

1. **New Mexico has the potential to be a leader in the region, delivering low-cost renewable resources to serve its citizens and the rest of the West, benefiting New Mexico's economy, ratepayers, and supporting grid reliability. What do you see as the role for a New Mexico Commissioner as it relates to regional discussions on power markets and interstate transmission; how are you best suited to engage in these regional forums?**

A New Mexico Commissioner's role should be as an engaged, active participant in discussions related to Western market formation and as an advocate for market policies that do not impair or interfere with New Mexico's and other states' statutory mandates for renewable energy or GHG reductions. This involves developing a meaningful body of knowledge of market design and operation through seminars, classes, reading, tutoring with experts, or other effective means. It also involves being willing to work together with other states' Commissioners to write comments to regulatory bodies or other entities and to show leadership on controversial matters.

I am best suited to engage in these regional forums because I have acquired significant knowledge during my time as a Commissioner through numerous activities. I have taken training classes in RTO market operation and regularly attending technical and board meetings of two RTOs for several years. I have participated in many discussions at conferences, seminars and other professional forums. I also have been serving on Commissioner-based boards related to western markets described below.

In particular, as a member of the Board of State Regulators (BOSR) of the Western Energy Imbalance Market (WEIM), I actively participate in drafting and editing comments that the BOSR frequently submits to the WEIM, CAISO and FERC on matters such as WEIM and CAISO governance, resource adequacy, renewable energy, and transmission in the West. As a member of the group of six Western PUC Commissioners (PUC MOU Group, mentioned in my Supplemental Information submitted with my resume) that advocates for non-impairment of states' renewable energy and GHG mandates in the formation of any Western electricity market, I actively promote this objective in all forums I attend. This group has participated in workshops pertaining to development of GHG standards in CAISO and meets biweekly to pursue advocacy objectives. It is the only Western group I am aware of that is showing leadership in the area of reconciling state decarbonization policies with the power market construct.

Most recently, I collaborated with the Colorado PUC Chair on his comment to FERC on Large Generator Interconnection Procedures (FERC Docket No. RM22-14-000: FERC NOPR on Improvements to Generator Interconnection Procedures and Agreements), which comments were co-signed by numerous Western stakeholders, including Commissioners and state representatives. These comments proposed a novel economics-based approach to reducing queue congestion in regional transmission organizations, which congestion is causing a major and worsening delay in deployment of renewable projects. I am highly motivated to continue this advocacy for our state.

2. **Competition between generators, whether utility- or Independent Power Producer-owned, helps ensure the lowest cost, best suited resource is procured by electric utilities, ultimately resulting in the best deal for customers. What do you see as the role of a Commissioner in ensuring fair and transparent competition in resource procurement?**

The most effective way to ensure fair and transparent competition in resource procurement is to develop a regulation that provides utilities with clear guidance for the RFP process and bid ranking and selection processes, and provides for an independent monitor to report on whether the utility's conduct

of these steps complied with rule requirements. A Commissioner's role in that circumstance is to see that the rule is passed, including promoting the concept to other Commissioners, leading a team to acquire information about best practices and examine other states' successful rules, requiring workshops that include utilities designed to find consensus when possible, oversee rule drafting, and actively keep fellow Commissioners apprised of the progress and expected benefits.

Without such a rule in place, a Commissioner's role is limited to scrutinizing procurements as they are proposed on a case-by-case basis, which can lead to inconsistent application of the best-intended principles.

3. What is the "public interest" in the context of utility regulation?

The preamble of the Public Utility Act states, "B. It is the declared policy of the state that the public interest, the interest of consumers and the interest of investors require the regulation and supervision of public utilities" Three distinct interests are identified in this phrase. The public interest is not the interest of the public nor the investors. It therefore represents all other externalities - all the other social, financial, environmental, health, safety, and other interests of society. The meaning of "public interest" has expanded over the years from the original concept of ratepayer protection from the unrestrained exercise of monopoly power (which could result in unreasonable rate increases or poor service) to inclusion of the public's need for environmental and economic benefits associated with the provision of electricity.¹

In New Mexico, state law mandates a number of these types of public interest objectives, notably the EUEA, REA, ETA, CSA, and the Grid Modernization Act. Essentially, if state law establishes a mandate, it is clearly identifying that mandated activity as a matter of public interest that utility regulators must take into consideration when weighing utility interests against ratepayer interests.

