

NEW MEXICO PUBLIC REGULATION COMMISSION



# ANNUAL REPORT



# 2022



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# 2022 PRC Accomplishments

2022 was a year of achievement for the New Mexico Public Regulation Commission. Here's a brief overview of the Agency's accomplishments. Outdated electric utility regulations were updated to strip away barriers to renewable energy adoption, provide customers with more energy options, and promote utility adoption of the many new technologies that increase reliability and flexibility and lower grid operating costs. Examples include:

1. New Community Solar rules that allow consumers to buy clean, affordable, renewable energy from nearby providers rather than their local utility monopoly.
2. Updated interconnection rules that make rooftop solar and many energy-saving technologies available to consumers who could not access them before.
3. Updated planning and reporting rules that dramatically increase transparency for both the PRC and the public. The updated rules will enable the PRC to identify and resolve issues proactively rather than applying band-aids after problems occur.
4. New procurement rules that will help ensure utilities acquire the most reliable, lowest cost, and up to date generation and grid assets possible. The new procedures will also protect against costly procurement and bidding abuses.
5. Additional rulemaking initiatives were launched to support roll out of electric vehicles and modernization of the grid generally. These efforts will be completed by a new, governor-appointed Commission for 2023.

Resources were reallocated to better support sound decision making. Well compensated Engineering, Accounting, and Economist positions were created specifically to advise commissioners on technical issues impacting rate cases, power plant and transmission acquisition, and grid modernization. Commissioners have not had access to this level of expertise in the past.

I am particularly proud of the commission's courageous, unanimous decision to deny a merger between PNM (New Mexico's largest electric utility) and Avangrid. There was tremendous pressure from politicians and special interest groups to approve the transaction. Many of these folks had been involved in merger negotiations and received concessions favorable to their interests. Unfortunately, the evidence showed that Avangrid and its parent company, Iberdrola, have a history of utility mismanagement, steeply rising costs, poor customer and community relations, questionable ethical practices, and legal troubles. Their dissembling behavior before the commission only confirmed concerns about past practices. The hearing examiner in the case summed it up perfectly. Satisfying a few influential special interests does not necessarily serve the public interest. By denying the transaction, I believe we helped New Mexicans dodge a lifetime of expensive headaches.

Finally, I want to thank the many dedicated employees of the PRC. I believe few appreciate the dedication and the long hours they put in. It has been an honor to serve with them and to serve you both as a PRC commissioner and as a PRC Chair. This commission has left the PRC in the best shape possible for the new Governor appointed commission that takes office January 1. I wish them good luck and hope for forward looking commissions in the years to come.

PRC Chair Cynthia Hall



# TABLE OF CONTENTS

Agency Mission and Vision.....	3
Agency History .....	4
Public Regulation Commissioners .....	5-8
Revenues .....	9-10
Commission Highlights .....	11-14
Regulatory Divisions.....	15-23
Utility Division .....	16
Transportation Division .....	18
Consumer Relations Division .....	20
Office of General Counsel.....	21
Legal Division .....	21
Hearing Examiners Division .....	22-27



## AGENCY MISSION

The New Mexico Public Regulation Commission (PRC) regulates the utilities, telecommunications, and motor carrier industries to ensure fair and reasonable rates, and to assure reasonable and adequate services to the public as provided by law. The PRC promotes public safety through the offices of the Pipeline Safety Bureau and Transportation Division.

## AGENCY VISION

The PRC aspires to lead New Mexico through ethical and balanced regulation, protecting critical infrastructure, and ensuring that essential services are safe, reliable, and affordable. The agency strives to advance the public interest through teamwork, by promoting economic development and environmental responsibility, while strengthening public accessibility and education.



## AGENCY HISTORY

The New Mexico Public Regulation Commission (PRC) is one of the most important agencies of state government, with PRC decisions potentially affecting the lives of many, if not all, New Mexicans as well as the daily operations of businesses in the state. The PRC in its original form – the State Corporation Commission (SCC) – was created under and by virtue of the state Constitution. The first three-member Commission was elected at the first statewide election held November 7, 1911.

The PRC, as it exists today, was formed on January 1, 1999, when the SCC and Public Utility Commission (PUC) merged as a result of a constitutional amendment adopted at the general election held November 5, 1996. This constitutional amendment replaced the three-member SCC and the three-member PUC with a five-member PRC, elected from five separate districts across the state. In November 2020, voters elected to change the structure of the PRC, beginning in January 2023, from an elected five-member Commission to a governor appointed three-member Commission. The current PRC keeps this future change in mind as it moves through all its current business.

The PRC predecessor, SCC, regulated to varying degrees motor carriers, railroad and pipeline safety, telecommunications, corporations, insurance, and the business of the State Fire Marshal's Office. The PUC regulated rural electric cooperatives, investor-owned electric and gas companies, and privately-held sewer utilities and water companies. With the exception of insurance, corporations, and the State Fire Marshal's Office, the PRC continues to regulate in all of these areas, although such regulation is amended from time to time by the passage of legislation.

The insurance and corporations functions were separated from the PRC by constitutional amendment adopted at the November 6, 2012, general election and on July 1, 2013, became independent agencies. The Office of the Superintendent of Insurance is a stand-alone agency, while corporations are under the auspice of the Secretary of State.

Effective May 18, 2016, the Legislature passed the Transportation Network Company Services Act requiring PRC regulation of certain aspects of ride-share companies, such as Uber and Lyft.





# PUBLIC REGULATION COMMISSIONERS

## New Mexico PRC Districts



CYNTHIA B. HALL



JEFFERSON L. BYRD



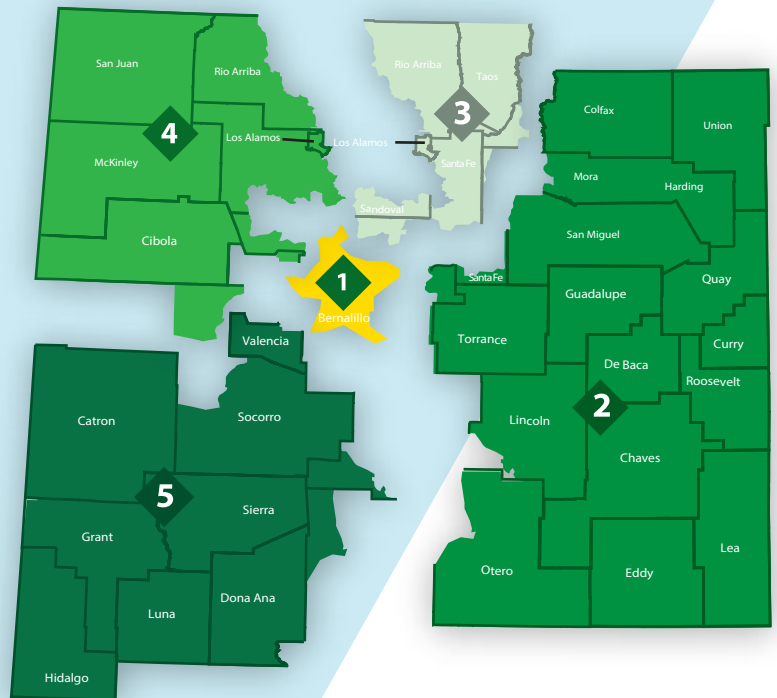
Joseph M. Maestas



Theresa Becenti-Aguilar



Stephen Fischmann



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The Public Regulation Commission is comprised of five elected Commissioners who each represent one of five districts across the state. The Commissioners are committed to leading New Mexico through ethical and balanced regulation, protecting critical infrastructure, and ensuring that essential services are safe, reliable, and affordable. The PRC also advances economic development, environmental responsibility, and public accessibility and education while adhering to principles of strict fiscal responsibility, accountability, and transparency.



