

# **Action Plan for the New Mexico Public Regulation Commission**

## **I. Introduction**

The public, the Legislature and the Governor had high hopes for the NMPRC at the time it was created by Constitutional Amendment in 1996. It was hoped that by combining the appointed Public Utility Commission with its professional regulatory authority with the elected State Corporation Commission that the new Public Regulation Commission would create budget savings, foster an improved regulatory process and allow better access by the public to their elected officials. Unfortunately, none of these goals have been realized. Instead, the PRC has grown in size, has become crippled by the political corruption that characterized the former SCC, has lost the professional credentials that were the basis of the success of the Public Utility Commission and has disregarded any notion of consumer protection or assistance.

Today, most Legislators, the Governor, the regulated entities and consumers realize New Mexico must have change in this critically important regulatory agency. The question has been what and how. Legislation is difficult to achieve due to the competing interests of the regulated industries and the customers they serve. Since the PRC is a constitutional body, any amendment would require the approval of the voters in an election. Both these factors serve to complicate and delay needed change.

The first task undertaken by the first flight of Commissioners was the formulation and adoption of rules for the agency. At that time, the PRC was challenged by important issues including the deregulation of the electric industry and the efforts of US West and later Qwest to reenter the long distance telephone market. Cases had been backlogged as the PUC and the SCC approached the end of their existence. There was simply little time and funds available to formulate new rules. As a result, the Commission blended and then adopted the rules used by each of the predecessor agencies.

Today, it is apparent that it is not just the rules that need to be revised but the structure of the agency itself. After twelve years of operation and four election cycles, the Commission has lost its regulatory focus and has little understanding of its authority and the role it plays as a member

33 of a governmental team. It fails to act within its jurisdiction and authority and acts without it as  
34 well. Changing the faces of Commissioners has had little impact on improving the agency.  
35 Today, New Mexico requires a plan of action for the agency that, if adopted can change the  
36 nature of regulation and serve to accomplish the hopes of the Legislature, the Governor, the  
37 public and the regulated industries for productive and constructive regulation.

38

39 The purpose of this paper is to set forth such a plan. This plan utilizes the organization set forth  
40 in the Constitutional Amendment. Its focus is on cutting waste and ending corruption. It limits  
41 the PRC to its actual regulatory authority and requires the involvement of other State agencies  
42 that hold complementary authority in framing policy. It requires bolstering Commission staff  
43 and reducing the Office of General Counsel. It demands that Commissioners participate in  
44 hearings and in the resolution of consumer complaints. It depends on available technologies to  
45 simplify the work of regulation and thus the cost of regulation. And by doing so creates new  
46 opportunities for the consumer and the regulated industries to keep abreast of issues and to  
47 participate in the process.

48

49 New Mexico faces a challenging economic climate. The NMPRC, through the regulation of  
50 energy and intrastate transportation has real power to either stimulate the economy or depress it.  
51 The Commission must not only adopt a plan for changing the agency, but must also define and  
52 adopt goals for its regulatory work. By doing so, New Mexico can benefit greatly and service on  
53 this regulatory Commission can be rewarding and productive.

54

## 55 II. Background

56

57 Broadly, the NMPRC regulates public utilities engaged in providing electric, gas, water, sewer  
58 and landline telephone services. It sets the rates and terms of service for intrastate transportation  
59 providers. It also provides limited regulation of insurance, specifically title insurance and  
60 managed health care through the Superintendent of Insurance. The Commission has limited  
61 influence in this area since by statute it vests the Superintendent with its full authority. The  
62 remaining Divisions within the control of the agency require little Commission involvement.

63 The real power and function of the Commission is in the area of utility and transportation  
64 regulation.

65  
66 The agency employs approximately 225 workers with an approximate annual budget of \$29  
67 million. The agency collects far more than its budget from licensing fees, premium taxes, filing  
68 fees, managed health care fund and other taxation measures as set by the Legislature. The  
69 NMPRC is now housed in the former PERA Building with all of its Divisions under one roof.