4. What is the role of electric utilities in decarbonizing the economy and what is the Commission's role in overseeing that process?

The role of electric utilities is of being an early adopter and an enabler. The success of decarbonization will largely depend on the successful incorporation of clean sources of generation, derived from new technologies, into electric utilities' systems as quickly as possible. Similar to how early adopters of new technology drive prices down enough for middle range adopters to implement such new technologies, utilities' proliferation of clean energy enables other industries to use clean energy and thereby contribute to decarbonization. Many industries will ultimately contribute to reducing carbon emissions, but they will need to use clean energy supplied by the utility industry to achieve that objective. For example, hybrid vehicles using fossil fuel-based gas can reduce emissions; electric vehicles can eliminate them.

The Commission's role in overseeing the process is that of a change agent and police officer combined. In developing agency rules that provide clear guidance on what is expected of utilities as they begin to comply with the environmental and decarbonization mandates in New Mexico law, the Commission can guide the utility to being a different type of actor, no longer tethered to the fossil fuel, spoke and wheel

¹ Serving the "Public Interest" – Traditional vs Expansive Utility Regulation, E. Filipink, NRRRI Report 10-02, December 20, 2009 – v12, p.3.

model of electricity generation, but a more multi-faceted actor controlling a bi-directional grid with multiple technological means for maintaining grid stability sourced centrally and remotely at consumers' locations. To the extent utilities seek to delay, evade or undermine regulatory requirements, the Commission must act promptly to require compliance. In situations where supply chain breakdowns or other externalities impair utilities' ability to comply with new requirements, the Commission's role is to investigate and take appropriate agency action to facilitate compliance, approve variances until compliance is possible, or take other appropriate agency action, including holding workshops or meeting with utilities to develop alternative solutions.

5. To what extent, if any, should rate-setting decisions of the PRC consider social, cultural, and environmental externalities? When, if ever, should social, cultural, and environmental externalities lead the PRC to approve rates higher than could be approved if such externalities were not considered?

The Commission must approve rates that are fair, just and reasonable. For any externality to be considered as a criterion in addition to these three criteria, there would need to be authorization pursuant to a statute or possibly a direct delegation of authority. An exception to this general statement is the practice of occasionally making class cost adjustments among ratepayer classes, during the cost allocation phase of a rate case. However, these adjustments are made on an economic basis, not social, cultural or environmental bases.

6. Please discuss your views on governance and the appropriate roles of Commissioners and staff, appropriate levels of delegation and your expected level of involvement in the administration of the agency.

Commissioners should generally not be involved in the administrative hierarchical practices at the Commission, including hiring, budgeting, and purchasing, as those are essential responsibilities of the Chief of Staff. I would make an exception to allow Commissioners to interview and select Commission executive assistants and policy advisors, because Commissioners need a higher level of trust in those individuals' competence and compatibility.

7. As you evaluate issues before the PRC which of the following factors do you view as most important and why?

- Portfolio standards/ energy mix
- Climate change
- Reliability
- Flexibility
- Sustainability
- Affordability
- Grid capability/stability
- Scalability of technology
- Promoting new technologies
- Eliminating certain energy sources from New Mexico's portfolio
- Social justice for frontier communities
- Maintaining New Mexico's ability to produce the energy it needs in New Mexico i.e., keeping New Mexico as energy-self-sufficient

I will start by eliminating the following factors that are not important to my job and explaining why.

Maintaining New Mexico's self-sufficiency: Currently, New Mexico utilities are not energy self-sufficient and to be so may not be good policy, when to purchase electricity from out-of-state providers may permit the utilities to provide cheaper electricity to their in-state customers. Currently, it is common for utilities in the state to acquire electricity from out of state. Two IOUs purchase some of their electricity capacity from out-of-state or in-state producers. All but three electric co-operative associations purchase wholesale electricity from Tri-State Generation and Transmission Association, a Colorado corporation. One co-op purchases part of its electricity capacity from a Florida corporation, Guzman Energy, and self-generates the rest as solar energy. Two other co-ops and one of the IOUs are members of the Southwest Power Pool.

