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EPA Decisions Costly for New Mexicans

New Mexico has long enjoyed inexpensive power produced at its coal fired plants. But recent decisions by the Environmental Protection Agency (EPA) are changing that.

The federal *Clean Air Act* was enacted by Congress in 1970 and had its last major revisions in 1990. It was the intent of Congress when the Act passed, and it has been repeatedly upheld by the courts, that states should have discretion in determining equipment to be installed at plants to comply with the regulations.

The EPA determined that the 2009 retrofit completed on the San Juan Plant, at a cost of \$320 million, was inadequate to comply with the current Haze rule, which is intended only to improve visibility in national parks. The EPA allowed the state to submit a compliance plan by a certain date, but unfortunately, the New Mexico Environment Department (NMED), under the prior administration, failed to meet the deadline.

Although PNM, as the plant operator, supported the state's plan, the EPA ruled that its own plan would be required at San Juan. The difference is an estimated cost

See EPA on page 8

Power Play at the Public Regulation Commission

It's exciting to work with the New Mexico Public Regulation Commission (NMPRC), because you just never know what's going to happen.

Why is that? Because we have a Commission that can make up the rules as they go or simply choose to ignore them altogether.

While the PNM rate case took several parties 13 months to resolve including volumes of paperwork, months of negotiations, and weeks of testimony, Commissioner Marks, with total disregard for the system, drafted a substitute decision in just a couple of days. He wasn't slowed down by the time consuming process of having staff or any of the parties review his decision to assure that it was sound - or even legal. This was

See Power Play on page 9

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NMUSA Annual Membership Luncheon

Wednesday, October 26, 2011

Free Investment Seminar with Panel of Expert Financial Advisors

**Keynote Speakers: Governor Susana Martinez, Invited
Pat Lyons, Chairman, NM Public Regulation Commission**

Visit Utility Company Personnel at company information booths

Invitations will be mailed in early October!

From the President . . .



Bill Pope

It has been my pleasure to serve as President of the New Mexico Utility Shareholders Alliance (NMUSA). This is an excellent association that works diligently on behalf of shareholders, who for the most part, are also ratepayers of the gas and electric utility companies operating in our state.

As my term comes to an end, I am confident that the leadership of the incoming president, Bill Hagler, and his team will provide continued strength of the great work of the NMUSA.

We are exceedingly disappointed in the recent decisions by the Environmental Protection Agency (EPA) and the New Mexico Public Regulation Commission (NMPRC). The EPA's decision will have a significant impact on electricity rates with only a negligible difference in visibility as compared to the state's recommended plan.

And, as the first ever chair of the NMPRC, I am greatly troubled not only by some of the decisions of the NMPRC, but also by the fact that some laws and procedures are being completely ignored.

We are looking forward to our annual **Membership Luncheon on October 26, 2011**. You can learn more about it on page 11 and we look forward to seeing you there!

Bill



New Mexico Gas Company: Rate Request Update

New Mexico Gas Company has requested a rate increase for the first time since acquiring the gas assets of PNM in January 2009. The Company is currently operating under the rates set in the last natural gas rate case in 2006. That case reflected 2005 costs and became effective in 2007.

New Mexico Gas Company is currently working with the parties involved in the rate case toward a mutually agreeable settlement. If settlement is reached, the New Mexico Public Regulation Commission will hear the details of the agreement and determine its decision on implementing new rates.

Investments of more than \$215 million have been made to maintain and improve the Company's transmission and distribution pipeline systems since the 2006 rate case. New pipelines were installed and expanded to meet customer growth. An automated meter reading system was installed in 2011 and is expected to result in efficiencies and cost savings to customers of \$31 million over the life of the meter reading devices. Almost \$15 million was invested to replace steel pipelines to prevent corrosion and potential future gas leaks.

Planned expenditures for 2011 include approximately \$34 million invested in projects like pipeline replacement, integrity management, and line extensions.

Given these investments, governmental mandates, and the increase in the cost of doing business over the last five years, the cost of providing service to customers has increased since the current rates were put in place in 2007.

"Our transmission and distribution systems improvements help ensure that the Company provides safe and reliable service to customers," said President Annette Gardiner. "Supportive regulatory decisions are necessary for the Company to continue to attract additional capital on reasonable terms; this capital is used to fund investment in the pipeline system. Additionally, our customers benefit from the savings realized by attracting capital at reasonable rates."

