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Sullivan-Leshin, Isaac, PRC <Isaac.Sullivan-Leshin@state.nm.us>

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21-00177-UT-11.12.2021-Commission-Order Expanding Scope and Changing Inquiry.pdf;

IN THE MATTER OF AN INQUIRY INTO AMENDMENTS TO UPDATE)
NMPRC RULES 17.5.440 NMAC AND 17.9.592 NMAC) Case No. 21-00177-UT
_____)

Please file the attached ORDER EXPANDING SCOPE AND CHANGING INQUIRY into the above captioned case.

Thank you,

Isaac Sullivan-Leshin

Paralegal for Office of General Counsel



New Mexico Public Regulation Commission

PO Box 1269

Santa Fe, New Mexico 87504-1269

isaac.sullivan-leshin@state.nm.us

Phone: (505) 670-4830

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

**IN THE MATTER OF AN INQUIRY INTO AMENDMENTS)
TO UPDATE NMPRC RULES 17.5.440 NMAC AND 17.9.592) Case No. 21-00177-UT
NMAC)**

ORDER EXPANDING SCOPE AND CHANGING INQUIRY

THIS MATTER comes before the New Mexico Public Regulation Commission (the “Commission”) upon its own motion to expand the scope of this inquiry to include promulgation of a comprehensive Grid Modernization Rule, in accordance with the 2019 enactment of the Grid Modernization Act, Section 62-8-13 NMSA 1978 (2019) (“GMA”), as well as amendments to Rule 440 and Rule 592; whereupon, being duly informed,

THE COMMISSION FINDS AND CONCLUDES:

1. On July 15, 2021, this docket was originally opened in order to determine whether and how 17.5.440 NMAC (“Rule 440”)¹ and 17.9.592 NMAC (“Rule 592”)² should be updated in response to the changes in the law changes such as the amendments to the Renewable Energy Act, NMSA Sections 62-16-1 etseq. NMSA 1978 (2019), the Energy Efficiency Act, Sections 62-17-1 etseq. NMSA 1978 (2019), Section 62-9-1 NMSA 1978 (2019) and the addition of the Energy Transition Act, Sections 62-18-1 etseq. NMSA 1978 (2019) which have directed Investor Owned

¹ Rule 440, entitled EXTENSIONS, IMPROVEMENTS, ADDITIONS, AND COOPERATIVE AGREEMENTS BETWEEN OR AMONG UTILITIES, was promulgated over eight years ago on May 15, 2013, and it has not been amended since. Rule 440 sets, in part, thresholds which depend on specific dollar amounts for reporting requirements for electric, gas, water, and sewer utilities. Certain thresholds in Rule 440 as determined in a previous rulemaking. In addition, Rule 440 contains other hardline thresholds for reporting requirements relating to distances and pressures. Rule 440 appears not to serve a purpose other than to be informational and lacks instructions for Commission Staff to follow up. The July 15th Order issued questions aimed at how to update Rule 440’s threshold and the appropriate follow-up by Staff after receiving the utilities’ report.

² Rule 592, entitled: LOCATION OF LARGE CAPACITY PLANTS AND TRANSMISSION LINES, was adopted in 2004 and applies to all persons seeking to construct a large capacity plant, whether or not owned or operated by a person that is a public utility subject to regulation by the commission, or a transmission line in connection with such a plant, on a location within New Mexico, pursuant to NMSA 1978 Sections 8-8-4 and 62-9-3. The stated purpose of Rule 592 is to specify the contents of an application for approval of the location of a large capacity plant or transmission line pursuant to NMSA 1978 Section 62-9-3. One sub-part of Rule 592, entitled “Safe Harbor”, was amended on August 31, 2011. Rule 592 contemplates, in part, applications for location approval of large capacity plants and transmission lines.

Electric Utilities in New Mexico (“IOUs”) to increase the amount of more energy resources in the portfolio of resources used by IOUs to supply electricity to their customers.

2. On or around August 27, 2021, the following Commenters filed Responses to the numerous inquiries. The Responses stimulated the consideration of how Rule 440 and Rule 592 relate to grid modernization projects that the IOUs will be undertaking in accordance with Grid Modernization Act, Section 62-8-13 NMSA 1978 (2019) passed by the New Mexico Legislature in 2019 (“GMA”).