There is far more electricity generated in New Mexico than can be consumed by New Mexicans. It is good business for companies in New Mexico to be able to sell electricity out-of-state, and the ability of other Western states to consume New Mexico-generated electricity when they need it at evening peak contributes to the stability of the Western grid. Remember, while they are intermittent, solar and wind energy are abundant, free resources, not subject to the scarcity or severance concerns of fossil fuels.

Social justice for frontier communities: I am unfamiliar with this term. If it means rural communities need lower prices, such communities are welcome to file complaints at the PRC through its website, the U.S. mail or in person at our office in Santa Fe. Otherwise, I welcome a call, text, or email from a proponent of this concept to understand the issue.

Eliminating certain energy sources from New Mexico's portfolio: the primary job of the Commission is to regulate utilities' rates and require that they provide adequate, reliable, resilient and dispatchable service. The elimination of coal from the portfolio of the only IOU in the state that used coal was achieved by the legislature passing a law providing for those closures to be approved by the PRC. There is no legislation like the ETA providing specifically for the elimination of a specific type of energy source from the portfolio of a New Mexico utility, and the PRC could not pursue such an objective without explicit statutory authority.

The remaining factors, portfolio standards/ energy mix, climate change, reliability, flexibility, sustainability, affordability, grid capability/stability, scalability of technology, and promoting new technologies, cannot really be ranked against each other because their importance derives from their context, which varies based on the type of proceeding in which they are relevant. Rather, I can briefly describe their importance in context.

- Renewable portfolio standards as applied to a utility's energy mix are important benchmarks to ensure a utility will remain in compliance in the future or will have to be subject to Commission action to achieve compliance with the standards.
- Climate change is the environmental imperative that is the driver for our clean energy mandates, and is therefore always important.
- Reliability, flexibility, affordability, and grid stability are essential attributes of the modern grid that factor in decisions approving utilities' procurements.

- Promoting new technologies, while not part of the Commission’s legal responsibilities, indirectly factors into Commission approval of utilities’ or others’ proposals for most cost-effective resource portfolios.
- Sustainability is a planning principle that is somewhat imperfectly captured by the requirement that utilities’ resources be the most cost effective.
- Scalability

8. In what order would you rank each factor? Are there other factors that would influence your decisions?

As I mentioned above, I would not rank these concepts against each other. Their importance is a function of their context. There are often different factors bearing on the various decisions I make on cases, but without a specific context in which to place the factors it’s not meaningful to rank them.

9. Is there a state whose energy regulatory policies that you believe New Mexico should emulate? If so, which one and why?

In developing our Integrated Resource Planning/Procurement Rule, I have reviewed the regulations of Washington, Oregon, Colorado, California and Minnesota. I would not restrict my review of other states’ regulations to only one state.

10. Briefly describe your experience in the development or implementation of regulatory policy.

In 2017, I successfully amended the Integrated Resource Plan rule to include storage as a type of resource to be considered on an equal basis as other resources by utilities in planning procurements. More recently, I have worked to develop a rule, recently approved by the Commission, that revises the Integrated Resource Planning rule and adds procurement timing and transparency requirements. This rule shortens and makes more collaborative the public advisory process in the IPR part of the rule and provides much needed transparency into the RFP content and issuance process and the bid ranking and selection processes.

I am presently involved in a rulemaking revising our outdated Interconnection Rule to reflect current interconnection standards and modernizing it to include technological requirements to improve the quality, quantity and timeliness of interconnection of distributed solar resources to the distribution grid. This rule will come before the Commission for approval in early November. I am also working on a Grid Modernization rulemaking that includes AMI, demand response, and hosting capacity requirements, among others. This rule will come before the Commission for approval in early December.

