



REGULATION IN NEW MEXICO 2023: How to Navigate a Dynamic Landscape

PRESENTERS

Monday, November 13, 2023

Tuesday, November 14, 2023

The PRC's Role: A Stakeholder's Perspective

- **Gabriel Aguilera** (Moderator)- Commissioner Gabriel Aguilera joined the New Mexico Public Regulation Commission (PRC) in January 2023, following 15 years of experience at the Federal Energy Regulatory Commission. Commissioner Aguilera's expertise focuses on electric transmission, interconnection, and energy market regionalization in the Western U.S.
- **Senator Peter Wirth**- Senator Peter Wirth is the Majority Floor Leader of the state Senate. He was first elected to House District 47 in 2004 where he served two terms. He has been in the New Mexico Senate since 2008 representing District 25 which includes a large portion of Santa Fe. When he is not working at the Legislature, Senator Wirth is a lawyer and mediator in Santa Fe at The Wirth Law Firm. He is married to Santa Fe City Councilor Carol Romero-Wirth.
- **Secretary Sarah Cottrell Propst** - Sarah Cottrell Propst was appointed by New Mexico Governor Michelle Lujan Grisham to serve as the Cabinet Secretary of the Energy, Minerals, and Natural Resources Department (EMNRD) in January 2019. EMNRD's divisions include Energy Conservation & Management, Forestry, Mining & Minerals, Oil Conservation, and State Parks. From 2012 to 2018, she served as the Executive Director of the Interwest Energy Alliance, a non-profit trade association that represents the nation's leading companies in the renewable energy industry, bringing them together with non-governmental organizations in the West (Arizona, Colorado, Nevada, New Mexico, Utah, and Wyoming). She is the founder of Propst Consulting LLC, specializing in energy and environmental policy. She

was Deputy Cabinet Secretary of the New Mexico Environment Department after serving as Energy and Environmental Policy Advisor to New Mexico Governor Bill Richardson. She earned a Master of Public Affairs from Princeton University's Princeton School of Public & International Affairs, with a concentration in Science, Technology, and Environmental Policy. She worked as a Research Fellow for the Pew Center on Global Climate Change in Arlington, VA and graduated magna cum laude from Davidson College with Honors in Political Science.

- **Adrian Rodriguez:** Adrian J. Rodriguez is President of Southwestern Public Service Company (SPS). SPS is a wholly owned subsidiary of Xcel Energy Inc. that supplies retail electric utility services to over 400,000 customers in eastern New Mexico and West Texas, in addition to providing wholesale power and interstate transmission services, and is a member of the Southwest Power Pool.

Rodriguez joined Xcel Energy in 2022 from Puget Sound Energy, an electric and gas utility serving customers in western Washington, where he served as senior vice president of regulatory and strategy, overseeing clean energy strategy, regulatory and governmental affairs, new product development, and energy efficiency. He previously served as interim Chief Executive Officer and General Counsel of El Paso Electric Company (formerly NYSE: EE), an electric utility serving customers in far West Texas and southern New Mexico, and he was a member of its board of directors.

Rodriguez practiced law at Vinson & Elkins LLP in the firm's complex commercial litigation and energy regulatory practice groups and clerked for the U.S. District Court for the Western District of Texas. Prior to his legal career, Rodriguez provided policy analysis, political research and legislative research for state legislative offices, issue advocacy and political campaigns, and a Washington DC-based communications firm. Rodriguez earned a Bachelor of Arts degree with highest honors in economics and government from the University of Texas at Austin where he was a State of Texas recipient of the 1999 Truman Scholarship, a master's degree in public policy from Harvard University where he was the editor-in-chief of the *Harvard Journal of Hispanic Policy*, and a juris doctorate from Columbia University where he was a managing editor of the *Columbia Law Review*. Rodriguez is licensed to practice law in Texas and New Mexico and serves as a council member of the American Bar Association's Infrastructure & Regulated Industries Section. He is also a Texas middle and high school football official.

Administrative Rules: What Makes a Good One and Why Do We Need Them?