3. Therefore, the Commission now finds that the intent and purposes of the GMA are to be considered as part of this inquiry since the projects and improvements regulated by Rule 440 and Rule 592 are included as part of the mission of the GMA. The GMA allows IOUs or authorizes the Commission to request that the IOUs submit applications to recover costs associated with grid modernization, which is defined as follows in Section 62-8-13 (F), (emphasis added) and includes Rule 440 projects and improvements made by or proposed to be made by IOUs:

As used in this section, “grid modernization” means improvements to electric distribution or transmission infrastructure through investments in assets, technologies or services that are designed to modernize the electrical system by *enhancing electric distribution or transmission grid reliability, resilience, interconnection of distributed energy resources*, distribution system efficiency, grid security against cyber and physical threats, customer service or energy efficiency and conservation and includes:

- (1) advanced metering infrastructure and associated communications networks;
- (2) intelligent grid devices for real time or near-real time system and asset information;
- (3) *automated control systems for electric transmission and distribution circuits and substations;***
- (4) high-speed, low-latency communications networks for grid device data exchange and remote and automated control of devices;
- (5) distribution system hardening projects for circuits and substations designed to reduce service outages or service restoration times, but does not include the conversion of overhead tap lines to underground service;
- (6) physical security measures at critical distribution substations;
- (7) cybersecurity measures;
- (8) systems or technologies that enhance or improve distribution system planning capabilities by the public utility;

- (9) technologies to enable demand response;
- (10) energy storage systems and microgrids that support circuit-level grid stability, power quality, reliability or resiliency or provide temporary backup energy supply;
- (11) infrastructure and equipment necessary to support electric vehicle charging or the electrification of community infrastructure or industrial production, processing, or transportation; and
- (12) new customer information platforms designed to provide improved customer access, greater service options and expanded access to energy usage information.”

4. Further, the GMA authorizes the Commission to approve grid modernization projects that are needed by the utility or upon request of the Commission and states that applications “may include requests for approval of investments or incentives to facilitate grid modernization, rate designs or programs that incorporate the use of technologies, equipment or infrastructure associated with grid modernization and customer education and outreach programs that increase awareness of grid modernization programs and of the benefits of grid modernization.” NMSA 1978, § 62-8-13(A). The statute further provides that in evaluating applications seeking approval of grid modernization projects, the Commission shall consider the reasonableness of the project and whether the requested investments, incentives, programs, and expenditures are:

- a. reasonably expected to improve the public utility’s electrical system efficiency, reliability, resilience and security; maintain reasonable operations, maintenance and ratepayer costs; and meet energy demands through a flexible, diversified and distributed energy portfolio, including energy standards established in Section 62-16-4 NMSA 1978;
- b. designed to support connection of New Mexico’s electrical grid into regional energy markets and increase New Mexico's capability to supply regional energy needs through export of clean and renewable electricity;
- c. reasonably expected to increase access to and use of clean and renewable energy, with consideration given for increasing access to low-income users and users in underserved communities;
- d. designed to contribute to the reduction of air pollution, including greenhouse gases;
- e. reasonably expected to support increased product and program offerings by utilities to their customers; allow for private capital investments and skilled jobs in related services; and provide

customer protection, information or education;

- f. transparent, incorporating public reporting requirements to inform project design and commission policy; and
- g. otherwise consistent with the state's grid modernization planning process and priorities.

5. The Commission finds that it should expand the scope of this inquiry to include promulgation of a comprehensive GMA rule as well as amendments to Rule 440 and Rule 592. The expanded scope of inquiry will enable the Commission to address interrelated issues between Rule 440 improvements as they relate to modernization of the electrical grid and Rule 592 transmission location siting and approvals as they relate to grid modernization as well as the issue of how the Commission should best regulate grid modernization in accordance with the GMA.

6. The Commission finds that the caption of this docket to accurately express the expanded scope of this inquiry.

IT IS THEREFORE ORDERED:

A. The scope of this docket shall be expanded to include promulgation of a comprehensive GMA rule as well as amendments to Rule 440 and Rule 592.

