

**BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION**

P.E.R.A. Building  
1120 Paseo de Peralta  
P.O. Box 1269  
Santa Fe, New Mexico 87504-1269

**ANNUAL OPEN MEETINGS POLICY AND NOTICE**

Adopted February 3, 2011

**I. Open Meetings**

Pursuant to NMSA 1978, Sections 10-15-1(A) and (B), all meetings of a quorum of Commissioners of the New Mexico Public Regulation Commission (“Commission”) held for the purpose of formulating public policy, discussing public business, or for the purpose of taking any action within the authority delegated to the Commission, shall be open to the public, except as otherwise provided by law. The location of such open meetings normally shall be in the P.E.R.A. Building, 1120 Paseo de Peralta, Santa Fe, New Mexico 87501, as specified in the meeting notice. In the event an open meeting is to be located elsewhere, such location will be specified in the notice of that meeting. Any member of the public may attend any open meeting and listen to the discussions, deliberations and proceedings of the Commission. In accordance with NMSA 1978, Section 8-8-4(D), a majority of the Commissioners constitutes a quorum for the transaction of business.

If during the course of a Commission open meeting, the Commission determines that the meeting should be recessed and reconvened to a date subsequent to that stated in the meeting notice, the Commission will specify the date, time and place for the continuation of the meeting prior to recessing and will conspicuously post notice of the date, time and place for the reconvened meeting on or near the door of the place where the original meeting was held and outside Room 406 of the PERA Building.

Any person who wishes to attend any open meeting of the Commission which has not been closed pursuant to NMSA 1978, Sections 10-15-1(H) and 10-15-1(I) and this Open Meetings Policy, shall be allowed to attend and listen to the discussions, proceedings and deliberations. Any party to a proceeding that will be discussed at a Commission meeting can also attend the meeting telephonically by emailing a request to the Commission's Office of General Counsel by no later than 3:00 p.m. on the day before the meeting. All such requests shall be emailed to [ana.kippenbrock@state.nm.us](mailto:ana.kippenbrock@state.nm.us), unless and until a different email address is specified on the Commission's website. Members of the public will also be able to listen to the Commission's deliberations at its meetings (but not make statements) send via a webcast subject to any technical limitations or difficulties. Information on obtaining access to the webcast will be published on the Commission's website.

#### **A. Regular Open Meetings**

The Commission does not distinguish between regularly scheduled "Formal Open Meetings" and regularly scheduled "Working Sessions." With the exception of Special or Emergency Open Meetings as provided herein, the Commission conducts one type of open meeting "Regular Open Meetings." It is the intent of the Commission to continue to provide itself with flexibility and efficiency in taking action on time-sensitive matters. The Commission intends to continue its practice of informational and informal discussions of items of public issues and Commission business.

Unless the business before the Commission dictates otherwise, the Commission shall conduct Regular Open Meetings on every Tuesday and every Thursday of each month beginning at 9:30 a.m., except on days when the State of New Mexico has announced a delay in the opening of State offices located in Santa Fe on or before 8:00 a.m. on the day of such delay or closing, or as may be otherwise scheduled. On any day when the State has announced a delay in the opening of State offices located in Santa Fe on or before 8:00 a.m., any Commission Regular Open Meeting scheduled for that day

shall commence at 9:30 a.m., or at the delayed opening time, whichever is later. If the State announces the cancellation of the opening of State offices located in Santa Fe before 8:00 a.m., the Regular Open Meeting scheduled for that day shall be cancelled, unless the Commission posts an announcement on its website stating that the Regular Open Meeting shall be held as scheduled or delayed to a specified later date or time. The Commission shall also conduct a Regular Open Meeting once each month on a Wednesday for the primary purpose of discussing administrative matters. When a Tuesday or a Thursday is a state holiday, the Commission may either cancel or reschedule the meeting. Except in instances where the commencement of a Regular Open Meeting has been delayed or cancelled as the result of the State announcing a delay in, or the cancellation of, the opening of State offices before 8:00 a.m., the Commission shall provide sufficient notice of all other postponements or cancellations of a Regular Open Meeting by posting notice in the same manner, and as nearly as practicable within the same time frame, as it gives notice of its Regular Open Meetings as set forth in this Policy.

The Commission will post notice of the specific date, time and place of each Regular Open Meeting at least three days prior to the meeting. Notice shall be posted outside Room 406 of the PERA Building. In addition, the Commission will post the notice on the Commission's web site, [www.nmprc.state.nm.us](http://www.nmprc.state.nm.us). The Commission will make reasonable efforts to have the notice posted on the website three days or more before the meeting, but the failure to post it at that time will not require the Commission to delay the meeting or to refrain from taking action on any agenda item on which it otherwise could act, assuming the notice has been posted manually in a timely manner as called for in this paragraph. Any broadcast stations licensed by the Federal Communications Commission and any newspapers of general circulation in this State that have provided a written request for notices of regularly scheduled or other open meetings shall be furnished such notice by mail or as otherwise provided in this Open Meetings Policy. Written requests for notices of open

meetings should be directed to the Director of Administrative Services, New Mexico Public Regulation Commission, P.O. Box 1269, Santa Fe, New Mexico, 87504-1269.