- **Secretary James Kenney:** Secretary Kenney was nominated by Governor Lujan Grisham and unanimously confirmed by the New Mexico Senate to lead the New Mexico Environment Department in January of 2019. As a member of the Governor's Cabinet, Secretary Kenney oversees a Department of about 550 employees across 27 offices with an annual agency budget of approximately \$100 million per year. Within the New Mexico Environment Department's portfolio are regulatory programs which include air and water quality programs, solid and hazardous waste programs, OSHA, restaurant and food

manufacturing programs, cannabis and hemp edibles, and others.

Prior to his appointment as Cabinet Secretary in January 2019, Kenney spent more than 21 years across two stints at the U.S. Environmental Protection Agency, most recently as senior policy advisor for oil and gas. In that role, he worked with senior agency leadership and designed strategies to support environmentally responsible development of oil and natural gas resources while working with states, tribes, federal agencies, NGOs and industry on regulatory and policy matters. Kenney has also served as a senior environmental engineer at the EPA, leading both civil and criminal investigations related to the Clean Air Act, the Clean Water Act, the Resource Conservation and Recovery Act and other programs as well as developing strategic compliance and enforcement efforts related to oil and natural gas exploration. In addition, he served as the Acting Associate Director of the U.S. EPA's External Civil Rights program which ensures recipients of federal funds comply with the 1964 Civil Rights Act. He has also worked as a senior environmental engineer at Denver-based environmental engineering firm McCoy and Associates and as a consultant at the U.S. Department of Justice. Kenney holds both bachelor's and master's degrees in environmental engineering from Temple University in Philadelphia.

- **Zachary Ogaz** – Zachary Ogaz is the current General Counsel for the New Mexico Environment Department. Zach spent several years with the New Mexico Attorney General's office working on water and environmental litigation, and at a private water and environmental law firm in Albuquerque, New Mexico. Zach has built his practice around water and environmental law, and has experience representing public and private parties in litigation, regulation, and settlement matters.

How to Give and Survive a Tough Cross Examination

- **John Bogatko** – John Bogatko is an attorney with the New Mexico Public Regulation Commission ("NMPRC") Legal Division who is primarily engaged in representing the NMPRC Utility Division Staff (comprised of subject matter experts that include accountants, economists, and engineers) in utility proceedings before the NMPRC. Mr. Bogatko has been with the NMPRC for almost seven years and holds a BA in Antiquities (Missouri State University, 1996), a MA in Anthropology (The University of Tulsa, 2002), and a JD (The University of Tulsa College of Law, 2002).
- **Douglas Howe, Ph.D.** - Doug Howe is a consultant in the electric power industry focusing on regional electricity markets in the Western U.S. and utility GHG reduction efforts. He sits on the Board of the Western Power Pool, a FERC regulated utility providing several resource adequacy and reliability functions in the Western Interconnection. He formerly sat on the boards of the New Mexico RETA, and the Western Energy Imbalance Market. In 2011 he was appointed by the governor to the New Mexico PRC as commissioner, filling a vacancy.

Dr. Howe has provided expert witness testimony in multiple dockets in New Mexico, and in Arizona, Nevada, Colorado and Michigan. He has been a consultant with international

energy consultancy Cambridge Energy Research Associates, and served as Vice President of Regulatory Policy for GPU Inc, an eastern US electric utility company.

Dr. Howe holds Ph.D. and M.S. degrees in Mathematics from the University of Pennsylvania and a B.S degree from Kansas State University.

How and Why Settlement: How are They Reached and What Do They Mean in the Regulatory Context?