B. The caption of this docket shall, going forward, hereby be entitled:

**IN THE MATTER OF AN INQUIRY INTO A RULEMAKING)
TO IMPLEMENT THE GRID MODERNIZATION ACT,)
SECTION 62-8-13 NMSA 1978 (2019) AND AMENDMENTS) Case No. 21-00177-UT
TO UPDATE NMPRC RULES 17.5.440 NMAC AND 17.9.592)
NMAC**

C. No later than December 15, 2021, the persons listed on the Certificate of Service may, and Utility Division Staff shall, file in this docket written Responses to the following questions:

1. What are the pros and cons of combining grid modernization, distribution planning, and Rule 440 notifications into a single rulemaking?
2. How much overlap is there between distribution upgrades performed during normal grid maintenance and grid modernization projects and programs? Please provide examples in your answer.
3. What are the pros and cons of including grid upgrades during normal maintenance in grid modernization projects and programs, such as replacing transmission lines with higher-efficiency lines with new core technology, which replacement is considered “maintenance?”
4. If a utility does include grid upgrades during normal maintenance, should the utility’s cost recovery for these maintenance/upgrade projects be accomplished through grid modernization cost recovery applications pursuant to Section 62-8-13 NMSA 1978?
5. How should normal grid maintenance not related to grid modernization be budgeted and reported to the Commission in a proposed grid modernization/ distribution planning/ 440 rule?
6. If the answer to #4 is yes, should appropriate maintenance/upgrade projects be budgeted and tracked through a separate grid modernization section of a distribution/transmission planning rule?
7. Should utilities provide a grid modernization plan prior to submitting individual grid modernization projects and programs for approval? Why or why not?
8. Should grid modernization be a section of a larger distribution/ transmission plan?

9. If yes to #7, should the distribution/ transmission plan be incorporated into the IRP?
Explain why or why not and how.
10. If a utility's distribution/transmission plan is not incorporated into the IRP, then where and when should a utility file such a plan with the Commission?
11. How should potential EE, load management, and distributed generation plans be incorporated into a grid modernization/distribution transmission rule?
12. How should distributed energy storage projects be incorporated into a grid modernization/ distribution planning/440 rule?
13. How should the Commission encourage utilities to combine several grid modernization technologies/resources into related and more comprehensive projects to take advantage of economies of scope and scale?
14. How should the utilities and Commission identify locations or communities that would most benefit from grid modernization investments to meet expected load growth, customer demand for distributed resources or services and to address economic disruptions from evolving energy resource portfolios?
15. How should the utilities and Commission prioritize locations or communities that would most benefit from grid modernization investments to meet expected load growth, customer demand for distributed resources or services and to address economic disruptions from evolving energy resource portfolios?
16. What is the importance of Grid Modernization Grant program, in the context of the entire grid modernization effort and describe how it could benefit utilities and their customers?

17. Should the Grid Modernization Grant Fund be funded by a recurring appropriation from the New Mexico Legislature to leverage other state or federal funding sources to appropriately fund the Grid Modernization Grant Program, and if so, at what level?

D. Copies of this Order shall be e-mailed to all persons on the attached Certificate of Service if their e-mail addresses are known, and otherwise shall be sent via regular mail.

E. This Order is effective immediately.

ISSUED under the Seal of the Commission at Santa Fe, New Mexico, this 10th day of November, 2021.

NEW MEXICO PUBLIC REGULATION COMMISSION

/s/ Cynthia B. Hall, electronically signed

CYNTHIA B. HALL, COMMISSIONER DISTRICT 1

/s/ Jefferson L. Byrd, electronically signed

JEFFERSON L. BYRD, COMMISSIONER DISTRICT 2

/s/ Joseph M. Maestas, electronically signed

JOSEPH M. MAESTAS, COMMISSIONER DISTRICT 3

/s/ Theresa Becenti-Aguilar, electronically signed

THERESA BECENTI-AGUILAR, COMMISSIONER DISTRICT 4

/s/ Stephen Fischmann, electronically signed

STEPHEN FISCHMANN, COMMISSIONER DISTRICT 5



BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

**IN THE MATTER OF AN INQUIRY INTO AMENDMENTS)
TO UPDATE NMPRC RULES 17.5.440 NMAC AND 17.9.592) Case No. 21-00177-UT
NMAC)**

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing **Order Expanding Scope and Changing Inquiry** was sent via email to the following parties on the date indicated below:

A. Minard	aminard@nmag.gov;
Adam Alvarez	Adam.Alvarez@pnm.com;
Alejandra Chavira	Alejandra.Chavira@epelectric.com;
Alena Brandenberger	alena.brandenberger@cnmec.org;
Alicia Armijo	Aarmijo@nmag.gov;
Allen Davis	ardavis@co.eddy.nm.us;
Amabda Lucero	amandal4@plateautel.net;
Amanda Alderson	aalderson@consultbai.com;
Amanda Edwards	AE@JalbLaw.com;
Amber Hamilton	ahamilton@rooseveltcountry.com;
Amy Shelhamer	ashelhamer@courtnelawfirm.com;
Anastasia S. Stevens	astevens.law@gmail.com;
Andrew Nuñez	annunez@zianet.com;
Anne Dorough	district5@socorroelectric.com;
Anthony Dimas - Jr.	adimas@co.mckinley.nm.us;
Antonio Sanchez	sancheza@rcec.coop;
April Elliott	april.elliott@westernresources.org;
AV Water Co., LLC	RLewis@foundation.consulting;
Barela Janice	jbarela@tcnm.us;
Barry Green	bwgreen@hotmail.com;
Benny Jasso	bjasso@cityofdeming.org;
Bernarr Treat	Bernarr.R.Treat@xcelenergy.com
Bill Green	b.green@catroncountynm.gov;
Bill Williams	bill.williams@chavescounty.gov;
Billie Jo Barnes	villageofsanjon@plateautel.net;
Billy Elbrock	billye@villageofchama.org;
Billy Hobbs	bhobbs@cityofeunice.org;
Bobby Ferris	bferris@lcecnet.com;
Boe Lopez	diamondarrowranch@yahoo.com;
Boles Water System	boles.wanda30@yahoo.com;
Boyd Herrington	oakvillage@plateautel.net;
Brad Baldrige	brad.baldrige@xcelenergy.com;

Bradford Borman
Brandy Thompson
Brent Jaramillo
Brian Buffington
Bruce Swingle
Bryan Olguin
Caprock Water Company
Carey Salaz
Carla Najar
Carlos Lucero
Carmen Campbell
Carol Clifford
Casey Settles
Castille Aguilar
CBG Maintenance
CBG Maintenance
CDS Rainmakers Utilities
Cecil Phelps
Central Valley Electric
Charlene Webb
Charles Garcia
Charles Griego
Charles Mulcock
Charles T. Pinson
Cheryl Garcia
Cholla Khoury
Chon Fierro
Chris Brice
Chris Martinez
Chris Moehring
Christof Brownell
Christopher Dunn
Christopher M Hall
Chuck Moore
Colin Chandler
Columbus Electric
Continental Divide Electric
Corina Sandoval
Curtis Hutcheson
Cynthia Apodaca
Cynthia Atencio
Dale Janway
Damon Withrow
Dana S. Hardy
Daniel Bailet
Daniel Bailet

Bradford.Borman@state.nm.us;
treasurer@unionnm.us;
brent.jaramillo@taoscounty.org;
brian.buffington@pnm.com;
bswingle@sierraco.org;
brolguin0426@aol.com;
renemolina@pvtnetworks.net;
Carey.Salaz@pnm.com;
csnajar@virtuelaw.com;
carlos.lucero@pnm.com;
ccampbell@jemezcoop.org;
carol@thejonesfirm.com;
casey.settles@xcelenergy.com;
castille@earthcarenm.org;
alexanderwright@gmail.com;
delaraestates@yahoo.com;
wlaymon@rainmakersusa.com
cecilphelps@gmail.com;
ajolsen@h2olawyers.com;
cwebb@grantcountynm.com;
cgarcia@cuddymccarthy.com;
griegoc@loslunasnm.gov;
charliem@ote-coop.com;
cpinson@cvecoop.org;
cheryl.garcia@unionnm.us;
ckhoury@nmag.gov;
deputyclerk@cityofbayardnm.com;
chris_brice@lunacountynm.us;
chrism@col.coop.com;
dmoinesvillage@bacavalley.com;
christofbrownell@gmail.com;
Christopher.Dunn@state.nm.us;
hallch@law.unm.edu;
cmoore@navopache.org;
floyd-village@yucca.net;
general@col-coop.com;
bob@rf-lawfirm.com;
csandoval@cdec.coop;
Curtis.hutcheson@epelectric.com;
capodaca@newmexicowater.com;
catencio@bloomfieldnm.com;
mayor.office@cityofcarlsbadnm.com;
damon.withrow@xcelenergy.com;
dhardy@hinklelawfirm.com;
dbailet@epcor.com;
RateCaseQuestions@epcor.com;