Except in the case of an emergency as defined in NMSA 1978, Section *10-15-1(F)*, the Commission will conspicuously post an agenda of the meeting at least 24 hours prior to the meeting outside Room 406 of the PERA Building. In addition, the Commission will post a draft each agenda as soon as practicable after a draft agenda is available and the final agenda on the Commission's web site, [www.nmprc.state.nm.us](http://www.nmprc.state.nm.us). The Commission will make reasonable efforts to have the draft agenda posted on the website as soon as one is available, and the final agenda posted on the website 24 hours or more before the meeting (except in the case of an emergency), but the failure to post either the draft agenda or the final agenda on the website by the foregoing times will not require the Commission to delay the meeting or to refrain from taking action on any agenda item on which it otherwise could act. All references herein to "agenda" shall mean to final agenda that is posted outside of Room 406 of the PERA Building at least 24 hours prior to each meeting. Additionally, the posting of the draft agenda on the Commission's website is being done solely as a convenience to the public, and shall preclude or in any way limit the Commission's right and authority to revise the draft agenda in the final agenda as deemed appropriate by the Commission, the Office of General Counsel, or the Commission's Chief of Staff.

The agenda shall indicate the date, time and place of the Regular Open Meeting. The agenda shall distinguish between "discussion items" and "action items," including the case name and number where a particular case will be discussed or acted upon. The agenda may also include other categories, such as announcements, communications, presentations of matters other than pending cases, and adjournment. Items may be placed on the agenda for a Regular Open Meeting at the request of any individual Commissioner, the PRC General Counsel, or the Chief of Staff. Individual Commissioners shall not place personnel or administrative items that would otherwise be under the

authority of the Chief of Staff on a Regular Open Meeting agenda without the Commissioner first consulting with the Chief of Staff and making an exhaustive effort to resolve the issue in that manner.

A Commissioner, the General Counsel, or the Chief of Staff may request one or more cases or other matters be included in on the “discussion”, “regular action” or “consent action” portion of the agenda, so long as all legal requirements for notice of Commission action on that matter have been met. Items placed on the “consent action” portion of the agenda shall be matters that are considered to be non-controversial in the sole judgment and discretion of a Commissioner, General Counsel or Chief of Staff, provided that any Commissioner may request that a matter be moved from the consent action portion of the agenda to the regular action portion of the agenda. When a matter has been scheduled for action without having been discussed at a prior Open Meeting, action may be put off to the next Regular Open Meeting at the request of any individual Commissioner (who need not be present), provided that doing so would not cause the Commission to violate a statutory or other deadline

Except for emergency matters as defined by NMSA 1978, Section 10-15-1(F), the Commission shall take action only on items appearing on the agenda as regular or consent action items. Discussion items on any Regular Open Meeting agenda may include, but are not necessarily limited to, (1) discussions related to the formulation of public policy prior to the formal discussion or adoption of any resolution, rule, regulation, statement of policy or any order in any case pending before the Commission, or prior to the taking of any other formal action authorized by law; (2) discussions of internal administrative matters concerning the operations of the Commission, and (3) informational discussions between Commission staff and the Commission in preparation for formal discussion or action.

## **B. Special and Emergency Open Meetings**

If, in the Commission's view, the public interest requires either discussion or action by the Commission at times other than those set for Regular Open Meetings, the Commission may conduct special open meetings for those purposes and may conduct Emergency Open meetings in the event of an emergency as defined in NMSA 1978, Section 10-15-1(F). Except in the case of an emergency as defined in NMSA 1978, Section 10-15-1(F), the Commission will provide notice of each special open meeting by conspicuously posting a notice of the date, time, and location of such special open meeting outside Room 406 of the PERA Building at least 48 hours prior to the special open meeting and posting that notice on the Commission's web site. The Commission will make reasonable efforts to have the notice posted on the website 48 hours or more before the meeting (except in the case of an emergency), but the failure to post it at that time will not require the Commission to delay the meeting or to refrain from taking action on any agenda item on which it otherwise could act,.

Except in the case of an emergency as defined in NMSA 1978, Section 10-15-1(F), the Commission will conspicuously post an agenda of the meeting at least 24 hours in advance outside Room 406 of the PERA Building. In addition, the Commission will post a draft each agenda as soon as practicable after a draft agenda is available, and the agenda, on the Commission's web site, [www.nmprc.state.nm.us](http://www.nmprc.state.nm.us). The Commission will make reasonable efforts to have the draft agenda posted on the website as soon as one is available, and the final agenda posted on the website 24 hours or more before the meeting (except in the case of an emergency), but the failure to post either the draft agenda or the final agenda on the website by the foregoing times will not require the Commission to delay the meeting or to refrain from taking action on any agenda item on which it otherwise could act. Additionally, the posting of the draft agenda on the Commission's website is being done solely as a convenience to the public, and shall preclude or in any way limit the Commission's right and authority to revise the draft agenda in the final agenda as deemed appropriate

by the Commission, the Office of General Counsel, or the Commission's Chief of Staff.

