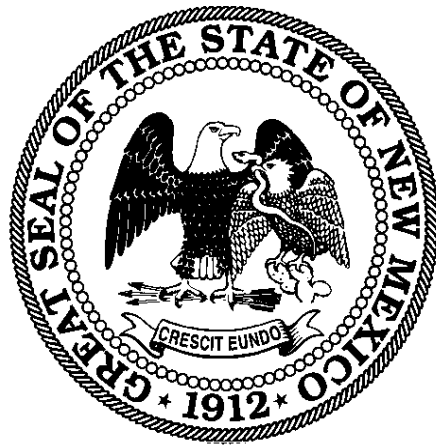


State of New Mexico Public Regulation Commission



2000 Annual Report

Including:

- 2000 Electric Restructuring Report
- 2000 Insurance Fraud Bureau Report
- 2001 Legislative Agenda

December 1, 2000

New Mexico Public Regulation Commission

2000 Annual Report

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New Mexico Public Regulation Commission

Commissioners

Bill Pope
Chairman
Roswell, District 2

Herb H. Hughes
Vice-Chairman
Albuquerque, District 1

Jerome Block
Santa Fe, District 3

Lynda M. Lovejoy
Crownpoint, District 4

Tony Schaefer
Las Cruces, District 5

PRC Staff

John B. Hiatt
Chief of Staff

John Curl
Director, Utility Division

James Martin
General Counsel

S. Vincent Martinez
Director, Transportation Division

Bernie Padilla
Director, Administrative Services Division

D.J. Letherer
Director, Insurance Division

Molly Whitted
Director, Consumer Relations Division

George Chavez
State Fire Marshal

Chuck Noble
Director, Legal Division

John Standefer
Director, Firefighters Training Academy

Summary of Major Activities

*Telecommunications Regulation*¹

House Bill 400, passed during the 2000 legislative session and signed into law, directs the Commission to establish a new, alternative form of regulation (AFOR) for large telecommunication companies operating in New Mexico. Implementation of all of the major elements of the act is under way.

The two companies affected by the law are Qwest Communications, the successor of U S West by virtue of a 2000 merger approved by the PRC, and Valor Telecommunication, which acquired the service territory and infrastructure of GTE Southwest.

As part of the agreement granting Valor authority to operate in New Mexico, the Commission has already approved an AFOR for the company.

A proposed AFOR agreement is pending before the Commission for Qwest Communications.

House Bill 400 outlines three major tasks for the PRC:

- Identify subsidies for large carriers by Dec. 31, 2000, and develop a schedule to eliminate them by April 1, 2001.
- Establish consumer protection, quality, investment and access regulations by Jan. 1, 2001.
- Establish alternative form of regulation (AFOR) and eliminate rate-of-return regulation for two largest carriers by April 1, 2001.

*Electric Utility Industry Restructuring*²

The 1999 Legislature passed landmark legislation that mandated restructuring the regulation of the electric industry. Under the new arrangement, investor-owned utilities are allowed to separate their electric generation and distribution operations, permitting the deregulation of wholesale generation while maintaining a regulated distribution system. The intention of the act is to provide customer choice in the selection of their electric supplier, the effect of which would be competition and market-based prices for consumers.

In May of 2000 the Commission delayed the initial implementation of customer choice for one year, to January 1, 2002, for residential, small business and most school customers. The commission also delayed the effective date for all other customers to July 1, 2002. On Sept. 26, 2000, the Commission heard testimony about substantial increases in electricity prices and other effects of restructuring in San Diego, California.

Four investor-owned utilities in New Mexico have filed restructuring transition plans. Plans have been filed by:

Public Service Company of New Mexico
Southwestern Public Service Company
Texas-New Mexico Power Company
El Paso Electric Company

¹ A more extensive description may be found in the Utility Division portion of this report beginning on Page 8

² A more extensive description may be found in the Utility Division portion of this report beginning on Page 14

Qwest / U S West ³

Perhaps the most significant case pending before the Public Regulation Commission is the proposed settlement of several rate, service and other cases that have been pending with Qwest Communications and its predecessor company, U S West. In October 2000, the staff of the PRC filed a negotiated agreement with the Commission seeking approval of the settlement. The proposed settlement would resolve all of the regulatory cases pending before the Commission and establish an alternative form of regulation (AFOR) for the telecommunication company.

In the settlement, the company has agreed to make investments totaling \$788 million over five years in infrastructure and advanced data services, to abide by service quality standards on customer service requests, reduce prices and abide by price caps for basic business and residential service.

Qwest /U S West Pending Cases

The proposed settlement, if approved by the Commission, would resolve all outstanding Qwest cases originating with its predecessor, U S West, including:

- Earnings Investigation for 1998
- Investigation of Rates and Service
- Waivers of Held Orders
- Violation of Zero Held Orders Standard

Managed Health Care Bureau

The 1999 Legislature authorized the PRC to establish a Managed Health Care Bureau. The Bureau has been fully staffed and operational since April 2000. The Bureau is responsible for monitoring the health care industry and responding to consumer inquiries and grievances, conducting consumer education programs and reporting to the Superintendent of Insurance.

³ A more extensive description may be found in the Utility Division portion of this report beginning on Page 8

2000 Annual Report

Fiscal Year 1999-2000

Commission

The New Mexico Public Regulation Commission (PRC) was created by a voter-approved constitutional amendment in 1996. The constitutional amendment abolished the Public Utility Commission and the State Corporation Commission and consolidated their responsibilities within the new commission.

The Commission came into existence on January 1, 1999. The Commission comprises five elected commissioners. Its quasi-judicial functions include the adjudication of regulatory cases in the industries over which it has jurisdiction: telecommunication, electricity, natural gas, water, wastewater, insurance, managed health care, fire safety, firefighters training, public transportation and corporation records.

Chief of Staff

The Chief of Staff is the PRC's top administrative officer, managing the directors of the divisions that constitute the PRC's staff. The staff acts independently as a party to regulatory cases, representing the public interest, and presenting its position on regulatory cases to the Commission.

Office of the General Counsel

The General Counsel is the lawyer to the Commission. It is the office that advises the commission on legal matters, administers the formal proceedings before the Commission and represents the Commission in outside litigation stemming from regulatory issues that have been decided by the Commission.

The general counsel has prepared the substantive orders issued by the Commission in all but a handful of Utility Division cases, and in several Transportation Division cases. The number of orders prepared by the general counsel and issued by the full Commission through October 2000 is shown at right.

General Counsel

Utility Orders	89
Utility Final Orders	219
Utility Notices of Proposed Rulemaking	7
Utility Notices of Inquiry	1
Transportation Orders	36
Transportation Final Orders	18
Transportation Notices of Proposed Rulemaking	3
Transportation Resolutions	2

Hearing Examiners

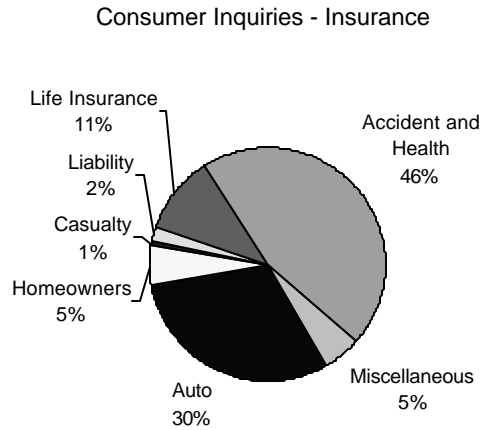
The PRC hearing examiners are appointed by the Commission to hear testimony from parties in regulatory cases, receive and evaluate evidence and make recommendations to the Commission in regulatory cases.

Consumer Relations Division

The Consumer Relations Division's function is to assist consumers with complaints against any company regulated by the Public Regulation Commission. This process includes investigation of each inquiry; conducting interviews with the consumer; notifying the appropriate company and advising them of the complaint, and mediation when appropriate. During Fiscal Year 2000, the division received approximately 10,600 inquiries.

The division's Insurance Bureau recorded 1,446 insurance complaints, as follows:

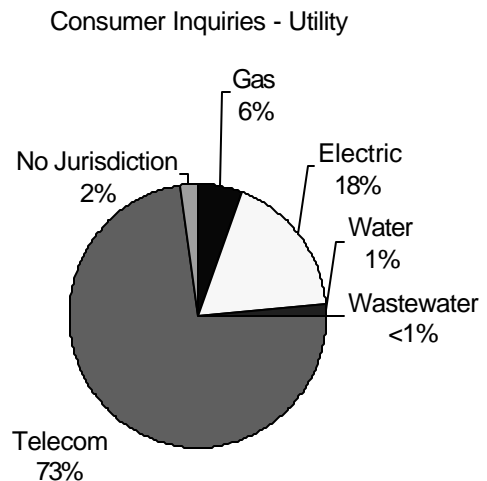
Auto	441
Homeowners	77
Casualty	11
Liability	29
Life Insurance	156
Accident and Health	657
Miscellaneous	75
Closed	1,409
Pending	37



The Utility Bureau is responsible for processing reported issues or disputes with utility companies regulated by the PRC. The issues handled by this staff relate to gas, electric, water, wastewater and telecommunication complaints.

During FY2000 the division's Utility Bureau and Telecommunication Bureau received 7,852 telephone inquiries and processed 2,318 complaints:

Gas	130
Electric	420
Water	27
Wastewater	1
Telecommunications	1,686
No Jurisdiction	54
Closed	2,162
Pending	156



During the last fiscal year the Consumer Relations Division received legislative approval for an additional full-time employee for the Telecommunications Bureau. Another FTE is required to handle the increased volume of complaints being received in telecommunication that resulted from legislation prohibiting “slamming” and “cramming” of customers by telecommunication companies.

The Legislature passed the Electric Utility Industry Restructuring Act last year and has mandated that a Consumer Education program be developed and implemented to inform consumers about their choices of electricity producers after restructuring. For the past eight months, the Division and representatives from the various utility companies have been working together to develop a unified message to explain customer choice, and what, when and how consumers can make choices that will best serve them. The communication effort is on track to be launched on January 1, 2001.