Daniel Barrone
Daniel Najjar
Daniel Najjar
Danny Monette
Danyel Mayer
David Babb
David Black
David Link
David Spradlin
David Trujillo
David Venable
Dean Holman
Deana M. Bennett
Deb Stubblefield
Denise Barrera
Dennis Kintigh
Desertaire Water Company
Dhiraj Solomon
Diana Justice
Donald Lopez
Duncan Valley Electric
Durward Dixon
Echo Valley Water Company
Ed Rougemont
Ed Stevens
Edna Trager
Elisha Leyba-Tercero
Elizabeth Ramirez
Epcor Water New Mexico
EPCORE Water
Eric Griego
Ernest Sanchez
Ernesto Gonzales
Esequiel Salas
Eva Marie DeAguero
Farmers' Electric Cooperative, Inc.
Felix Gonzales
Fernando Macias
Fred Kennon
Gabriella Dasheno
Gary Roulet
Gideon Elliot
Gilbert Fuentes
Glory Juarez
Greggory Hull
Harry Burgess

dbarrone@taosgov.com;
dnajjar@virtuelaw.com;
vnajjar@aol.com;
danny.monette@co.valencia.nm.us;
dmayer@cabq.gov;
ba2b@plateautel.net;
David.Black@state.nm.us;
david@rngcompany.com;
spradlin@springercoop.com;
pridavsafety@gmail.com;
davejan@zianet.com;
dholman@ruidosodowns.us;
dmb@modrall.com;
mayor@villageofwilliamsburg.com;
deniseb@secpower.com;
roswellmayor@roswell-nm.gov;
salem_sgr@yahoo.com;
Dhiraj.solomon@state.nm.us;
djustice@sandiapeak.com;
mayordonaldtlopez@losranchosnm.gov;
kimberly@dvec.org;
elidamayor@yucca.net;
echoandmelody@gmail.com;
erougemont@nmelectric.coop;
suntreat@gilanet.com;
citymayor@cityofeb.com;
Elisha.Leyba-Tercero@state.nm.us;
Elizabeth.Ramirez@state.nm.us;
sskaggs@epcor.com;
mywater@epcor.com;
ericgriegoabq@gmail.com;
sanchezv1953@gmail.com;
egonzales@jemezcoop.org;
mayor@vtc.net;
edeaguero@jemezcoop.org;
fec@fecnm.org;
villageofmilan@villageofmilan.com;
fernandom@donaanacounty.org;
fredk@donaanacounty.org;
Gabriella.Dasheno@state.nm.us;
g_roulet@wfec.com;
gelliot@nmag.gov;
GilbertT.Fuentes@state.nm.us;
glory@cabq.gov;
ghull@rrnm.gov;
harry.burgess@lacnm.us;

Hilda Kellar
Homestead Water Company
Ira Pearson
Jack Sidler
Jack Torres
Jake Bruton
James Schichtl
Jane L. Yee
Jason Gellman
Jason Montoya
Javier Perea
Javier Sanchez
Jeffrey H. Albright
Jemez Mountain Electric
Jennifer Baca
Jennifer Ortiz
Jennifer Vega-Brown
Jerah Cordova
Jeremy Lewis
Jerry Bradley
Jo Anne Roake
Jo Mixon
Joan Brown
Joan Drake
Joe Ansley
Joe Garibay
John Abrams
John Badal
John Bogatko
John Chavez
John Reynolds
Jonas Armstrong
Jorge A. Garcia
Jose F. Provencio
Jose Lovato
Joseph Herrera
Joshua L. Smith
Judith Amer
Judy Jacobs
Julianna Hopper
Julie Morgas Baca
Kari E. Olson
Kate Fletcher
Katherine Coleman
Keith W. Herrmann
Kelly Gould

