
25-00054-UT- 2025.10.29- Unopposed Emergency Motion Regarding Executive Order and Interim Provision of Water Service,

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Date Wed 10/29/2025 5:01 PM

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 1 attachment (2 MB)

25-00054-UT-2025.10.29-Staff-Emergency Motion.pdf;

Good afternoon,

Attached is ***Unopposed Emergency Motion Regarding Executive Order and Interim Provision of Water Service*** for Case No. 25-00054-UT, electronically filed today.

Thank you,

Elizabeth Ramirez
Paralegal

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

**IN THE MATTER OF MELODY RANCH)
WATER COMPANY LLC’S WATER SYSTEM)
BREAKDOWN AND DISRUPTION OF SERVICE)
_____)**

Docket No. 25-00054-UT

**UNOPPOSED EMERGENCY MOTION REGARDING EXECUTIVE ORDER AND
INTERIM PROVISION OF WATER SERVICE**

The Legal Division Staff (“Staff”) of the New Mexico Public Regulation Commission (“Commission”) hereby submits this Unopposed Emergency Motion¹ Regarding Executive Order and Interim Provision of Water Service. Given the state of emergency declared by Governor Michelle Lujan Grisham and Torrance County, Staff seeks an order from the Commission² ensuring proper ratemaking treatment of water provided to the residents of Melody Ranch. In support of these requests, Staff states the following:

1. As documented extensively through previous filings in this docket as well as attendant media coverage, Melody Ranch has been experiencing a water system breakdown and severe disruptions of water service to its community since June of this year. The residents of Melody Ranch have been left without consistent access to safe and reliable water necessary for drinking, sanitation, cooking, and other essential needs.

2. On October 28, 2025, Governor Lujan Grisham issued Executive Order No. 2025-373,³ which declared a state of emergency regarding the Melody Ranch water system breakdown

¹ In accordance with 1.2.2.12(A)(3) NMAC, Staff contacted Melody Ranch to determine its position regarding this Motion. Melody Ranch does not oppose.

² Staff appreciates that the Commission has assigned a hearing examiner to preside over this proceeding. However, this motion is directed to the Commission, and not its assigned hearing examiner, due to the state of emergency and the need for extremely expeditious action from the Commission itself to modify a currently operative rate so as to comply with the New Mexico Constitution.

³ Executive Order No. 2025-373 (Oct. 28, 2025).

and disruption of service. The Executive Order, which is attached to this motion as Exhibit A, charted a path towards remediating the situation and facilitating the restoration of water service to the Melody Ranch community.

3. The Governor issued the Executive Order following a special meeting held October 27, 2025, by the Torrance County Commission, where it declared a state of emergency regarding Melody Ranch.

4. The Executive Order includes a directive to governmentally fund and facilitate the interim provision of water service to the community. Staff envisions this being accomplished through water hauling and the direct delivery of such hauled water to Melody Ranch's storage tank for the use of the Melody Ranch community.⁴ Funding was appropriated to the Department of Homeland Security and Emergency Management ("DHSEM"), which will be responsible for coordinating emergency efforts.

5. Staff contemplates that the water hauling will be accomplished by tanker trucks that will transport water to the water system on a regular basis. The transport of the hauled water will be made to the connection point in the water system's utility building situated adjacent to the storage tank with the hauled water to be injected directly into the storage tank at the connection point located in the utility building – direct injection into the storage tank.

5. The water hauling will be in addition to the production currently realized by the water system's well, which has been holding at approximately 4.7 gallons per minute.

⁴ Water testing will be necessary prior to the hauled water being deemed safe for drinking. There will likely be a boil water advisory in effect until test results are returned (which may take several days). In the meantime, residents will be able to use water for toilets and showering.

6. It is anticipated that the resultant emergency relief will consist of funds to be paid for water hauling to enhance the interim provision of water service until such time as more permanent remediation of the water system is undertaken and achieved, inclusive of the drilling of a new well and the institution of other repairs and improvements as may be necessary.

7. By way of background, Melody Ranch's currently approved rate structure provides:

<u>Rate</u>	<u>Cost</u>	<u>Based On</u>
Customer Charge	\$32.17	Flat charge per month
Commodity Charge	\$3.23	Per 1,000 gallons of water delivered

8. An emergency modification to this rate structure is necessary due to the nature and character of the interim provision of water service to the community. In particular, given that the prospective water hauling regime will provide for water to be delivered to Melody Ranch's storage tank by DHSEM and without payment in exchange, the concern turns to Melody Ranch's commodity charge rate for this water and avoidance of violating the Anti-donation Clause of the New Mexico Constitution.⁵ This constitutional provision operates as a general prohibition against providing state aid or donations for the benefit of private actors without consideration in exchange.⁶ This is a non-negotiable condition precedent towards attaining and maintaining this publicly-funded emergency relief during this interim period and until such time as the permanent solution that has been contemplated in the proceedings might be realized by EMWT.