70  
71 The only qualification for election to the NMPRC is that one be a resident of the district and be  
72 at least 18 years of age. Despite the complex nature of the work, Commissioners typically  
73 possess no background in rate making or regulatory work. They are paid whether they show up  
74 or not. Due to these facts, they have abdicated much of their regulatory responsibility to the  
75 Hearing Examiners. These are the individuals that hold hearings, manage cases and finally make  
76 recommendations to the Commissioners regarding disposition of cases through final Commission  
77 action. These individuals are not subject to performance evaluation by the Commission but  
78 perform their own evaluations. The vast majority of Commission decisions amount to no more  
79 than an endorsement of the Hearing Examiners findings.

80  
81 The Commission is represented by and through the Office of General Counsel. This group is  
82 charged with guiding the Commission through legal issues and recommended decisions prior to a  
83 final order. The General Counsel also represents the Commission and the agency in matters  
84 before other Courts. Most decisions by the Commission can be appealed only to the NM  
85 Supreme Court, with appeals only upon final orders of the Commission.

86  
87 The PRC Utility Division and Transportation Staff are charged with representing the public  
88 interest in cases brought before the Commission and with monitoring compliance with standards  
89 set by the Commission. Public interest is defined as a balance between the interests of customers  
90 or rate payers and the interests of shareholders. The Staff includes attorneys, economists and  
91 engineers. These individuals typically are not licensed professionals. The Hearing Examiners  
92 also are charged with finding the public interest in their recommended decisions. Ultimately, the  
93 Commission defines the public interest through their actions.

94

95 The PRC is not a court of law. It acts as a quasi-judicial body much like a Planning and Zoning  
96 Commission. Its proceedings are governed by rules that are patterned after the New Mexico  
97 Administrative Code but which also deviate from the NMAC. Most regulated companies retain  
98 licensed attorneys who specialize in regulatory or transportation law. Rate cases and other  
99 proceedings tend to be lengthy and involved and thus expensive. A major rate case involving an  
100 electric utility can cost up to \$1 million. It is not uncommon for regulated companies to spend  
101 \$50k per year on regulatory matters.

102

103 It is also not uncommon to find only a simple majority of Commissioners in attendance at Open  
104 Meetings. Often, only two attend with the balance of the quorum participating telephonically.  
105 There is no policy regarding such practices or to verify the identification of those so  
106 participating.

107

108 Commissioners are now paid a \$90,000.00 annual salary. They may hire assistants as they  
109 choose. Currently, the highest paid Commission assistant is paid \$72,000.00 per year.

110

### 111 III. The Current Situation

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#### 113 A. The Agency

114

115 The Commission operates with no institutional memory. Unlike the courts, once the  
116 Commission reaches a decision it is forgotten. There is no plan for any element of regulation.  
117 That means that there is no electric energy policy, for example that would serve as a framework  
118 for Commission decisions. There is no consistency. The process is confusing and operates  
119 under its own special rules of evidence and procedure. It is expensive and time consuming for  
120 all involved. The members of the Commission have little to no relevant experience or education  
121 to rely upon. Current law requires that candidates be of 18 years of age and live in their district.  
122 That is it for job requirements.

123

124 There is little to no participation by customers. Industrial firms may hire an attorney to represent  
125 them in proceedings, but rarely does the press, the AARP or anyone else show up for meetings.  
126 Even when industrial users get involved the process is unwieldy, non-productive, time  
127 consuming and expensive. The system is plagued by rampant waste and a lack of direction.

128  
129 There is little to no means of appeal until the Commission has reached a final decision. There is  
130 no right to bump a Hearing Examiner as a party could bump a Judge in a civil proceeding. There  
131 is no appeal from the decisions of a Hearing Examiner. If you get a bad decision, you are stuck  
132 with it. If you complain it may only get worse.