agiron@villageofreserve.org;
dkw@wallinlawnm.com;
ipearson@lincolncountynm.gov;
Jack.Sidler@state.nm.us;
mayor@townofbernalillo.org;
jbruton@villageoftijeras.com;
James.Schichtl@epelectric.com;
jyee@cabq.gov;
JGellman@epcor.com;
JasonN.Montoya@state.nm.us;
javier.perea@sunlandpark-nm.gov;
javiersanchez@espanolanm.gov;
JA@JalbLaw.com;
ajchavez@jemezcoop.org;
jennifer.baca@plateautel.net;
Jennifer.Ortiz@epelectric.com;
Jvega-brown@las-cruces.org;
jerah.cordova@belen-nm.gov;
jlewis@slo.state.nm.us;
cityclerk@yucca.net;
corralesmayor@corrales-nm.org;
jmixon@angelfirenm.gov;
joankansas@swcp.com;
jdrake@modrall.com;
jansley@countyofmora.com;
joe.garibay@epelectric.com;
jeabrams@edgewood-NM.gov;
jbadal@sacredwindnm.com;
John.bogatko@state.nm.us;
JTChavez@sandiapeak.com;
john.reynolds@state.nm.us;
Jonas.Armstrong@state.nm.us;
JAG@las-cruces.org;
Joprovencio@las-cruces.org;
jlovato@kitcarson.com;
jherrera@socorroelectric.com;
Jsmith.watsonlawlc@gmail.com;
Judith.Amer@state.nm.us;
grenvilleems@bacavalley.com;
jth@keleher-law.com;
jmorgasbaca@bernco.gov;
kolson@montand.com;
kate.fletcher@co.cibola.nm.us;
katie.coleman@tklaw.com;
kherrmann@stelznerlaw.com;
kelly@thegouldlawfirm.com;

Kelsey Rader
Ken Ladner
Ken Miyagishima
Keven Groenewold
Kris King
Lake Section Water Company
Lance Adkins
Lance Pyle
Laudente Quintana
Laura Rodriguez
LaVanda Jones
Lea County Electric
Leo Martinez
Les Montoya
Linda Barker
Linda Calhoun
Linda Cooke
Linda Hudgins
Linda pleasant
Louie Gallegos
Louis Bonaguibi
Luis Reyes
Lynn Crawford
M. Poche
Marcia B. Driggers
Margaret Trujillo
Mariel Nanasi
Marilyn Burns
Mario A. Contreras
Mario Romero
Mark Duncan
Mark Fenton
Mark Gallegos
Mark Tupler
Mark Walker
Martin Hicks
Mary Lou Kern
Matthew Baca
Matthew Collins
Matthew Jaramillo
Matthew Loftus
Mayor Trujillo
Melissa Trevino
Merrie Lee Soules
Michael Gallagher - II
Michael Hawkes

Krader@cabq.gov;
kenladner@hotmail.com;
mayor@las-cruces.org;
kgroenewold@nmelectric.coop;
elrey.311@gmail.com;
bobbie10@earthlink.net;
lance@fecnm.org;
lpyle@currycounty.org;
clerkwagonmound@gmail.com;
laura.rodriguez@epelectric.com;
LaVanda.Jones@nmgco.com;
mnewell@newellawnm.com;
mayor@villageofcimarron.net;
lmontoya@morasanmiguel.coop;
linda.barker@epelectric.com;
mayor@redriver.org;
linda.cooke@catroncountynm.gov;
linda.l.hudgins@xcelenergy.com;
Linda.pleasant@epelectric.com;
fscityhalljw@plateautel.net;
mayor@gallupnm.gov;
lreyes@kitcarson.com;
LynnCrawford@Ruidoso-nm.gov;
mpoche@kitcarson.com;
marcyd@las-cruces.org;
rebekah@tularosa.net;
Mariel@seedsbeneaththesnow.com;
tatummayor@leaco.net;
Mario.a.contreras@xcelenergy.com;
marior@ote-coop.com;
mduncan@kirtlandnm.org;
Mark.Fenton@pnm.com;
mgallegos@villageofquesta.org;
Marc.Tupler@state.nm.us;
Mark.a.walker@xcelenergy.com;
clerk@grantsnm.gov;
mlkern@co.colfax.nm.us;
royfootball@hotmail.com;
matthew.collins@cnmec.org;
Matthew.Jaramillo@pnmresources.com;
matthew.p.loftus@xcelenergy.com;
mayortrujillo@cityofanthonym.org;
Melissa_Trevino@oxy.com;
mlsoules@hotmail.com;
mgallagher@leacounty.net;
mhawkes@co.socorro.nm.us;