- **Arthur O'Donnell-** Arthur O'Donnell is the Director of Policy Administration for the New Mexico Public Regulation Commission. From 2020-2022, he was a US Department of Energy Solar Innovator Fellow working with the NMPRC on various rulemaking proceedings. From 2012-2020, Arthur worked for the California Public Utilities Commission as a Program & Project Supervisor in Safety & Enforcement, Grid Planning and Reliability, and was a senior analyst for the Wildfire Safety Division. Prior to regulatory experience, Arthur was a nationally acclaimed journalist covering the energy and utilities industry, and author of several books on energy policy.
- **Mariel Nanasi-** In fall 2008, Mariel began volunteering for New Energy Economy as a mother concerned for her children's future given the threat of climate disruption. In January 2009, she joined the staff as the Senior Policy Analyst. In 2010, she took over the organization as Executive Director. In addition to leading the organization's programs and campaigns, Ms. Nanasi is the chief counsel for the organization and has represented the organization, on behalf of the people and environment of New Mexico before the New Mexico Public Regulation Commission and the New Mexico Supreme Court. Under her leadership, New Energy Economy has become an award-winning renewable energy advocacy organization that has won legal battles in defense of the environment, human health, and ratepayer interests in the NM Public Regulation Commission, NM Environmental Improvement Board, NM Supreme Court, First Judicial District Court, and the NM legislature. New Energy Economy played a critical role in negotiations between PNM, the State of New Mexico, and the Environmental Protection Agency that resulted in an agreement to close half of one of the dirtiest coal plants in the country – the San Juan Generating Station. Ms. Nanasi led the opposition to the now infamous Avangrid/PNM merger - which she won against all odds at the PRC level and argued the appeal in the NM Supreme Court. New Energy Economy is also known for its community-scale renewable energy projects that demonstrate the benefits of solar energy through installations at local nonprofits, community centers, fire stations, and local farms. New Energy Economy is regularly featured in media outlets across a broad spectrum from local radio to specialized utility outlets to national publications.
- **Tom Domme-** Since 2021, Thomas M. Domme has been of counsel to the Jennings Haug Keleher McLeod law firm in Albuquerque where he specializes in Utility and Regulatory law. Between 2009 and 2021 he served as General Counsel and Vice President of Regulatory and External Affairs for New Mexico Gas Company and acted as lead counsel on all the Company's regulatory and litigation matters. Before that he was a shareholder at firms in New Mexico and Colorado specializing in business law, business litigation, and regulatory

law starting in 1984.

- **Gideon Elliot**- Gideon Elliot is the Utilities Bureau Chief for the New Mexico Office of the Attorney General, where he's worked since 2018. In addition to representing the interests of residential and small business customers in proceedings before the NMPRC, Gideon has served as counsel to various boards and commissions, including the Law Enforcement Academy Board and the New Mexico Racing Commission. Gideon graduated from Syracuse University College of Law and the Maxwell School for Public Policy in 2013. Before returning home to New Mexico, Gideon was an Excelsior Service Fellow in the Cuomo administration where he worked on implementing administration initiatives with executive branch agencies.

Mindfulness in Decision Making: Increasing Professionalism and Avoiding Burnout Through Thoughtful Response and Cultivating Presence

- **Scott Cameron** - Scott Cameron has been a Public Interest attorney since 2001. He grew up in upstate New York and moved to Albuquerque in 1993. In 1998, after a summer in Western North Carolina, he went to law school at the University of Utah in Salt Lake City and upon graduating, returned to the Duke City in late 2000. While in law school, Scott was involved in many public interest issues and projects and won three national and local awards for his public service.

As a lawyer, Scott continued his work on public interest issues, including advocating for public benefits and homeless civil rights, leading an effort to reform the juvenile justice system, monitoring consumer issues and public charities, overseeing adult guardianship cases, protecting Constitutional rights, and directing the Litigation Division of the New Mexico Attorney General's office. Currently, he is honored to serve as Chief General Counsel at the NM PRC.

In his free time Scott bikes, runs, swims, bikes some more, rafts, plays guitar, bikes, and travels. He has been practicing mindfulness meditation for nearly 20 years and has been on several multi day meditation retreats. He has been a TEDx speaker talking about mindfulness and its power to change children's lives and has been trained to teach adult Mindfulness Based Stress Reduction (MBSR) by UC San Diego and children's mindfulness by Mindful Schools. Scott has taught mindfulness and meditation to kindergartners, high schoolers, parents, families, lawyers, and judges. Most importantly, he is the proud father of two young adult sons, Brennan and Dane.

Open Meetings Act Compliance for Adjudicatory Bodies

- **John Kreienkamp**- John Kreienkamp is currently General Counsel at the New Mexico Office of the State Treasurer. He has written several law review articles on the subject of public records laws and also serves on the Board of Directors of the State Bar of New Mexico's Public Law Section. He was previously an Assistant Attorney General with the Open Government Division of the New Mexico Office of the Attorney General, where he

served as public records counsel and conducted statewide trainings on the Inspection of Public Records Act and the Open Meetings Act, and an Assistant District Attorney with the Eleventh Judicial District Attorney's Office, Division II. Mr. Kreienkamp holds a J.D. from Washington University in St. Louis and an M.Sc. from Trinity College Dublin.