133  
134 Though the goal of the Commission is to find the public interest in its decisions, that obligation  
135 has been delegated to the Hearing Examiners. Staff is charged by law with promoting the same  
136 public interest. Since there is duplication of this obligation, staff is allowed and has a distinct  
137 tendency to act more as prosecutors in litigated cases, thus creating an imbalance in the process.  
138 Too often, regulated industries are placed in the position of defending themselves instead of  
139 proving their case, thus increasing cost and compromising their relationship with their customers  
140 and the agency.

141  
142 Even if Commissioners had education or experience to rely upon, they have little means of  
143 getting involved in their docket. They cannot talk with parties involved in a case due to ex parte  
144 rules and have no attorney to advise and assist them. They have volumes of information to read  
145 and understand and no set goals to guide their considerations or decisions. No wonder  
146 Commissioners hold such loose attendance standards and are willing to delegate their authority  
147 so readily.

148  
149 Consumer complaints are referred to the Consumer Relations Division for resolution. The  
150 delegation of Commission authority to this Division is simply non-productive. Commissioners  
151 have no responsibility to respond to consumers since under the current organization that is not  
152 their job.

153

154 The PRC has become a wholly political body. Top administrative jobs tend to be handed out to  
155 repay political service. In a recent ethics survey, almost one half of the PRC employees stated  
156 that they had seen unethical conduct take place. Almost one quarter stated that they had been  
157 asked or directed to engage in unethical conduct. Many employees fail to report unethical  
158 conduct since they fear retaliation, especially if the accused is a political favorite of the  
159 Commission.

160  
161 Regarding the PRC budget, the agency has lost the understanding of the value of tax dollars.  
162 The agency goal is not to gain efficiency or streamline in order to cut the budget but to maintain  
163 the budget in order to preserve jobs within the agency. The agency works to oppose any effort to  
164 investigate it, through denial of requests for inspection of public records and through Legislative  
165 lobbying to thwart scrutiny by that body.

166  
167 There is no coordination with executive departments that hold complementary regulatory  
168 authority such as the Office of the State Engineer, the New Mexico Environment Department or  
169 Energy, Minerals and Natural Resources. The Office of Attorney General holds the obligation to  
170 represent residential and small commercial customers but rarely participates due to claimed  
171 budget constraints.

172  
173 The PRC does not provide adequate notice to companies or customers regarding the timing of  
174 Commission action on cases. The policy requires only that the agenda for meetings be posted  
175 outside the Commission chambers within 24 hours of the meeting. This requires that companies  
176 with cases pending before the Commission check in daily to see if their case is on the agenda.  
177 Customers outside of Santa Fe have no opportunity to attend meetings in which, for example,  
178 their electric rates are to be determined, since they have to be in Santa Fe daily to check the  
179 bulletin board.

180

181

182 B. Electricity

183

184 Energy is the basis for our economy. It is an expensive and a rising cost yet an unavoidable  
185 need. The concept of what electricity is and how it operates is very complicated. It is also a key  
186 need in our everyday lives. Electric rate regulation is not a simple concept. Consumers want  
187 lower rates. Utilities want rates that are adequate to cover their investment and their costs and  
188 are entitled by law to a reasonable rate of return. The PRC regulates only distribution and retail  
189 rates. Electric transmission and wholesale rates are not within PRC jurisdiction or authority.

190  
191 Electric energy rates are bound to rise due to increasing demand and governmental pressures  
192 related to green house gas emissions, proposed cap and trade regulation and the impact of  
193 renewable energy portfolio standards. These rising costs will obviously impact residential  
194 customers by driving up the household expenses. They will also affect industrial customers as  
195 well and thus will negatively impact their competitiveness and will serve to dampen job growth.

196  
197 New Mexico's electric utilities currently suffer from the second highest cost of capital in the  
198 nation. That means that our electric utilities have to pay much higher costs for loans and credits  
199 required to construct new generating plants and lines. Industrial users demand high reliability.  
200 That costs money. These higher capital costs create a corresponding pressure on rates, making it  
201 that much more difficult to operate.

