX/XX/2026]

1.2.2.38 DECORUM:

A. Commission policy:

(1) Commission proceedings should be conducted with fitting dignity and decorum, in a manner conducive to undisturbed deliberation, indicative of their importance to the public and to the participants, and in an atmosphere that bespeaks the responsibilities of the commission.

(2) All persons present at commission proceedings shall adhere to the commission's decorum resolutions that the commission may adopt from time to time.

B. A person's failure to comply with the requirements of this section may subject that person, or the entity that the person represents, to sanctions.

C. The commission or presiding officer may, at the commission's or presiding officer's discretion, remove any disruptive person from an in-person or virtual proceeding.

[1.2.2.38 NMAC - N, XX/XX/2026]

1.2.2.39 VARIANCE:

A. Any person may request a variance from a requirement of any rule or order by filing a motion in a pending docket for which the person is a party, or by petition in a new docket.

B. A person shall support a variance request with an unsworn affirmation signed by the person. An entity shall support a variance request with an unsworn affirmation signed by an officer or general partner of the entity, or by an employee with authority to sign for the entity.

C. Any person requesting a variance may include an additional request that the commission stay the portion of the rule or order specified in the variance request.

D. The commission may, at its discretion, require an informal conference or formal evidentiary public hearing prior to making its determination.

E. A motion or petition for variance shall:

- (1) identify the section of the rule or order from which the variance is requested;
- (2) describe the situation that necessitates the variance;
- (3) describe the effect of complying with the rule or order on the person if the variance is not granted;
- (4) describe the result that the variance may produce if granted;
- (5) explain why the variance is in the public interest, and
- (6) be proposed in good faith.

F. Responses to petitions for a variance, and replies to responses, shall be controlled by Subsection K of 1.2.2.8 NMAC, except that the commission may permit responses by non-parties at its discretion.

G. The commission may, *sua sponte*, issue a variance from a requirement of any rule or order if in the public interest, except when precluded by law.

H. The presiding officer may, *sua sponte*, issue a variance from a requirement of any procedural rule or order if in the public interest, except when precluded by law.

[1.2.2.39 NMAC - Rp, 1.2.2.40 NMAC, XX/XX/2026]

HISTORY OF 1.2.2 NMAC:

Pre NMAC History:

NMPUC Rule 110, Rules of Practice and Procedure, filed 10/4/93 (by former Public Utility Commission); SCC 78-2, Order (no number), Docket No. 857, In the Matter of the Adoption of Rules of Practice and Procedure for all Cases Before the N.M. SCC, filed 10/24/78; SCC 85-11, Rules of Procedure of New Mexico State Corporation Commission, filed 10/15/85 (by former NM State Corporation Commission).

History of Repealed Material:

17 NMAC 1.2, Public Utilities and Utility Services, Utilities General Provisions, Utility Division Procedures (filed 12/14/1998) repealed 9/1/2008.

18.1.2 NMAC, Transportation and Highways, Transportation General Provisions, Transportation Division Procedures (filed 12/10/2002) repealed 9/1/2008.

EXHIBIT B

Other History:

NMPUC Rule 110, Rules of Practice and Procedure (filed 10/4/1993) and SCC 85-11, Rules of Procedure of New Mexico State Corporation Commission (filed 10/15/1985) were renumbered, reformatted, amended and replaced by 17 NMAC 1.2, Public Utilities and Utility Services, Utilities General Provisions, Utility Division Procedures, effective 12/31/1998.

That applicable portion of 17 NMAC 1.2, Public Utilities and Utility Services, Utilities General Provisions, Utility Division Procedures (filed 12/14/1998) and 18.1.2 NMAC, Transportation and Highways, Transportation General Provisions, Transportation Division Procedures (filed 12/10/2002) were renumbered, reformatted, amended and replaced by 1.2.2 NMAC, General Government Administration, Administrative Procedures, Public Regulation Commission Rules of Procedure, effective 9/1/2008.