# DISTRICT



Cynthia Hall has served as a Commissioner on the Public Regulation Commission since January 2017, following her election in 2016 in PRC District 1. She served as Vice-Chair in 2017 and 2018, was re-elected to the Commission in November 2020, and has served as Chair since July 2022. During Fiscal Year 2022, Chair Hall has continued to focus on implementing the Energy Transition Act by overseeing the finalization and adoption of agency rules on integrated resource planning and procurement (Integrated Resource Plan Rule) and interconnection (Interconnection Rule) of rooftop solar systems to the distribution grid, foundational rules for the modernization of New Mexico's electric grid. Chair Hall is currently leading the rulemaking proceeding for a Grid Modernization Rule, expected to be promulgated in 2023, to provide the regulatory framework for utilities' development of a reliable, resilient, flexible, bi-directional grid of the future.

In other areas, Chair Hall continues to advocate for broadband funding to reach the greatest number of un-served and underserved consumers under the State Rural Universal Service Fund (SRUSF), a portion of which is annually allocated to broadband providers by the PRC. In that regard, she won Commission approval for a study of the economic value of access reduction payments, which are also paid from the SRUSF. Concerning rural water utility services, she has initiated a cooperative effort with the New Mexico Environment Department and the office of Senator Martin Heinrich to address the need for better regulatory and financial support for aging privately-owned water utility systems in rural New Mexico.

In light of the impact of extreme weather events on New Mexico's electricity customers, Chair Hall chaired a Commission workshop on utility resource adequacy, designed to foster dialogue and enhance the PRC's understanding of utilities' challenges and opportunities to ensure resource adequacy under these circumstances. She also spearheaded a study on utilities'Vegetation Management Plans and Wildfire Mitigation Plans, to identify possible areas of improvement.

Chair Hall frequently speaks at community and professional forums, both in New Mexico and out of state, including the Solar Power and Chemical Engineering Systems (SolarPACES) 2022 International Conference, held in Albuquerque this year. She is a member of the National Association of Regulatory Utility Commissioners' Committee on Electricity and its Subcommittee on Nuclear Issues – Hazardous Waste. She is also a member of the Board of State Regulators of the Western Energy Imbalance Market, the Western Interconnection Regional Advisory Body, and the Western Public Utility Commissions' Joint Action Framework on Climate Change. This year, she was elected to the Member Advisory Committee of the Western Electricity Coordinating Council.

Prior to serving as a PRC Commissioner, Chair Hall has held positions as Associate General Counsel at the PRC; Staff Attorney at the Public Service Commission; Hearing Examiner, Associate General Counsel, and Fraud Prosecutor at the Office of Superintendent of Insurance; and Staff Attorney at the Energy and Minerals Department. Her professional legal experience includes private and in-house corporate practice and tribal practice. She holds a Bachelor of Science in Biology, a Master of Science in Physiology, and a Juris Doctor.



CYNTHIA B. HALL

# DISTRICT



Jefferson L. Byrd was elected and sworn into office to his first term as a Public Regulation Commissioner representing District 2 on January 1, 2019. He graduated from Mosquero High School and went on to attend New Mexico State University, where he obtained a degree in Agricultural Engineering. Jeff met his future wife Suzanne, a math teacher at Logan Public Schools and a registered Professional Civil Engineer. They have been blessed with two sons, Noah and Zackery. Jeff is a devout Christian, husband and father.

Jeff's work experience is broad, working as an environmental engineer on a Geoprobe rig installing micro-monitoring wells at a depth of 18 to 20 feet, as a geologist and completing site delineation plans of numerous industrial sites from New York to California. He has installed and completed site remediation systems at various sites around the Southwest. Jeff is also a cattle rancher and works as a wind-miller on his own and neighboring ranchers' wells.

As a member of the Public Regulation Commission, Jeff has represented New Mexico on the Southwest PowerPool Regional State Committee, which is comprised of regulatory commissioners from Arkansas, Iowa, Kansas, Louisiana, Missouri, Minnesota, Missouri, Montana, Nebraska, North Dakota, Oklahoma, South Dakota, Texas and Wyoming.

District 2 continues to diversify our state's energy reliance by expanding our renewable energy resources with the addition of the Sagamore Wind Project. This project created a construction workforce that peaked at 500 jobs, and it generates enough electricity for 193,000 households and is currently the single largest operating wind energy project in New Mexico.



JEFFERSON L. BYRD

## DISTRICT 3

After being elected to the Commission in 2020, Commissioner Joseph Maestas was elected as Vice Chair of the Commission for 2021. He was elected Chair of the Commission for the first half of 2022, and as Vice Chair for the latter half of the year. He will serve out a two-year term ending on December 31, 2022, as New Mexico transitions to an appointed Commission. Commissioner Maestas also will transition into a new role, serving as the newly elected State Auditor. A native New Mexican, Joseph earned bachelors' and masters' degrees in civil engineering, and is a licensed professional engineer.

Joseph served our country as a federal civil servant for over 30 years, working at all levels of the federal government. Before he began his tenure as Commissioner, Joseph worked as a Business Development Manager for a private, consulting engineering firm for almost four years. Joseph specializes in federal regulation, transportation, and water resources. Joseph also served as a local elected official for 14 years that included serving as a Santa Fe City Councilor and an Española Councilor and Mayor.

The last year for elected commissioners was a busy one for Commissioner Maestas as he led rulemaking and implementation efforts for community solar and spearheaded the transportation electrification plan rulemaking—including a statewide Transportation Electrification Summit involving utilities, members of the public, and multiple state agencies. He also initiated a cybersecurity inquiry to ensure the state's regulated entities are protected from cyber threats, and worked to continue facilitating the flow of federal funding to erase COVID-related arrearages and further transportation electrification and grid modification. Joseph believes that working families deserve a PRC that will balance the interests of ratepayers and investors, ensure that telecommunication services are accessible and reliable, and help to make solar energy accessible and affordable for all New Mexicans. As an experienced engineer, Joseph trusts the science that tells us that climate change is a real threat to our future and fully supports New Mexico's accelerated transition to 100% carbon-free energy.