202  
203 The PRC does not operate with an electric energy policy to guide its deliberations, decisions and  
204 actions. Where the Commission may allow one electric utility the ability to pass on costs of fuel  
205 and additional power it may need to purchase to fulfill demand, it may deny another the same  
206 opportunity. One of the greatest single causes of high capital cost and rates is the uncertainty  
207 that the PRC has created in regulation and in its treatment of utility issues.

208  
209 It must be remembered that 80% of our state is served by Rural Electric Cooperatives. These  
210 Cooperatives are self governed. Their representatives or Trustees are elected by the members.  
211 The Commission should reexamine the regulatory requirements imposed upon the Coops to  
212 determine whether the scrutiny the Commission provides is productive.

213

214 We are also increasingly susceptible to interruptions in power supply due to the complex nature  
215 of the electric grid. The electric grid has been called the greatest technological achievement of  
216 this century, but the fact of the matter is that it is facing increased stress due to increased load as  
217 more major power generating plants are developed. Transmission systems are needed to handle  
218 the increased power that our economy demands. Whether the power source is renewable or  
219 conventional it cannot operate without a tie to the grid's transmission system. Yet transmission  
220 systems are more costly and complicated to build than generating plants.

221  
222 One of the best ways to solve the power availability problem is to use less power. Systems are  
223 available today that allow electric users the ability to track their usage on a daily basis and find  
224 the cost of that use. National studies have shown that when electric customers have real time  
225 information on their electric usage and the attendant cost, they will cut their usage up to 25%.  
226 Such real time systems require smart meters. Most New Mexico electric customers do not have  
227 access to smart meters.

228  
229 Incandescent bulbs while cheap are also big energy users. By the time power moves from the  
230 generating plant to the home less than 1% is converted into light. We have all noticed the LEDs  
231 lights at traffic intersections. Where an incandescent bulb may use 60watts to produce adequate  
232 lighting, a comparable LED uses only 8watts. That is just one example of heightened efficiency  
233 that is available today. The problem is that such opportunities are simply off the radar screen of  
234 the NMPRC.

235  
236 Many believe that the future of our nations power supply lies in renewable energy sources.  
237 While the NMPRC did adopt a renewable portfolio standard back in 2002 that mandates that  
238 utilities will gain up to 10% of its retail power, there simply is not enough renewable power  
239 available to meet that threshold. We need to explore new and innovative means to achieve this  
240 goal. We also need to find ways to deliver lower cost and more reliable power to our industries  
241 without upsetting the rate balance between those high use customers and low use residential  
242 customers.

243



244 We must also plan a clear strategy that promotes energy conservation and efficiency. As much  
245 as 30% of the power currently consumed by our state is in essence non-productive due to a lack  
246 of efficiency and simple waste. The NMPRC needs to enlist the Legislature where needed to  
247 develop programs to better address these issues.

248

249 Without a clear energy policy, the NMPRC is doomed to repeat the mistakes of the past and is  
250 simply unsuited to respond to the current economic climate or that of the future.

251

### 252 C. Water

253

254 Water is essential for sustenance and development. It is critical both to life and our economy.  
255 Ground water is an over-committed resource. In New Mexico, water resources are in high  
256 demand and that demand is rising due to simple factors of growth and development. Despite this  
257 fact, water, for rate making purposes has no value nor do the water rights or wells that support  
258 the utility pumping that supplies the water. Yet, water rights on the market have high and  
259 climbing value due to demand.

260

261 While water supplies may be replenished by the actions of nature or bolstered through  
262 conservation those factors cannot be relied upon. Nature tends to be unpredictable and  
263 conservation is typically achieved only through price pressures. If the price goes up, then use  
264 likely will decline. Price increase is unpleasant and so is resisted by consumers.

