

Glen Lyons
October 14, 2022

Responses to Commission Nominating Committee Questions

I appreciate the opportunity to continue being considered for the commissioner position. I am impressed by the diligent and thoughtful approach being taken by the Commission Nominating Committee. Your efforts will help to ensure that the commission has the best leadership possible.

Before getting to the questions, there is one important area that I felt was missing from the questionnaire, and I will speak to it here. Knowledge of commission matters is of course important and the questions do an excellent job of allowing candidates to demonstrate their expertise in that domain. Key skills or experiences are just as important as such knowledge if not more so. Commission staff will have experts on most specific matters and good commissioners will lean heavily on them. Good commissioners, however, must also bring a broader range of skills and experiences than you would expect to see in highly talented commission staff.

Here are the other domains of expertise that I would want in the new commissioners:

- Law / regulation
- Utility operations / planning
- Finance / accounting
- Engineering / project management
- Energy markets
- Consumer advocacy
- Other jurisdictions
- Business management / leadership
- Oil/gas industry.

By asking each candidate to identify the box(es) that fit them and explain why, the committee can be sure of recommending only candidates who would bring expansive capabilities to the commission. A commissioner with these capabilities would put the commission on a strong path toward dealing with all of the uncertainties and rapid change that the future is going to bring.

I've attached a template spreadsheet to my email to illustrate this further. A spreadsheet of candidates and their skills and experiences will also greatly aid the governor's decision process.

Before moving on to the questions, I thought it would be helpful to summarize my views on two recurring themes up front:

- A. The commission's role is to implement the will of the legislature, not to make policy unless that authority has been clearly given to them in statute.
- B. Should the legislature wish for the commission to address areas not explicitly outlined in statute, the commission can support the legislature in an advisory role to help get those items turned into law.

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?

New Mexico is indeed blessed with excellent wind and solar resources that are attractive to other states. More fundamentally though, the New Mexico electricity grid is neither self-contained nor independent of grids of other states. That means that the reliability of New Mexico's electricity is, in part, dependent upon a complex network. Therefore, engagement in regional discussions about power markets and transmission is absolutely necessary. New Mexico's strong positions in wind and solar resources can help the state become a leader in these discussions. Regardless of those strong positions, it is necessary that the commission play a leadership role as the discussions are too important to ensuring the reliability of the state's electricity. That's why my "Quick Start" Plan that was included with my application had "Increase influence within key external groups" as a year one objective. (I am including the "Quick Start" Plan document with this email, as I will reference it several times in my responses.)

My track record of working with individuals and groups with diverse interests is my greatest strength as a candidate for the commissioner position. Throughout my career, I found that most successes are built on strong and lasting bonds and positive working relationships. The

keys to complex multiparty discussions like regional discussions on power markets and interstate transmission are to build the relationships, focus on shared goals, and seek ways that all participants will benefit.

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?*

I am a strong advocate for lowest cost solutions and for the ability of competition to help achieve those. Utility rates must be just and reasonable. One cannot assess “just and reasonable” without insight into alternatives. Competition helps provide that insight as well as helping keep costs as low as possible. Competition also helps gauge the reasonableness of a new investment or purchase. Quite simply, a utility must demonstrate that they’ve considered alternatives in order to demonstrate the need for new investments or purchases. Carefully testing the reasonableness of such alternatives is a fundamental part of the commission’s role in ensuring that ratepayers are protected from unreasonable costs.

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

In the most traditional sense of utility regulation, the public interest primarily has been protecting consumers against high or discriminating prices and unreliable service.¹ The public interest in more recent times has been broadened to include additional important concerns like the environmental impact of various decisions or, as in the Energy Transition Act (ETA), goals for utility investments which must be achieved with the oversight of the commission. There are certainly many other public interest considerations that could be evaluated, but the commission must consider others very carefully because, if there isn’t sufficient statutory basis for those

¹ <https://www.raponline.org/wp-content/uploads/2016/05/powellgoldstein-bonbright-principlesofpublicutilityrates-1960-10-10.pdf>

considerations, then they could be challenged in court and potentially waste scarce and precious commission and taxpayer resources.²

If there are other areas of the public interest that the legislature would like to have the commission advance, then they may need to codify them into law to ensure that they are acted upon in accordance with the will of the legislature. The commission can and should act in an advisory role with the legislature to help identify any such areas.

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

All roads to decarbonizing the economy lead through electricity as much of the state's economy will likely be electrified in time. The utilities will need to decarbonize their generation in compliance with the ETA, and the commission has been entrusted with ensuring its implementation. This important piece of legislation lays the groundwork for decarbonizing other sectors. For instance, the transportation sector emits more CO₂ from fossil fuel consumption than the rest of the state's economy, excluding power generation.³ A move from internal combustion powered vehicles to electric vehicles (EVs) only brings a meaningful reduction in CO₂ emissions if the electric generation resources are decarbonizing. The commission will need to develop rules for the best way to incorporate EVs and other electrification efforts in order to ensure that the affordability and reliability of electricity, as well as the goals of the ETA are not compromised.