New rates would not go into effect before February 2012.

For more information on the New Mexico Gas Company, visit www.nmgco.com



Impeachment Possible at the NMPRC Commissioner Jerome Block, Jr.

Impeachment proceedings are an increasingly significant possibility for Commissioner Jerome Block. Several people have called for his resignation, including the other NMPRC Commissioners, Governor Martinez, the state Democratic Party Chair, and other elected officials from both parties. But Block has said he won't step down.

Two state representatives, Brian Egolf (D) and Nate Gentry (R), both attorneys, reviewed the allegations against Block and determined they were serious enough to warrant further action. In addition, House Speaker Lujan will appoint a committee during the special session which began September 6th to investigate the allegations and make recommendations on whether or not to impeach Block.

A rare move for New Mexico, impeachment was last considered by a House committee to investigate allegations against then State Treasurer, Robert Vigil, in 2005. Vigil resigned before a House vote was taken.

Below is a brief summary of the allegations against PRC Commissioner Jerome Block Jr as reported by numerous media sources:

- ◆ October 2008: NM Secretary of State fines PRC Candidate Block \$11,000 for three violations of the Campaign Practices Act and the Voter Action Act. He is also required to return \$10,000 in public campaign funds.
- ◆ April 2009: NM Attorney General brings eight felony charges against Block to include embezzlement, election-code violations, conspiracy to commit a violation of the elections code, tampering with evidence, and conspiracy to commit tampering with evidence.
- ◆ July 2010: Drivers License suspended for failing to appear in court for a careless driving citation. Continued driving state vehicle with a suspended license through June 2011.
- ◆ June 2011: NMPRC began investigation of unusual transactions on Block's state-issued gas credit card.
- ◆ August 2011: Criminal embezzlement and conspiracy charges reinstated from alleged mispending of public funds during his campaign for the NMPRC in 2008.

Focus of a stolen car case when Block took a used car to have checked by a mechanic. The car had not been returned after three weeks and was reported stolen by the dealership.

Voted out as Vice Chair of the NMPRC by his fellow Commissioners.

Admitted to a prescription drug addiction and is seeking help.

Estimated cost for investigation and the possibility of impeachment is between \$250,000 and \$1 million.



All-Star Weekend Powered by Renewable Energy from APS

In July, sports fans focused on Phoenix as the city revved up to host the 2011 Major League Baseball All-Star game, and Arizona Public Service Co. stepped up to the plate. Arizona's largest utility company powered the All-Star festivities with Green E-Certified renewable energy.

The Arizona Diamondbacks, on behalf of MLB, purchased 775,000 kilowatt-hours of clean, renewable energy from APS – enough to power the five days of events at Chase Field and the All-Star FanFest at the Phoenix Convention Center.

The total energy displaced was equivalent to a reduction in greenhouse gas emissions of more than 710,000 pounds, which is the same as taking nearly 3,000 cars off of the road for one week.

"The All-Star game was the perfect setting to showcase our commitment to renewable energy, both as a company and as a state," said Don Robinson, President and Chief Operating Officer for APS. "With millions of Americans watching and attending these events, it was a great opportunity to put into practice in the most visible way our vision to create a clean, renewable energy future for Arizona."

APS, Arizona's largest and longest-serving electricity utility, serves more than 1.1 million customers in 11 of the state's 15 counties. With headquarters in Phoenix, APS is the principal subsidiary of Pinnacle West Capital Corp. (NYSE: PNW).



New Mexico Gas Company Joins the Social Media Conversation

New Mexico Gas Company has responded to requests from customers, opinion leaders and other stakeholders who have asked the Company to engage in social media. The company has joined Facebook under "New Mexico Gas Company" and can be found on Twitter at @nmgasco.

These platforms for online collaboration are fundamentally changing the ways we engage with customers and the public at large. This model for interaction has the possibility to build stronger relationships.

"We're following through on the commitment made to the PRC, legislators, community leaders and customers after the February system emergencies to increase our communications outreach," said President Annette Gardiner. "Utilizing social media will help us connect with some customers in a way they are used to receiving information."

Social media can help customers receive convenient and timely information and can help the Company respond quickly during real-time events such as major service interruptions; the Company will also provide messages about programs, products and services.