265

266 In New Mexico, water is subject to regulation by the NMPRC, the Office of the State Engineer  
267 and the New Mexico Environment Department. Yet, these offices rarely work in concert. As a  
268 result, the NMPRC routinely oversteps its authority and seeks to interject itself into water supply  
269 and water quality issues. Certainly, the cost of supply and maintenance of water quality are  
270 within the authority of the PRC, but the requirements for supply and quality are not within the  
271 PRC jurisdiction.

272

273 New Mexico recently suffered from the melt down of the real estate market. That bubble  
274 bursting was due to several factors including over supply and over pricing as well as the impact

275 of the financial crisis. It is likely that another crisis looms on the horizon and that is water  
276 supply. Currently, the entire lower Rio Grande basin water supply is in the process of  
277 adjudication. It is apparent that the basin is over committed. Recent or junior water rights are  
278 those likely to be compromised by decision of the court. If it is determined that water utilities  
279 have such junior water rights then their ability to provide service to their customers will be  
280 impaired.

281  
282 Recent court rulings in other areas of the state have held that residential users may have no right  
283 to drill wells if that use or demand impairs senior rights in the area. If that ruling stands, then  
284 residential developments that rely upon private wells will be compromised. In that case, water  
285 utilities and municipal systems will be likely required to provide service where possible, if they  
286 hold adequate senior water rights.

287  
288 The EPA has tightened its standards for drinking water. While appropriate to protect the public  
289 health, this additional regulation will impact price. Currently, the NMPRC only views the  
290 ratemaking process as a backward looking endeavor. Utilities are only allowed to include items,  
291 infrastructure or costs that have already been incurred. Those costs must be judged to be prudent  
292 and reasonable after the fact. Utilities have no means to use rates to develop “savings accounts”  
293 for costs such as EPA compliance or new wells, for example.

294  
295 Many areas of the state have no sewer service and utilize septic tanks and leach fields for  
296 disposal of house hold waste water. While these systems are inexpensive, they have the  
297 potential to contribute to ground water contamination, especially in areas of concentration. Yet,  
298 establishing sewer plants is costly due to engineering and construction prices and difficult due to  
299 site concerns and the influence of NIMBY’s. It is likely that existing public sewer utilities hold  
300 at least part of the answer in providing broader sewer service.

301  
302 The Commission has failed to consider any of these points in its regulation of water utilities.  
303 They have allowed water utilities to sell off “excess” water rights with no corresponding  
304 reduction in utility debt. They do not allow any price for water rights or the cost for  
305 corresponding wells in rates. They do not foster the expansion of sewer service and in fact may

306 impede that development through inappropriate policy. They do not cooperate or work jointly  
307 with the other state regulatory agencies to promote a statewide policy regarding water and water  
308 use.

309

#### 310 IV. The Plan for Tomorrow

311

312 In order to solve a problem one must first define it and then embrace it. The sections above  
313 provide a thorough examination of the problems that New Mexico faces with the NMPRC and so  
314 provide a working definition of the problem. The balance of the examination must be found  
315 through those that know it best and live it each day; the staff and employees of the agency.

316

317 While some current Commissioners and staff members may dispute the notion that the agency  
318 has problems, facts fly in the face of denial. Most of the employees of the NMPRC are good,  
319 dedicated and hardworking public servants. It is imperative that interviews be conducted with  
320 the employees of the agency to identify areas of corruption, areas for improvement and areas for  
321 cost savings.

322

323 It is also imperative that the new Commission conduct interviews or hearings with the public  
324 utilities, transportation companies and other regulated entities to determine how to improve the  
325 agency, the process and the rules under which the Commission governs. Most regulated  
326 companies desire to provide safe, top quality and affordable service and can provide needed  
327 insight. The Commission needs to listen.

