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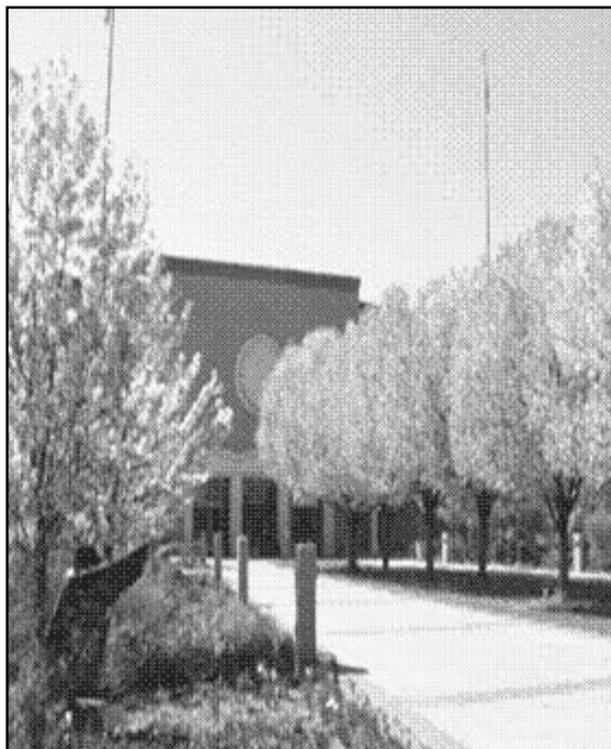
## Around the Roundhouse Legislation That Caught our Attention

NMUSA found four bills of particular concern that we worked diligently to stop and were successful in every case. We were the only consumer group to oppose these bills while we tried to balance our concern for the environment, economy, future and our utility company ownership.

The bills are detailed below along with our reasons for opposition:

**HB 393 Citizen's Utility Review Act** - This bill would create a Citizen's Utility Review Board (CURB) of five persons appointed by the governor. The board would represent the interests of residential and small business ratepayers as parties in utility matters before the PRC. Funding would be a non-reverting appropriation of six percent of the PRC's inspection and carrier fees estimated at approximately \$720,000.

We opposed this bill because we do not need another layer of bureaucracy and the system for utility case review by the AG and PRC is adequate. In addition, the appropriation of funds would come



back to us as rate payers because the PRC's inspection and carrier fees would eventually need to be increased and the utilities would pass this on to its customers.

Bill Pope, former chairman of the Public Regulation Commission and current Director of NMUSA lobbied against the bill with our staff. Mr. Pope testified about our general opposition to the bill as well as inherent problems with it including no provision on the board or staff

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# From the President . . .

## *What's Round and Stationary but Makes New Mexico Move?*

**Dear Fellow Shareholders,**

Is your head spinning? Another rotation of the New Mexico state legislature is over. We're all a bit safer for a while. Did you feel something move? I was recently in California for two months of therapy and was treated to three earthquakes, two in one morning. They're quite used to such stuff in California, but it was a new experience for me; I like our earth to be a bit more stable. But we had some movement in New Mexico, too. Our legislators were busily running around in the Santa Fe Round House. They got our state to move in some ways.

Fortunately, your New Mexico Utilities Shareholders Alliance has our own devoted staff and members who attended many of those legislative sessions which will impact the energy industry. Mind you, this is not always the exciting, fun-packed sort of event you may have images of in your minds. But our qualified and able members often were able to monitor and submit timely and appropriate inputs to remind legislators that there may be many balanced interests to bear in mind when contemplating legislation. Shareholders are particularly good constituents as owners and consumers of energy and sources of energy. We're all concerned about such issues as our environment as well as reliable sources of power. Balancing such issues is often controversial. Your Alliance tries to help bridge such gaps.

One of our most important responsibilities is to keep you, our fellow shareholders, aware and informed on such matters. We appreciate hearing from you as well. Let us know your main



**Ed Borchardt**

issues and how we can help. Properly informed, we'll take such concerns back into that Round House for their next session of running around, or whatever it is they do there. A side note: our staffers confirmed that it really is harder to get a legislator cornered in a round house. Do you think that's why it was designed like that?