Joseph M. Maestas

## DISTRICT 4

In 2021, the Commission operated and took care of official business remotely. Commissioner Becenti-Aguilar was eager to move into a new office building so the staff and Hearing Examiners could handle public hearings efficiently.

Despite challenging times during COVID-19, the whole PRC organization worked earnestly, and they were determined to do their job and Commissioner Becenti-Aguilar was very proud of her staff.

Commissioner Becenti-Aguilar started planning the 2021 Broadband Conference. She reached out to entities that handle broadband deployment, broadband business planning, and broadband collaboration with pertinent agencies. Her biggest obstacle for the conference planning was the Public Health Order on COVID-19. Therefore, Commissioner Becenti-Aguilar will be planning the conference to be rescheduled in the near future.

Commissioner Becenti-Aguilar is keen on her staff's performances, case management, and staff's analytical regulatory cases.

Commissioner Becenti-Aguilar values her staff in Utilities, Telecommunication, Transportation, Administrative Services, and she supports the Chief of Staff, Wayne Propst, for his talented foresight, clear communication, and embracing the high level of technical expertise and duties at the Commission.

Commissioner Becenti-Aguilar is thankful for the Public Information Officer, Sarah Valencia. Her media network is very clear, she puts the Commission first on regulatory issues and she is very professional.



Theresa Becenti-Aguilar



# DISTRICT 5

Stephen Fischmann joined the New Mexico PRC as District 5 Commissioner in January 2019. He represents the southwest quarter of the state. Steve is passionate about providing consumers the lowest possible utility costs while transitioning as rapidly as possible to a clean, carbon-free energy environment. He sums it up this way, "We are fortunate to live in times when renewable energy is often the cheapest energy and new technologies are expanding our capabilities each and every year. There is no more exciting place to be than the PRC for advancing our economy and the unfolding energy revolution." Steve has been in public service since moving to New Mexico in 2004. Most recently he co-chaired a coalition that passed legislation to eliminate or put interest rate limits on rip off small loans. He also co-founded the Children's Reading Foundation of Doña Ana County to promote early childhood literacy and served on the board of Conservation Voters New Mexico, a leading environmental advocacy group at the New Mexico Legislature.

As a State Senator from 2009-2012, Steve developed and successfully sponsored legislation requiring prompt no cost/low cost delivery of state and local government records to any citizen requesting them. He successfully sponsored legislation promoting greater collaboration between universities, state government and private enterprise in developing new technologies to spur our economy. Steve also chaired the legislative Science and Technology Committee where he developed strong expertise in energy policy. Prior to his election to the State Senate, Steve co-founded the Southwest Energy Alliance and helped spearhead work on Doña Ana County land use issues. Steve's business resumé includes 20 years with Levi Strauss & Co serving in various management capacities including President of the Designer Group. He also owned and operated real estate businesses in California. Steve holds an MBA and a BA in English and Political Science all from the University of California Los Angeles. He is married to Gail Katayanagi, has two sons, and resides in Las Cruces.



Stephen Fischmann

# CHIEF OF STAFF PRC

The Commission welcomed Wayne Propst as its new Chief of Staff in April 2021. Prior to joining the PRC, Wayne held a number of leadership positions in state government including, Chief of Staff to the Senate Finance Committee, Executive Director of the New Mexico Public Employees Retirement Association and the New Mexico Retiree Health Care Authority. Wayne also served as an Analyst for the Legislative Finance Committee and held senior management and consulting positions in the U.S. Senate and internationally in Nigeria, Algeria, Somaliland, among other countries, where he led programs focused on the development of democratic institutions. He has worked internationally on elections programs for the Carter Center and was a Peace Corps Volunteer in the Republic of Gabon, where he taught freshwater aquaculture. Wayne earned an undergraduate degree from Eastern New Mexico University and a Law Degree from the University of New Mexico. The Commission has benefited from Wayne's extensive management experience and history of public service which will be especially important as the Commission begins its transition to an appointed Commission in January, 2023.



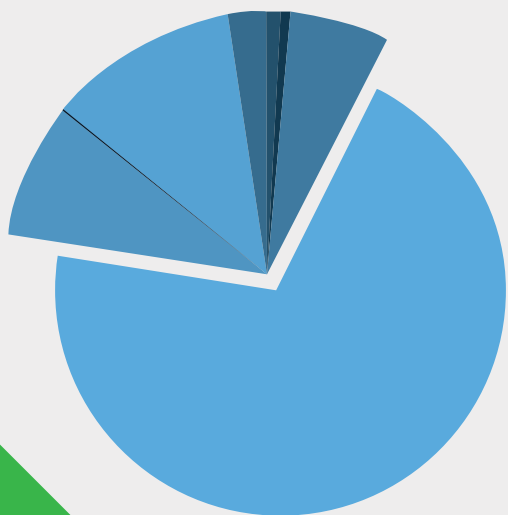
Wayne Propst



# FY 2022 REVENUES BY SOURCE

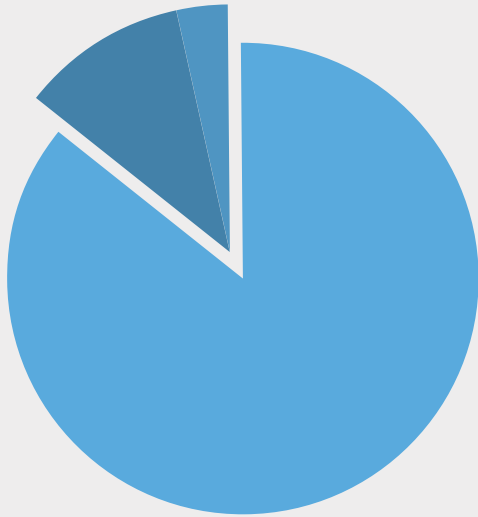


REVENUE SOURCE	REVENUES COLLECTED
Pipeline Safety Fee Fund	\$1,330,760
PRC Reproduction Fund	\$44,163
Federal Funds	\$918,035
General Fund	\$10,163,300
Transportation Network Company Fund	\$20,241
Pipeline Fees Fund	\$306,330
PRC Utility Fees Fund	\$15,452,782
Motor Transportation Receipts Fund	\$3,374,537
<b>FY22 TOTAL</b>	<b>\$31,610,148</b>



- **Pipeline Safety Fund**  
4.2099%
- **PRC Reproduction Fund**  
0.1397%
- **Federal Funds**  
2.9042%
- **General Fund**  
32.1520%
- **Transportation Network Company Fund**  
0.0640%
- **Pipeline Fees Fund**  
0.9691%
- **PRC Utility Fees Fund**  
48.8855%
- **Motor Transportation Receipts Fund**  
10.6755%

## FY 2022 ADMINISTRATIVE COSTS



### FY 2022 EXPENDITURES

- 200-Personal Services and Employee Benefits  
\$11,746,662
- 300-Contractual Services  
\$870,580
- 400-Other  
\$1,713,918

**TOTAL**  
\$14,331,160

## FY 2022 MONIES TRANSFERRED

REVENUE SOURCE	FUNDS TRANSFERRED	
Pipeline Fees Fund	\$163,560	DFA
PRC Utility Fees Fund	\$17,044,690	DFA
Motor Transportation Receipts	\$3,686,181	Dept of Transportation
<b>TOTAL</b>	<b>\$20,894,431</b>	

- o PRC collects monthly revenue for the Pipeline Fees Fund, PRC Utility Fees Fund and Motor Transportation Receipts Fund.
- o Revenues collected for the Pipeline Fees Fund and the Utility Fees Fund are transferred monthly to the Department of Finance and Administration.
- o Motor Transportation Receipts Fund monies are transferred to the Department of Transportation.
- o The PRC does not keep any portion of collected revenues, nor does the agency collect an administrative overhead fee.