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

² <https://pubs.naruc.org/pub/FA864C03-DC7D-B239-9E29-4D68D1807BE4>

³ <https://www.eia.gov/environment/emissions/state/>

I cannot prejudge specific instances, as the law and the facts in each specific case must govern the action of the commission. Consideration of externalities should be firmly rooted in statute to avoid both potential wasteful litigation as well as misalignment with the will of the legislature. The commission has clear authority to approve economic development rates and consider the environmental impacts of generation locations and the resource choices that utilities make. There may well be other authorities pertaining to externalities that have been given to the commission but I would have to research that.

If there are other social, cultural, and environmental externalities that the legislature would like to have the commission address, then it may be necessary to write them into law to ensure that they are acted upon without wasteful court challenges. The commission can and should work as an advisor to the legislature to help identify and codify any such areas.

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.

Statute has clearly and rightly delegated considerable authority to the chief of staff, division directors, advisory staff, and hearing examiners. Commissioners must not interfere with those delegations. However the commissioners have the duty to administer and enforce the laws with which they are charged, and so they cannot be hands-off with staff. Commissioners must engage regularly with staff on matters as allowed by law to ensure the effectiveness and the top-to-bottom alignment of the commission. Two other critically important roles for the commissioners are to ensure the morale of the staff and to provide staff with the needed resources to be successful. The commissioners cannot be successful without a high functioning staff.

7. As you evaluate issues before the Commission 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*

The factors to be considered by the commission are those which it has been given clear authority for by statute. The list above includes some factors that are clearly addressed in statute - portfolio standards/energy mix, reliability, affordability, grid capability/stability, and eliminating certain energy sources from New Mexico's portfolio. There isn't a hierarchy of those factors however; they are all important. The facts of any specific case may suggest a hierarchy, but this can't be extrapolated to other cases.

As for the other important factors listed above, I will have to research whether there is a statute which directs the commission to consider them as well. If so, they will be incorporated into commission decisions. If not, the commission could support the legislature should there be a desire to have the commission incorporate them.

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

See my answer to #7.

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

New Mexico can learn much from many states but should not emulate any. New Mexico's situation is completely unique and therefore requires unique energy regulatory policies. That said, I would like to identify a couple of states from which I think there is much to learn.

Texas is the first such state. The ERCOT part of Texas (about 90% of the state's load) is relatively lightly regulated when it comes to generation resources. As a result, it is comparatively easy for any party to build new resources within ERCOT. The ease of adding resources has led to the rapid proliferation of wind generation, and now solar and storage as well. This has had the knock-on effect of attracting new industry to ERCOT.

California is the second state from which there is much to learn. Unlike in ERCOT, California is heavily regulated and the generation resource decisions are guided by the state. When it comes to implementing complex regulations however, California is second to none. This is due to the high caliber of the professional staff within California's energy regulatory bodies.

Both states offer valuable learnings for New Mexico. The commission should consider ways to simplify the development of new resources and ways to improve the development and retention of the existing commission staff and the hiring of new staff.

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

As a career employee of Exxon Mobil Corporation, my experience with the development and implementation of regulatory policy has been from the perspective of advocacy. There are many advocacy cases specific to electricity regulation. I will highlight a particular case of which I'm most proud: the fight in 2017 against the then US Department of Energy Secretary Rick Perry's attempt to use federal regulation to subsidize most coal generation plants. While on a personal level I found Secretary Perry's effort repugnant, it was also a direct threat to all electricity consumers and to the natural gas industry. Advocacy required convincing ExxonMobil management of the material significance of the threat as well as many in industry. I was successful at not only marshaling others in industry to provide a unified response, I was able to assist with the formation of coalitions with unexpected partners. Most prominently, it was the first time that the natural gas industry and the renewables industries banded together. I was also

able to convince ExxonMobil senior management that the threat was material enough to issue their own public positions. ExxonMobil rarely issues independent public positions on electricity regulatory matters, work that it instead leaves to industry associations.

I was very proud when Secretary Perry's effort failed because I was at the forefront of the effort to defeat it.

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?

I am not familiar with the State - Tribal relationship and have been aware of this important gap in my knowledge. That's why prior to applying for the commissioner position, I tried to arrange meetings with two Tribal groups to help jump start my learning. Unfortunately I was unsuccessful in making those meetings happen but still recognize it as an important gap that needs to be addressed. Developing an understanding of the relationship will be one of the early items for me to tackle. That's why my "Quick Start" Plan which was included with my application included "Outreach to stakeholders and communities" as an action item for the first month.

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.

I don't view the commission as a policy body. In my mind it is strictly a regulatory body. The commission is entrusted with limited authority in statute. It is to decide how to best enact that regulatory duty. I do see a role for the commission as an advisor to the legislature when developing policies related to the commission's areas of expertise. While I don't think that much needs to be done to help the commission maintain the focus on regulation since that is clearly its role, I do think that regular engagement with key legislators would help ensure that the

commission remains aligned with the vision given to it in statute. I envisioned something like this in my “Quick Start” Plan with “Report progress, successes, and areas for further improvement to governor and legislature” within the first year of the newly appointed commission.