Another circular inspired offer. Support us and we'll support your need for more information on your investment. Please join us and we'll try not to run you around in circles, like some people seem to do. We know how to give you the straight news!

Sincerely,

Ed Borchardt



Chairman Lujan

## PRC Chairman Ben Lujan, District 3

I started my term as a New Mexico Public Regulation Commissioner in January 2005, and the experience has been remarkable. I am very grateful for the opportunity to serve the citizens of our state. I also have the privilege of serving as the Public Regulation Commission (PRC) Chairman. The commis-

sion elects a chairperson every twelve months, and most of those related responsibilities concern matters associated with managing our public meetings.

The PRC has the responsibility to work on issues and cases that will impact the consumers, citizens, and industry of our state. An important Commission ruling this year was its unanimous decision declaring that Qwest was not in compliance with the Alternative Form of Regulation (AFOR) investment commitment to New Mexico, which requires QWest to invest \$788 million over five years. This agreement expires in 2006. The PRC has provided Qwest some time to comply with the AFOR commitments and if Qwest fails to satisfy its AFOR investment obligation the shortfall must be credited or refunded to New Mexico customers.

A case that the Commission will soon be acting on is the purchase of TNP Enterprises, the parent of neighbor-

ing utility Texas New Mexico Power, by PNM. A hearing examiner for the Commission held a public hearing to hear testimony on the proposed stipulation, which was agreed to by all the parties involved. A stipulation will be presented to the Commission for a decision regarding this transaction.

The PRC also worked diligently during the 2005 legislative session. One of the many pieces of legislation passed and signed by the Governor was Senate Bill 644. This legislation might be of interest to the New Mexico Utility Shareholder Alliance. The legislation amends the Public Utility Act to encourage utility investment in energy efficiency and load management programs by allowing public utilities to recover reasonably incurred expenses for those programs. Cost effective energy efficiency and load management are intended to provide significant reductions in greenhouse gas emissions, regulated air emissions, water consumption and natural resource depletion.

As PRC business for 2005 progresses the commission and our great staff will continue its regulatory responsibility. Together, we can foster a new spirit of innovation and cooperation at the PRC to better serve you, your families and our communities.

I welcome your thoughts, comments and questions. Please feel free to contact me at (505) 827-4533.

## Wind Power

Wind Power is again big news, thanks to Xcel Energy. Xcel Energy of Minneapolis is a major U.S. electric and natural gas company with regulated operations in 11 states. It is the second largest provider of retail wind energy in the United States. Through one of its operating companies, Southwestern Public Service Company, it provides electricity to about one million people in a 52,000-square-mile area comprised of southeastern New Mexico, the panhandle of Texas and

Oklahoma and southeastern Kansas.

Xcel sponsored wind power facilities include New Mexico's first commercial-scale system at Texico. The Llano Estacado Wind Ranch came on line on June 22, 1999. Now expanded, it can produce 1.98 Megawatts.

A second wind farm was described in the February 7 Albuquerque Journal. The Caprock Wind Ranch near San Jon now includes 80 one Megawatt wind driven turbines.

Both of these facilities were developed by Cielo Wind Power of Austin, TX

Finally, the San Juan Mesa facility, first announced in October, 2004, is expected to be on line this year. Pre-construction of this 120-Megawatt system began in March by the Padoma Wind Power LLC of La Jolla, CA.

The total output of these facilities (202 Megawatt) will be purchased by Xcel Energy and included as part of its regular power mix.

# Around the Roundhouse

## Legislation That Caught our Attention

Continued from page 1

for an individual familiar with utility rate structures.

We worked hard with utility company lobbyists to stop this, but AARP promised to bring it back.

**HB 515 Air Quality Permit Standards and Procedures** - This bill allowed the New Mexico Department of Environment or a local agency to deny, condition, modify, suspend or revoke air quality permits under certain circumstances.