2022

# COMMISSION HIGHLIGHTS

2022 ANNUAL REPORT



## Transition to Renewable Energy



In electric utility cases, the Commission has been and continues to deal with the coal plant retirements under the Energy Transition Act and the approval of generating resources to replace the retired units. This includes the abandonment of San Juan Generating Station Units 1 and 4 and the Four Corners power plant, the securitization of the unrecovered costs of the plants and the approval of replacement resources in San Juan and Rio Arriba counties. It also includes location approvals for transmission lines to transport wind and solar energy.

In December 2020, the Commission approved in Case No. 20-00182-UT PNM’s application for approval of contracts for solar PV and battery resources totaling 430 MW in the Central Consolidated School District (CCSD) to replace the remaining portion of the capacity from Units 1 and 4 of the San Juan Generating Station (SJGS) in San Juan County for which the Commission approved the abandonment in Case No. 19-00018-UT in April 2020. The Commission previously had approved 520 MW of solar PV and battery resources located in McKinley and Rio Arriba counties to replace part of the capacity abandoned from SJGS Units 1 and 4 for which PNM had presented contracts for approval in Case No. 19-00195-UT in July 2020. In total, the 950 MW of solar and battery resources are estimated to result in \$1.13 billion and \$1.16 billion in capital investments. Of this amount, between \$558 million and \$618 million will be invested in the CCSD. The total state property tax revenues from these investments are estimated to equal \$5.35 million in the first year, with \$3.1 million of that amount within the CCSD.

In August 2020, the Commission approved in Case No. 19-00350-UT the application of El Paso Electric Company (EPE) for a certificate and special rate contract to own, operate, and maintain in partnership with New Mexico State University (NMSU) a renewable energy project at NMSU’s Arrowhead Park. The project, called Aggie Power, consists of a 3 megawatt (MW) solar photovoltaic (PV) generating facility coupled with a 1 MW, 4 megawatt-hour battery energy storage system. The project is estimated to generate enough electricity to power approximately one-third of NMSU’s 900-acre Las Cruces campus by the Fall of 2021. Aggie Power furthers EPE and the university’s goals of renewable energy development, climate action, and smart grid development and provides the university’s faculty and students significant educational, research, and training opportunities.



## State Rural Universal Service Fund



The Commission continues to administer Universal Service funds to maintain telephone service and expand broad internet service in rural communities, including funds to telecommunication providers pursuant to the statutory State Rural Universal Service Fund (SRUSF). The payments promote the expansion of telecommunication services, particularly internet access, to unserved and under-served rural communities. The expanded services became even more important during the past year to increase access for students to attend school remotely. The investment continues into the future allowing a “connected” populace—an important asset as online connections are used for work, shopping, health care and entertainment.

## Electric Vehicles

Pursuant to recent legislation, the Commission is reviewing plans to promote electric vehicles in PNM, SPS and EPE service territories and rules to implement the Community Solar Act. As an example, PNM filed its proposed Transportation Electrification Program (TEP) as required by NMSA 1978, Section 62-8-12 (TE Statute). This is a case of first impression under the new TE Statute which requires public utilities to expand transportation electrification in their service areas. The TE Statute allows public utilities to recover reasonable costs through a Commission approved tariff rider, base rates, or both. PNM's



TEP offered incentives for the maintenance of infrastructure behind the customer meter. The type of incentive offered and the requirements to receive that incentive are related to the type of electric vehicle (EV) charger that will be used. Type 1 is similar to a standard wall outlet and can be used for long term charging at home. Level 2, residential and non-residential, can be utilized at home or work if the vehicle is parked for extended time. Direct Current Fast Charging (DCFC) is best suited for quick charging top-off or enroute charging in transit. Typically, the faster the charger, the higher the cost. PNM's total proposed program budget with 25% flexibility was \$10,891,250. The Hearing Examiner recommended an additional \$900,000 of incentives for Level 2 chargers which resulted in a proposed total budget of \$11,453,750. Case No. 20-00237-UT.

## Natural Gas

In natural gas cases, the Commission approved a rate case settlement with New Mexico Gas Company that provided for a 2.3% increase in January 2021 and a commitment that base rates would not change again until at least January 2023. In the spring, the Commission approved a number of natural gas company requests to spread out the recovery of the increased natural gas costs resulting from the cold weather event in Texas in February 2021, to avoid an immediate spike in customer bills.







## Other issues

The Commission assisted small water companies, particularly in rural areas, with their needs for adequate management and funding.

The Commission continues to review and approve requests for additional ambulance service to respond to the Covid-19 pandemic and has been conducting enforcement actions to address inadequate service by motor carriers.

Finally, and of equal importance to all of the above, the Commission has administered a moratorium on service disconnections in accord with the Governor's emergency orders and encouraged customers to use federal funding to assist them with their unpaid bills.



2022

# REGULATORY DIVISIONS

2022 ANNUAL REPORT





## UTILITY DIVISION

The Utility Division consists of four bureaus: Telecommunications, Engineering, Accounting and Economics. Together, they support the Commission in the regulation of retail service by investor-owned and cooperative entities of electricity, natural gas, telecommunications, and water and wastewater systems. The division provides this support by independently advocating for the public interest in utility matters before the Commission. The division makes presentations in the form of sworn testimony and exhibits in support of fair, just, and reasonable rates for utility and telecommunications services. The division's core mission is to provide engineering, economic and accounting expertise in ratemaking proceedings for telecommunications carriers and public utilities. In its representation of the public interest, the Utility Division staff is required to participate in every such proceeding before the Commission.

Beyond rate cases, which are extended labor-intensive undertakings, other cases include renewable energy procurements plans, energy efficiency program plans, resource abandonment and acquisition, resource location control and right-of way, mergers and acquisitions, debt financing, and fuel and purchased power cost recovery.

The Energy Transition Act (ETA) of 2019 created a shift from fossil fuel generation to renewable and energy storage projects. The Commission and its Capitalize Utility Division staff are engaged in overseeing this transition. The Commission has also initiated several rulemaking proceedings that support the ETA. These include integrated resource planning, interconnection of distributed generation, community solar, grid modernization and advanced metering, and transportation electrification. The rulemakings are in various stages of approval and implementation. The Utility Division provides testimony to the Commission on these proceedings as well as the subsequent administration and oversight of any associated programs.