The Consumer Relations Division published and distributed informational materials to consumers, conducted educational workshops in communities, placed an information booth at the State Fair and the Governor’s Career Conference. The CRD assisted Commissioners at two public hearings throughout the state, including two insurance-related hearings in Los Alamos as a result of the Cerro Grande Fire.

Utility Division

The Utility Division evaluates applications filed by regulated utilities for rate and service changes under the jurisdiction of the PRC. The staff division acts in regulatory matters as an independent party, representing the general public and presenting expert testimony in the fields of engineering, economics, accountancy and rate structure.

Telecommunications

House Bill 400

House Bill 400 was passed by the 2000 Legislature and signed into law on March 7, 2000. The legislation directs the Commission to undertake several significant proceedings to change the method of regulation of telecommunications companies in New Mexico. The law provides:

<p>1. Identify and eliminate subsidies in the rates of major carriers.</p>	<p>By December 31, 2000, the Commission must identify subsidies in the existing rates of all incumbent local exchange carriers (ILECs) with more than 50,000 access lines (Qwest Communications and Valor Telecommunications). The Commission must develop a schedule for the elimination of subsidies by no later than April 1, 2001. Hearings have been held in the cases concerning the identification of subsidies for Qwest and for Valor, which are pending.</p>
<p>2. Establish rules governing consumer protection, investment, advanced services and interconnection agreements.</p>	<p>The Commission must adopt rules by January 1, 2001, that:</p> <ul style="list-style-type: none"> • Establish consumer protection and quality of service standards; • Ensure adequate investment in telecommunications infrastructure in both urban and rural areas; • Promote availability and deployment of high-speed data services in both urban and rural areas; • Ensure the accessibility of interconnection by competitive local exchange carriers (CLECs) in both urban and rural areas of the state; and • Establish an expedited regulatory process to consider matters that are pending before the commission. <p>The Commission issued proposed rules in these areas in August 2000. Several comment hearings have been held around the state for these rulemakings, which are pending.</p>
<p>3. Elimination of rate of return regulation and establishment of alternative form of regulation (AFOR)</p>	<p>By April 1, 2001, the Commission must eliminate rate of return regulation of incumbent local exchange carriers with more than 50,000 access lines (Qwest and Valor), and replace it with an alternative form of regulation (AFOR) that includes reasonable price caps for basic residence and business services. AFOR cases were begun for both Qwest and for Valor. Both are pending.⁴</p>

⁴ More details on Qwest proposal, see Page 9, more details on Valor settlement, see Page 12

Qwest Communications

Qwest Communications and U S West Communications Merger

On June 30, 2000, Qwest and US West merged. Qwest assumed U S West's operations in 14 states, including New Mexico and its numerous cases pending before the Commission and on appeal in the state and the courts. The New Mexico Public Regulation Commission and its counterpart agencies in the Qwest service area approved the merger.

Qwest Proposed Settlement of Pending Cases and AFOR

On October 27, 2000, Qwest and the PRC Staff filed a proposed settlement with the Commission. The proposal seeks Commission approval of an agreement that would resolve all of the pending regulatory cases involving Qwest that were held over from its predecessor company, U S West.

The proposal provides for an alternative form of regulation (AFOR) for Qwest, implementing the principles of House Bill 400. The stipulation also commits Qwest to certain investments over the next five years.

In the proposed agreement, the company has agreed to the following:

<p>Investments</p> <p>Qwest agrees to invest \$788 million over five -years in the following areas</p>	<ul style="list-style-type: none"> • Digital Switches: Upgrading digital switching equipment to address line congestion, accommodate traffic growth, and support the offering of new features. • Distribution Plant: Upgrade distribution plant, or local loops, to relieve congestion, enhance the quality of traditional telephone service, and facilitate the introduction of advanced services like Digital Subscriber Lines (DSL). • Fiber Transport: Upgrade fiber transport facilities and deploy circuit equipment to relieve congestion and improve service. • ISDN service in 18 months to customers in Tucumcari, Artesia, Belen, Los Lunas, Las Vegas, Amber Mesa, Aztec Main, Santa Teresa, Aztec South, Gallup East, and • DSL in Taos, Farmington, Gallup, Roswell and Alamogordo, in addition to deployments in Albuquerque, Santa Fe and Las Cruces
<p>Service Quality Standards</p> <p>Qwest agrees to abide by the following service standards:</p>	<ul style="list-style-type: none"> • Installation service within five working days where facilities are available. • Unfilled Design Services Orders, filling all existing held orders within 18 months of the effective date of the agreement. • Repair Service Standards: allowing no more than a specific number of trouble reports on a wire center basis. • Out-of-Service Reports: establishing a specific timetable by which Qwest would restore service within 24 hours with an ultimate goal of 85 percent of all cases. • Repeat Trouble Reports: establishing a timetable by which Qwest would ultimately reduce its repeat trouble reports to 18 percent. • Service Quality Monitoring: Establishing tracking programs to compile statistics necessary to determine its compliance with the quality of service commitments, including monthly held order reports,

<p>Service Quality Standards (continued)</p>	<p>quarterly and annual service quality compliance reports.</p> <ul style="list-style-type: none"> • Credits to Customers: Issuing credits which could total up to \$18 million annually to customers for missed service calls, held orders and unfilled orders.
<p>Price Reductions</p> <p>Permanent reductions, elimination of certain long distance and monthly charges.</p>	<ul style="list-style-type: none"> • Current rates: Make permanent an interim rate decrease of \$29 million. • Intrastate Long-Distance: A reduction of intrastate long-distance rates by \$7 million over three years. • Elimination of Outside Base Rate Area (OBRA) Charges: In 2002, customers who live outside of a base rate area would have their monthly rates reduced by \$3.30 per month. • Carrier Access: Reduced fees charged to long-distance companies for using the local network – or access charges – by \$14 million over three years. • Specified Monthly Charges: Reduced monthly rates for non-listed numbers, non-published numbers and toll restricted service by \$3 million.
<p>Price Caps</p> <p>Qwest rates would be limited to fixed amounts if the company achieves quality standards.</p>	<ul style="list-style-type: none"> • Conversion from rate of return regulation to price cap regulation. • Basic Business Service: Rates for basic business service would be capped at \$34.37 for five years. • Basic Residence Service: Rates for basic residence service would increase from \$10.66 to \$12.25 if Qwest satisfies investment, DSL, ISDN and held order commitments by January 1, 2002; and to \$13.50 if Qwest satisfies other commitments by January 1, 2003.
<p>Extended Area Service:</p> <p>Customers would no longer incur long-distance charges when placing calls among the following groups of communities:</p>	<ul style="list-style-type: none"> • Angel Fire, Penasco, Questa, Red River, Taos • Hatch and Las Cruces • Artesia and Roswell • Cimarron, Springer and Raton

Pending Qwest / U S West Cases

In the PRC's 1999 annual report, a number of cases were reported involving U S West, the predecessor company that was acquired by Qwest Communications. All would be resolved by the pending Qwest AFOR case before the Commission. The pending cases include:

Case 3007: Earnings Investigation

On June 29, 1999, the Commission docketed Case 3007 as an investigation into US West's 1998 earnings. On April 25, 2000, following hearings in this matter, the Commission determined the company had exceeded its authorized return level and ordered an interim rate reduction of \$28.9 million, pending the final determination of rates in Case 3008.

Case 3008: Investigation into Rates and Service

On June 29, 1999, the Commission ordered an investigation into US West's rates and charges, investments and expenditures, investments in basic infrastructure and data services and to determine whether service was adequate. Hearings were concluded in July 2000. The parties have recommended rate reductions ranging from zero to over \$100 million per year. The matter is before a Hearing Examiner awaiting a recommended decision.

Case 2939: Waivers of Held Orders

Case 2939 was docketed January 29, 1999, to address Staff's denial of 1,114 Held Order Waiver Petitions. Hearings were conducted in May 2000. The matter is before a Hearing Examiner awaiting a recommended decision.

Case 3162: Violation of Zero Held Orders Standard

The case was docketed October 5, 1999, as an order to show cause why administrative fines should not be imposed on US West for violation of the zero-held-orders standard. Hearings were conducted in March 2000, on approximately 164 Held Orders for which US West did not file petitions for waiver of the Held Order Standard. PRC Staff recommended that U S West should be sanctioned approximately \$2.5 million and the Attorney General recommended sanctions of approximately \$3.6 million for not complying with the Commission's Held Order Standard. The matter is before a Hearing Examiner awaiting a recommended decision.

Closed U S West Litigation

Megabit Case

Docket No. 25,512

US West applied to add its trademarked DSL service "Megabit" to its advanced services tariff in January, 1998. US West refused to divulge certain information, claiming it was proprietary and removed the case to the New Mexico Supreme Court after the Commission refused to let US West withdraw its application. The Court sent the case back to the Commission to consider whether the Federal Communication Commission's assumption of jurisdiction over interstate DSL service had rendered the case moot. The case was dismissed after the Commission determined that US West would only be furnishing Megabit service in New Mexico on an interstate basis.

Imputation of Yellow Pages Revenue

U S West v. Tristani, et al.

Docket No. 98-2053

In a 1993 rate order, the State Corporation Commission, the NMPRC's predecessor, ruled that revenues from U S West's Yellow Pages affiliate should be counted toward the setting of U S West's New Mexico telephone rates. The NMSCC presumed that a portion of U S West's Yellow Pages revenues benefit U S West's telephone operations by reason of their affiliate relationship, and customers' rates were reduced by \$12.6 million, at the recommendation of U S West.