⁵ N.M. Const., Art. IX, § 14.

⁶ See *id.* (providing that “[n]either the state nor any county, school district or municipality, except as otherwise provided in this constitution, shall directly or indirectly lend or pledge its credit or make any donation to or in aid of any person, association or public or private corporation”). There are numerous exceptions to this constitutional provision, including one for state or local assistance “for the care and maintenance of sick and indigent persons.” N.M. Const., Art. IX, § 14(A).

9. To ensure compliance with the Anti-donation Clause, Staff requests an order from the Commission suspending Melody Ranch's commodity charge during this interim period.⁷ This step would ensure that Melody Ranch does not receive payment from customers based on the water provided to the community by the state. This suspension should remain in effect until further notice, provided that, if circumstances change in the future, either Melody Ranch or Staff may move the Commission to lift or modify this suspension.

10. For record keeping purposes and to clearly identify the amount of water delivered by DHSEM, Melody Ranch should also be directed to track and calculate the production from the existing well before the first water is delivered.

11. A proposed form of order is attached to this motion as Exhibit B.⁸

WHEREFORE, Staff hereby requests that the Commission issue an order:

- Suspending Melody Ranch's currently-operative commodity charge, effective November 1, 2025, and pending any future order from the Commission; and
- Directing Melody Ranch to immediately dispatch its personnel to gauge the production from the existing well as well as the amount of water currently in its storage tank.

⁷ The suspension of the commodity charge is, in Staff's view, unlikely to encourage water conservation. However, Melody Ranch, DHSEM, and PRC Staff are committed to strongly encouraging customers to conserve water during this interim period, even with the suspension of the commodity charge.

⁸ A Microsoft Word version of this order will also be emailed to the service list.

Respectfully submitted this 29th day of October, 2025.

Respectfully submitted,

/s/ John Bogatko

John Bogatko, NMPRC Legal Division
John Kreienkamp, NMPRC Legal Division
New Mexico Public Regulation Commission
P.O. Box 1269 | Santa Fe, NM 87504-1269
Email – John.Bogatko@prc.nm.gov
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State of New Mexico

Michelle Lujan Grisham
Governor

EXECUTIVE ORDER 2025-373

DECLARING AN EMERGENCY IN TORRANCE COUNTY DUE TO MULTIPLE WELL OUTAGES AND AUTHORIZING EMERGENCY FUNDS FOR THE DEPARTMENT OF HOMELAND SECURITY AND EMERGENCY MANAGEMENT

WHEREAS, Torrance County overlies the Estancia Basin, a closed groundwater basin that supplies most domestic and agricultural use in the area;

WHEREAS, long-term studies have documented substantial declines in groundwater levels due to pumping in excess of natural recharge;

WHEREAS, the U.S. Geological Survey reported that between about 1950 and 1985 groundwater levels in parts of the Estancia Basin declined approximately 50 to 60 feet, reflecting sustained drawdown from large-scale withdrawals;

WHEREAS, current hydrologic assessments for the Estancia Basin note that groundwater levels continue to be vulnerable because extraction and evapotranspiration have historically exceeded recharge, creating water-supply risks for rural communities;

WHEREAS, periodic drought conditions in Torrance County further reduce recharge and increase pressure on groundwater supplies, heightening the risk of well failures and water shortages across the county;

WHEREAS, multiple communities in northern Torrance County have experienced loss of service and well production problems;

WHEREAS, reported well failures and low-yield conditions across the County have required emergency water deliveries and conservation measures to protect public health and safety;

WHEREAS, these well failures prompted the Torrance Board of County Commissioners to issue an emergency resolution declaring a disaster on October 27, 2025;

WHEREAS, the local disaster declaration issued by Torrance County states that all available local resources are insufficient to address this emergency and requests financial aid and material assistance from the State of New Mexico;

WHEREAS, this disaster requires immediate actions to protect public peace, health, and safety; and

WHEREAS, this disaster is of such magnitude as to be beyond local control and requires the resources of the State of New Mexico to minimize economic and physical harm and to take actions necessary to protect the public health, safety, and welfare.