"We understand the importance of open communication with our customers while providing relevant information," said President Annette Gardiner. "We hope the use of social media will help us achieve a higher level of service."

The NMPRC Ranked Among Lowest Five Regulatory Agencies in the Nation

Ever wonder why the New Mexico Public Regulation Commission (NMPRC) is consistently ranked in the bottom five regulatory agencies nationwide?

Contrary to what makes the headlines, it's not because the NMPRC has been fraught with the personal legal issues of numerous Commissioners. In fact, the felony battery charges, arrest and booking for possession of controlled substances and drug paraphernalia, and currently pending charges on embezzlement and conspiracy related to PRC campaign finances aren't mentioned by the rating agencies when they put New Mexico in the bottom tier.

The low rating of the NMPRC is partly due to the fixation of some Commissioners on "protecting ratepayers' interests". Some Commissioners claim that keeping utility rates as low as possible is their primary goal; however, rates are actually being pushed upwards in the long range by their actions. How is that possible? Decisions that are unnecessarily restrictive to regulated companies or unnecessarily delay rate cases, ultimately translate into higher costs for ratepayers.

The New Mexico Utility Shareholders Alliance (NMUSA) has been following regulatory ratings since 2007 and the NMPRC is consistently ranked at the bottom of all regulatory bodies nationwide by multiple rating agencies. While this is yet another black eye for a great state, it does not have to be this way. Whether through legislation or the Commissioners fulfilling a timely, balanced role as defined by statute, it is within the state's means to achieve a higher rating.

Why do we care about the rating of the NMPRC? A low rating of the NMPRC translates into lower utility company bond ratings. Lower bond ratings mean higher capital costs for utility companies. Because the cost of capital is passed on to ratepayers, higher capital costs mean higher utility rates.

Rating agencies use various criteria to determine a state's rating. Regulatory Research Associates (RRA) January 2011 rating guide uses 18 different criteria. The NMPRC has no control over the Commissioner Selection Process, but they control or greatly influence every other item: 1) Commission staff; 2) Rate Case Timing/Interim Procedures; 3) Return on Equity; 4) Rate Base and Test Period; 5) Utility company accounting; 6) Alternative Regulation; 7) Court Actions (restrictive Commission rulings that end up in court); 8) Legislation; 9) Corporate Governance; 10) Merger Activity; 11) Regulatory reform/Industry Restructuring for both the electric and gas industries; 12) Securitization; 13) Adjustment Clauses; 14) Integrated Resource Planning; 15) Renewable Energy/Emissions Requirements (as related to cost recovery); and 16) Rate Structure.

The RRA report clearly states that the ratings are subjective and intended to be comparative in nature to all other regulatory agencies. The subjectivity is no defense for the fact that New Mexico is ranked in the bottom five of the nation.

We'll highlight a few common rating criteria and take a look at what may affect New Mexico's poor standing.

1) Commissioner selection: RRA attributes a greater level of risk to states in which Commissioners are elected rather than appointed. This is because energy regulatory issues are less politicized when they are not subject to debate in the context of an election.

RRA also looks at the Commissioners themselves. Experience in economics and finance and/or energy issues is generally seen as a positive sign.

How does New Mexico measure up? Commissioners are elected by district. NMUSA has talked extensively about the role of a NMPRC Commissioner, as defined by state statute, to balance the needs of the ratepayers, shareholders, and the public. It should never be the role of an NMPRC Commissioner to act as a consumer advocate. Unfortunately, this is what often happens with NMPRC Commissioners as they focus almost exclusively on their constituents and the next election.

What are the experience requirements to run for this seat? A candidate must be a resident of the district in which s/he is elected. Not much of a requirement for a \$90,000/year job with great benefits.

See NMPRC on page 10.



A UniSource Energy Company

TEP Customers Can Reduce Energy Bills Through New Pilot Program

Tucson Electric Power's residential and small business customers are invited to participate in a new no-cost pilot program that can help them to reduce energy consumption and lower their electric bills.

Through the new TEP Power Partners pilot program, participants will receive a free, state-of-the-art thermostat and other equipment that allows them to monitor and adjust the temperature of their home or business remotely. It also allows TEP's system operators to cycle off a customer's air conditioner or to adjust the customer's thermostat during periods of peak electric demand.