## Telecommunications Bureau

The Telecommunications Bureau performs a number of duties related to telecommunications issues that come before the Commission. This includes providing expert testimony in docket cases, participating in Commission rulemakings, and submitting reports. Other duties include the review of tariffs and interconnection agreements, carrier certificates of registration, and Eligible Telecommunication Carrier (ETC) filings. Telecom bureau members provide oversight of the State Rural Universal Service Fund (SRUSF) and participate as a non-voting member of the SRUSF Advisory Board. Ongoing developments on the federal level also require the telecom bureau to monitor and respond to developments nationally as they affect telecommunications services in New Mexico.

The Commission recently completed its fifth annual application and award cycle for SRUSF Broadband Program funding. Effective 2018, the Rural Telecommunications Act of New Mexico (RTA) was amended to establish the SRUSF Broadband Program. The RTA provides that, each year, the Commission shall dedicate a minimum of \$8 million of the State Rural Universal Service Fund "to provide funding to eligible telecommunications carriers for the construction and maintenance of facilities capable of providing broadband internet access service."

For 2022, the Commission received applications from 15 broadband providers for 43 projects in the amount of \$39.9 million, of which by rule 75% may be funded through the NMRUSF broadband program. The Commission ultimately awarded funding in the amount of \$11.9 million for 29 projects serving 33,176 business and residential customers in unserved and underserved areas of the state. In 2021, the Commission received applications from 15 broadband providers for 56 broadband projects in the amount of \$49.8 million and granted \$11.5 million in matching funds for 28 projects to provide broadband service to 36,523 residential and business customers.



## Engineering Bureau

The Engineering Bureau performs analyses and provides expert testimony on issues related to electric, natural gas, water and wastewater utilities. The bureau assures compliance and performance, and that adequate, safe and reliable utility services are provided at fair, just and reasonable rates.

Tasks and responsibilities include evaluating plant design, specifications, capacity, service reliability, depreciation rates, resource planning, utility expenses, sale and transfer of assets, and issuance of certificates of public convenience and necessity.

Staff engineers contribute to the development of the cost-of-service and revenue requirements in rate cases and evaluate and make recommendations on various filings, including fuel and plant cost and affiliated transactions. The engineering bureau has been active in reviewing replacement resources for coal-fired generation plants which include new solar, wind and battery projects.

## Accounting Bureau

The primary role of Accounting Bureau is to provide analysis and recommendations for all NMPRC regulated utilities regarding the impact of the utility operations on its financial statements, including: assets, liabilities, income statements, income taxes, operation and maintenance expenses, and regulatory assets in accordance with applicable statutes, rules, and laws. The accounting bureau also reviews detailed electronic modeling of utility cost of service in support of revenue requirements established in rate cases. This entails the validation of multi-million-dollar revenue requirement increases and the resulting impact on utility customer rates. This review is supported by expert analysis and supporting testimony. The bureau may also perform audit reviews of the books and records of jurisdictional utility companies. Finally, the bureau examines utility statutory and rule compliance of utility recovery of the incurred cost of purchased fuel, gas, or energy, review of transportation electrification plans, grid modernization filings and rulemakings.



## Economics Bureau

The Economics Bureau provides expert review, analyses and recommendations regarding electric, natural gas, water and wastewater utility matters under the direction of Commission precedent, Commission rules, and local, state, and federal laws. This is accomplished primarily through the presentation under oath of written and oral testimony as evidence in public hearings before the Commission. Specifically, the Economics Bureau provides review and recommendations regarding the allocation of a regulated utility's revenue requirement across rate classes, and the design of rate structures by customer class. The Bureau also evaluates and provides recommendations regarding a regulated utility's cost of capital, capital structure, and debt financing costs. In addition, the Bureau addresses utility renewable energy procurement plans, energy efficiency program plans, transportation electrification plans, and community solar matters. The Economics Bureau may also assist in resource acquisition and abandonment matters, and various other matters as necessary.

# Pipeline

## TRANSPORTATION DIVISION



The Transportation Division consists of four bureaus: Pipeline Safety, Railroad, Applications, and Investigation/Compliance. Together they administer policy which fosters the development and maintenance of safe and secure motor carrier, pipeline, and railroad systems.

### Pipeline Safety Program

The Pipeline Safety Bureau (PSB) enforces Federal and State Pipeline Safety Regulations and Excavation Damage Prevention rules to ensure the safe transportation of product through pipelines and safe excavation. Through a partnership arrangement with the U.S. Department of Transportation's Pipeline and Hazardous Material Safety Administration (PHMSA), the Pipeline Safety Bureau is responsible for conducting safety compliance inspections and enforcing state and federal pipeline safety regulations on intrastate gas and hazardous liquid pipeline facilities. That includes private and municipal gas distribution systems, master meter gas systems, LPG systems, transmission systems and jurisdictional gathering lines.

As part of its annual grant evaluation process, PHMSA performs thorough evaluations of New Mexico's pipeline safety regulatory program. In addition, PHMSA conducts annual program evaluations of the PSB's damage prevention program performance and determines whether the program earns an "adequate" or "inadequate" rating. These findings directly impact the funding percentage received. PHMSA and the National Association of Pipeline Safety Representatives (NAPSR) have developed six performance metrics that are evaluated. A summary of all performance metrics can be viewed at:

<https://primis.phmsa.dot.gov/comm/States.htm>.

- Damage Prevention Program
- Inspector Qualification
- Enforcement
- Inspection Activity
- Leak Management
- Incident Investigation



The following table summarizes the previous three calendar years of program evaluation scores for the natural gas and hazardous liquid pipeline programs managed by the PSB.

PROGRAM DESCRIPTION	FEDERAL PROGRAM EVALUATION SCORE (%)		
	CY 2019	CY 2020	CY 2021
Natural Gas	100	97	100
Hazardous Liquid	100	100	100

The following table summarizes the previous three calendar years of program evaluation scores for the damage prevention program managed by the PSB.

PROGRAM DESCRIPTION	FEDERAL PROGRAM EVALUATION		
	CY 2019	CY 2020	CY 2021
Damage Prevention	Adequate	Adequate	Adequate

### Applications Program

The Applications Bureau processes all applications for authorities to operate as a regulated motor carrier. Every person providing compensated transportation services in the State must receive an operating authority from the PRC, including limousines, taxis, ambulances, shuttle services, tour and sightseeing operators, household goods, moving services, non-emergency medical transport, network companies, towing services, repossession services, general commodities, and hazardous materials and charter bus service. All applications for changes to operating authorities or to tariffs (rates) are also processed by the bureau and administration of the Unified Carrier Registration (UCR) system. Applications Bureau received, processed, and issued:

- 120 warrant applications, generally issued to intrastate for-hire property motor carriers
- 14 certificate applications issued to taxi, shuttle, ambulance, household goods, and specialized passenger service motor carriers
- 65 comprehensive audits, and 125 audit letters/emails to Motor Carriers for UCR payments, 7 non-compliance notices to Motor Carriers

## Ambulance & Railroad Bureau

### Ambulance Program:

The bureau processes all ambulance related applications and provides expert testimony in docketed cases where a protest to an ambulance application has been made. The Bureau conducts analysis of reasonably continuous and adequate service and ensures administrative compliance of the Ambulance Standards Act, the Motor Carrier Act and Motor Carrier Rules by the 85 certificated ambulance service carriers in the state of New Mexico.

