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Chairman Jason Marks
NMPRC District 1



**Commissioner-Elect
Jerome Block, Jr.**
NMPRC District 3

**New Mexico
Public Regulation
Commission
Winners**

**One Returning and One New Commissioner -
Will there be Change at the NMPRC?**

With only five elected officials serving in the New Mexico Public Regulation Commission (NMPRC), the change in one position can often affect the way business is conducted. The regulatory challenges ahead are many, but we look forward to a positive direction and favorable changes within the NMPRC for the new year.

About these Commissioners . . .

PRC Chairman Jason Marks Re-Elected to Serve District 1

PRC Chairman Jason Marks has won his second term of service for NMPRC District 1. A self described “consumer advocate”, Marks is dedicated to studying the issues and cases before him. While the NMUSA has not agreed with all of his decisions and public statements, we applaud his steadfast work ethic and look forward to working with him over the next four years.

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Annual NMUSA Membership Drive

January 2009

Look for your membership invitation to arrive in January 2009. All dues-paying members receive a gift and an invitation to the NMUSA Annual Membership luncheon. For news on this year’s event, please see page 6.

Please join us and remember our motto, “Together, we have the power!”

**Lenton Malry**

From the President ...

First, I want to thank everyone for attending the NMUSA's Annual Member Luncheon on October 1, 2008. I also want to thank the speakers, Dr. McGuckin, Economics Professor at New Mexico State University and Mr. Bill Brier, VP, Policy and Public Affairs, with Edison Electric Institute (EEI). Carla and Larry Sonntag did a great job putting everything together. I also want to thank the board members for their work as greeters.

Secondly, I want to congratulate the newly elected PRC members Mr. Jason Marks, from District I and Mr. Jerome Block, Jr. from District 3. I stand ready to work with them and all of the PRC Commissioners. Our Mission remains the same, *"To champion the best public policy interests of shareholders of gas and electric utility companies operating in New Mexico."*

A handwritten signature in cursive script that reads "Lenton Malry".

Tucson Electric Power's DeConcini Leads Industry Trade Group

Mike DeConcini, Senior Vice President and Chief Operating Officer for Transmission and Distribution for Tucson Electric Power, has taken on a new role as president of the Rocky Mountain Electrical League (RMEL), a trade association for electric utilities.

DeConcini began his term during RMEL's fall convention, held in September in Vail, CO. Workshops addressed topics including how electric utilities could build a sustainable generation portfolio and how to manage coal transportation issues.

RMEL provides education, leadership development and safety training to its more than 270 member companies. DeConcini has served on the board of directors of the Colorado-based nonprofit group since 2005, including a term as Vice President of Finance.

"RMEL offers training and networking opportunities that can help member companies address some of the most pressing issues facing our industry," DeConcini said.

DeConcini is also a member of the Tucson Boys and Girls Clubs' board of directors and serves on the advisory board of the United Way of Southern Arizona.



US Solar, APS Receive DOE Study Grant

US Solar and its partner, APS, received a grant from the U.S. Department of Energy (DOE) to model and build two new designs for solar thermal storage technologies. The project's goal is to reduce the cost of storing solar thermal energy, a key factor in solar energy's ability to generate electricity at night or during periods of reduced sunlight.

The \$4.35 million project will be directed by US Solar from Tucson, with modeling occurring at the University of Arizona. The final phase of the project will be a full-scale working energy storage plant integrated with APS' existing Saguaro Solar Power Plant, located 30 minutes north of Tucson in Red Rock, AZ. While the DOE awarded grants to more than a dozen groups to study solar thermal storage technology, the Arizona-based initiative will be one of only three to be fully integrated with a working power plant.

US Solar and APS also will receive help from Arizona State University, Georgia Institute of Technology and two Phoenix companies, Klondyke Construction and Ironco Enterprises.

"This initiative brings the best minds in Arizona together to help move Arizona's solar future forward," said Jake Stephens, Director of US Solar. "Further, APS' Saguaro Solar Power Plant is a world-class site for this type of solar project."

Unlike traditional solar-photovoltaic plants, which use direct sunlight to produce electricity, concentrating solar power (CSP) uses the sun's

heat. Parabolic mirrors track the sun and focus solar energy on a heat transfer fluid. Once heated, the liquid converts water into steam, which turns the plant's turbines to create electricity.

"APS is committed to solar energy and excited about the opportunity to further the science and drive down its cost," said Barbara Lockwood, APS' Manager of Renewable Energy. "Storage technology is a critical component to the future of CSP."