After defending the 1993 rate order in an appeal to the state Supreme Court, U S West filed a lawsuit in U.S. District Court in New Mexico in 1996 claiming that the 1993 rate order's consideration of Yellow Pages revenues violated U S West's free speech rights under the First Amendment, and was an unconstitutional taking of its property under the Fifth and 14th Amendments. The Commission moved to dismiss this case

because of the federal Johnson Act, which prohibits federal courts from interfering with ratemaking by state utility commissions. The U.S. District Court dismissed the case, and U S West lost an appeal to the federal 10th Circuit Court of Appeals. On January 10, 2000, the U.S. Supreme Court denied U S West’s requested review of the 10th Circuit’s decision.

Valor Telecommunications of New Mexico

GTE Southwest

Case 3217: Sale of Access Lines to Valor Telecommunications

On December 13, 1999, GTE Southwest applied for authority to discontinue service in New Mexico. Valor Telecommunications of New Mexico simultaneously applied for a Certificate of Operating Authority to provide Local Exchange Service in New Mexico. The purpose of this case was to obtain Commission approval necessary for GTE Southwest to sell its access lines in New Mexico to Valor. In April 2000, a hearing was held and on June 20, 2000, the Commission issued a Final Order approving the requests.

Valor purchased the New Mexico operations of GTE, the telephone company that served Hobbs, Carlsbad, Española, Chama and other rural communities.

Valor Telecommunications

Case 3358: AFOR Plan

On May 9, 2000, Valor and Staff filed a stipulated Alternative Form of Regulation (“AFOR”). The plan would cap rates for five years and impose numerous quality-of-service standards on the company. As part of the AFOR, Valor agreed to provide advanced CALLS service (Caller ID, Call Forwarding, etc.) everywhere and deploy DSL in numerous cities. On June 7, 2000, the Commission conducted a hearing on the AFOR. On June 27, 2000, the Commission approved the stipulated AFOR.

The details of the AFOR plan are as follows

Investment	<ul style="list-style-type: none"> A commitment to invest \$83 million in telecommunications infrastructure over five years, including deployment of digital subscriber line (DSL) service within two years to every exchange with more than 50,000 lines.
Quality of Service Standards	<ul style="list-style-type: none"> Quality of service standards covering the timetable for providing service, responding to trouble reports and repeat calls, and out of service repairs.
Financial Incentives to Achieve Standards	<ul style="list-style-type: none"> Financial incentives tied to the quality of service standards, including customer credits if Valor does not meet the standards.
Increased workforce	<ul style="list-style-type: none"> An increase in the company workforce in New Mexico through the addition of four customer service centers in the served communities, more technical personnel and two new call centers to serve New Mexico customers.

Mescalero Apache Telecommunication Inc.

Case 3364: Purchase of Access Lines

On May 15, 2000, Mescalero Apache Telecom filed a request for authority to purchase the access lines of GTE Southwest serving members of the Mescalero Apache Tribe.

On August 15, 2000, the Commission approved the abandonment of service by GTE Southwest and the purchase of the access lines by Mescalero Apache Telecom. The newly formed company will acquire, manage and upgrade the telecommunication system within the Mescalero reservation.

Miscellaneous Telecommunication Issues

Telecommunications Bureau

Pursuant to House Bill 400, a Telecommunications Bureau was created within the Utility Division of the Commission. The bureau shall review disputes between telecommunications providers, investigate each complaint on an expedited basis, address other telecommunications-related duties as required by statute and the Commission, and recommend actions to the Commission.

Interconnection Agreements

The Commission, actively working to establish a competitive telecommunications market, has issued dozens of orders approving interconnection agreements filed between competing carriers. The Commission continues to issue orders granting Certificates of Operating Authority to competitive local exchange carriers in the state. The orders give customers in larger cities the opportunity to purchase local and long distance service from a variety of companies. The Commission has authorized 18 companies to provide competitive local exchange service in areas already served by telecommunication companies.

505 Area Code Relief Plan

New Mexico has only one area code, 505, and needs another. The 505 area code is projected to run out of available numbers by late 2002. On May 2, 2000, the Commission issued a Notice of Inquiry in Case No. 3330 concerning the 505 NPA relief plan proposed by NeuStar, Inc, designated by the Federal Communications Commission as the North American Numbering Plan Administrator. NeuStar has proposed a two-way geographic split to divide the state into two NPAs, in a phased process lasting from early 2001 and ending by March 2002. The dividing boundary would separate the Albuquerque and Santa Fe local calling areas from the rest of the state. Under this proposal, the Albuquerque and Santa Fe local calling areas would retain the 505 NPA, and the rest of the state would be given a new area code. The 505 areas would be: Albuquerque, Belen, Bernalillo, Estancia, Laguna Acoma, Los Alamos, Los Lunas, Moriarty, Mountainair, Peña Blanca, Santa Fe, Tijeras and White Rock. The Commission has held several comment hearings about this proposed plan throughout the State.

Electric Utility Industry Restructuring Act

2000 Report and Recommendations to the Legislature

December 1, 2000

The Electric Utility Industry Restructuring Act of 1999 set into motion the restructuring of the electric industry in New Mexico. The Act is intended to allow customers to benefit from competition in their source of electric service. According to the Act, that competition is called open access. It is expected to provide long-term benefits for the state, including lower electricity prices, creation of business opportunities, improvement of energy efficiency and innovation in services and supply.

The Commission is charged with developing various rules that implement competition while maintaining a degree of oversight over the industry through licensing of competitive power suppliers, educating consumers, maintaining service reliability and quality and providing for the availability of service to all consumers.

The Act requires the Commission to report on the restructuring process to the Legislature by December 1 of each of the first three years following adoption of the Act. This report will address the current status of restructuring, legislative recommendations, and the nine specific examinations required by the Act.

Current Status

The Act specifies that open access shall occur for residential, small business customers, and schools on January 1, 2001 and for all other customers one year later. However, the Act allows the Commission to postpone those dates up to one year, if necessary, to implement the Act in an orderly manner.

The Commission has postponed the open access date for the first wave of consumers to January 1, 2002, due primarily to recognition of the delay in the start-up of the Desert Southwest Transmission and Reliability (Desert STAR), a regional transmission organization (RTO), until December 2001.

The second wave of open access for remaining customers has been postponed by six months, to July 1, 2002. As described in the Commission's Annual Report in greater detail, the Commission is in the process of establishing six new rules to implement restructuring.⁵

The San Diego Experience

Unquestionably, the most significant restructuring event to occur to date has been California's catastrophic implementation of restructuring and the impact it has had on consumers in San Diego. Customers of San Diego Gas and Electric Company, the first utility in California to enter the restructured market, reeled under bills that doubled or tripled during the summer and continue to astonish observers.

California's power market has been rocked by shortages, charges of price gouging, federal and state investigations and threats from their restructuring bill's author to municipalize the state's power industry. Virtually all newly built generation capacity is expected to be natural gas-fired, but natural gas prices have risen to new peaks, compounding California's crisis.

The wholesale market disruptions resulting from California's restructuring and generation shortages will continue to impact utilities and customers in California and neighboring, interconnected states such as New

⁵ More detail on pending regulation, see page 21

Mexico. California's two remaining regulated utilities have absorbed an estimated \$6 billion in additional power costs since the beginning of summer.

The Commission re-opened its restructuring rulemaking cases to let parties update their comments in light of the events occurring in California as well as other states.

On September 26, 2000, the Commission held a public working session to address the implementation of restructuring in California. Investor-owned, cooperative, and municipal utilities as well as competitive power suppliers and numerous consumer groups participated.

At that session, the primary advocates and supporters of the Act in 1999 expressed second thoughts and sought ways to mitigate the damage expected to be caused by the unfavorable market conditions which are expected to prevail at the time of open access for New Mexico's customers. At the working session, the parties and the Commission agreed that the Commission lacks the authority to delay open access.

The Point of No Return

On August 17, 2000 numerous parties to the Commission's restructuring rules and cases filed a joint motion to delay separation of generation assets from the distribution and transmission portion of the reorganized utilities. Separation of assets is considered the point of no return from electric restructuring.

The primary argument for delay in separation of assets is to allow the Legislature a last chance to reconsider electric restructuring or to modify the current schedule. Once the generation assets are separated from the regulated portion of the utility, the Commission will no longer have regulatory control over the pricing or operation of the generation assets and legislative options are significantly reduced.

The Act requires investor owned utilities to separate their generation assets and offer customers open access. Cooperative or municipal utilities, however, have the option of restructuring or not. No cooperatives or municipals have indicated they will participate in restructuring.

Legislative Recommendations

Expansion of Standard Offer Service

After open access, the local distribution utility will no longer own generation assets. Customers are expected to purchase their power from competitive power suppliers at market rates. But the Act provides some protection for smaller customers through the Standard Offer Service ("SOS").

SOS will be purchased in the market by the distribution utility and made available only to residential and small business consumers that use less than 200,000 kWh per year or less than 50 kW at any one time. Larger consumers (larger than a busy fast food restaurant, for example) are not eligible for SOS and must buy power from a competitive power supplier. Most public schools could acquire SOS under the current definition of small business customer, but an estimated 400 schools are too large to qualify and will need to buy power in the competitive market. These 400 schools will be the only consumers required to enter the competitive market in the first wave of open access and may have limited purchasing options at that time.

Recommendation

The Commission recommends Standard Offer Service ("SOS") be expanded to include public schools and post-secondary educational institutions.

The Legislature may also want to consider expanding the availability of SOS to more customers, such as federal, state, municipal, and tribal agencies. Moreover, expanding SOS to all customers would provide even more consumer protection. Expansion of SOS will protect consumers, but may reduce the attractiveness of the New Mexico electric market for competitive power suppliers, thus thwarting efforts to create a robust electric market. While an expanded SOS would offer another option for consumers, the pricing of SOS would be reflective of market rates, not the current regulated rates.

Regional Transmission Operators

Independent Regional Transmission Operators (RTO) will operate the transmission system in a restructured environment to allow fair access to the transmission system for power producers. Without an RTO, utilities that own transmission assets may unfairly exclude competitors and use transmission constraints to hinder the operations of competitors while promoting their generation affiliate's power sales. The transmission system and RTOs are regulated by the Federal Energy Regulatory Commission (FERC) but FERC does not require restructured utilities to participate in an RTO.