In FY21 the bureau's staff processed:

- 25 Reissuance applications
- 1 Lease of authority application
- 4 Temporary authority applications
- 3 Amendment applications
- 4 Original Certificates of Public Convenience and Necessity
- 2 Variance Requests



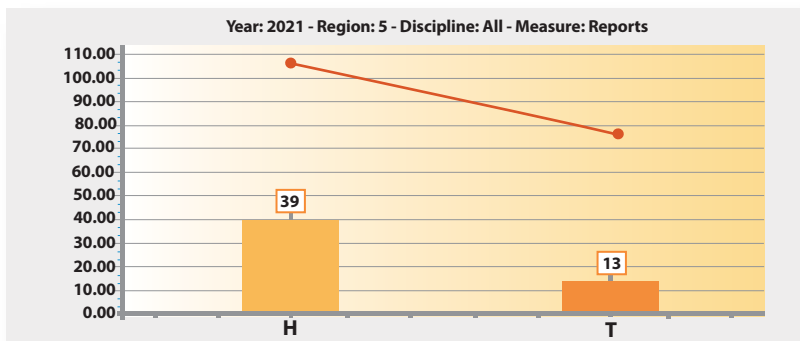
### Railroad Program:

Since 1970, the federal government has preempted state railroad safety regulation, however, the Federal Railroad Administration (FRA) offers states the opportunity to participate in federal investigative and enforcement activities. In New Mexico, the Public Regulation Commission is responsible for participating in FRA inspections of railway systems to ensure they are in compliance with all applicable safety regulations and investigates incidents, collisions, and derailments.

In FY21, the bureau conducted:

- 13 Track Inspections
- 39 Hazmat Inspections

The Bureau is tasked with investigating serious railroad accidents and determining the operational condition of affected equipment, examining carrier records to determine that all reportable personal injuries and accidents have been properly reported, investigating complaints from railroad employees or the general public regarding unsafe practices involving train operations and determining if Federal regulations have been violated.



## Compliance/Investigation Bureau

The Investigations / Compliance Bureau enforces the PRC's rules and regulations and the Motor Carrier Act. The bureau conducts periodic inspections of all motor carriers and investigates complaints. The bureau may present the results of its inspections and investigations to the Commission and ask that the PRC impose a fine or penalty on a motor carrier and suspend or revoke its operating authority. The bureau also enforces compliance with the PRC's financial responsibility requirements and annual reporting.

FY 2022 INSPECTIONS:		FY 2022 INVESTIGATIONS:	
Passenger	4	Passenger	8
Towing	74	Towing	35
Household Goods	0	Household Goods	0
General Commodities	22	General Commodities	4
Illegal Transport Carrier	N/A	Illegal Transport Carrier	16
Network Passenger	1	Network Passenger	0
<b>Total</b>	<b>101</b>	<b>Total</b>	<b>63</b>



## CONSUMER RELATIONS DIVISION



The Consumer Relations Division (CRD) serves as the agency's point of contact for New Mexicans with inquiries and complaints related to services provided by industries regulated by the Public Regulation Commission, including utilities, telecommunications, and transportation. Our compliance division generally resolves disputes within 10 business days or less and obtains credits or refunds for consumers if any violations per the NMPRC rules have occurred. The division's compliance officers support consumers with their disputes in an effort to resolve or assist the consumer with issues they may have with these regulated companies. CRD utilizes mediation and alternative dispute resolution methods with the utilities' cooperation to solve consumer complaints.

During Fiscal Year 2022, CRD resolved 574 complaints and was successful in recovering more than \$88,000 in credits and refunds for the consumers of New Mexico. The majority of complaints were resolved in cooperation with the utility or provider; less than one percent moved forward as formal complaints before the Commission. Pursuant to specific statutory requirements, CRD ensures that all complaints are documented, keeping the Commission apprised of consumer-related issues and trends. Additionally, CRD works closely with the Consumer Protection Division of the New Mexico Attorney General's office and the Governor's Constituent Services office, to ensure proper resolution of consumer inquiries and complaints.

This fiscal year the division played a vital role helping the public understand the provisions enacted for consumer protection and continuity of services during the COVID-19 pandemic. CRD worked diligently to expedite resolution of consumer concerns, facilitate payment arrangements and reconnections of interrupted services for nonpayment, and address service outages and delayed orders due to reduced utility staffing. The changing climate and other conditions have significantly increased the threat of catastrophic wildfires to New Mexicans as the state saw this past year. As a result, CRD has been focused intensely on working with consumers and utility companies on a wide variety of issues associated with the wildfires.

The division's objectives through FY 2023 is to engage in and work with the New Mexico Community Solar Program. This is new area that CRD has become involved in to aid in the state's solar energy initiative. Other long-term goals will continue to include improving understanding of PRC-approved rules and process among state cooperatives and utilities.



## OFFICE OF GENERAL COUNSEL



The Office of General Counsel (OGC) serves as legal counsel to the Commissioners on all aspects of utility regulatory law. In that role, OGC provides the Commissioners with timely and accurate legal advice on the substantive law concerning pending matters in both rulemaking and adjudicatory proceedings. The OGC also represents the Commission in litigation before state and federal courts and in all appeals before the New Mexico Supreme Court.

## LEGAL DIVISION

The Legal Division is statutorily mandated to advocate for the public interest on behalf of the Utility Division in litigated matters before the Commission. The Legal Division also provides legal counsel to all bureaus within the Utility Division, to the Transportation Division, and to the Commission itself (except in contested proceedings before the Commission).

In order to represent the public interest, Legal Division attorneys work with the staff of the Utility and Transportation divisions to assist in the development of Staff's cases. Legal Division attorneys also review and implement legislation, rules and regulations, regulatory opinions of sister state and federal agencies, and judicial opinions, both state and federal. They also draft and file extensive legal documents, including routine motions and other pleadings, discovery in complex litigation, legal briefs that advocate the positions and recommendations of PRC utility experts, and rules implementing legislative and Commission policies. During litigated proceedings Legal Division attorneys cross examine expert witnesses of regulated entities or interveners, including consumer or environmental advocacy groups, and occasionally must participate in oral argument. Among other matters, this past year Legal Division attorneys have litigated Grid Modernization filings and renewable portfolio plans submitted by all three investor-owned utilities, an Order to Show Cause regarding the issuance of energy transition bonds and associated rate credits arising from the now-shuttered San Juan Generating Station, multiple location control proceedings for renewable generation facilities and associated transmission infrastructure, several fuel clause cases, and a cooperative rate proceeding. Attorneys from the Legal Division have also participated in a multitude of rulemaking proceedings this past year, including new Community Solar rules and updates to the Commission's renewable energy rules, its Rule 440 and 592 rules on resource additions and system improvements, its resource interconnection rules, its integrated resource planning and procurement rules, its energy efficiency rules, and a host of others.