Communicating Highly Technical Concepts to Non-Technical People

- **Jeff Wechsler-** Jeff Wechsler concentrates his practice in the areas of water, environmental, natural resources, public utility regulation, and complex litigation. He regularly represents private and public clients in litigation before state and federal courts, in stream adjudication suits, and in hearings before the New Mexico State Engineer. Mr. Wechsler has continuously represented states before the United States Supreme Court in interstate water litigation since 2002. He has argued before the United States Supreme Court on water issues and successfully represented the State of Montana in *Montana v. Wyoming*, No. 137 Original, the State of New Mexico in *Texas v. New Mexico*, No. 65 Original, and the State of Kansas in *Kansas v. Nebraska*, No. 126 Original and *Kansas v. Colorado*, No. 105 Original. He currently serves as lead counsel for the State of New Mexico in *Texas v. New Mexico*, No. 141 Original. Mr. Wechsler has represented clients in the litigation and resolution of environmental matters in the areas of water quality, air quality, solid waste, hazardous waste, toxic torts, NEPA, the Endangered Species Act (ESA), CERCLA, and the defense of environmental contamination claims. In the area of public utility regulation, Mr. Wechsler also represents public utilities before the Public Regulation Commission. He has experience in all aspects of utility regulation including general rate cases, certificate proceedings for new carriers and facilities, and disputes between neighboring utilities.

Mr. Wechsler has significant experience in complex civil litigation. He has served as lead counsel on a wide spectrum of trial court and appellate matters, including high-stakes lawsuits involving water rights, toxic torts, groundwater and contaminated sites, the Clean Water Act, the Air Quality Control Act, CERCLA, RCRA, oil and gas royalties, class actions, multi-district litigation, natural resources, eminent domain, land use, education, and civil rights.

Writing for your audience: How to Make Your Point with Different Readers

- **Erin Lecocq-** Erin taught high school French before deciding to go to law school, and came to the law later in life. When her daughter was only 7 weeks old, Erin attended the part-time evening program at Seattle University School of Law, graduating cum laude in 2015. She then worked as a public family defender for parents in the child welfare system in Seattle. Erin and her family relocated to New Mexico in 2019 where she worked in the civil litigation division at the New Mexico Office of the Attorney General. There, she handled several appellate matters, and developed her passion for appellate work. She joined the PRC in May of 2023, and is excited to be handling the appellate matters for this wonderful agency. In her spare time, she enjoys baking along with the Great British Baking Show, playing with her children, and traveling.

Emerging Issues in Regulations

- **Zoë Lees**- Zoë Lees is the New Mexico and Texas Regional Vice President of Regulatory Policy for Xcel Energy. Prior to this role, Ms. Lees practiced law in the utility regulatory field for over nine years, most recently as a Principal Attorney representing Southwestern Public Service Company for Xcel Energy General Counsel. Ms. Lees's practice has given her a wide array of experience with the policy and legal issues confronting New Mexico as it enters a time of significant energy transition. Born and raised in Santa Fe, New Mexico, Ms. Lees graduated *cum laude* from Wheaton College in Massachusetts. After graduation Ms. Lees spent a year in Malaysia as Fulbright Scholar. Ms. Lees graduated *cum laude* from the University of New Mexico School of Law, where she was the Editor-in-Chief of the Natural Resources Journal and the recipient of the Albert E. Utton Natural Resources Award. Ms. Lees is the past-chair of the American Bar Association's Young Lawyers Division Committee on Infrastructure and Regulated Industries, the past-chair of the Foundation for Natural Resources and Energy Law ("FNREL") Young Professional Committee and has sat on the FNREL Renewable Energy Task Force and FNREL Programs Committee. Ms. Lees currently sits on the New Mexico Chamber of Commerce Board of Directors and has presented on utility resource planning.
- **Marc A. Tupler** - After graduating in 1991 with a Bachelor of Science degree in Finance and Accounting from Arizona State University in Tempe, Arizona Mr. Tupler went to work for the commercial banking group for Arizona's largest commercial bank, formerly known as BankOneAZ (now merged with JPMorgan Chase Bank) as an Information Analyst and advancing to a Commercial Banking Relationship Management officer. From late-1998 to 2006, he moved to the investment banking groups for Morgan Stanley, UBS (formerly PaineWebber) and Smith Barney as a Portfolio Manager and Investment Consultant, with progressively larger managed equity and bond investment portfolios, with assets under management topping \$80 million. From 2006-2019, Mr. Tupler held various consulting positions with large and small commercial banks, a regional trust company, as well as a local municipal government's treasury department. In August 2019, he joined the NMPRC as a Public Utility Economist and was promoted to Senior Economist in April 2022.