Recommendation

The Commission suggests the Act be modified to require transmission owners to participate in an RTO as a condition of Transition Plan approval.

Delay Restructuring and Open Access

The 2001 Legislature will undoubtedly be asked to consider delay of open access or repeal of the Act. There are two distinctly different types of delay: delay without asset separation or delay with asset separation.

As discussed above, asset separation is the key event in commitment to restructuring and open access. Once generation assets are separated from the regulated utility, they are no longer subject to regulation by the Commission. Instead, market forces and FERC will determine the operation and pricing of the output of these generation assets. Unless the Act is modified, the Commission anticipates asset separation will be approved in early 2001 pursuant to law.

A delay in open access without a delay in asset separation would commit New Mexico to restructuring, but market pricing would take effect with the new open access dates. The Legislature would not have another chance to review the merits of restructuring. A return to the status quo would not be an option. This type of delay avoids the currently unfavorable market conditions, but customers will be exposed to market conditions at the expiration of the delay.

If the Act is modified to delay asset separation as well as open access, the Legislature could continue to re-evaluate restructuring as events unfold in other states.

Administrative “Fixes” to the Act

The Act is written to instantly create a competitive market by forcing all non-SOS customers into the market. In that spirit, the Commission’s SOS Rule seeks market-based prices for SOS customers, too.

A rapid move to market pricing for electricity was desired when the Act was written, but following the problems with restructuring encountered in San Diego, parties expressed a desire to achieve a “softer landing”, which would be contrary to the strict interpretation of the Act.

Several New Mexico utilities, aware of the California crisis, have publicly indicated they would be willing to provide power at cost-based rates to all customers during a transition period. While such offers may have once seemed anti-competitive, now they are viewed as a means of achieving a softer landing. The end result - market based prices- would be the same, but current market prices could be avoided.

Recommendation

While the Commission is exploring the limits of its administrative authority to provide a smoother transition in implementing the Act, this approach would irrevocably commit the state to restructuring because the Commission cannot delay asset separation.

Stranded Cost Recovery True-Up Mechanism.

The Act spells out the method by which stranded costs are to be calculated and recovered from ratepayers. The Act relies upon a one-time, up-front determination of stranded costs, based upon estimates of market prices and regulated prices over the next 20 years or so. Such forecasts are very difficult to develop and will certainly be off the mark. One utility has requested recovery of nearly \$800 million of stranded costs, so the stakes are very high.

Recommendation

The Commission recommends the Legislature modify the definition of “stranded cost” to create a mechanism that allows a true-up over time. Such a mechanism would take most of the risk out of the Commission’s determination and assure ratepayers and shareholders that any amount authorized for collection is based on an analysis of actual events, rather than projections that could be proven wrong.

Commission’s Authority over Location Control to Include System

Reliability

The Public Utility Act currently requires any company seeking to build more than 300 MW of generation, and associated transmission of 230 kV or above, to obtain approval of the location from the Commission. The standards applied in Section 62-9-3, however, are limited to environmental and quality of life concerns.

Recommendation

The Commission requests that “system reliability” approval be added to the Act as part of the Commission's authority.

Required Commission Examinations

Section 19 of the Act requires the Commission to further examine nine specific issues relating to restructuring:

- standard offer;
- consumer education and protection;
- safety, reliability, quality and performance standards for competitive power suppliers and distribution and transmission facilities;
- the presence of market power, its impacts on the restructure of the electric industry and methods available to limit or eliminate its adverse impacts;
- alternative operations and regulations, including an independent system operator;
- regional transmission and governance efforts, both public and private, and the advisability of regional cooperation by the state;
- emergency and back-up service;
- the advisability and desirability of requiring renewable energy portfolio standards in supply service offered to customers in the state; and
- how power may be procured from on-site generation facilities, including facilitating net metering.

1. Standard Offer

Standard Offer Service is electric supply service acquired by the regulated public utility at prevailing market prices for residential and small business customers who are eligible for open access, but decide not to obtain electric supply service in the retail competitive marketplace on their own. The Commission has issued Rule 591 covering the provision of SOS to entitled customers.

The rule requires utilities to acquire all necessary power supplies at market prices preferably through a competitive bidding process. The SOS rule also requires public utilities to include up to 5% New Mexico renewable energy in its SOS supply, subject to a price impact limitation of \$.001/kWh, or about 50 cents per month for the typical residential consumer.

The four public utilities that will be offering SOS will seek bids as soon as the Commission approves the sale or separation of generation assets from the utility.

As discussed above, since about 400 public schools are not eligible for SOS, the PRC will recommend to the Legislature that it consider redefinition of SOS eligibility.

Also, some parties have suggested the Commission include optional transition offer service (TOS) to facilitate the administrative “fixes” described above.

2. Consumer Education and Protection

The Commission has held hearings on proposed Rule 592, the Customer Protection Rule. As drafted, the purpose of this rule is to protect consumers when they are conducting business with competitive power suppliers.

The proposed rule addresses “slamming” and “cramming” issues that have been associated with the restructuring of the telecommunications industry by requiring customer authorization for a change in competitive power supplier or a charge for electric service. The proposed Rule also addresses unfair

marketing and sales practices, billing disclosures, disclosure of customer information, termination of service and creates a process for billing dispute resolution.

The Commission has held hearings on proposed Rule 573, Disclosure of Generation Source, Fuel Mix and Emissions. This rule requires all competitive power suppliers to inform consumers of the type of generation used by the competitive power supplier and the emissions profile of the supply. This rule will aid consumers in selecting a competitive power supplier and assuring that any “green energy” claims of suppliers are valid.

The Act also requires the Commission to undertake the education of consumers, but funding for this activity comes from the System Benefit Fund. These funds are legislated to be \$500,000 per year but will not begin to be available to the Commission for consumer education until at least five months after open access for residential, small business customers and schools, the groups most in need of consumer education. An effective consumer education program must begin eight to 12 months in advance of open access.

In an effort to mitigate this deficiency, the Commission has requested a \$500,000 special appropriation in its FY 2001 budget to be repaid by the System Benefit Fund when the funds are collected.

3. Safety, Reliability, Quality and Performance Standards for Competitive Power Suppliers and Distribution and Transmission Facilities

The Commission has held hearings and will soon finalize Rule 593, the Competitive Power Supplier Licensing Rule, which establishes license application, revocation, abandonment, and reporting requirements for competitive power suppliers.

This rule requires proof of financial integrity and the technical capability to provide quality supply service, including the ability to meet all applicable requirements of the Western Systems Coordinating Council. The proposed rule requires 60 days advance notice to customers and the Commission if a competitive power supplier plans to terminate service. Also, the proposed rule requires competitive power suppliers to address how they plan to meet consumer requests for renewable energy supply.

Restructuring does not affect the Commission’s regulatory authority over the operation of the distribution system. Existing rules and regulations will assure the continued safe, reliable operation of the distribution system. New rules affecting self-generation or distributed generation will likewise reflect the importance of the safe, reliable operation of the distribution system.

When open access and rate unbundling occurs, the transmission system will be regulated primarily at the federal level, through FERC. Independent operation of the transmission system through a regional transmission organization is a critical element in the restructuring of the electric industry.

The Act does not require transmission owners to join an RTO and FERC now only encourages transmission owners to do so. The Commission will suggest a legislative remedy by requiring membership.

4. The Presence of Market Power, Its Impacts on the Restructure of the Electric Industry and Methods Available to Limit or Eliminate Its Adverse Impacts

Market power is the ability of a firm, in this case the incumbent electric utility, to maintain prices above market levels for extended periods of time by keeping competitors out of the market. While the act puts protections in place, existing and projected transmission constraints and a current shortage of generation supply in the wholesale market suggest market power will be an unresolved issue in the competitive retail market.

The Act attempts to mitigate market power by requiring utilities to sell their generation to a third party or separate the generation assets into an unregulated affiliate within a holding company form of organization. In

addition to the existing Rule 450, Affiliate Transactions, the Commission has issued Rule 594, Code of Conduct, covering public utilities and their affiliates for operations under the Act, with emphasis on prohibiting the subsidization of affiliates by the regulated utility. This rule prohibits utility affiliates from sharing employees, goods, services, facilities, marketing promotions and information, with the exception of essential, corporate-wide services.

5. Alternative Operations and Regulations, Including an Independent System Operator

The Commission Staff and several New Mexico utilities are actively involved in the creation of Desert STAR (Southwest Transmission and Reliability), an independent system operator (ISO) created to operate the transmission system in the Southwest. Desert STAR is expected to seek FERC approval by the end of 2000 and is currently scheduled to begin operation in December 2001. At that time, transmission-owning utilities in New Mexico, Arizona and parts of Texas and Colorado will transfer operational control of their transmission systems to Desert STAR.

Since New Mexico is within two national grids, an eastern New Mexico utility is planning to join the Midwest Independent System Operator.

6. Regional Transmission and Governance Efforts, Both Public and Private, And the Advisability of Regional Cooperation by the State

The Commission remains committed to keeping abreast of all regional transmission efforts that may impact New Mexico electric consumers.

California's Independent System Operator received FERC approval in March 1998. The California ISO invited other states to join, but initially proposed to charge a prohibitive fee. They have since reduced the fee to make participation more attractive, but pricing and reliability issues have plagued the California power system in recent months making the offer less attractive.

Desert STAR, as described above, is scheduled to begin operation in late 2001.

The Western Systems Coordinating Council (WSCC), which historically addressed only reliability issues, is attempting to transform itself into the Western Interconnection Organization to address both reliability and commercial issues arising out of restructuring.

The Committee on Regional Electric Power Cooperation (CREPC) is a western regional body of regulatory commissions and energy offices. The regulatory commissions and state energy offices share information on industry developments through two CREPC meetings a year. Copies of such resolutions are sent to Congressional Committees, FERC and other federal agencies. This western cooperative effort started in the early 1980s and is expected to continue into the future.