This will not be the first time APS has helped drive the solar industry. When APS built Saguaro in 2005, it marked the first CSP plant in Arizona and the first to be built in the United States in nearly 20 years. In early 2008, the utility announced plans for the world's largest solar project, the Solana Generating Station. The 280-megawatt CSP plant, which will utilize thermal storage, is scheduled to be operational in 2011.

About APS

APS, Arizona's largest and longest-serving electricity utility, serves about 1.1 million customers in 11 of the state's 15 counties. In 2008, APS won its second Edison Award in recognition of innovative leadership and operational excellence in the electric industry. Given annually by the Edison Electric Institute, the Edison Award is considered the industry's most prestigious honor. With headquarters in Phoenix, APS is the principal subsidiary of Pinnacle West Capital Corp. (NYSE: PNW).

NMUSA Elects 2009 Board of Directors

Dr. Lenton Malry, President, serving NMUSA since 2004.

Bill Pope, Vice President, serving NMUSA since 2004.

Bill Hagler, Secretary, serving NMUSA since 2006.

Dan Lyon, J.D., Treasurer, serving NMUSA since 2006.

Bob Reed, Past President, serving NMUSA since 1997.

Directors: Al Adamsko, serving NMUSA since 1997.

John Florez, serving NMUSA since 2006.

Ed Borchardt, serving NMUSA since 1997.

Alan Schwartz, serving NMUSA since 1997.

Xcel Energy Continues Environmental Leadership

After an eventful summer and early fall, Xcel Energy is ending the year with significant accomplishments and recognition to its credit. In particular, the company continues to illustrate its environmental leadership.

During the summer, Xcel Energy dedicated its new High Bridge Generating Station, a natural gas-fired plant in St. Paul, Minn., that replaces the original coal-fired facility. The High Bridge conversion is part of the company's voluntary Metro Emissions Reduction Project (MERP) that includes completely refurbishing one coal-fired plant with advanced emission controls and converting two others from coal to natural gas. The company has completed two facilities and plans to have the third operating by May 2009.

The High Bridge project will reduce annual air emissions by approximately the following: sulfur dioxide by 99.7 percent; nitrogen oxide by 96.9 percent; particulates by 91.5 percent; and mercury by 100 percent. All of the MERP efforts increase the generating capacity of the facilities, extend their operating lives and improve the environment.

As the nation's No. 1 provider of wind power, Xcel Energy continues to increase its portfolio of wind energy as well as its ownership of wind facilities. The first wind turbines on the company's new 100-megawatt Grand Meadow Wind Farm in Minnesota recently went on line. Grand Meadow should be fully operational by the end of the year.

Owning the wind farm enables the company to reap the greatest value from its wind investment. Xcel Energy also recently announced two additional wind facilities that the company will own: one in southwest Minnesota and the other in North Dakota.

To showcase its environmental leadership, Xcel Energy powered both national political conventions with clean, renewable energy. The 2,232 megawatt-hours of wind and solar power used by those events had the same annual environmental benefits as planting 337 acres of trees or taking 271 cars off the road.

During the Democratic National Convention in Denver, Colo., the company also unveiled its first, fully integrated SmartGridCity home at the chancellor's residence at the University of Colorado in Boulder, Colo. Early in the year, the company chose Boulder as its SmartGridCity—or the location where it would bring together a variety of projects designed to test the viability of a fully inter-connected smart grid, which is an electric system that allows customers to automatically manage their energy consumption and enables Xcel Energy to reliably produce and deliver energy through real-time automated controls.

Over the summer, Xcel Energy began installing and upgrading infrastructure necessary for Boulder's smart grid, including substations, meters and feeders.

In part because of its environmental efforts, Xcel Energy was named to the Dow Jones Sustainability Index (DJSI) for North America. Companies listed on the DJSI are considered to be the best in class in economic, environmental and social performance.

Xcel Energy considers its DJSI designation for three consecutive years to be a significant achievement, particularly because it provides an independent and objective assessment of the company's corporate practices. It also validates the progress Xcel Energy is making through its environmental leadership strategy and recognizes the company's contributions as a responsible and active member of the communities it serves.

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PNM Looks to Expand Renewable Generation

PNM will soon make critical decisions about potential new investments in renewable energy, including the possibility of New Mexico's first large-scale concentrating solar plant. Producing electricity with renewable energy sources such as the sun, wind and biofuels can benefit customers and the environment by diversifying the existing energy portfolio and reducing greenhouse gas emissions. Additional renewables also are needed to help PNM meet the state's renewable portfolio standard.