We opposed this legislation because the NM DOE currently has the authority to administer air quality permits as needed. This bill was not business friendly and would have deterred operations that would otherwise benefit the state. It also did not provide for uniform administration by the exemptions allowed.

### **HB 1004 Air Quality Control Act Requirements**

- The amended bill would allow mercury emissions from electric generating units to have air quality controls that are more stringent than federal regulations.

NMUSA opposed the bill because adopting these more stringent guidelines would not correct the problem. Mercury is an airborne pollutant and unless neighboring states and Mexico are following the same standards, we will continue to have a problem here.

Furthermore, it is known that New Mexico has a higher concentration of mercury than the Northeastern states that have considerably more coal-burning plants. We do not know the reason and, therefore, cannot correct the problem simply

by increased regulation on two plants within our borders. Finally, the largest coal burning plant in New Mexico sits on an Indian Reservation and the state has no jurisdiction over its emissions.

**SB 627/HB 748 Renewable Energy Transmission and Storage Act** - This bill would have appropriated \$1 million in fiscal year 2006 and \$750 thousand in fiscal years 2007 and 2008 from the general fund to the Renewable Energy Transmission and Storage Authority. The purpose was to promote the development of renewable energy facilities in the state by providing additional transmission facilities to take the power to market both within New Mexico and out of the state.

The bill would have established an authority with specialized expertise in electric transmission infrastructure and storage issues and had the power to issue bonds that would provide financing to construct and operate new transmission lines and electric storage facilities.

NMUSA was the only party to oppose this bill. We opposed it because we did

not feel that it adequately addressed the issues it was designed to handle. While part of the purpose was to sell electricity produced within the state to other states, it had no jurisdiction for transmission lines beyond our borders. In addition, we did not feel that the state was the right entity to finance, build and operate the transmission lines.

**We owe a debt of gratitude to Bruce Barnaby, NMUSA's Treasurer, for pursuing this legislation on our behalf and to Bill Pope, Director, for his work on the CURB bill.**

## Selling and Transporting Renewable Energy to the Final Customer

All electric utilities know the importance of siting their electric generating facilities. They work diligently at getting it right, because they are going to have to live with the decision for a long time. Should the facility be near the source of fuel? Should it be near an existing transmission line? Should it be near the customers? Over the last couple of decades, access to an existing transmission line has dominated. That is because transmission lines ran near a lot of people's "backyards" and they didn't want them there. These people perceived little benefit from the transmission line even though it may carry electricity to their home. Generating facilities on the other hand have the advantage of providing jobs and business for the local community.

Now these realities have come to renewable energy. Having gotten statutory authority requiring electric utilities to include renewable energy in their portfolio, and regulatory rules as to how to do it, the renewable energy generators are faced with how to get the electricity from the generator to the customer. The easy routes are quickly being used up. Transmission lines that run close to good sites for wind energy farms will soon be saturated.

Governor Richardson, who has declared his

intention to make New Mexico a major exporter of renewable energy, has come to realize that generating electricity is one thing, getting it to market is quite another. So the governor organized a task force to study transmission and propose action. A bill creating "The New Mexico Renewable Energy Transmission and Storage Authority" was submitted to the legislature. It had fair hearings, but did not pass.

The bill would put the state directly in the business of financing, building, owning and operating electric transmission. That is a big change in the way this business is usually run. Not all bad, but a big change. It would also put the state in the difficult business of getting right-of-way approval.

The failure of the bill in the 2005 legislature is not going to make the issue go away. It will give all interested parties time to improve the bill and bring it back for another try. It will also give investors a chance to consider opportunities. The state will have to go to the financial markets to get money to build the transmission lines. For investors, this is an opportunity for a long-term investment with regulated returns - - just like investor owned electric utilities. Sound familiar?