7. Emergency and Back-Up Service

Emergency and back-up service will be necessary to deal with situations where the consumer has failed to contract for power, has contracted for insufficient power, or the competitive power supplier has somehow failed to provide adequate supply. It will be impossible for the vast majority of consumers to know, on a real-time basis, when their supplier has failed to deliver power. The lights will not go out because power will continue to flow.

The utility or RTO must make provisions for such emergency or back-up service in order to balance supply and loads on the system. Accounting for the costs of such emergency and back-up service power purchases

will be completed and billed after the fact. Currently, utility Transition Plan filings include proposals for providing emergency and back-up service.

8. The Advisability and Desirability of Requiring Renewable Energy Portfolio Standards in Supply Service Offered to Customers in the State

The Legislature has found that promotion of renewable energy technologies is a sensible endeavor. The Commission agrees, and in Rule 591, the Standard Offer Service Rule, utilities are required to purchase New Mexico renewable energy up to 5 percent of the total SOS purchase, provided that the overall SOS rate does not increase more than \$.001 per kWh. The rule also requires utilities to make additional renewable energy available to SOS consumers who desire to use more renewable energy.

Proposed Rule 593 requires competitive power suppliers to address how they plan to meet consumer requests for renewable energy supply. The Commission has not yet finalized this rule.

9. How Power May Be Procured From On-Site Generation Facilities, Including Facilitating Net Metering

Existing Rule 570 governs the interconnection of Qualifying Facilities (“QFs”) as required by the federal Public Utilities Regulatory Policies Act of 1978. This Rule also specifies the methodology for pricing of power sold by the QF customer back to the utility.

Net metering is a simplified means of transferring excess energy generated by a consumer’s renewable energy system to the electric power grid. For net metering, the meter basically runs backwards when the customer’s generation exceeds the energy needs of the home or business. The Commission has implemented Rule 571 to facilitate the net metering of small customer-owned renewable generation up to 10 kW.

The Commission has issued proposed Rule 572, the Self-Generation Rule, as required by the Act. The Commission has received public comments and will hold public hearings on this proposed rule.

Rulemaking Activity Related to Electric Restructuring

The Electric Utility Industry Restructuring Act of 1999 mandated a dramatic departure from traditional regulation towards restructuring of the electric industry. Investor-owned utilities (IOUs) are required to sell their generation resources or transfer them to an unregulated affiliate. Consumers will be able to choose their power suppliers.

To implement the Act, the Commission is in the process of creating six new rules. On October 17, 2000, the Commission re-opened the first four rulemaking proceedings, in order to take additional comment in light of the past summer’s power cost increases in California and other states. The four rulemakings are shown below:

Rules Adopted

Rule 591: Standard Offer Service

Standard Offer Service (“SOS”) is electric service acquired by the regulated public utility for residential and small business customers who are eligible for open access, but decide not to obtain electric service in the retail marketplace. On August 17, 1999, the Commission, in Case 3109, issued proposed Rule 591.

Following public hearings and two rehearings, the Commission issued a final order, adopting Rule 591 on September 19, 2000.

The rule requires utilities to buy power at market prices primarily through a competitive bidding process. The SOS Rule also requires public utilities to include up to five percent New Mexico renewable energy in its SOS supply, subject to a price impact limitation of about 50 cents per month for the typical residential consumer. The four public utilities that will be offering SOS will seek bids as soon as the Commission approves the separation of generation assets from the utility.

Rule 594: Code of Conduct for Utilities and their Affiliates

Case 3106 was docketed July 20, 1999, to create a Code of Conduct for public utilities and their affiliates for operations under the act. The purpose of the rule is to prohibit the subsidization of affiliates by the regulated utility. Rule 594 prohibits utility affiliates from sharing employees, goods, services, facilities, marketing promotions and information, with the exception of essential corporate-wide services. The Commission issued a Final Order adopting this rule April 4, 2000.

Rules Pending Commission Order

Rule 592: Consumer Protection

Rule 592, the Consumer Protection Rule, was docketed September 3, 1999, as Case 3145. The purpose of this proposed rule is to provide necessary consumer protections in a restructured electric market. The proposed rule addresses unfair billing and marketing practices, billing disclosures, disclosure of customer information, termination of service, and creates a process for billing dispute resolution.

The rule prohibits “slamming” and “cramming” types of abuses by power suppliers eager to switch consumers to their business or to charge for undesired services. Slamming is the unauthorized replacement of a customer’s provider. Cramming is the addition of unexplained charges on a customer’s bill. A specific procedure for gaining consumer approvals for switching is proposed.

Rule 593: Competitive Power Supplier Licensing

Case 3167 was docketed October 5, 1999, by the Commission to create licensing requirements for the competitive power suppliers that will be offering electric supply service directly to consumers with the onset of customer choice. This proposed rule requires proof of financial integrity and the technical capability to provide quality supply service, including the ability to meet all applicable requirements of the Western Systems Coordinating Council, one of 10 regional councils in the nation, responsible for planning and operating the electric system in the Western U.S. The proposed rule requires 60 days advance notice to customers and the Commission if a competitive power suppliers plans to terminate service.

Also, the proposed Rule requires competitive power suppliers to address how they plan to meet consumer requests for renewable energy supply.

Rule 573: Disclosure of Generation Source, Fuel Mix, And Emissions

On April 25, 2000, the Commission docketed Case 3349 to develop proposed Rule 573, Disclosure of Generation Source, Fuel Mix and Emissions. This rule requires all competitive power suppliers and providers of SOS to inform consumers of the type of generation used by the competitive power supplier and the emissions profile of the supply. This rule will aid consumers in selecting a competitive power supplier and assuring that any “green energy” claims of suppliers are valid. A hearing was held October 17, 2000 and the rule is pending before the Commission.

Rule 572: Interconnection and On-Site Self-Generation

Case 3312 was docketed April 4, 2000 to develop an interconnection and on-site self-generation rule. Following a public workshop, the Commission Staff filed a proposed rule on July 31, 2000. The Commission is reviewing Staff's submission and will issue a proposed rule and conduct hearings.

Electric Utility Restructuring Transition Plans

Investor-owned utilities have filed transition plans to implement the act and the Commission's rules. Each transition plan is a complex combination of corporate restructuring, financing, SOS procurement procedures, statements of policy and procedure, as well as a rate case establishing distribution rates, stranded costs and transition costs. The plans are typically filed in multiple parts, each requiring testimony, hearings, and a Commission order. Hearings are ongoing.

Public Service Company of New Mexico

Case 3137: Transition Plan

PNM filed its transition plans in three parts. Parts I and II were filed on November 17, 1999 and Part III was filed on May 31, 2000. In Part I of its plan, PNM requested approval to form shell corporations to accomplish its separation plan. The separation plan proposed creation of a holding company with two subsidiaries, a power company and a utility company. The power company will own supply service and energy-related service assets and will provide supply service and energy-related services on an unregulated basis. The utility company will own gas and electric transmission and distribution assets and will provide gas and electric transmission and distribution services, and customer billing and metering services to the public on a regulated basis. The Commission approved Part I on February 15, 2000.

In Part II of its transition plan, PNM requested approval to transfer appropriate assets to the power company and the utility company. Hearings were held beginning August 21, 2000.

Part III of PNM's Transition Plan includes the utility's proposed stranded cost recovery, standard offer service, unbundled cost-of-service studies, retail tariffs and proposals to implement customer choice and open access. PNM is seeking recovery of stranded costs of \$692 million and approximately \$40 million of transition costs. The holding company provisionally has been named Manzano Corporation, the power company Manzano Power Corporation and the utility company Public Service Company of New Mexico.

Southwestern Public Service Company

Case 3220: Transition Plan

On June 1, 2000, SPS filed its transition plan. SPS's plan calls for the company to sell most of its generation assets and transfer the remaining generation assets to an unregulated affiliate providing competitive service. SPS would retain transmission and distribution assets only and operate as a regulated distribution utility.

The plan also provides for an unregulated customer care affiliate and an unregulated retail electric supply provider which will provide retail service in Texas and may operate as a competitive power supplier in New Mexico.

In addition, the plan creates an unregulated energy marketing affiliate, which may also be licensed as a competitive power supplier in New Mexico.

SPS expects a significant gain on the sale of its assets and has not requested any stranded cost recovery in its transition plan.

Hearings on Phase I topics, including standard offer procurement, statement of policy and procedures, and corporate separation, have been held. Phase II hearings are pending.

Texas-New Mexico Power Company

Case No. 3378: Transition Plan

TNMP filed its Transition Plan on June 1, 2000. TNMP plans to separate its electric distribution and transmission assets from its power resources in New Mexico. In Texas, this separation will be into three separate entities. TNMP's plan calls for the creation of a new holding company that will be the parent corporation of TNMP, a new Power Resources Company and a new Retail Electric Provider that will operate in Texas. In addition, TNMP's plan calls for the creation of a Competitive Power Supplier that will operate in New Mexico. TNMP's estimated cost of the planned transition for New Mexico is \$3 million. TNMP estimates stranded cost at \$1.9 million but is seeking to recover only 50 percent of its stranded cost.

El Paso Electric Company

Case 3170: Transition Plan

EPE filed Phase I of its Transition Plan on March 1, 2000. EPEC's corporate separation plan consists of creating a holding company with four subsidiaries.

The four subsidiaries are: a utility company providing regulated transmission and distribution service to all customers (Utility), an exempt wholesale generating company providing generation services to wholesale customers (Genco), an energy services company providing competitive power supply and energy services to retail customers (Esco) and a service company that will provide essential corporate wide services (Servco).

Hearings have been held on Phase I. Phase II was filed June 1, 2000, and includes standard offer service, retail tariffs, provisions for implementing retail competition, and a request to recover \$169 million of stranded costs. Hearings are scheduled.

Miscellaneous Utility Cases

Duke Energy Luna

Case 3421: Location Permit

On July 14, 2000, Duke Energy Luna filed an application for a location permit to build a 600-megawatt combined-cycle natural gas-fired merchant plant two miles north of Deming. Once built, this power plant will be used to provide power to the wholesale market and will not be regulated by the Commission. Hearings on this matter are pending.