The first Request For Proposal (RFP), issued in June, brought New Mexico's four largest electricity providers together in an effort to consider the first large-scale, commercial solar generating plant in the state. El Paso Electric, Xcel Energy, PNM and Tri-State Generation and Transmission solicited proposals from solar developers for the construction of a solar parabolic trough generation facility to provide solar electricity to each of the utilities by 2012.

Solar parabolic trough technology currently is the only commercial solar thermal technology in use. All bidders were required to submit plans for a dry cooled facility, which would use significantly less water than a wet-cooled facility. In addition, bidders were encouraged to include a thermal energy storage option as a way to make electricity available to the utilities even when the sun is not shining.

Twelve companies representing 14 sites throughout the state responded to this RFP. A variety

Continued on page 9.

For Investors, Utilities Sector Considered Refuge From Financial Storm

According to Investor's Business Daily, 11/24/08, a survey of the utilities sector found that it had outperformed most other industries in the stock market in the deepening financial crisis, thanks largely to its regulated status and relatively consistent operations model, Investor's Business Daily reported. Nonetheless, a 3.5-percent nationwide slump in demand for August, partly due to a mild summer for most of the U.S., was linked to the economic downturn.

In cutting its 2009 demand forecast for the U.S. from a 0.2-percent decline to a 2.5-percent decline, the Energy Information Administration laid responsibility for the revision on a fall in economic activity. It also expected continued high fuel costs to keep rates elevated.

Morningstar analyst Travis Miller said utilities in states with warm climates, growing population, and congenial regulators tended to offer the best prospects for investors, while merchant generators benefitted from regions with tight supply levels. Meanwhile, renewables and transmission were seen as growth areas within the sector, due to climate change policies and the need for grid upgrades.

Sen. Reid Says He's Working With Obama on Scuttling Yucca Repository

According to E & E News PM, 11/21/08, Sen. Harry Reid, D-Nev., said he has spoken with President-elect Obama about scuttling the Yucca Mountain nuclear waste repository, E&E News PM reported. Reid told the Las Vegas Review-Journal: "Yucca Mountain is history. Just watch, we'll see what happens real soon, just watch."

While there was no direct comment reported as to what Obama told Reid, the President-elect said several times during the presidential campaign that the initiative was a failure and that Congress should work on another plan for long-term storage of high-level nuclear waste, the newsletter reported.

Michael Mariotte, executive director of the Nuclear Information and Resource Service, was quoted as saying: "It sounds to me like Reid is suggesting that funds will be cut for the Yucca program before other actions may take place. I do expect that the Obama administration will take speedy, serious action to permanently stop the Yucca program."

PRC Commissioner-elect Jerome Block, Jr. District 3

Continuing the family legacy, Jerome Block Jr., son of former PRC Commissioner Jerome Block, has been elected to serve as Commissioner of PRC District 3. Anxious to serve, Block is regularly attending Open Meetings and PRC workshops. He has an office on the same floor as the other Commissioners in the PERA Building and is working there on a regular basis.

Block says his initial priorities, before being sworn into office, are to get up to speed on the Open Meeting process and the subject of current workshops. He is also spending time with staff, learning who they are and what they do. Block has hired an assistant, who has already been in for a tour of the facility and an initial orientation.

Commissioner-elect Block comes from the title insurance industry, a regulated industry. Not only is it a regulated industry, it has received significant scrutiny over the past couple of years. Block says this experience will help bring balance to his regulatory decisions because he's been on the other side of the commission.

Block promises to maintain an open door policy and encourages interested parties to communicate with him about their concerns. He has a business background and believes that balance between the consumer and regulated business is in the best interest of the state.

Because balance is exactly what the NMUSA has been seeking, we applaud his attitude and look forward to working with Commissioner-elect Block who will be sworn in on January 1, 2009.

NMUSA Annual Membership Meeting

The Annual Membership Meeting of the New Mexico Utility Shareholders Alliance (NMUSA) was held October 1, 2008 at the Radisson Hotel Albuquerque. There were over 210 in attendance including several elected officials, candidates for various offices and company officials.

Mr. Bill Brier, Vice President, Policy & Public Affairs, at the Edison Electric Institute (EEL) presented, ***“Investing in America’s Electric Future”***. EEL is the association of US Shareholder-owned electric companies, international affiliates and industry associates worldwide and is a strong supporter of state utility shareholder associations..

Bill joined EEL in 1983 and is recognized as an industry expert and spokesperson. He has testified before numerous state legislatures and utility commissions on behalf of EEL’s member companies.

Dr. Tom McGuckin, professor of economics at New Mexico State University, is an expert on utilities in water, wastewater, electricity, natural gas and solid waste. He is a member of the NMSU Center for Public Utilities (CPU) which conducts conferences and training courses and produces instruction/training material for directors, managers and staff at firms and federal and state commissions. The National Association of Regulatory Utility Commissioners (NARUC) officially sanctions the programs offered by the CPU which average about 450 attendees per year from all 50 states as well as many foreign countries.