Annette Henkel

### AUSA News

The Alliance of Utility Shareholder Associations (AUSA) welcomes a new association to our roles. The Oklahoma Utility Shareholders Association was founded in February 2005 with Michele Wynn as the Executive Director. Oklahoma is the seventh state to form an independent utility shareholder association and we hope to have more in the future. Other existing associations include: Arizona, Minnesota, North Dakota, South Dakota, Wisconsin and, of course, your very own association in New Mexico, NMUSA.

"The mission of the Alliance of Utility Shareholder Associations (AUSA) is to enhance the voice and impact of utility shareholders in the development of federal, regional and state legislative and regulatory policy. This is done by pursuing two key goals: by developing new active state utility shareholder associations and by supporting and enhancing the current state utility shareholder Associations," said Annette Henkel.

Ms. Henkel is the President of the Minnesota Utility Investors as well as the Manager of AUSA.

## 2004 Company Results

Publicly-traded utilities operating in New Mexico reported flat or lower earnings in 2004. **PNM Resources**, the parent company of Public Service Company of New Mexico, reported net income of \$87.7 million, or \$1.43 per diluted share, down from \$95.2 million, or \$1.58 per share, in 2003.

**El Paso Electric** reported 2004 net income of \$35.2 million, or \$0.73 per share, down from \$60.0 million, or \$1.23 per share, in 2003.

**Xcel Energy** reported 2004 earnings of \$401 million, or \$0.97 per diluted share, down from \$622 million, or \$1.50 per share, in 2003.

**Pinnacle West**, the holding company for Arizona Public Service, reported net income of \$243.2 million, or \$2.66 per diluted share, compared to net income of \$240.6 million, or \$2.63 per share, the previous year.

**Unisource Energy**, parent company of Tucson Electric, reported 2004 net earnings of \$45 million, or \$1.30 per share, compared to 2003 earnings of \$114 million, or \$3.37 per share. (Although their retail customers are in Arizona, both Unisource and Pinnacle West own a share in New Mexico power plants.)

Although **PNM** reported no one-time gains or charges last year, the company's 2003 earnings were boosted \$0.28 per share. PNM's ongoing earnings (not including one-time gains or charges) increased 10 percent in 2004 over the previous year. The 10.2 percent growth in revenues underlying the increase in ongoing earnings was primarily driven by a 3.3 percent increase in electric demand and a rate increase on the gas side of the PNM utility business that took effect last April. These factors, together

with lower fuel costs and improved performance of the company's San Juan coal unit, more than offset a \$17 million electric rate reduction ordered in 2003.

**El Paso Electric's** net income in both 2004 and 2003 included one-time gains and charges, primarily related to changes in accounting rules. Ongoing earnings for 2004 (not including those one-time items) totaled \$33.4 million, or \$0.69 per diluted share, compared to ongoing earnings of \$20.3 million, or \$0.42 per share in 2003.

**Xcel's** lower income for 2004 was primarily due to the loss of \$112 million, or \$0.27 per share, in selling its stake in Seren Innovations, a cable-TV and phone service company. Xcel's income from continuing operations totaled \$527 million, or \$1.27 per share, in 2004, just \$1 million more than the \$526 million earned the previous year.

**Publicly-traded utilities operating in New Mexico reported flat or lower earnings in 2004.**

Despite strong growth in its Arizona sales territory, **Pinnacle West's** ongoing earnings for 2004 were \$218.3 million, or \$2.39 per share, unchanged from the previous year. The company

also posted a one-time gain of \$24.9 million, or \$0.23 a share, in selling its share in the Phoenix Suns pro basketball team last year.

**Unisource's** 2004 net income was substantially lower than the previous year because 2003 earnings included a gain of \$67 million, or \$1.99 per share, associated with the adoption of a new financial accounting standard. Excluding that one-time gain, UniSource 2003 earnings were \$46 million, or \$1.38 per share. Results for 2003 also included the recognition of \$15 million in tax benefits related to net operating losses and investment tax credits from prior years.