328

329 The Commission also needs to conduct hearings with the public to take comment regarding how  
330 the complaint resolution system could be improved. The Open Meetings policy must be revised  
331 to require the Commission to provide notice to parties regarding hearings and meetings. The  
332 policy must reflect the fact that the Commission works for the public not the other way around.  
333 The policy regarding access to public records must also be revised and the Commission must  
334 impose real penalties for any member of the agency that works to deprive the public and others  
335 free access to agency information and records.

336

337 It is also important to examine the division of the agency. Currently, the Superintendent of  
338 Insurance operates in a parallel organizational structure with the Commission. The Commission  
339 does not regulate insurance. That Commission authority is vested in the Superintendent. In an  
340 ideal situation, the Commission and the Superintendent should act as partners to achieve the  
341 Commissions goals. That relationship is appropriate since the Commission alone swears an oath  
342 of office to the citizens of New Mexico. The Commission may delegate its authority to the  
343 Superintendent, but cannot delegate its sworn responsibility. It may be desirable to establish the  
344 same type of relationship with the Chief of Staff.

345  
346 Currently, the Chief of Staff is responsible for managing all staff and agency functions that do  
347 not include the Insurance Division or the Hearing Examiners. Since the inception of the agency,  
348 the Chief of Staff, like a County Manager has depended on the support of the Commission to  
349 keep his/her job. As a result, the position has become inherently political and a tool for the will  
350 of Commission when it comes to hiring, firing and promotion. That must change.

351  
352 The Corporation Division, Pipeline Safety, Railroad, Transportation, and other Divisions each  
353 have their own Director. The role of Chief of Staff should be to oversee those divisions as a  
354 partner with the Commission. A specific job description should be created for the position  
355 defining responsibility, performance evaluation criteria and a period for performance review.

356  
357 Currently, most Commissioners maintain spotty attendance at PRC meetings and rarely work 40  
358 hours a week. That work habit has extended to higher level employees as well. It may be  
359 necessary to institute the use of time clocks or computer check in to assure that New Mexico tax  
360 payers and the regulated entities that help fund the agency get the full value of the funds they  
361 contribute to the agency.

362  
363 Since it is uncertain if the Legislature will propose to amend the Constitution to set additional  
364 election requirements for candidates for the PRC including relevant experience or education, for  
365 example, it is then vital that the members of the Commission have the ability to gain appropriate  
366 help. Each Commissioner should have an attorney as an assistant to help them understand

367 complex filings and issues, to facilitate communication with regulated companies and to assist  
368 them in the performance of their duties.

369  
370 That help should come through the Office of General Counsel. Each attorney within the General  
371 Counsel Office could be assigned to a Commissioner. They would retain the work load they  
372 currently hold, and as Commissioners become more familiar with the subject matter of regulation  
373 the Commissioner/attorney team would become more effective. The organization of the agenda  
374 would become the responsibility of the General Counsel. Compliance with Open Meetings  
375 requirements and the maintenance of the public records would remain the responsibility of the  
376 Chief Clerk.

377  
378 Such an arrangement would also promote collaboration among the Commissioners regarding  
379 specific complex cases and topic matter. It would provide the Commissioners with advice and  
380 assistance to allow Commissioners the ability to conduct hearings themselves. Further, the  
381 Commission could then control the docket, make assignments to Hearing Examiners as needed,  
382 stay abreast of the progress of cases, and have greater ease in directing the Hearing Examiners  
383 regarding issues that the Commissioners want addressed during hearings and in pleadings.

384  
385 The Commission must also establish some control over the Hearing Examiners. It makes no  
386 sense to cede full authority to hear and manage cases without some performance criteria and  
387 regular evaluation. Time limits should be set in order to move cases efficiently and in order to  
388 cut the cost of litigation. The Commission must also establish a process to hear appeals that may  
389 arise during the pendency of a case. Participation by the Utility Division staff must be limited in  
390 cases in which there are parties able to represent themselves. The staff should be required to  
391 work more as partners with small regulated companies, assisting them in attaining compliance  
392 rather than policing them when they fail.