Michael I. Garcia
Michael J. Moffett
Michael P. Gorman
Mickey Burkett
Mike Morris
Mike D'Antonio
Mike McInnes
Mike Stark
Milo Chavez
Mitch Daubert
Monterey Water Company
Moongate Water Company
Mora-San Miguel Electric
Nadine Varela
Nancy Burns
Nann M. Winter
Nate Duckett
Nathan Dial
Nathan Duran
Navopache Electric
Neil Segotta
Nelson Goodin
Nelson Harrison Kotiar
New Mexico Waterworks
Nicholas Koluncich
Nicole Lawson
NMGC-Brian Haverly
NMGC-Nicole Strauser
NMGC-Rebecca Carter
NMGC-Thomas Domme
Nora Barraza
Northern Rio Arriba Electric
Ona Porter
Otero County Electric
Pamela Heltner
Pat O'Connell
Patricia Griego
Paul Gibson
Peggy Gutjahr
Peggy Martinez-Rael
Perry Robinson
Pete Estrada
Peter Auh
Peter Gould
Peter Nieto
Phillip Oldham
MikGarcia@bernco.gov;
mmoffett@cmtisantafe.com;
mgorman@consultbai.com;
dora_fd@yucca.net;
mmorris@cityofclovis.org;
michael.a.d'antonio@xcelenergy.com;
mmcinnest@tristategt.org;
mstark@sjcounty.net;
milo.chavez@state.nm.us;
townofdexter@dfn.com;
montereywaterinc@gmail.com;
jeff@moongatewater.com;
lwiggin@wwwlaw.us;
nvarela@kitcarson.com;
Nancy.burns@epelectric.com;
nwinter@stelznerlaw.com;
nduckett@fmtn.org;
ndial@townofestancia.com;
nduran@jemezcoop.org;
ggouker@navopache.org;
nsegotta@cityofraton.com;
nelson@doaanacounty.org;
nkotiar@srm.org;
jsquivel@gmail.com;
nkoluncich@slo.state.nm.us;
cvfd@vtc.net;
bjh@keleher-law.com;
Nicole.strauser@nmgco.com;
Rebecca.carter@nmgco.com;
thomas.domme@nmgco.com;
mayor@mesillanm.gov;
nora@noraelectric.org;
ona@prosperityworks.net;
s.t.overstreet.law@gmail.com;
pheltner@co.otero.nm.us;
pat.oconnell@westernresources.org;
Patricia.griego@epelectric.com;
paul@retakeourdemocracy.org;
pgutjahr@riocommunities.net;
Peggy.Martinez-Rael@state.nm.us;
Perry.Robinson@urenco.com;
pestrada@villageofloving.org;
Pauh@abcwua.org;
PGOULDRAW@GMAIL.COM;
mayor@mountainairnm.gov;
phillip.oldham@tklaw.com;

Ralph Phelps
Randy Adair
Randy Massey
Ravi Bhasker
Ray Dean
Raye Miller
Rhonda Heyns
Ricardo Gonzales
Richard Bauch
Richard Boss
Richard Cordova
Richard Primrose
Richard Rumpf
Richard Velarde
Robert Armijo
Robert Barrera
Robert Castillo
Robert Chavez
Robert Lundin
Robert Thompson
Roger Sweet
Roman Garcia
Ron Lowrance
Ronald Jackson
Roosevelt County Electric
Rose Fernandez
Rulene Jensen
Russell Fisk
Ruth Ann Litchfield
Ruth Sakya
Ryan Anderson
Ryan Jerman
Saif Isamil
Sam Cobb
Samuel Seely
Sandra Whitehead
Saul J. Ramos
Sayuri Yamada
Selma Gutierrez
Shantelle Gallegos
Sharon Argenbright
Sherman Martin
Sierra Electric
Socorro Electric
Sonya Mares
South Hills Water Company
gloriabailey1953@yahoo.com;
radair@sandiapeak.com;
masseyfarm@vtc.net;
rbhasker@socorronm.gov;
zozocityhall@tularosa.net;
lwaller@artesianm.gov;
roma1358@hotmail.com;
rico.gonzales@epelectric.com;
mayor@villageofsantaclara.com;
rboss@ci.alamogordo.nm.us;
eaglenestmayor@eaglenest.org;
richard.primrose@quaycounty-nm.gov;
mayor@villageofmagdalena.com;
mayorvelarde@gmail.com;
robertar@donaanacounty.org;
mayor@cityoflordsburg.org;
rcastillo@cdec.coop;
villageofwillard@qwestoffice.net;
rlundin@nmag.gov;
robertt@donaanacounty.org;
mayor@jemezsprings-nm.gov;
romangarcia@plateautel.net;
rlowrance@villageofcapitan.org;
rjackson@portalesnm.gov;
rcec@rcec.coop;
rfernandez@guadco.us;
villageofviriden@gmail.com;
Russell.fisk@state.nm.us;
ruthann1451@plateautel.net;
Ruth.sakya@xcelenergy.com;
Ryan.Anderson@pnm.com;
Ryan.Jerman@pnmresources.com;
sismail@cabq.gov;
scobb@hobbsnm.org;
mayor@villageofcorona.com;
sandra.whitehead@torcnm.org;
sramos@doeal.gov;
sayuri.yamada@pnmresources.com;
selma@earthcarenm.org;
villageomaxwell@bacavalley.com;
sharonargenbright@msn.com;
voh@plateautel.net;
sierra@secpower.com;
service@socorroelectric.com;
smares@hinklelawfirm.com;
jorie.shwc@yahoo.com;