PNM Gas Services Rate Cases Remanded

PNM Gas Services had filed a case seeking rate increases, which the Public Utility Commission, a predecessor of the PRC, reduced. The second case required PNM Gas Services to offer consumers a choice of variable rates in access fees and volume charges. The cases were remanded by the Supreme Court on appeals by various parties. The parties then proposed a stipulation that would resolve both cases, allow PNM Gas Services a rate increase of about \$4.7 million with certain offsets and adjustments, set the residential access fee at \$9 per month, and resolve the issues that were targeted by the Supreme Court. On October 24, 2000, the Commission approved the stipulation.

PNM - Norton-Tesuque Line Extension

Docket No. 25,478, Utility Case No. 2673

In 1998, the former Public Utility Commission granted permission to PNM to build a line extension known as the Norton-Tesuque Extension from one of its substations near the Buckman wellfield to the Tesuque area in order to improve distribution system outages along Bishops Lodge Road, north of Santa Fe. Opposing intervenors Hacienda de Cerezo Ltd. and Moss Farms, Inc. appealed the Commission's decision to the New Mexico Supreme Court. During 1999, the Commission and other parties to the appeal filed briefs with the Court and presented oral arguments in May 1999. On January 28, 2000, the Supreme Court entered a decision affirming the Commission's decision.

Insurance Division

The Insurance Division is responsible for the regulation and licensing of all forms of insurance companies, all insurance agents and health maintenance organizations operating in New Mexico. The director of the Division is the state's Superintendent of Insurance under the law. The Division is also responsible for administration of the State Fire Marshal and State Firefighters Training Academy.

During 2000, the Division became heavily involved in insurance claims and related issues stemming from the Cerro Grande Fire that burned hundreds of homes in Los Alamos and other fires that destroyed property in New Mexico.

Insurance

Modernizing Regulatory Systems

The Insurance Division has taken significant steps toward modernizing all of its regulatory and licensure operations, resulting in faster and more efficient processing of industry filings. The Division is modeling its efforts on the initiatives promoted by the National Association of Insurance Commissioners (NAIC) referred to as "reengineering and modernization" of regulation.

Many of the initiatives are the result of the federal Financial Services Modernization Act, also known as Gramm-Leach-Bliley after its primary congressional sponsors. The act permits companies that have conducted insurance, banking or securities businesses under Depression-era laws, to engage in all of those activities.

Three major initiatives have been completed:

- In March, the Division installed an Electronic Forms Filing System, which is a uniform method of receiving filings from the insurance industry.
- In August 2000, the Division signed a declaration of reciprocity for agents licensing nationwide. The declaration results in uniform licensing of agents everywhere and recognition of licensure in other states.
- In September the Division completed qualification for a uniform certificate of authority that essentially allows the division to use a uniform NAIC application for insurance companies applying to do business in New Mexico.

With the completion of the initiatives, the Insurance Division has completed nine of the 11 initiatives promoted by the NAIC Speed to Market Committee. Only the Producer Database and the Producer Information Network are yet to be completed and will be completed automatically when the Division converts to the COSMOS system by fall 2001.

In July 2000 a contract was completed with Experior regarding the outsourcing of insurance examinations. The process will eliminate the necessity of PRC staff traveling around the state to administer examinations. The examinations will be conducted on computer and the information will be downloaded immediately.

The Division signed an order to deregulate commercial lines in the State of New Mexico. New filings in New Mexico will be deemed automatically approved within 60 days of the filing.

In August 2000, the Division's solvency surveillance team achieved high scores and received an excellent recommendation from the NAIC audit team. The Division received a five-year accreditation for its solvency surveillance.

The Insurance Division has contracted to install the COSMOS computer system to be its primary data and information system. COSMOS, which is endorsed by the NAIC, agreed to contribute \$65,000 toward its implementation. COSMOS has a perfect success rate in 11 states and is being implemented in eight others. The Division has submitted additional justification for the implementation of the system, as requested by the state's Chief Information Officer.

The Division director is a member of three of the NAIC committees on the modernization of financial services required by the federal Financial Services Modernization Act. The three committees are developing agreements with federal regulators to achieve harmony among the banking securities and insurance industries, to develop privacy regulations, particularly regarding electronic commerce, and the development of definitions of insurance to meet the needs of the new federal Financial Services Modernization Act.

Responsiveness To Industry and Consumers

The Insurance Division has formed groups of stakeholders in early 2000 to assist the Insurance Division in its various regulatory activities:

- A committee was formed to review the Patient Compensation Fund (PCF) Actuarial Study and make recommendations. The committee recommended a premium increase of 10.5 percent.
- The PCF committee also recommended that the Insurance Division alter its investment policy. As a result, funds now invested by the State Investment Council and are earning approximately two percent more per year, or approximately \$2 million.
- A committee of stakeholders was formed to review the concept of an Excess Medical Insurance Pool (EMIP). Legislation is being drafted to create the pool, which would provide coverage for catastrophic illnesses for New Mexicans.⁶
- An ad hoc group of title insurers and bankers was convened to develop a new approach to rate making for insurance, in response to the passage of the federal Financial Services Modernization Act, which allows banks, insurance companies and securities firms to integrate their operations. No recommendations emerged but greater awareness was achieved among the participants.

Managed Health Care Bureau

The Managed Health Care Bureau has been fully staffed and operational since April 2000. Created under a 1999 law, the Bureau is responsible for monitoring the health care industry and responding to consumer inquiries and

Service to Consumers

The Bureau has assisted 23 consumers with external review requests, and expects a 30 percent increase in external review requests over 1999.

The Bureau has received and investigated 324 consumer/provider complaints, an increase of 65 percent over the previous year.

The Bureau receives an average of 565 telephone inquiries per month, approximately a 65 percent increase over 1999.

The Bureau has established a toll-free number for easier access by consumers.

TOLL FREE 1-877-673-1732

⁶ For more about Insurance initiatives, please see 2001 Legislative Agenda beginning on Page 38

grievances, conducting consumer education programs and reporting to the Insurance Division Director.

The Bureau has adopted a Consumer Grievance Rule and approved Access Plans for each Health Maintenance Organization. The Bureau has set guidelines and notified the HMOs to submit Cultural and Linguistic Plans. The HMOs will also be required to submit Consumer Assistance Plans and Provider Grievance Plans for review by the Division. Those plans will be submitted for approval by January 2001.

The Bureau has required HMOs to submit more detailed annual reports, and each company must develop a Quality Assurance Program.

The Bureau has developed and designed an outreach program that will be presented to consumers, employer groups and other interested parties.

The Bureau has developed working groups with the HMO's to train and ensure that the plans are complying with the New Mexico Insurance Code, the Managed Care Rules, the Grievance Rule and the Patient Protection Act.

The Bureau has also established a Public Information Office to advise the public on insurance issues.

Insurance Fraud Bureau

2000 Annual Report to the Legislature

The Legislature created the Insurance Fraud Bureau as part of the Insurance Fraud Act, effective in 1998. The Bureau began accepting cases late that year, and the first arrest resulting from an investigation occurred in mid-1999. The following cases brought by the Bureau, in chronological order, were pending in the state judicial system at press time:

Cases Pending

State v. Petra Peters: Ms. Peters pleaded guilty to four counts of fraud for embezzlement of insurance agency client's funds by overpayment of premiums. She was given a suspended sentence and ordered to pay restitution of \$42,000, including \$25,000 to the Manuel Lujan Agency and \$5,000 to NM Taxation and Revenue Department.

State v. George Casey, Jr.: Mr. Casey was charged with 68 felony counts. He has agreed to plead guilty to four counts of fraud for embezzlement of client and insurance company funds, and fraud by an insurance professional. The plea hearing is pending in district court, in Chaves County. In a companion case from Curry County, Mr. Casey was indicted on 49 felony counts of fraud and forgery by an insurance professional.

State v. Kim Hayes: Ms. Hays pleaded guilty to making false claims by an insurance professional by embezzling insurance company funds, in Las Cruces.

State v. Tom Badgett: Mr. Badgett was indicted for fraud and 40 counts of embezzling clients' and insurance company's funds, and fraud by insurance professional. The FBI arrested Badgett in Everett, WA, on a warrant for unlawful flight to avoid prosecution. He is awaiting trial.

State v. Estella Florez Ms. Florez pleaded guilty to forgery for obtaining disability benefits as a non-insurance professional, in Carlsbad.

State v. William C. Pilley: Mr. Pilley pleaded guilty to three misdemeanor counts of forged evidence for issuing three false temporary insurance cards in Hobbs.

State v. Dalrey Doyle: Mr. Doyle was indicted on three counts of embezzlement for allegedly stealing commission checks from a licensed agent of Guarantee Life Insurance whom he supervised.

State v. Javier Hernandez: Mr. Hernandez was indicted for allegedly defrauding a Sunland Park resident. The defendant is a former insurance agent from Anthony who was licensed in New Mexico and Texas. He has not been arrested.

Insurance Fraud Bureau Mission

The mission of the Bureau is to investigate and detect insurance fraud and to reduce insurance fraud by successful prosecution of violators, and to work with state, local, and federal law enforcement and regulatory agencies to reduce insurance fraud.

The Bureau has statewide jurisdiction to investigate and prosecute all types of insurance fraud in New Mexico. The Fraud Bureau works with consumers, insurance companies, insurance agents, professional insurance groups, and law enforcement agencies to achieve these goals.

State v. John L. Montoya and Nora A. Montoya: The Montoyas were indicted in Santa Fe on four counts of forgery and one count of conspiracy for allegedly lying to the Division of Insurance about completion of their continuing education requirements.

State v. Lorraine Bartolucci Barth: Ms Barth was indicted for filing a false insurance claim in Albuquerque.