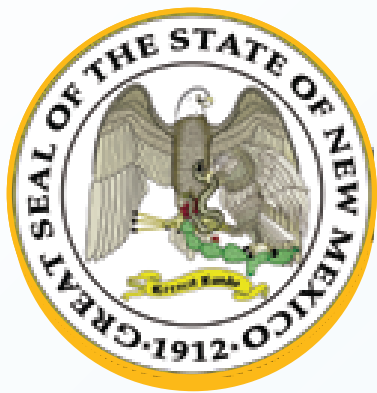
The Legal Division currently consists of eight attorneys and two support staff members who must meet superior standards of practice and professionalism, and possess a working familiarity with accounting, economics, regulatory finance and engineering expertise.



**2022**

# HEARING EXAMINERS DIVISION

2022 ANNUAL REPORT





## HEARING EXAMINERS DIVISION

The Commission’s enabling statute delegates authority to the Commission’s six hearing examiners to preside over adjudicatory proceedings, conduct hearings, and issue recommended decisions that the Commissioners use as the basis for their actions. Hearing Examiners function as administrative law judges, presiding over diverse and complex types of cases, some of which include: rate-setting; certificates to build and acquire generating resources; mergers; sales and acquisitions; declaratory orders; territorial disputes; quality of service; purchased power and gas cost recovery, interconnections; arbitrations; mediations; abandonments of utility plant or service; complaints; permits; financings; and enforcement actions across the major industries which are regulated by the Commission.

The past year was another extremely-busy one for the Hearing Examiners division as it heard numerous cases, including the PNM-Avangrid merger proposal; the PNM Show Cause Proceeding over San Juan Generating Station abandonment savings promised but withheld from customers; the Four Corners Power Plant abandonment and securitization proceeding; the procurement of renewable energy resources to replace capacity previously provided by abandoned leases at the Palo Verde Nuclear Generating Station; location control approval for several major renewable energy projects; rate cases for Southwestern Public Service Company and New Mexico Gas Company; El Paso Electric Company’s grid modernization proceeding; and New Mexico electric utilities’ transportation electrification plans.

Hearing Examiners conduct procedural conferences, hearings, and oral arguments; issue bench requests to elicit relevant facts; ensure that a full evidentiary record is established; make rulings on procedural and evidentiary issues; admit evidence into the record; analyze evidence, briefs, applicable laws, rules, and orders; and issue recommended decisions, including findings of fact and conclusions of law. Their recommended decisions are then presented to the Commission for consideration and issuance of a final order, enabling the Commission to meet statutory deadlines 100 percent of the time.

### Rejection of PNM-Avangrid Merger

In December 2021, the Commission unanimously endorsed the Hearing Examiner’s recommended rejection of the proposed merger and acquisition of PNM Resources and its subsidiary Public Service Company of New Mexico (PNM) by Iberdrola, S.A./Avangrid, Inc. in Case No. 20-00222-UT. The Hearing Examiner found in his Certification of Stipulation that the numerous amendments to the Signatories’ June 4, 2022, Stipulation proposing Commission approval of the PNMR-Avangrid merger and the conflicts among the proposed amendments indicated there was no longer an agreement that could be approved. The Hearing Examiner further found the potential harms of the proposed merger outweighed the benefits and that the changes negotiated by PNM and Avangrid to satisfy the narrow interests of individual parties to the Stipulation had not produced a result that was in the public interest. PNM and Avangrid appealed the Commission’s Order rejecting the merger to the New Mexico Supreme Court. The appeal is pending in Supreme Court Case No. S-1-SC-39152.



## Commission Show Cause Order Requires PNM to Issue Customers \$98.3 Million in Rate Credits

In December 2021, the Commission unanimously approved the co-presiding Hearing Examiners' recommendation in an expedited show cause proceeding in Case No. 19-00018-UT that PNM grant all customer classes a rate credit. The rate credit stemmed from PNM's unilateral decision, for which it had not sought prior Commission approval, to delay the issuance of securitized bonds until 15 to 18 months after the abandonment of the San Juan Generating Station, a coal-fired power plant facility, which PNM shut down on September 28, 2022. In the underlying abandonment and securitization proceeding in Case No. 19-00018-UT, the Commission granted PNM authority to abandon San Juan Units 1 and 4 and to issue securitized bonds to cover the costs of abandoning the two San Juan units remaining in operation pursuant to the Energy Transition Act. The Commission found in the show cause proceeding that PNM created a "moral hazard" in covertly planning to withhold from ratepayers the \$134 million of savings it had previously promised them in the original abandonment and securitization proceeding and to the Supreme Court in the unsuccessful appeal of the Commission's final order in the original proceeding. PNM was ordered by the Commission to issue immediate rate credits in customer bills that would provide customers substantial savings over an 18-month period. The rate credits have been stayed by the New Mexico Supreme Court on November 1, 2022, pending the final resolution of the appeal of the Commission's final order in the show cause proceeding in Supreme Court Case No. S-1-SC-39440.



## Cases Supporting Transition to Renewable Energy

In February 2022, in Case No. 21-00215-UT, the Commission adopted the Hearing Examiner's recommendation approving PNM's request to build 450 MW of new solar-generation plant and nearly 300 MW of new battery-energy storage. These resources were proposed by PNM to replace capacity formerly provided by the Palo Verde Nuclear Generating Station. PNM proposed zero-emission resources to replace the zero-emission nuclear capacity. The resources approved include the joint 300 MW solar and 150 MW battery Atrisco project that will be built west of Albuquerque. PNM recently alerted the Commission that it intends to double the size of the battery facilities at the Atrisco project to 300 MW of battery storage. The other projects approved remain under review by PNM as the developers have sought contract amendments.

In May 2022, the Commission approved the expansion in wind resource generation from the Corona Wind South Project by 200 MW in Case No. 21-00182-UT. In prior cases held between 2017 and 2020, the Commission granted Pattern Energy and its limited liability companies approval to locate up to 2,300 MW of wind power facilities sited within approximately 489,107 acres of private and state land within Lincoln, Torrance, and Guadalupe counties. The generation expansion of the Corona Wind South project (also known as the "Sun Zia





South” project) in Case No. 21-00182-UT consists of approximately 50 additional wind turbines with a nameplate capacity ranging from 2.3 to 4.5 MW spread over 50,100 acres in Lincoln and Torrance Counties. The Commission also approved in this case a revised Corona Gen-Tie transmission system with right-of-way widths of 180 feet and 200 feet for certain segments of the feeder transmission system to reflect the expansion of the Corona South project and the results of additional environmental and siting information presented in the comprehensive environmental and engineering analysis undertaken in connection with the expansion. The Corona South expansion is expected to be completed by the end of 2026.