Customers pay nothing to participate and may find the program helpful in reducing their monthly electric bill, said Denise Smith, Director of Demand Side Resources for TEP.

"A program like this allows us to work directly with customers like never before," Smith said. "Participants will be providing us with the ability to modify their energy usage while we're providing them with equipment and information that they can use to reduce their energy consumption."

Up to 600 residential and 200 small business customers will be able to participate in the program, which is slated to last for two years. Participants must be TEP customers with both central air conditioning and broadband Internet access who plan to stay in their homes for at least one year. Other conditions may apply.

Once eligible participants complete an online application and are approved to participate in the program, TEP's contractor, Tendril Networks, will make arrangements to install state-of-the-art energy management equipment in the customer's home or business. That equipment includes networked programmable thermostats that will allow TEP system controllers to adjust individual customer settings during times of peak demand. Load control switches installed on customers' air conditioning compressors will allow TEP to reduce run times, thus reducing energy consumption. Participants can choose to override TEP's adjustments at any time.

Customers will be able to access their own near-real time usage data in order to make informed decisions about energy consumption. Residential customers who remain in the program for two years will receive a financial incentive of \$50. The pilot program will help TEP evaluate the effectiveness of energy management programs and their effect on customer satisfaction.

TEP customers can sign up for the program by visiting tep.com.

The pilot program is one of several designed to help TEP comply with Arizona's Energy Efficiency Standards, which were approved by the Arizona Corporation Commission in 2010. The rules require electric utilities to increase the energy savings realized through energy efficiency programs each year until the cumulative reduction reaches 22 percent by 2020.

Tendril, based in Boulder, Colo., is a market leader in the development of energy efficiency and load control programs and services. For more information, visit tendrilinc.com.

TEP, a subsidiary of UniSource Energy Corporation (NYSE: UNS), provides safe, reliable power to more than 400,000 customers in southern Arizona. To learn more, visit tep.com.

Low Income Housing Energy Assistance Program (LIHEAP)

NMUSA has actively supported the Low Income Housing Energy Assistance Program (LIHEAP) for many years. There are many Americans frequently unable to pay their home energy bills.

Since 1981, the LIHEAP has provided heating and cooling assistance to Americans in need. Despite overwhelming demand for energy assistance and strong bipartisan support for the program, President Obama is proposing to cut federal funding for LIHEAP in half next year. Such a drastic funding cut would impact at least 3 million low-income U.S. households.

You can help protect these Americans in need. Visit the Support LIHEAP website at: www.supportliheap.org and tell Congress to stop the proposed LIHEAP funding cuts.



PNM Electric Rate Case Now Final

A \$72.1 million rate increase approved by the N. M. Public Regulation Commission was finalized Aug. 11, ending a 14-month effort that started with a \$165.2 million request filed in June 2010.

After Aug. 21, PNM bills were calculated based on the new rates. The rate increase was requested to help PNM make needed system improvements to keep electric service safe and reliable.

The final order approved by the commission was a departure from the proposal it was considering. That proposal was an agreement PNM entered into on Feb. 3, 2011, with six other parties to increase rates by \$85 million annually and to provide a \$20 million capital additions rider. Both the PRC hearing examiner and general counsel supported the \$85 million request.

“While the increase approved by the commission was less than what we and others had proposed, we accept the decision because of the risk and the costs of litigating,” said PNM Resources President and CEO Pat Vincent-Collawn. “We know that rate increases are never welcome, but they are necessary to ensure that our electric infrastructure can support our state’s economic growth.”

The 9.2 percent increase approved will go into effect all at once rather than the two phases that PNM had proposed. How it will affect customers will depend on how much electricity they use and the time of year, since rates are higher in June, July and August. The commission adopted a new residential rate structure that means many customers will see a much lower increase than 9.2 percent. The average residential bill in central and northern New Mexico, and Deming, will go up by about \$1.26 a month, which reflects a base rate increase and a drop in the fuel adjustment and energy efficiency charges. Business customers can expect to see a 9.2 percent rate increase, assuming their energy use does not change.

This will be the first rate increase since 2004 for PNM southern customers (excluding Deming), where residential customers will now have the same rate structure, fuel adjustment clause and seasonal rates that other customers have. They will also have a consolidation adjustment charge or credit that helps to ease the transition to the new rate structure and evenly distribute the impact of the increase from customer to customer.