Dr. McGuckin has published over 100 professional journal articles and reports. His presentation to NMUSA members was entitled, ***“Does the New Mexico PRC Insure that you get a “Fair” Rate of Return on Your Money?”***

The presentations of Bill Brier and Dr. McGuckin are posted on the NMUSA website at: <http://www.nmusa.org/activities.html>

“Defend My Dividend” Campaign Launched

Edison Electric Institute (EEI) and the American Gas Association (AGA) have launched a new campaign to permanently set the personal tax rate on qualified dividend income at 15 percent. If you are one of the more than 50 percent of households who own stock in electric and gas utilities, we urge you to visit the campaign’s web site, www.DefendMyDividend.org and become a part of the effort to extend or make permanent today’s relatively low tax rate on dividends.

In 2003, Congress *temporarily* reduced the maximum tax rate on dividend income from 38.6 percent to 15 percent. As a result, this lower tax rate has meant that utility shareholders can keep more of their dividend income. It has also spurred investment in dividend-paying companies such as utilities, who rely on the new capital to build pipelines, transmission wires, power plants, and make investments in new energy efficiency and environmental technologies—all to keep pace with the country’s continually rising demand for energy.

Unfortunately, the current 15-percent maximum tax rate on dividend income is set to expire at the end of 2010—unless Congress takes action now to extend it. Without any action, the new maximum tax rate on qualified dividends could increase to more than 39 percent for some taxpayers.

The dividend issue is particularly important today, given the slowing economy and credit crisis. Senior citizens make up the largest number of utility shareholders—64 percent of utility shareholders are 65 years or older. Middle and low-income households also are affected by

the dividend tax rate issue. Sixty-eight percent of those receiving utility dividends have annual incomes of \$75,000 or less, and 42 percent of utility shareholders earn less than \$25,000 per year. These shareholders rely on their quarterly dividend checks to help with everyday expenses. They would be particularly harmed if the higher tax rate on dividends went into effect.

In November, nearly 60 utilities met to discuss, plan and launch “Defend My Dividend” (DMD), a joint campaign of AGA and EEI to convince

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Congress to make permanent the 15-percent tax rate on dividend income. The DMD campaign is amplifying and focusing the full grassroots power of the country’s natural gas and electric utility industries. Working together, the DMD campaign is now telling Congress that millions of average Americans across the country depend on dividend income to heat their homes or pay for medicine, food and other essentials, and they do not want to pay higher taxes on these crucial earnings.

The campaign’s web site, which you can visit at www.DefendMyDividend.org, offers more information about the campaign, as well as updates, and importantly, a way for you to join the effort to renew the lower tax rate on dividends. We encourage you to visit the site today, and tell other utility shareholders, along with your friends and family, about the site too. We need everyone’s voice to make a difference in keeping today’s 15 percent tax rate on dividends permanent. Your New Mexico Utility Shareholders Alliance (NMUSA) will also be working hard on your behalf to preserve this vital economic benefit for shareholders and utilities alike.



Utility Regulation By Robert L. Swartwout

This is the second in a multipart series of articles that will review regulatory process development. The information has been excerpted from the original publication “Current Utility Regulatory Practice From a Historical Perspective” published in the “Natural Resources Journal of UNM Law School”, Spring 1992.

Once a commission has granted a certificate of public convenience and necessity (CCN) establishing a monopolistic service territory for a utility, the intent of the commission process is the replication of the absent competitive market for the utility’s commodity within the certified territory.

Utilities obtain services, labor, materials, equipment, supplies, money and other commodities in the same markets as all other businesses. The commissions, therefore, have no need to substitute for such existing markets. Reformers determined that commissions have the obligation to assure that utilities act prudently to avoid customer rates reflecting the costs of imprudent management.

Surrogation for the competitive market is the guiding principle for regulation of utility rates. But, as with everything else in the process, it is not a purely mechanistic concept. The market surrogation principle must always be used to police the function of utility rate regulation.

In addition, commissions were legislatively provided authority to authorize issuance of securities by utilities. This regulatory function does not require, and should not involve, any attempt at market surrogation by the commissions in the financial markets. It was designed to protect the asset base of utilities and to regulate utility activity in the money markets just as regulation was designed to deal with potential imprudence by utilities when participating in other non-utility competitive markets. Commissions were also given the authority to assure that the service provided by utilities is of reasonable quality.