NOW, THEREFORE, I, Howie Morales, Lieutenant Governor of the State of New Mexico and acting Governor pursuant to Article V, Section 7 of the New Mexico Constitution, by virtue of the authority vested in me by the Constitution and the laws of the State of New Mexico do hereby **DECLARE** a state of emergency to exist in Torrance County due to multiple well outages, and **ORDER** and **DIRECT** as follows:

1. The Department of Finance and Administration shall make available emergency financial resources in an amount not to exceed two hundred and fifty thousand dollars (\$250,000.00) to the Department of Homeland Security and Emergency Management in accordance with NMSA 1978, Sections 12-11-23 to -25, and NMSA 1978, Sections 12-10-14 to -15. The funds shall be expended for the resources and services necessary to, on a temporary, emergency basis, provide water supply to residents, support water quality testing by the

Department of Environment on the water provided to residents, and for any other action necessary to protect the public health, safety, welfare, and property. The funds shall be expended in accordance with the policy and procedures of the Department of Homeland Security and Emergency Management, as approved by the Governor or her Authorized Representative.

2. The Department of Homeland Security and Emergency Management shall coordinate all requests for assistance and responses to such requests under the authority of and as determined by the Governor or her Authorized Representative. In addition to such other eligibility criteria as may be established by the Governor or her Authorized Representative, applicants requesting financial assistance from the State for necessary action taken in response to the emergency shall be required to demonstrate that the cost of the necessary action exceeds their available resources, as determined based upon criteria developed in conjunction with the State agencies, if any, with financial and budgetary oversight responsibilities for the applicant.

3. Water provided in response to the emergency shall meet standards appropriate for residential use. The Department of Environment shall perform water quality testing as necessary to ensure residents have water that meets safe drinking water standards.

4. The Department of Homeland Security and Emergency Management shall coordinate with the Public Regulation Commission on assistance provided in response to the emergency. The Department of Homeland Security and Emergency Management shall, upon delivering any water to residents, provide detailed information as to its quantity and cost to the Public Regulation Commission as needed and in a manner which facilitates appropriate regulatory action. This information shall be provided to the staff of the Public Regulation Commission as expeditiously as possible.

5. All Cabinet Departments and agencies under gubernatorial control shall provide any assistance that may be required by the Department of Homeland Security and Emergency Management or by the State Emergency Operations Center under the authority of the Governor's Authorized Representative, including, as consistent with applicable law, expediting all regulatory approval processes necessary to secure a long-term resolution to the emergency.

I FURTHER ORDER and DIRECT as follows:

1. This Order supersedes any previous orders, proclamations, or directives to the extent they are in conflict.
2. This Order shall take effect immediately and shall remain in effect until all authorized funds are expended or no longer necessary to provide emergency assistance.

ATTEST:



MAGGIE TOULOUSE OLIVER
SECRETARY OF STATE

DONE AT THE EXECUTIVE OFFICE
THIS 28TH DAY OF OCTOBER 2025

WITNESS MY HAND AND THE GREAT
SEAL OF THE STATE OF NEW MEXICO



HOWIE MORALES
LIEUTENANT GOVERNOR



Staff Exhibit B

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

IN THE MATTER OF MELODY RANCH	)	
WATER COMPANY LLC’S WATER SYSTEM	)	
BREAKDOWN AND DISRUPTION OF SERVICE	)	
	)	

Docket No. 25-00054-UT

**ORDER GRANTING UNOPPOSED EMERGENCY MOTION REGARDING
EXECUTIVE ORDER AND INTERIM PROVISION OF WATER SERVICE**

THIS MATTER comes before the New Mexico Public Regulation Commission (“Commission”) upon the Legal Division’s Unopposed Emergency Motion Regarding Executive Order and Interim Provision of Water Service (“Motion”). Being otherwise fully advised, the Commission finds that the Motion is well taken and should be granted.

BACKGROUND

1. As explained by the Motion, since June of this year, the Melody Ranch Water Company, LLC (“Melody Ranch”) has been experiencing a water system breakdown and severe disruptions of water service to its community.

2. On October 28, 2025, Governor Michelle Lujan Grisham issued an executive order declaring a state of emergency regarding Melody Ranch and providing a path towards remediating the situation and facilitating the restoration of water service.¹ The Executive Order provides for state funds to be used to facilitate the interim provision of water service to the community. Staff anticipates this will be accomplished through water hauling and the direct delivery of such hauled water to Melody Ranch’s storage tank for the use of the Melody Ranch community. This water hauling will be in addition to the production currently achieved through Melody Ranch’s existing well, which currently provides approximately 4.7 gallons per minute. Funding was appropriated

¹ See Executive Order No. 2025-373 (Oct. 28, 2025).

to the Department of Homeland Security and Emergency Management (“DHSEM”), which will be responsible for coordinating emergency efforts.