State v. M. L. Whitson, Jr. Mr. Whitson pleaded guilty to filing a false claim to homeowner's insurance company in a case arising out of the Cerro Grande Fire. Sentencing is pending.

Cases Disposed and Under Investigation

The Bureau has more than 100 cases under active investigation, including three that were initiated in 1998, 27 that were initiated in 1999, and over 70 that were initiated in 2000. The Bureau also is actively involved in several important insurance fraud investigations involving the FBI, the U.S. Justice Department and other states. The estimated loss in these cases exceeds \$16 million. The Bureau has disposed of 107 cases, including approximately 60 cases in the last 12 months.

Policy Advisory Group

The Superintendent has created an Insurance Fraud Policy Advisory Group consisting of representatives of the insurance industry, state legislators, consumers and other appropriate people, to advise the Director with respect to the Insurance Fraud Act.

Future Needs

Several more investigators are needed to conduct timely investigations, which have increased significantly during 2000. Legislation will be introduced at the January, 2001 legislative session to clarify which entities are subject to the Fraud Act assessments in the enabling statute.

Public Awareness

Log on to **www.stopfraud.org** and use the Secure Fraud Report Form to report any suspicious activity involving insurance agents, companies or claims

E-mail the Bureau at
stopfraud @ state.nm.us

Call the toll free fraud reporting hotline
877-807-4010 to make a report

Call **505-827-1456** to contact the Bureau and request a brochure. More than 12,000 brochures were distributed the past year.

State Fire Marshal

Cerro Grande Fire

The most significant firefighting event of 2000 in New Mexico was the eruption of several forest wildfires that destroyed or threatened rural residences, in particular the Cerro Grande Fire that destroyed homes and property in Los Alamos.

The combination of the dry weather of summer and excessive amounts of fuel in the forests resulted in the loss of more than 50,000 acres of trees and brush. The Cerro Grande Fire, which destroyed more than 400 homes, required the mobilization and coordination of dozens of fire department crews, many from rural New Mexico.

During the conflagration, the PRC held two key positions in the New Mexico Emergency Management Center. Coordinated by the PRC Chief of Staff, the agency manned the emergency post around the clock during the emergency.

The State Fire Marshal (SFM) collaborated with firefighting efforts at the Cerro Grande fire. As a result, mitigation of losses was achieved in a timely and efficient manner. The SFM assumed responsibility for cost reimbursement to local fire departments. Reimbursements totaling \$714,000 have been distributed to date through the Federal Emergency Management Agency.

Residential Fire Safety Resolution

The Commission adopted a resolution in September calling on New Mexico firefighters and policy-makers to encourage the use of residential fire sprinklers for the effective prevention of death, injury and financial loss.

The resolution notes that residential fire sprinklers are now more effective to install in new homes because of innovative tubing and sprinkler-head designs. Experience in other jurisdictions indicates that the potential for cost savings in fire insurance premiums and actual loss can be significant.

Firefighter Qualification System (FQS)

The project to develop and implement a firefighter training qualification system was completed in October 2000. The intent of the Firefighting Qualification System (FQS) is to ensure that all firefighters in New Mexico have the basic skills and knowledge required to perform as team members of a fire department during emergency operations. The FQS is a performance-based qualification system modeled on the National Interagency Incident Management System.

The FQS was developed by the State Fire Marshal with assistance and guidance from the New Mexico Firefighters Training Academy Advisory Committee. The Fire Protection Fund authorized the SFM to develop and implement this system.

State Fire Marshal Reorganization

The State Fire Marshal's office was reorganized and restructured in an effort to more effectively provide services to the 366 fire departments in New Mexico. The reorganization included moving three members of the staff to the supervision of the Deputy State Fire Marshal to educate departments in Insurance Service Organization (ISO) issues and the rating criteria schedule.

The reorganization should also help to reduce insurance rates in New Mexico. The increased training has prompted the ISO to provide New Mexico with an additional classification that should reduce insurance rates.

Equipment Acquisition

A \$50,000 legislative grant was acquired for construction and installation of dry hydrants in Taos, Rio Arriba and Santa Fe Counties. The hydrants, once installed and certified, provide suction points at water sources from which firefighters may draw water, such as rivers, streams, ponds and lakes.

A fire arson response truck was acquired, at no cost, to enable the arson investigation unit to house and mobilize necessary tools and equipment in their work.

Distribution of funds from the Fire Protection Fund increased to 45 percent of the total collections, up from a historic average of 30 percent. The increase was due to efficiencies in the State Fire Marshal's office.

Firefighters Training Academy

During calendar year 2000, the New Mexico Firefighters Training Academy accomplished a number of significant achievements that improved the training of firefighters in New Mexico. The Academy is experiencing some decline in its programming due to financial constraints.

Training Programs

The Academy conducted and processed a total of 195 staff and adjunct courses and training activities, with a total student body of 2,389.

Special Projects

- The Academy participated with the New Mexico Search and Rescue program to develop search and rescue team qualifications and certification.
- The Academy participated with the Technical Vocational Institute Advisory Committee on the Fire Science Associates Degree Program.
- The Academy assisted the Los Alamos County Fire Department during the Cerro Grande Fire by sending staff and equipment to assist with structure protection and fire suppression efforts. The Academy staff and equipment assisted for a total of nine, 24-hour days.
- The Academy received reaccreditation for its certification through the International Fire Service Accreditation Congress (IFSAC). The Academy was reaccredited for three courses and received new accreditation for four additional courses.
- The Academy assisted the City of Socorro during the Southwest Tire Processors fire incident by sending staff and equipment to assist with the fire suppression efforts and management of the incident. The Academy staff and equipment assisted at the incident for seven days.
- The Academy successfully hosted and conducted, in August, the 45th Annual State Fire Marshals Fire School.
- The Academy co-sponsored and hosted, in October, the Emergency Medical Technician (EMT) Association Annual Conference.

Training Courses at the Academy

Staff Courses

Total staff courses and training activities	127
Courses conducted and completed	66
Firefighter I and II Certification and Practical Exams administered	14
Courses canceled due to lack of students or lack of funding ...	24
Live burn activities conducted and completed	23
Students attending staff courses	1,759

Adjunct Courses

Courses coordinated and processed	52
Courses in progress (at press time)	16
Firefighter I and II Certification examinations	7
Total Adjunct Courses	68
Students attending adjunct courses in 2000 (at press time) ..	630

IFSAC-Certified Firefighter Courses

Firefighter I
 Firefighter II
 Fire Service Instructor I
 Fire Service Instructor II
 Fire Officer I
 Hazardous Materials Awareness
 Hazardous Materials Operations.

Transportation Division

The Transportation Division regulates all intra-state motor carriers of people and property. The Division has full regulatory authority over rate, routes, services, and insurance, and safety matters for all motor carriers of people except for charter operations. Motor carriers of people include taxis, shuttles, tour and sightseeing services, non-emergency transports and ambulance services.

The Transportation Division's authority over motor carriers of property is limited to insurance and safety matters. To ensure motor carrier compliance with minimum insurance requirements, the Transportation Division requires motor carriers to file proof of insurance with the Division. The Division is notified when a carrier's coverage has or is about to lapse. The Division regulates more than 2,400 carriers.

Operations

The Division's Applications Bureau docketed and processed more than 330 applications for intra-state transportation services in the past year. The Bureau also filed and processed more than 4,950 insurance filings. The Motor Carrier Compliance Bureau conducted more than 190 safety and equipment audits of motor carriers in the previous year. The Bureau conducted 115 investigations of consumer complaints.

Regulatory Reform

The Transportation Division has worked during the past year to finalize new motor carrier rules and regulations. The new rules are more enforceable and clearer in content and intent. These new rules greatly strengthen safety requirements in the areas of driver qualifications, drug testing, preventive maintenance and vehicle equipment.

The new rules raise minimum insurance requirements, and mandate other types of insurance that enhance consumer protection. The new rules also allow the Division to streamline internal application procedures that have become burdensome to the public and motor carriers. In most cases the new rules will reduce the time needed to process applications for Certificates of Public Convenience and Necessity by 75 percent.

Staffing

The Transportation Division is organized into three Bureaus: the Applications Bureau, the Motor Carrier Compliance Bureau and the Pipeline Safety Bureau, with a total of 21 full-time-equivalent employees.

As vacancies have occurred within the Division, vacant non-inspector type positions have been reclassified into inspector positions, mostly in pipeline safety. The Transportation Division staff consists of 21 full-time-equivalent employees.

Pipeline Safety Bureau

The Division's Pipeline Safety Bureau regulates all intra-state natural gas transmission, distribution and jurisdictional gathering lines for compliance with federal minimum safety standards and state regulations. The Bureau enforces state excavation damage laws, which require excavators to determine the locations of underground utilities before digging. Damage to underground pipelines by third parties is the leading cause of pipeline failures in the United States. The Bureau regulates more than 375 gas facilities in New Mexico. The Bureau last year conducted more than 170 inspections of natural gas operators in 220 units.

Legal Division

The Legal Division provides legal advice and representation to the Utility Division, Administrative Services Division, Consumer Relations Division, Insurance Division (including the State Fire Marshal) and the Transportation Division. The Legal Division does not provide advice to or representation of Commissioners in litigated proceedings in order to avoid an improper conflict of interest. The Office of General Counsel performs legal advisory and other services for the Commissioners, and for the Commission as an entity in court proceedings.

The Legal Division has been instrumental in assisting the other divisions in the preparation of proposed rulemakings for the electric industry, telecommunications industry, the insurance industry, the transportation industry, and in advocating positions supporting the public interest in all litigated proceedings before the Commission. Those rulemakings and proceedings are more fully described in each division's section of this report, and cover the entire spectrum of the Commission's jurisdiction.

The Legal Division was responsible for organizing several workshops involving several interested stakeholders in electric restructuring rulemakings, to assist parties to arrive at a consensus on many issues. It also met with interested stakeholders in telecommunications stakeholders regarding quality of service and customer protection rules for the industry. It was also instrumental in assisting in the negotiation of several settlements of litigated cases, including proposals for an Alternative Form of Regulation for Qwest and for VALOR Telecommunication.