11. New Mexico has 23 distinct sovereign Native American tribes within its borders. Please explain your familiarity with the State - Tribal relationship with an emphasis on how this relationship is applicable to utilities including power generation, right of ways and alternative energy?

My experience with tribal matters stems from my 2-year tenure at the Chee Law Firm, where we specialized in Indian housing matters, largely low-income housing development under the Native American Housing and Self Determination Act (NAHASDA). In this job and my previous job with the Western Division of the U.S. Navy’s Naval Facilities Engineering Command, the part of the Navy that builds and maintains facilities in the western states, I became very familiar with sovereign immunity

issues associated with real estate matters, including rights of way. At the Chee firm, I tried to interest my boss in suggesting using rooftop solar systems on her clients' new housing developments, but at the time they were not cost effective.

12. The Public Regulation Commission is a regulatory body. Often the line between regulation and policy can get blurred. Please explain your view as to where the line between regulation and policy is and actions and or ideas you would bring to the Commission to help maintain the focus on regulation.

When I began working as a Commissioner, for a short time I believed that our job was strictly to regulate. It soon became clear to me that, sometimes, the effect of our decisions essentially created policy, much like what happens in the court system. It also became clear to me that rulemaking, in providing detail for the implementation of laws, necessarily involves interpretation and can indeed become policy making. Over time, and especially with the passage of state laws intended to address the climate crisis, some of which through utility regulation, I have come to understand that policymaking through new rules or occasional decisions is unavoidable and expected.

13. What is the most consequential action or decision of the PRC in the last twenty years? Why?

Case No 19-00195-UT, In the Matter of Public Service Company of New Mexico's Consolidated Application for Approvals for the Abandonment, Financing, and Resource Replacement for San Juan Generating Station Pursuant to the Energy Transition Act, is a landmark case. This case revealed the value of allowing alternative resource portfolios from other parties to be considered and the stunning superiority of the all-renewable resource alternative over PNM's gas-heavy proposals, not just in cost and MWs, but in location and the added tax benefit to the school district arising therefrom. The expert testimony supporting that portfolio introduced new, more appropriate analytical concepts and modeling methods not used by the applicants. Since that case, hearing examiners have permitted, and the new Integrated Resource Rule requires, other parties to propose alternative resource portfolios to compete against the utility's portfolio proposal. I believe only with this insertion of competition and a fuller panoply of ideas into resource procurements can our utilities successfully achieve the mandated renewable and clean energy targets of the ETA.

14. In the last twenty years, has the PRC exceeded its authority? Please explain when and how.

Yes. In Case No 19-00018-UT, In the Matter of Public Service Company of New Mexico's Abandonment of San Juan Generating Station Units 1 and 4, the New Mexico Supreme Court determined that the Commission lacked the authority to initiate abandonment proceedings, that only utilities can initiate such a proceeding, that PNM initiated an abandonment proceeding on July 26, 2019, after the ETA had become law, and that the PRC's initiation of an abandonment proceeding on January 30, 2019, prior to the passage of the ETA, was invalid.

At issue was whether the PRC's conduct of the abandonment proceeding would be subject to the ETA. In the spring of 2019, the hearing examiner bifurcated the 19-00018-UT case to spin off the 19-00195-UT case on replacement resources, keeping the abandonment and financing issues in the 19-00018-UT case. This step was taken to split the work of managing the case between the two hearing examiners working on the case and because the ETA permitted it. By October, according to the Court's opinion, the Commission had not yet informed the parties whether it would apply the ETA to the abandonment proceedings. Out of concern that the PRC may not have been intending to apply the ETA

to the abandonment and financing proceeding, which would have undermined an important purpose of the ETA to generate securitized financing for the support of the affected community in the form of job training and economic development assistance, the petitioners filed for a Writ of Mandamus from the Supreme Court. Following an expedited proceeding including oral argument, the Court issued the Writ of Mandamus on January 29, 2020. The PRC's request for rehearing was denied by the Court.

My understanding from both hearing examiners at the time was that they were conducting the proceedings in both cases applying the ETA, since the purposes of the proceedings were to advance the abandonment, financing and replacement resources determinations dictated by the ETA.