The average southern residential bill will go up by about \$7 a month. (This includes the fuel and consolidation charges, which were not on bills before.)

PNM said it will continue to reach out to low-income customers to help them. Part of the agreement included a PNM Resources shareholder donation of \$1.25 million to the PNM Good Neighbor Fund, which helps low-income customers with PNM bill payments. In addition, energy efficiency programs help customers save. Last year, customers who participated in PNM energy efficiency programs received a total of \$7 million in rebates and could save up to \$5.3 million a year in energy costs.

“We will continue to work for solutions to energy issues that balance the cost to the customer, as we did in this rate case, as we are doing with regard to haze control technology and as we consider how we will create and deliver energy in the future,” said Vincent-Collawn.

EPA Decisions continued from cover.

to ratepayers of \$77 million versus \$750 million to \$1 billion for the respective plans - a ten fold increase in cost that produces no material improvement in visibility. (*Shareholder News*, second quarter 2011).

The EPA's decision may be partly related to the untimely response of the prior administration, but it is also partly attributable to a bigger plan. The EPA is pushing an unprecedented rewrite of air-pollution rules in what appears to be an attempt to shut down a large portion of the nation's coal-fired power plants which currently fuel about half of the nation's energy supply.

Current EPA regulatory requirements will affect about 40 percent of U.S. baseload capacity. According to a Wall Street Journal editorial, the Federal Energy Regulatory Commission (FERC), responsible for ensuring the integrity of the nation's power supply, stated in a letter to the US Senate in August that about 8 percent of all U.S. generating capacity is "very likely" or "likely" to be subtracted by 2018 amid coal plant retirements and downgrades.

. . . these new regulations are among the expensive in the EPA's history.

Although not required by Congress, these new regulations are among the most expensive in the EPA's history. As described in US News and World Reports, Washington Whispers, by Paul Blegard, June 8 2011. "Two new EPA pollution regulations will slam the coal industry so hard that hundreds of thousands of jobs will be lost, and electric rates will skyrocket 11 percent to over 23 percent."

"Many of these severe impacts would hit families living in states already facing serious economic challenges," said Steve Miller, president of the American Coalition for Clean Coal Electricity. "Because of these impacts, EPA should make major changes to the proposed regulations before they are finalized," he said.

Referring to the analysis of the EPA regulations from National Economic Research Associates, Miller said they would be the most expensive rules ever imposed on power plants. He also said the costs and potential to lose four jobs for every new clean energy job created isn't worth the rules, especially in a job-starved economy.

With all technology types considered, coal-generated electric power is still the cheapest form of power available. And in New Mexico, we have an abundance of coal located directly at the plants, which provides jobs for miners as well as plant operators.

PNM believes the EPA decision at San Juan is flawed and has decided to appeal the decision. Will PNM get support from the State of New Mexico in this appeal? That decision has not yet been made, but Secretary F. David Martin, NMED, provided the following statement:

"The New Mexico Environment Department disagrees with the EPA's decision that may unnecessarily increase electricity costs in New Mexico. Based on the EPA's own rationale and assumptions, the proposal submitted by the State of New Mexico in June satisfied the interstate transport requirements of the Clean Air Act. New Mexico's proposal also would have resulted in considerable emission reductions and utilized more cost-effective technology.

Because courts interpreting the Clean Air Act have repeatedly emphasized that Congress intended for states to have discretion in making Best Available Retrofit Technology determinations, we believe that the EPA should have given New Mexico's proposal more weight than it apparently did."

Free Investment Seminar with Panel of Expert Financial Advisors

Carol Jones, New Mexico Investment Advisors
Carlene Patterson, CFP, ChFC, Ascension Financial Group

October 26, 2011 In conjunction with the NMUSA Annual Membership Meeting



Kelly Announces Retirement Fowke Named Chairman and CEO



Richard C. Kelly

Richard C. Kelly today retired as chairman and CEO of Xcel Energy effective Aug. 24, 2011, after 43 years with the company. He made the announcement at Xcel Energy's annual meeting of shareholders in Minneapolis.

Kelly, 64, has held various positions with Xcel Energy, including president and CEO, chief operating officer and chief financial officer. Prior to the merger forming Xcel Energy in 2000, he held a number of finance-related positions with predecessor companies New Century Energies and Public Service Company of Colorado. He has served on numerous boards of directors for industry and community organizations, and currently is

completing his term as chairman of the national Edison Electric Institute.