3. Staff’s Motion explains the Executive Order requires the Commission to consider the implications of the Anti-donation Clause of the New Mexico Constitution, which operates as a general prohibition against providing state aid or donations for the benefit of private actors without receiving consideration in exchange.² Staff points out that, if Melody Ranch were to be permitted to collect and retain funding derived from the water provided and funded by the state pursuant to the Governor’s executive order, this would effectively represent a gift of state funding to Melody Ranch. Staff therefore urges the Commission to suspend the commodity charge effective November 1, 2025.

4. Melody Ranch currently charges both a fixed monthly customer charge as well as a volumetric commodity charge.³ The currently operative commodity charge, as previously approved by the Commission, is \$3.23 per each 1,000 gallons of water delivered.

5. Melody Ranch does not oppose Staff’s Motion.

DISCUSSION

6. The Commission also agrees with the Legal Division that Melody Ranch cannot, consistent with the Anti-donation Clause of the New Mexico Constitution, be permitted to collect and retain its volumetric commodity charge from customers based on water paid for with state funds. The purpose of the Anti-donation Clause is to prohibit the state from providing its funds or credit to private entities without consideration in exchange.⁴ Were state funds here to be effectively

² See N.M. Const., Art. IX, § 14.

³ See Adv. No. 7 (3rd Revised Rate #1) (Nov. 30, 2010) at 4 (effective Jan. 1, 2011).

⁴ “Speaking broadly, the Anti-donation Clause prohibits public entities from donating public funds to private entities without receiving value in return.” N.M. Att’y Gen. (Dec. 1, 2022) at 2 (opinion regarding public funding for private roads). See also *Village of Deming v. Hosdreg Co.*, 1956-NMSC-111, ¶ 37, 62 N.M. 18, 28

used for the enrichment of Melody Ranch, this principle would be violated. Commission action is therefore necessary – on an emergency basis – to ensure compliance with the New Mexico Constitution.

7. Staff’s request to suspend the commodity charge altogether to avoid a violation of the Anti-donation Clause aligns with the interests of efficiency and administrative convenience. Melody Ranch has also – importantly – agreed to this suspension for this interim period.

FINDINGS AND CONCLUSIONS

8. The Commission should suspend Melody Ranch’s existing volumetric commodity charge, effective immediately. The Company should be directed to continue collecting its fixed monthly customer charge but not its commodity charge, pending further order of the Commission.

9. Melody Ranch should take all steps that are necessary and prudent to track and calculate production from its existing well. The Company should also take all measures necessary to track precisely how much water is delivered by the state to Melody Ranch’s storage tank.

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

IT IS THEREFORE ORDERED:

A. Staff’s Motion is hereby **GRANTED**.

B. Melody Ranch’s currently operative commodity charge is hereby **SUSPENDED**, effective immediately. If and when circumstances change, however, either Staff or Melody Ranch may move the Commission to lift or modify this suspension.

(explaining that the state violates the Anti-donation Clause where, “by reason of its nature and the circumstances surrounding it,” the state funding in question “take[s] on character as a donation in substance and effect”).

C. Melody Ranch shall **IMMEDIATELY** dispatch its personnel to gauge the production from the existing well for the purpose of calculating its customers' commodity charges for the current billing period.

D. This Order is effective when signed.

E. The Commission shall serve a copy of this Order upon all persons listed on the attached Certificate of Service via e-mail if their e-mail addresses are known, and otherwise, via regular mail.

F. In computing time in accordance with statute, regulation, or Commission order, computation shall begin on the date that this Order is filed with the Chief Clerk of the Commission's Records Management Bureau or the Chief Clerk's designee.

SIGNED under the Seal of the Commission at Santa Fe, New Mexico, this 29th day of October, 2025.

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

IN THE MATTER OF MELODY RANCH WATER)
COMPANY LLC'S WATER SYSTEM BREADOWN) Docket No. 25-00054-UT
AND DISRUPTION OF SERVICE)
)

CERTIFICATE OF SERVICE

I CERTIFY that on this date I sent a true and correct copy of the *Unopposed Emergency Motion Regarding Executive Order and Interim Provision of Water Service*, to the following:

Echo and Melody Ranch Water Co.	
Pete V. Domenici, Jr.	pdomenici@domenicilaw.com ;
Tracy Padilla	echoandmelody@gmail.com ;
NMPRC -Utility Staff	
John Bogatko	John.Bogatko@prc.nm.gov ;
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DATED October 29, 2025.

NEW MEXICO PUBLIC REGULATION COMMISSION

/s/ Elizabeth Ramirez (electronically signed)

Elizabeth Ramirez, Paralegal