## Power Plant to be Completed in Deming

**P**NM has joined with Tucson Electric Power (TEP) and Phelps Dodge in the purchase of the 570MW electric generation plant near Deming New Mexico. This plant was started by Duke Energy in 2001 during the boom in natural gas-fired generation for the wholesale market. The boom went bust and Duke halted construction in 2003. The giant construction site lay idle, visible from highway 180 just to the north of Deming - not a pretty picture.

Located near major transmission sites and major consumer markets in Arizona and southwestern New

Mexico the generation plant was very valuable and the price was probably right. Duke Energy evidently changed its opinion about the market (you can read into that decision that Duke was overextended) and wanted out.

Construction has resumed with a couple hundred workers on schedule to complete the plant by summer of 2006. PNM will operate the plant, now called the Luna Energy Facility, for the joint owners and sell electricity on the wholesale market.

## Membership Drive 2005

If you received this newsletter, our database indicates you're a member. But, if you haven't paid dues for 2005, please take a moment, right now, to send us a check or money order for \$10.

The New Mexico Utility Shareholders Alliance (NMUSA) is organized and experienced in not only visiting with the decision-makers at the PRC and legislature, but testifying before them on issues affecting our stock. Dues contributions are used to fund our management, educational and lobbying efforts as well as correspondence like this newsletter and our website.

We hope to hold membership meetings throughout the state with informative keynote speakers. Only paid members will be invited to these luncheon meetings-free of charge!

***Don't miss out on the opportunities - - send your dues in today.***

## Join the Alliance NOW!

Membership continues to grow and strengthen NMUSA. If you aren't a member or haven't joined for 2005, we strongly urge you to do so now. Dues are voluntary but help fund this newsletter, our website ([www.numsa.org](http://www.numsa.org)) and membership meetings. Your contribution also helps us to attend regulatory and legislative meetings to advocate the interests of utility shareholders.

\_\_\_\_\_  
Name

\_\_\_\_\_  
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**I own shares of stock in:** (Stock ownership required)  
(Check all that apply)

- |   |  |
|---|--|
| <input type="checkbox"/> Duke Energy                | <input type="checkbox"/> Uni Source Energy |
| <input type="checkbox"/> El Paso Electric           | (Tucson Electric Power)                    |
| <input type="checkbox"/> PNM                        | <input type="checkbox"/> Xcel Energy       |
| <input type="checkbox"/> Pinnacle West              | (Southwestern Public Service)              |
| (Arizona Public Service)                            | <input type="checkbox"/> Other _____       |
| <input type="checkbox"/> Member of an Electric Coop |  |

Please complete this form and mail with your annual dues of \$10. Please make checks payable to NMUSA.

Mail to: **New Mexico Utility Shareholders Alliance, PO Box 728, Albuquerque, NM 87103**

E-mail: [nmusa@rt66.com](mailto:nmusa@rt66.com)

Your membership contribution or payment of dues is not deductible as a charitable contribution, but may be as a miscellaneous itemized deduction for federal income tax purposes

## From the Executive Director . . .

It was quite an exciting time at the roundhouse. The work was challenging but rewarding. The most significant highlights were the involvement of our members, currently serving on the Board of Directors.

Bruce Barnaby, Treasurer, took on the project of fighting the Renewable Energy Transmission and Storage Act. The Board unanimously backed the position but we relied on Mr. Barnaby to carry it out. He did an exceptional job.

Mr. Pope, NMUSA Director, put in an extremely long day

that started by driving from from Roswell to Santa Fe. He spoke with committee members and testified during the hearing on the Citizen Utility Review Board. As the past Chairman of the Public Regulation Commission, he certainly had the attention of all committee members.

Great appreciation goes to these two gentlemen for their dedication and hard work in furthering our mission: to champion the best interests of the electric and gas utility industries, . . . , in shaping the future of the industry.



Carla J. Sonntag

If you have not renewed your membership, please do that now. There is strength in numbers and we want to count on you. Dues contributions help cover the costs of our operations. Ten dollars per year is a small investment for the work done on your behalf!

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