Southwestern Electric
Springer Electric
Stacey Goodwin
Stephen Aldridge
Steve Lucero
Steven Cordova
Steven Lunt
Sunlit Hills of Santa Fe
Susan Brymer
Tania LeValdo
Ted Hart
Telesfor Benavidez
Terry McNabb
Timberon Water and Sanitation District
Timothy Keller
Timothy Martinez
Tisha Green
TKLaw office
Tom Figart
Tomas Campos
Tony A. Gurule
Tony Garcia
Travis Sullivan
Tri-State Generation and Transmission
Victor Snover
Victor Vigil
Vidal Martinez
Vincent Martinez
Wade Nelson
Wayne Ake
Wayne Johnson
Wayne Johnson
Wayne Soza
Wesley Shafer
Will DuBois
William A. Grant
William Templeman
WRA - Steve Michel
Ysidro Salazar
ZNG-Anne G. Wheatcroft
ZNG-Greg Macias
ZNG-Janeen Capshaw
ZNG-K. Marit Coburn
ZNG-Leslie A. Graham
ZNG-Tomas J. Sullivan
Zoe E. Lees

gary@alsuplawoffice.com;
dsmith9346@zialink.com;
Stacey.goodwin@pnmresources.com;
mayor@cityofjal.us;
sanysidroclerk@valornet.com;
steven.cordova@nmgco.com;
stevel@dvec.org;
sunlithills@gmail.com;
Susan.L.Brymer@xcelenergy.com;
levaldot@gmail.com;
mayorhart@moriartynm.org;
mayort@villageofpecos.com;
folsomagenda@bacavalley.com;
gm@timberonwater.com;
mayorkeller@cabq.gov;
Timothy.Martinez@state.nm.us;
tisha.green@hidalgocounty.org;
tk.eservice@tklaw.com;
tomf@donaanacounty.org;
TCampos@rio-arriba.org;
Tgurule@cabq.gov;
tonygarcia2217@gmail.com;
tsullivan@swec-coop.org;
kreif@tristategt.org;
vsnover@aztecnm.gov;
mosquero1@plateautel.net;
vmartinez@co.sanmiguel.nm.us;
vmartinez@tristategt.org;
WNelson@cvecoop.org;
clerkadmin@bosquefarmsonm.gov;
wjohnson@sandovalcountynm.gov;
wjohnson@tcnm.us;
wayne.soza@epelectric.com;
vlgofgrady@plateautel.net;
Will.w.dubois@xcelenergy.com;
william.a.grant@xcelenergy.com;
wtempleman@cmtisantafe.com;
smichel@westernresources.org;
townhall@lakearthurnm.org;
agabel@naturalgaspro.com;
MaciasGE@bv.com;
jcapshaw@naturalgaspro.com;
mcoburn@zngc.com;
lgraham@zngc.com;
tsullivan@nucllc.com;
zoe.e.lees@xcelenergy.com;

Robert Lundin
Joan Ellis
Alan Leaphart
Kevin Powers
Philo Shelton
Richard Virtue
Tim Zamora

robert.lundin@state.nm.us;
joan.ellis@state.nm.us;
alvin.leaphart@lacnm.us;
kevin.powers@lacnm.us;
philo.shelton@lacnm.us;
rvirtue@virtuelaw.com;
tzamora@grantcountynm.gov;

DATED this 12th day of November, 2021.

NEW MEXICO PUBLIC REGULATION COMMISSION

/s/ Isaac Sullivan-Leshin, electronically signed

Isaac Sullivan-Leshin, Paralegal

Isaac.sullivan-leshin@state.nm.us