In October 2022, the Commission granted Pattern Energy and its related entities location approval for the Corona Wind North project (also known as “Sun Zia North”) in Case No. 22-00101-UT. The Corona North project will add 1,500 MW of wind generation in central New Mexico produced from up to 919 turbines ranging in capacity from 2.6 to 4.5 MW and sited on 512 square miles in Guadalupe, San Miguel, and Torrance counties. As part of the Corona Wind North project, the Commission also granted location approval to a 69.3-mile Gen-Tie transmission and a 180-foot right-of-way width for the transmission system. When completed in 2026, the Corona Wind North Gen-Tie will interconnect with the yet-to-be completed first phase of the Sun Zia Transmission line, a bidirectional high voltage direct current 550-mile 525kV line with a rated capacity of 3 GW and fully operational 345 kV Western Spirit Transmission line, a 115-mile 345 kV alternating current line with a capacity of 1 GW.

Collectively, as of October 2022, Pattern Energy and its related entities have applied for and received location approval for over 6,000 MW of wind generation in New Mexico, as well as for the location of the Gen-Tie Systems associated with this generation. Presently, at just over 5,000 MW in installed capacity when operational, Pattern Energy’s Corona Wind (a/k/a Sun Zia) and Western Spirit Wind in central New Mexico would be the second largest system of onshore wind generation projects in the world behind the Gansu Wind complex in China.

In October 2022, as recommended by the Hearing Examiner in Case No. 22-00161-UT, the Commission gave location approval to the developers of the Atrisco solar generation and battery storage project. The location-approval application was placed on an expedited schedule. As this case was pending before the Commission, PNM and the Atrisco developer reached agreement to double the size of the battery storage at the Atrisco project.

In November 2022, the Commission adopted the recommended decision in Case No. 22-00143-UT, approving PNM’s plan for achieving 20% renewable energy sources in 2023 and 2024. Rendering its decision in November 2022, this plan provides for a small rate increase in PNM’s renewable energy rider to cover the costs of the program, which relies on wind, solar, geothermal, and distributed generation to meet the 20% goal.

## Transportation Electrification

The Public Utility Act requires New Mexico public utilities to expand transportation electrification under NMSA 1978, Section 62-8-12 (2019). All three of the investor-owned utilities submitted transportation electrification plans (TEPs).





In November 2021, the Commission approved El Paso Electric Company's (EPE) first TEP as recommended by the hearing examiner in Case No. 20-00241-UT. The Commission's order authorized EPE to provide rebates to homeowners to defray costs for installation of household electric vehicle (EV) charging equipment; additional rebates for low-income customers to install household EV-charging equipment; rebates to encourage installation of charging equipment at workplaces and in public spaces; and rebates for installation of charging equipment at multi-unit dwellings, e.g., apartment complexes. The Commission also authorized nearly \$500,000 in funding to support installation of high-voltage, fast-charging stations throughout EPE's service territory in southern New Mexico to ensure EV drivers have adequate fast charging available while traveling through EPE's service area. The Commission also authorized rebates for public-transit EV charging and EV-fleet charging. And, perhaps most importantly, the Commission authorized EPE to enact a robust customer-outreach program to ensure that EPE's customers and the public more broadly are aware of the benefits of owning EVs and of the rebates available to EPE customers to help them offset the transition to EVs. Further action was taken in June 2022 when the Commission approved a change to bi-annual reporting on the implementation of the plan.

The Commission also approved in November 2021 PNM's initial TEP. PNM's TEP included a comprehensive approach to increase the adoption of transportation electrification through incentives to both residential and non-residential customers for the installation of charging infrastructure. The charging incentives are intended to promote the availability of EV charging in several different settings. Two new rate options for residential and non-residential customers were also offered to encourage EV charging at off-peak hours as EVs become a larger part of PNM's load.

In September 2021, the Commission approved Southwestern Public Service Company's (SPS) first TEP and in the form recommended by the hearing examiner in Case No. 20-00150-UT. SPS's initial TEP includes four portfolios of programs—residential, public fast charging, advisory services, and program evaluation. SPS's residential program includes a home-wiring-rebate to assist SPS's residential customers reduce costs for home wiring upgrades needed for 240-volt circuits. The program also includes an increased rebate for low-income customers. SPS's public charging program is intended to help address public-charging-infrastructure gaps in SPS's service territory. The advisory services program is designed to provide SPS's customers additional information about the benefits of EVs and to dispel any misconceptions those customers might have about EVs. The program evaluation component of SPS's TEP includes measures to promote program transparency and ensure lessons learned are shared by all participants in the TEP to bolster EV adoption and improve program offerings. SPS will provide the Commission updates on key metrics in an annual TEP-compliance report which will be filed August 1 of each year.

## Grid Modernization

In November 2022, the Commission approved the Stipulation in El Paso Electric's \$35.5 million Advanced Metering System (AMS) project in Case No. 21-00269-UT. This was the Commission's first case interpreting NMSA 1978, Section 62-8-13 (2020), the Grid Modernization Statute. The primary components of EPE's AMS Project are: 1) replacing existing analog and

digital retail electric meters with advanced meters that record more granular consumption data, enable two-way communication, and include other functionality including remote turn-on and turn-off capability, 2) designing and implementing a secure and reliable communications network that supports two-way data flow, and 3) implementing support systems, including a Meter Data Management System. Additionally, EPE’s AMS Project includes a customer education program designed to enable customers to fully leverage the value of advanced metering.

## Rate Cases

In February 2022, the Commission approved a Certification of Stipulation for a base revenue increase for Southwestern Public Service Company (SPS). The original application requested a \$87,782,544 base revenue increase but the Stipulation agreed to a \$62,423,334 increase. However, when considering fuel savings of \$56.4 million, the net increase is approximately \$6.3 million. Fifty percent of the proposed increase was due to SPS’s \$858 million investment in the Sagamore Wind Project. Changes in depreciation as well as SPS’s investment in its distribution system account for the remainder of SPS’s request. SPS’s investment in the Hale and Sagamore Wind Projects will provide low cost and low carbon energy for decades to come and is consistent with New Mexico’s Energy Transition Act.

A rate increase request filed by New Mexico Gas Company in Case No. 21-00267-UT is currently under review. New Mexico Gas Company is the largest provider of natural gas in New Mexico. The company filed for a base rate increase requesting an additional \$40.7 million or what amounts to a 20.8% increase in revenues. Drivers for the deficiency and revenue-increase request include NMGC’s need to make capital investments and increased operating expenses that are not offset or paid for by system growth. An uncontested stipulation was filed that includes agreement to a \$19.3 million increase or 9.68% increase in revenues. The Hearing Examiners co-presiding over the base rate case issued a Certification of Stipulation recommending that the Commission approve the Stipulation which provides NMGC with additional revenues needed to retain employees and replace aging infrastructure while continuing to provide safe reliable gas services.





# NEW MEXICO



PUBLIC REGULATION COMMISSION





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