The agenda for any special or emergency open meeting shall indicate the date, time and place of the meeting, the case name and number of any cases that the Commission intends discuss or on which it intends to take formal action, a list of any other specific items of business to be transacted, and the nature of any action contemplated at the special or emergency open meeting. Except for emergency matters as defined by NMSA 1978, Section 10-15-1(F), the Commission shall take action only on items listed on the agenda. In the case of an emergency meeting, notice and an agenda will be posted and distributed as provided in this Policy at the earliest feasible time before the meeting.

If the State of New Mexico announces the delay in the opening of State offices located in Santa Fe on or before 8:00 a.m. on the day of such delay, any Special Open Meeting scheduled for that day shall commence at the time specified in the notice or agenda for that Special Open Meeting or the time for the delayed opening of State offices located in Santa Fe, whichever is later. If the State announces the cancellation of the opening of State offices located in Santa Fe before 8:00 .m. on the day of such cancellation, any Special Open Meeting scheduled for that day shall be cancelled unless the Commission posts an announcement on its website stating that the Regular Open Meeting shall be held as scheduled or postponed to a specified later date or time.

Any broadcast stations licensed by the Federal Communications Commission and any newspapers of general circulation in this State that have provided a written request for notices of Commission meetings shall be furnished such notice by telephone or as otherwise provided in this Open Meetings Policy. Written requests for notices of open meetings should be directed to the Director of Administrative Services, New Mexico Public Regulation Commission, P.O. Box 1269, Santa Fe, New Mexico, 87504-1269.

Special and emergency meetings may be called only with the consent of a majority of the Commissioners except in the case of an emergency meeting as defined in NMSA 1978, Section 10-

15-1(F) when an effort has been made to contact all of the Commissioners but less than a majority are available to consent to the meeting and the emergency is such that a meeting must be called before majority consent can be obtained.

**C. Formal Hearings Before the Commission**

At any formal hearing at which a quorum of the Commission presides or may preside, the Commission will provide notice of the hearing as an open meeting and shall issue an agenda as prescribed in this Policy. Within a reasonable time, but in no case less than 24 hours prior to the hearing, the Commission will also provide actual notice to all parties in that case or their counsel and to any other person who has requested such notice of the date, time, location and purpose of the hearing. The Commission will also provide notice as required by any other applicable provision of law or Commission rule or order.

If the State of New Mexico announces the delay in the opening of State offices located in Santa Fe on or before 8:00 a.m. on the day of such delay, any hearing to be presided over by one or more Commissioners scheduled for that day shall commence at the time specified in the notice or agenda for that hearing or the time for the delayed opening of State offices located in Santa Fe, whichever is later. If the State announces the cancellation of the opening of State offices located in Santa Fe before 8:00 .m. on the day of such cancellation, any hearing to be presided over by one or more Commissioners scheduled for that day shall be cancelled, unless the Commission posts on website that the hearing shall be held as scheduled or postponed to a later date or time.

If during the course of such a public hearing the Commission determines that the hearing should be recessed and reconvened to a date subsequent to that stated in the meeting notice, the Commission will specify the date, time and place for the continuation of the hearing prior to recessing and will conspicuously post notice of the date, time and place for the reconvened hearing on or near

the door of the place where the original hearing was held and outside Room 406 of the PERA Building.

## **II. Closed Meetings**

Pursuant to NMSA 1978, Sections 10-15-1(H) and (I), the Commission upon its own motion may close a meeting or part of a meeting to the public if the subject matter of such discussion or action is included in Subsection H of the Open Meetings Act, NMSA 1978, Section 10-15-1 or the Constitution of New Mexico permits closure. If any meeting or part of a meeting is closed pursuant to the exclusions contained in Subsection H of NMSA 1978, Section 10-15-1, such closure: (1) if made in an open meeting, shall be approved by a majority vote of the quorum of the Commissioners and the specific statutory or other authority for such closure, and the subject to be discussed, shall be stated with reasonable specificity in the motion calling for the vote on a closed meeting, and such vote shall be taken in an open meeting and the vote of each Commissioner shall be recorded in the minutes; (2) if called for when the Commission is not in an open meeting, such closed meeting or closed part of a meeting shall not be held until public notice, appropriate under the circumstances, stating the specific provision of law authorizing the closed meeting, and stating with reasonable specificity the subject to be discussed, is given to members of the general public. Only those subjects announced or voted upon prior to closure by the Commission shall be discussed in a closed meeting.

The Commission will provide notice of closed meetings by conspicuously posting a notice and agenda of the date, time, location and items of business of each such meeting at least 24 hours prior to the closed meeting outside Room 406 of the PERA Building. In addition, the Commission will post the agenda on the Commission's web site, [www.nmprc.state.nm.us](http://www.nmprc.state.nm.us). The Commission will make reasonable efforts to have the agenda posted on the website 24 hours or more before the meeting, but the failure to post it at that time will not require the Commission to delay the meeting or to refrain