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

My history of the commission does not span twenty years, but I don’t need to look too far back to find a couple of very consequential decisions by the commission.

The first such decision was to bundle with an earlier case the abandonment portion of Public Service Company of New Mexico’s (PNM) plan to retire the San Juan Generating Station in accordance with the ETA. Not only did this seem to fly in the face of the commission’s role of overseeing the implementation of the ETA it also threatened PNM’s securitization plans, which included the money which it would set aside for the impacted community.

The second such decision was when the commission ordered PNM again to charge Facebook for nearly half the cost of an \$85 million transmission project for its New Mexico data center. This decision had several concerning aspects to it, but most notably that it may have undermined a pre-existing special service contract and that it may have sent a message to Facebook and other companies considering moving operations to New Mexico that the regulatory regime here isn’t reliable.

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

I can’t comment on this legal question. I do know that the commission lost the state Supreme Court case regarding PNM’s closure of San Juan that I mentioned in my answer to Question 13. One of the goals for the commission should be to try to reduce the number of decisions that result in legal action, as unnecessary lawsuits are a drain on the commission and taxpayer’s resources. Some of that is not within the commission’s control, but the more that the commission avoids making decisions that aren’t firmly rooted in statute, the more successful it will be.

Glen Lyons
September 30, 2022

New Mexico PRC “Quick Start” Plan

The immediate change from an elected commission to an appointed one of potentially all-new members necessitates a plan to ensure a safe, rapid, and successful transition. I have developed the following plan based on these sources of input:

- Meetings that I had with several key stakeholders. Those stakeholders were very open with their views, constructive with their ideas, and genuinely motivated to assist with the transition.
- Third-party studies of the PRC^{1,2} which I learned of through several of the stakeholder meetings.
- My own work experiences.

If appointed, on day one I will share this plan with the other commissioners and staff, collect their input, and then finalize the plan so we can move quickly on all fronts without overlooking critical risks.

The plan is composed of four focus areas:

1. Internal commission concerns and opportunities
2. External interfaces and relationships
3. Short-term risks and gaps
4. Development areas

Each of these areas have a unique set of issues and unique timing considerations. I list the issues that need evaluation and may need work below along with their relative timings.³

¹ <https://www.lwvnm.org/prc-study/PRCStudyReport.pdf>

² https://www.nmlegis.gov/publications/Studies_Research_Reports/Evaluation%20of%20Public%20Regulation%20Commission%20Staffing%20and%20Budget%20Allocation%20-%20May%202017.pdf

³ The timeline reflects my assessment of the urgency of each issue.

1. Internal commission concerns and opportunities

- A. Staff morale, workload, and their improvement ideas - **Week 1**
- B. Staff development and mentoring - **Month 1**
- C. Salaries and advancement - **Month 1**
- D. Budgetary needs - **Month 1**
- E. Work backlog, open dockets - **Quarter 1**
- F. Streamline internal activities and reduce low value work - **Year 1**

2. External interfaces and relationships

- A. Outreach to stakeholders and communities - **Month 1**
- B. Learn other regulated sectors - **Quarter 1**
- C. Regular meetings with communities - **Year 1**
- D. Increase influence within key external groups (e.g., Southwest Power Pool, aka SPP) - **Year 1**
- E. Report progress, successes, and areas for further improvement to governor and legislature - **Year 1**

3. Short-term risks and gaps

- A. Identify concerns about winter costs, reliability, and emergency response⁴ - **Week 1**
- B. Review recent rule makings - **Month 1**
- C. Impact of rapidly rising interest rates - **Month 1**
- D. Broad reliability and response deep dive^{5,6} - **Quarter 1**
- E. Opportunities for federal money including the Bipartisan Infrastructure Act and the Inflation Reduction Act - **Quarter 1**

4. Development areas

- A. Review of cases being appealed - **Quarter 1**

⁴ <https://www.wsj.com/articles/electric-bills-soar-across-the-country-as-winter-looms-11663493404>

⁵ <https://www.eenews.net/articles/what-the-western-drought-reveals-about-hydropower/>

⁶ https://www.nerc.com/pa/RAPA/ra/Reliability%20Assessments%20DL/NERC_SRA_2022.pdf

- B. Develop electric vehicle rules - Year 1
- C. Consider regulatory reform (e.g., outdated rules, updating for changing ratepayer interests and technologies) - Year 1
- D. Smart meter rules - Year 1

In this plan, I've focused on issues that either fall outside the traditional day-to-day business of the PRC or which may need to be elevated in priority. No doubt there are details that I'm missing - issues to be added, issues which have been or are already being worked, and timing concerns. In addition, the outgoing commissioners and PRC staff are probably developing their own transition plan for the new commissioners. That is why this plan is a starting point that needs the input of others before it can be finalized. That said, a starting point is critical.

Table 1

	Law / Regulation	Utility Operations / Planning	Finance / Accounting	Engineering / Project Management	Energy Markets	Consumer Advocacy	Other Jurisdictions	Business Management / Leadership	Oil / Gas Industry
Candidate 1									
Candidate 2									
Candidate 3									
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Glen Lyons	Low	Medium	Low	None	High	High	High	High	High
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Candidate 25									