393  
394 The rules involving small utilities could also be amended to increase the ability of the utility to  
395 represent itself in cases before the Commission. Again, if the Utility Division staff were to work  
396 to assist these utilities on the front end of rate filings, for example instead of working in  
397 opposition to them it would save everyone time and money. It would also limit the need of small

398 utilities to enlist legal services to represent them. Those costs typically are included in utility  
399 rates. Taking these steps would serve to limit unnecessary rate increases due to the cost of  
400 regulation.

401  
402 If the steps outlined herein were adopted, then large and small utilities could meet with the  
403 Commission in advance of filing any case. Through discussion in advance of any filing, the  
404 Commission and its staff could assist the utility in defining an acceptable methodology for  
405 adjusting rate requests, for example, and then could work on the process to assure that the utility  
406 and the filing are in compliance with applicable rules. Such an approach would of necessity  
407 limit the time involved in completing rate or service applications and thus reduce the cost of such  
408 actions. It would also improve the involvement by the Commission in its work and bolster its  
409 authority. The Commission could mandate that the utility gain more involvement by its  
410 customers, thus increasing public awareness of the particular need that the utility seeks to  
411 address.

412  
413 It is also necessary for the Commission to establish local offices within the Commission Districts  
414 outside of Santa Fe and Albuquerque. Specifically, local offices need to be established within  
415 Districts 2, 4 and 5. This does not require much, but will ease the travel requirements for  
416 Commissioners and facilitate local public participation. Virtually all of the pleadings, filings and  
417 other documents are available to Commissioners via the internet. That access needs to be fully  
418 utilized. Instead of telephonic participation during meetings, the Commission should establish  
419 SKYPE as the medium. It is free, readily available, requires no new computer hardware other  
420 than a small computer mounted camera and can allow real time video and audio. If SKYPE were  
421 utilized, then every member of the body as well as the participants can see and hear the absent  
422 Commissioner. It would also allow the public to hear and see the Commission during meetings  
423 at very low cost.

424  
425 The second reason to establish local offices is to dilute the political power that is vested in Santa  
426 Fe itself. If the Commissioners seek to be effective in serving their constituents and in resolving  
427 local utility, transportation and other issues then they need to spend more time in contact with

428 those constituents and companies. The Commission should work to make politics a secondary  
429 role of the Commission and public service the first priority.

430

431 The Commission must also embrace the notion that it is their role to resolve consumer  
432 complaints. That is appropriate since it gives the voter the ability to determine if a  
433 Commissioner is effective or not. Such a change would allow the agency to eliminate the jobs  
434 within the Consumer Relations Division through a reduction in force action. That would reduce  
435 the overall budget and transfer the responsibility for handling consumer complaints to  
436 Commissioners where it rightly belongs.

437

438 The Commission must also establish, develop and maintain contact with other state agencies that  
439 hold complementary authority. The Office of the State Engineer and the New Mexico  
440 Environment Department could be useful partners for collaboration on water and waste water  
441 issues. The New Mexico DOT could certainly be a useful partner on transportation safety  
442 matters. The Economic Development Department is in a good position to inform the  
443 Commission regarding electricity issues as they affect industry in our State. That contact needs  
444 to be initiated with the Governor and developed jointly. Jobs and our economy are top issues  
445 facing our State. Such collaboration could prove to be a great help in moving our economy  
446 forward.

447

448 In the past, Commissioners have participated in multi-state forums on electric and water issues.  
449 While that is important in the development of broad regional policy, we must focus on New  
450 Mexico policy first. That priority has simply been lacking and cannot continue to be overlooked.  
451 The NMPRC must engage the Legislature and the Governor in discussion to achieve meaningful  
452 policy goals. The Commission has the ability through its rule making initiative to serve as the  
453 point for such efforts. The process is simple. It allows opportunity for stakeholders to  
454 participate. It does not require legislation. It is much more flexible than the legislative process  
455 and is not tied to any 30 or 60 day period.