The three basic elements of the economic regulation of utilities are the CCN, rate regulation and the regulation of utility securities and finance:

1. The purpose of the CCN was to provide control over entry into monopolistic utility markets in order to (1) avoid duplication of facilities, (2) avoid economic waste, (3) protect the necessarily significant utility investment from competitors, (4) avoid destructive competition, and (5) avoid the public inconvenience that results from the installation of, and ultimate maintenance associated with, duplicative facilities including overhead lines and underground pipes and conduits.

2. Rate abuses were the primary reason for public utility laws. The goal of keeping the investor owned utilities within the American tradition of private sector business rather than allowing them to become municipal or government owned was not only difficult to achieve, but it has been very difficult to maintain.

3. Even with the CCN and rate regulation, utilities still found ways to abuse their rights by using their utility assets to support non-utility investment. Until 1930, only five states, California, Massachusetts, New York, Texas and Wisconsin were exercising any authority over utility financing and securities.

The three elements, the CCN, rates, and securities are each necessary elements of our delicately balanced system of economic regulation of utilities. The process is adversely affected if any part is ignored or is in some manner subverted. The threshold element without which the entire process is meaningless is the CCN. The CCN establishes the monopoly and the necessary protections as an incentive for the large capital investments and long term commitments that are inherent in utilities.

Robert L. Swartwout is a retired Professional Engineer with over 41 years in the utility business. During this time, Mr. Swartwout spent 15 years in state utility regulation and 15 years as president of investor owned utility companies. Mr. Swartwout has several published papers on the subject of utility regulation. The article from which this has been excerpted, has been cited in state and federal Supreme Court cases.

PNM Renewable Generation continued from page 5.

of technologies were bid, including wet, dry and hybrid cooling; thermal energy storage ranging from several minutes to seven hours; and various size ranges from 20 megawatts to 250 MW.

The second RFP, issued in July, requested proposals for a variety of renewable resources such as wind, photovoltaic solar, geothermal and bio-fuel that would help PNM achieve a fully diversified resource portfolio. "The purpose of the RFP is to meet the renewable portfolio standard, including technology diversity requirements, and to seek cost effective alternative resources to natural gas and coal," said Evelin Wheeler, PNM's Director of Regulatory Affairs.

The response to this RFP was overwhelming. PNM received 71 responses that, in total, proposed almost 5000 MW of renewable resources.

The renewable projects proposed could produce energy as early as late 2009. PNM recently selected 30 projects from 15 different bidders for further evaluation and analysis. These projects include potential wind, photovoltaic, solar thermal and woody biomass sources. Individual projects range in size, however, most are in the 10 MW to 100 MW range and include locations in 17 different New Mexico communities. The projects include participation from New Mexico companies and New Mexico manufacturers.

The next step is to determine whether and how these individual projects may fit into PNM's overall resource portfolio. PNM experts are currently reviewing projects from both RFPs to assess their viability and to determine which projects are most cost effective for PNM customers.

"Renewable energy projects like these are critical to our long term sustainability," said Jim Ferland, Senior Vice President for Utility Operations. "We are aggressively seeking renewable energy to meet the RPS, but also because it is the right direction for the company. Ultimately, we will choose those projects that help meet our customers' growing energy needs and help the environment but do so in a way that minimizes the financial impact on customers."

Join the Alliance!

If you aren't a member, we strongly urge you to take action 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.

Join now and your membership will be good through 2009!

Name _____

Spouse's Name (if applicable) _____

Address _____

City _____ State _____ Zip _____

Telephone _____ E-mail Address _____

I own shares of stock in: (NM utility stock ownership required)
(Check all that apply)

_____ El Paso Electric _____ UniSource Energy

_____ Pinnacle West (Tucson Electric Power)

_____ (Arizona Public Service) _____ Xcel Energy

_____ PNM Resources (Southwestern Public Service)

_____ Other _____

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

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From the Executive Director . . .

It was an honor to have so many of you with us at the Annual Membership Meeting. We enjoy the opportunity to share time with you and hear from industry experts about issues that affect utility shareholders.

We look forward to the New Year and the opportunity to work with state legislators during the 60-day session and our new Commissioner from District 3, Jerome Block, Jr. We anticipate positive change at the Public Regulation Commission and hope that means quicker resolution to pending cases and fair decisions that recognize the needs of the utility shareholders as well as the ratepayers they serve.

Thank you for your continued membership in the NMUSA. We will conduct our annual membership drive in January and look forward to the renewal of your membership. We'll send key chain flashlights to all dues paying members.

If I can be of service in any way, please let me know.

We wish you peaceful holidays and the happiest of New Years!

My best,



Carla J. Sonntag