The legal services provided by the Legal Division include the filing of all Staff pleadings in litigated cases, help in the preparation and review of discovery, the taking or defending of depositions, help in preparation of testimony, cross-examination of adverse witnesses, assistance in the drafting of proposed rules and comments on proposed rules, drafting of briefs and participation in any settlement negotiations between staff and other parties, assistance in insurance complaint proceedings and assistance in the conduct of investigations.

Administrative Services Division

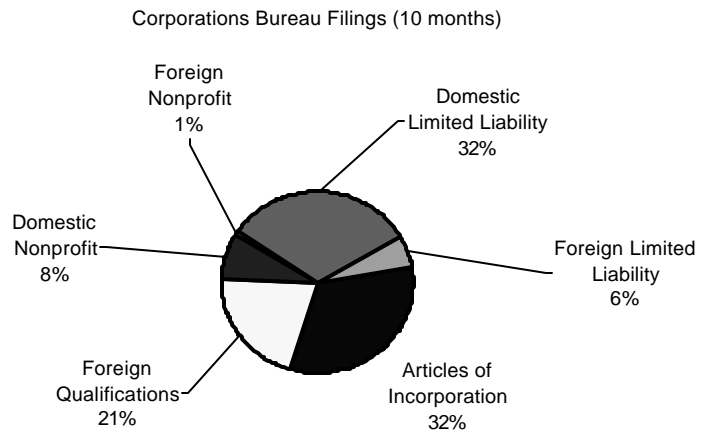
Administration

The Administrative Services Division (ASD) is responsible for agency administrative functions as well as support for the offices of the Commissioners, General Counsel, Chief of Staff, Hearing Examiners and the Corporations Bureau. The Administrative Services Division continually evaluates its systems and programs to improve services to its customers, including PRC employees, the general public and governmental agencies.

Corporations Bureau

The Corporations Bureau is the record-keeping office for all corporate records required to be filed with the state of New Mexico: articles of incorporation, amended articles and rosters of directors and other officers of New Mexico-based companies and nonprofit organizations, as well as out-of-state companies operating in New Mexico.

Articles of Incorporation	2,122
Foreign Qualifications	1,364
Domestic Nonprofit	552
Foreign Nonprofit	44
Domestic Limited Liability	2,087
Foreign Limited Liability	371
Total	6,540



Information Systems

As part of the ongoing evaluation of improvement in services to customers, in May 2000, the Commission created a Technical Review Team (TRT) to review all database applications and develop a project plan to begin standardizing and integrating database applications. Since the PRC's creation on January 1, 1999, the Information Systems (IS) staff has been working on the first phase in database standardization and integration. To date, the staff has identified several databases that may be standardized as part of this project, they are:

- Consumer complaint database,
- Fee assessment database,
- Imaging database,
- Corporate microfilming database.

The PRC will initiate studies of the following systems as part of the PRC's ongoing consolidation and standardization of databases, and to study the migration of mainframe applications to local database

processing. The Commission will seek a special appropriation this year to accommodate these studies to permit:

- Reviewing the E-docketing requirements, and
- Reviewing the business and technical requirements for a transportation database.

The goal of the division is to standardize, consolidate and integrate existing database applications and conduct in-depth studies of systems to meet its responsibilities.

Financial Report

The PRC is currently in its second, full fiscal year since the merger of the Public Utility Commission and the State Corporation Commission created the PRC.

A summary of operating budgets for the PRC and for the predecessor agencies shows that the funding for the combined agency has not increased since Fiscal Year 1998, the last complete fiscal year the two predecessor were in existence.

“Apples to Apples” Comparison of PRC Budget with Predecessor Agencies ⁷

Agency	FY98	FY99 (6 months)	FY00	FY01	FY98-01 Growth
PUC & SCC were replaced by PRC on 1/1/1999					
Public Utility Comm.	\$3,278,600	\$1,643,800			
State Corporation Comm.	\$23,017,900	\$12,530,700			
Public Regulation Comm		\$12,324,100	\$24,398,900	\$25,453,300	-3.21%
New Programs					
Managed Health Care			\$500,000	\$500,000	
Telecom Bureau			\$250,000	\$400,000	
COMBINED TOTALS	\$26,296,500	\$26,498,600	\$25,148,900	\$26,353,300	0.22%

⁷ For a breakdown of FY2002 budget request, please see Page 38

2001 Legislative Agenda

FY2002 Budget Request

The Public Regulation Commission generates approximately \$120 million per year in revenue. The revenue is generated from filing fees of corporations, licensure and application fees on insurance companies, insurance agents and transportation companies, and for the regulation of utilities subject to the jurisdiction of the PRC. The PRC's appropriated budget is approximately 22 percent of its revenues.

The FY2002 budget request is \$30.57 million, an increase of \$4.6 million, or 17.8 percent over the current, FY2001 budget.

The increases are sought in the following areas:

- \$1.9 million increase for personal services and employee benefits. The request is based on full employment projections.
- \$500,000 for contractual services, to implement the PRC's statutory consumer education program for the electric restructuring program;
- \$700,000 for operating costs, including a mandatory \$300,000 increase in rent and \$400,000 for previously underfunded positions;
- \$500,000 to complete the COSMOS computer system in the Insurance Division, and vehicles for the Insurance Fraud and State Fire Marshal's office; and
- \$200,000 for maintenance of the Insurance COSMOS system and repairs in the offices of the Firefighters Training Academy and the State Fire Marshal's office.
- \$600,000 for ordinary increases in base programs.

PRC Budget Request Summary	
Fiscal Year 2002	
<u>Sources of Revenue</u>	
General Fund	\$ 15,501.9
Self-Generated and Other Sources	\$ 15,068.8
TOTAL	\$ 30,570.7
<u>Expenditures</u>	
Personal Services	\$ 10,793.3
Employee Benefits	\$ 3,745.2
Travel	\$ 285.5
Maintenance	\$ 443.2
Supplies	\$ 250.2
Contractual Services	\$ 1,413.2
Operating Costs	\$ 2,382.6
Other Costs	\$ 10,030.0
Capital Outlay	\$ 1,055.1
Out of State Travel	\$ 172.4
TOTAL	\$ 30,570.7
See Administrative Services Division section for a historical review of PRC appropriations.	

Administration

The Corporations Bureau is drafting legislation to streamline the procedures for filing corporate papers to make the procedure more efficient, effective and customer-friendly.

The obsolete title of "chief clerk" to designate the chief executive officer, a holdover from the State Corporation Commission, should be eliminated through legislation.

The requirements for public notice of proposed regulations should be reduced from 60 days to 30 days to conform with other administrative agencies.

Consumer Relations

The Consumer Relations Division seeks an appropriation of \$500,000 previously authorized in the 1999 Electric Utility Industry Restructuring Act to support a consumer education program. The bill would provide funding immediately to begin implementation of the act by July 1, 2001. The Commission will propose that the appropriation be repaid to the General Fund once the System Benefit Fund is operational by mid-2002.

Utility

The Utility Division seeks amendments to the 1999 Electric Utility Industry Restructuring Act to bring all schools into the “standard offer” provisions of the law. The amendment would alleviate the administrative burden of the largest schools to enter the electricity market on their own.

The Utility Division is seeking amendments to the New Mexico Telecommunications Act eliminating regulatory sections that have been pre-empted by federal law.

Insurance / Insurance Fraud

The Insurance Division seeks an appropriation totaling \$300,000 to complete the development, support, hardware and software for COSMOS, an integrated computer system that tracks all licensure and compliance information for all regulated insurance companies, agents, health plans and other entities regulated by the Insurance Division. The 2000 Legislature appropriated \$400,000 for an in-house system.

Title insurance is presently exempt from laws requiring insurance agents to pass an examination to be qualified to sell insurance in New Mexico. The Division proposes legislation to require agents to pass an examination.

New Mexico must conform to the federal Women’s Health and Cancer Rights Act, enacted in 1999. The law requires managed care plans or insurers that provide medical and surgical benefits for mastectomies to also provide reconstruction of breasts and prostheses.

Legislation to create an Excess Medical Insurance Pool (EMIP) is being considered as a method of providing health care coverage to each individual for catastrophic illness. EMIP would be funded by mandatory premiums paid by all insurers in New Mexico that offer health policies to groups or individuals. The state would pay the premiums for state-funded plans, Medicaid and self-insured plans. The program would create an effective “stop-loss” program through legislation.

The Insurance Fraud Bureau, which is supported by assessments levied on certain insurance companies operating in New Mexico, is seeking legislation to clarify what entities are subject to the Fraud Act assessments.

Fire Marshal and Firefighters Training Academy

The Academy proposes a special appropriation for the purchase of two fire trucks for the Firefighters Training Academy.

A special memorial will be sought to encourage the use of residential fire sprinklers in New Mexico, especially in new, rural construction. Residential fire sprinklers prevent deaths and financial losses, and should help in reducing homeowners' insurance premiums.

Transportation

The Transportation Division will propose changes to the Motor Carrier Act to abolish economic regulation of intrastate motor carriers. The proposed legislation will open transportation markets to competition, remove limitations on rates, routes and services, and allow motor carriers greater flexibility to manage their business. The proposed legislation will not affect the Commission's ability to protect consumers and will clarify the authority of the Motor Transportation Division of the Taxation and Revenue Department to enforce PRC regulations.

The Transportation Division's Pipeline Safety Bureau will propose changes to enhance the New Mexico Excavation Damage Act. If passed, the PRC would have authority to impose administrative penalties on violators. Present law limits fines to \$500 only after prosecution by a district attorney or the attorney general in district court. The proposal would authorize administrative fines up to \$10,000 per incident and allows for arbitration.

The Pipeline Safety Bureau will also seek legislation authorizing higher penalties for third-party losses from pipeline incidents.

The Division also seeks to repeal the sections of law that regulate cotton gins and require ski operators to file proof of insurance with the PRC.

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