456

457 Finally, the Commission must work with the entire agency to redefine its goals, purpose and  
458 mission. The Commission must take up this work immediately and make this its top priority.

459 Once this goal is undertaken then the Commission can begin work on critical policy matters  
460 involving water, transportation and energy.

461

## 462 V. Purpose

463

464 New Mexico has been plagued with its reputation of being a pay to play state. Yet any political  
465 blog or other political commentary in any newspaper in our state routinely ranks and grades  
466 candidates for office based upon the amount of money they have raised for their campaigns. The  
467 more money raised the more credibility that candidate is afforded. If we only view political  
468 candidates as being driven by money, then why should anyone be surprised when political  
469 offices are driven by money?

470

471 We recognize that the simple fact of politics is that you must be elected first and promote change  
472 or an agenda later. We seek to make this campaign for the NMPRC a campaign of ideas. If we  
473 are to change the pay to play mentality, then we must make that change now. The PRC is an  
474 easy target for candidates to attack. It is easy to complain about corruption in New Mexico; it is  
475 much harder to develop a plan to change that. It is easy to talk about jobs and the economy.  
476 Again, it is much harder to actually accomplish constructive change to foster job and economic  
477 growth.

478

479 We also recognize that we have only one shot. We have only one shot at this office through this  
480 election, but New Mexico has only one shot at making the change that the people of our great  
481 state need. We fear that if we do not do this now, if we do not change this agency now, then it  
482 may never recover. We simply cannot afford to allow this situation to continue any longer. Our  
483 state economy, our wage earners, our regulated utilities and our families depend on us getting it  
484 right. We cannot gamble here. That is why we believe it is vital that we have a plan for reform  
485 and that the voters understand just what we propose to do to fix this vital state agency.

486

487 And so, the purpose of this plan is twofold. First, it represents a clear statement of just what we  
488 believe needs to be done to regain control of the PRC and reform the agency into a productive,  
489 working body. Second, it represents a clear statement of ideas and a clear statement of our



490 platform for productive change. We believe that voters deserve more than slogans and yard  
491 signs or websites in such difficult times as these in which we find ourselves.

492  
493 While we have done our homework and have spent much time in the development of this plan,  
494 we need comment. We submit this plan as a good basis for reform but know that we will learn  
495 through discussion. With your help, we will continue to work on this plan so that when elected  
496 to the PRC, we will have a clear statement as the basis for a mandate for change. If that occurs,  
497 then New Mexico will become the beneficiary of the work, research and time that has been  
498 devoted to developing this plan. In that case, regardless of the outcome of the election, the  
499 efforts of the collaborators will have come to good.

500  
501 VI. The Collaborators

502  
503 Kent Evans is a Republican candidate for the NMPRC District 5 seat. Mr. Evans has previously  
504 served as a Dona Ana County Commissioner for two terms from 2001 through 2008. He  
505 currently serves on the Spaceport Authority. Kent's background for 38 years was in business  
506 management, human resources and public relations. He served in that capacity for NMSU  
507 Physical Science Laboratory, Lockheed, McDonnell Douglas, North American Rockwell and  
508 Brevard County, Florida Health Department. He has served on many public boards during the  
509 35 years he has resided in Dona Ana County.

510  
511 Tony Schaefer was elected to the NMPRC in 1998. He served through 2002 and as the  
512 Commission Chairman for one and a half years. During that service, he authored the NMPRC  
513 Electric Energy Plan, worked heavily on the Renewable Portfolio Standard for electric utilities,  
514 joined the other members of the Commission in hearings involving the Qwest Alternative Form  
515 of Regulation plan and numerous other cases. Mr. Schaefer represented the Western States in  
516 forums with the Federal Energy Commission regarding the deregulation of electricity.

517  
518 The other collaborators include utility customers and executives, union members and employees,  
519 regulatory attorneys, lobbyists, shareholders, legislators and the hard working staff of the  
520 NMPRC who provided mentoring, counsel and comment toward the development of this plan.