Kelly also announced that Xcel Energy's board of directors has elected Benjamin G.S. Fowke III, currently president and chief operating officer, to succeed him as chairman and CEO.

Before assuming his current responsibilities, Fowke, 53, held a variety of executive positions at the company, including executive vice president and CFO from December 2008 to August 2009; vice president and CFO from May 2004 to December 2008; vice president, CFO and treasurer, October 2003 to May 2004; vice president and treasurer, November 2002 to October 2003; and vice president and CFO of Energy Markets business unit, August 2000 to November 2002.

Xcel Energy (NYSE: XEL) is a major U.S. electricity and natural gas company that provides a comprehensive portfolio of energy-related products and services to 3.4 million electricity customers and 1.9 million natural gas customers through its regulated operating companies in eight Western and Midwestern states. Company headquarters are located in Minneapolis. More information is available at xcelenergy.com.



Benjamin
G.S. Fowke III

Power Play continued from cover.

especially surprising, given the fact that Commissioner Marks is an attorney.

But even more damaging than that, Marks was able to get a majority vote with Commissioners Becenti-Aguilar and Block voting in support of his decision with just a few pages of notes provided to Commissioners minutes before the vote. (NOTE: Chairman Lyons was the only Commissioner who voted against this measure based on its merits and the fact that no one had time to review it. While Commissioner Hall also voted against Marks' recommendation, he said he would've voted against any recommendation to raise rates.)

Thirteen months and millions of dollars in ratepayer and taxpayer money wasted.

As stated in an Albuquerque Journal editorial, 8/9/11, ***"If that's how New Mexico wants to regulate its utilities, then taxpayers can save a lot of time and energy and money and let one guy write complex regulatory policy on cocktail napkins during happy hour."***

The far-reaching control of the NMPRC mandating utility companies to install certain types of renewable energy is yet another NMPRC power play. While the ratepayer is already faced with higher rates, the Renewable Energy requirements mandated by state law continue to ratchet up. And, if that's not enough, a prior decision, led by Commissioner Marks and then Commissioner Ben Ray Lujan, mandated the type and amount of renewable energy rather than allowing utilities to find the least costly alternative to comply with the law.

Solar is one of those diversification requirements and costs about three times that of coal-generated power. But, supporters argue, the solar requirement will be a boost for the solar industry. Too bad that boost is at ratepayer expense.

NMPRC Rating continued from page 5.

2) Rate Case Timing/Interim Procedures: RRA considers whether there is a set time frame within which a rate case must be decided, the degree to which the commission adheres to that time frame, and whether interim increases are permitted. In general, shorter set time frames are preferable. In addition, the ability to implement all or a portion of a proposed rate increase on an interim basis prior to a final decision in a rate case is viewed as constructive.

How does it work in New Mexico? By statute, we are required to have a decision in nine months, but other parties may request an additional three months. In reality, it seems there is little adherence to any time length requirements. It is not uncommon for a rate case in New Mexico to go as long as 14 months or more.

While New Mexico utilities are allowed interim rates, in reality it doesn't happen.

Contrast this with other states, there is a stark difference. For example, in North Dakota, the commission is allowed 180 days from the time the application was deemed accepted, not counting a 30 day time limit for acceptance, to make a decision. So the total time allowed is seven months from start to finish.

North Dakota also has an interim rate plan that allows the new rates to go into effect 30 days after the application is deemed complete and remain in effect until the case is resolved.

A procedure for a timely decision with interim rates results in less litigation and attorney fees and decreased carrying charges. This results in lower costs passed on to ratepayers, healthier utility companies, and better shareholder value.

3) Return on Equity (ROE): There are two aspects RRA considers when evaluating an individual rate case and the overall regulatory environment: (1) how the authorized ROE compares to the average of returns authorized for energy utilities nationwide; and, (2) whether the company has been accorded a reasonable opportunity to earn the authorized return in the first year of the new rates.

It is important to note that even if a utility is provided a "reasonable opportunity" to earn its authorized ROE, there is no guarantee that it will do so. Factors such as the age or "staleness" of the test period, expense disallowances, the manner in which the commission chooses to calculate test year revenue, and other adjustments may render it unlikely that the utility will earn the authorized return on its investment.