He has extensive formal training and has participated in and completed courses, seminars, and conferences in commercial banking, investment banking, financial statement analysis, budgeting, forecasting, and feasibility analysis. More recently, he has engaged in regulatory-specific training, including utility accounting and rate design hosted by the Institute of Public Utilities at Michigan State University. Additionally, he formerly held a Series 7 General (Investment) Securities license and a New Mexico commercial real estate broker license.

The Role of PRC Staff in Regulation: Advisory and Advocacy

- **Moderator: Bradford Borman** - Bradford Borman has over 30 years' experience in utility regulation, having worked for four utilities, two regulatory agencies and a law firm over that span. He began his career with the Arizona Corporation Commission while still in law school, then moved up to Salt Lake City to work on electric restructuring issues with PacifiCorp. He

then moved back to his native Wisconsin to represent Alliant Energy in its four state territory before joining Reinhart Boerner van Doeren in Madison, then was recruited to Bangor Hydro in Maine. He returned to the southwest to work at PNM before finally finding himself at the NMPRC.

- **Peter J. Gould** - Peter J. Gould is the senior partner at the Gould Law Firm. His practice is exclusively focused on the regulation of public utilities. Mr. Gould earned his B.A. degree from St. Mary's University in San Antonio, Texas and his J.D. degree from UNM School of Law. Over his career, Mr. Gould has been a law clerk at the New Mexico Public Service Commission, and an Assistant Attorney General representing residential and small business customers. In his private practice, he has represented small and large utility companies and commercial and industrial customers of electric and natural gas utilities. Mr. Gould has been a member of the State Bar of New Mexico since 1990 and is admitted to practice in the federal district courts. He has been recognized by his peers in the publication Best Lawyers in America as Lawyer of the Year for Santa Fe in Administrative/Regulatory Law and Energy Law in 2015, 2022 and 2024.
- **Jason Marks**- Jason Marks is an attorney in private practice since 2013. His practice includes public utility and other regulatory and administrative matters, estate planning and probate, commercial transactional and litigation engagements. His reported cases before the Supreme Court include El Paso Elec. Co. v. NMPRC , 2023 WL 3166936 (N.M. May 1, 2023), Resolute Wind 1 LLC v. NMPRC, 2022-NMSC-011, Albuquerque Cab Co. v. NMPRC, 2014-NMSC-004. From 2005 through 2012, he served as the District 1 PRC Commissioner. Prior to attending UNM School of Law, Marks led a national consulting practice in healthcare finance and rate setting. Marks is semi-retired from law, and now manages Juno Brewery+Cafe+Gallery in downtown Albuquerque with his wife.
- **Cydney Beadles**- Cydney Beadles is the Clean Energy Manager for Western Resource Advocates' work in New Mexico. Previously, she spent more than two decades as a managing attorney at the New Mexico Public Regulation Commission and its predecessor, the New Mexico Public Utility Commission, serving as Legal Division Director for the last three. In 2019, she received the Public Lawyer of the Year award by the Public Law Section of the State Bar of New Mexico. She holds a Bachelor of Arts in Political Science from Stanford University and a Juris Doctor from University of California College of the Law – San Francisco.

Professionalism When Appearing in Front of Adjudicatory Bodies

- **Judge Erin B. O'Connell**- Judge Erin B. O'Connell graduated from the University of New Mexico School of Law. She was a law clerk for two years for Justice Charles W. Daniels of the New Mexico Supreme Court. Following her clerkship, and until appointed to the bench, she was in private practice as a trial and appellate lawyer. Judge O'Connell was appointed to the civil bench at the Second Judicial District Court in February 2019. She is Co-Chair of the Second Judicial District Court Pro Bono Committee, and is Co-Chair of the New Mexico Supreme Court's Access to Justice Commission.