What happens in New Mexico? The NMPRC generally suppresses a reasonable return on equity in attempting to curry populist support, thus harming the utility customers in the long term. While research shows that many commissions provide for an ROE averaging 11 percent, New Mexico utilities are allowed returns in the 9 to 10 percent range.

It is unfortunate that a Commission interested in protecting ratepayers' interests rather than providing balance among all parties, actually does so at the ratepayers' expense.

The extraordinary regulatory lag, the uncertainty of process and decision, as well as expense disallowance leads to New Mexico utility companies actually earning low ROEs which are sometimes less than four percent. This is an unsustainable return for a utility company to attract low cost capital, which translates into higher ratepayer costs.

4) Test Period: With regard to test periods, there are a number of different practices employed, with the extremes being fully-forecasted, or a future test period, (most constructive) to fully historical (least constructive).

How does New Mexico do it? In 2010, the NM state legislature passed and the governor signed into law, a statute allowing utility companies to use a future test period. While utility companies, the NMUSA, and others were glad to see this as a means to overcome the unusual regulatory lag, the NMPRC has neglected to follow state law and has yet to allow its use.

It is unfortunate that a Commission interested in protecting ratepayers' interests rather than providing balance among all parties, actually does so at the ratepayers' expense. If the NMPRC truly wants to be vigilant over rates, it will carefully balance the needs of all parties. It can also help promote a probusiness environment where businesses can flourish and, thus, be attractive to outsiders considering a move to New Mexico.

Join the Alliance NOW!

If you aren't a member or haven't paid dues for 2011, we strongly urge you to do so now. Dues are voluntary but help us attend regulatory and legislative meetings to advocate the interests of utility shareholders. Your contribution also helps fund this newsletter, our web site (www.nmusa.org) and membership meetings.

I own shares of stock in: (Check all that apply)

Name

Spouse's Name (if applicable)

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____ Pinnacle West

(Arizona Public Service)

____ PNM Resources

____ New Mexico Gas Co

____ Other _____

____ UniSource Energy

(Tucson Electric Power)

____ Xcel Energy

(Southwestern Public Service)

Please complete this form and mail with your annual dues of \$15. Please make checks payable to NMUSA.

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E-mail: nmusa@rt66.com

Telephone: (505) 836-4223

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Upcoming Events

Wednesday, October 26, 2011: NMUSA Annual Membership Luncheon

Featuring:

Free Investment Seminar with Panel of Expert Financial Advisors
(Questions for the advisors can be returned with your registration!)

Keynote Speakers: Governor Susana Martinez, Invited
Pat Lyons, Chairman, New Mexico Public Regulation Commission

Visit utility company personnel at company display booths!

Invitations will be mailed in early October

Joint event with NMUSA, Rio Grande Foundation and Energy Makes America Great

November 10, 2011 Luncheon featuring: Robert L. Bradley, Jr.
CEO and Founder of the Institute for Energy Research

Contact Carla Sonntag at (505) 836-4223 or by e-mail at nmusa@rt66.com
to register or for more information. Cost is \$30 by November 1, \$40 after November 1

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New Mexico Utility Shareholders Alliance

Third Quarter 2011

From the Executive Director . . .

It's been a tough quarter with bad news from the EPA and the NMPRC, two agencies that operate autonomously with virtually no oversight. Unfortunately, many of their decisions are not in the best interest of New Mexicans.

On behalf of the NMUSA, we can promise you that we will not give up! The NMUSA will continue to be the voice of moderation and reason when advocating on issues that affect gas or electric company operations or the ratepayers or shareholders of those companies.

The annual Membership Luncheon will be an event you won't want to miss. With all that is happening at the NMPRC, it should be an interesting opportunity to hear Chairman Pat Lyons provide an update. Governor Martinez has been invited to speak and her attendance will be confirmed in early October.

The investment forum will be a great opportunity to hear from professionals about the markets and outlook for utility stocks. We hope you're making plans now to join us on **October 26, 2011**. Invitations will mail in early October and, remember, the event is free for dues paying members and a guest.

I look forward to seeing you soon!



Carla J. Sonntag

A handwritten signature in blue ink, appearing to be 'Carla J. Sonntag', written in a cursive style.