

SENATE FLOOR SUBSTITUTE FOR
SENATE BILL 49

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

AN ACT

RELATING TO THE PUBLIC REGULATION COMMISSION; AMENDING SECTIONS
OF THE PUBLIC REGULATION COMMISSION ACT TO PROVIDE FOR PUBLIC
ACCESS TO INFORMATION REGARDING PUBLIC REGULATION COMMISSION
CASES AND RULEMAKING.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 8-8-4 NMSA 1978 (being Laws 1998,
Chapter 108, Section 4) is amended to read:

"8-8-4. COMMISSION--GENERAL POWERS AND DUTIES.--

A. The commission shall administer and enforce the
laws with which it is charged and has every power conferred by
law.

B. The commission may:

(1) subject to legislative appropriation,
appoint and employ such professional, technical and clerical

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1 assistance as it deems necessary to assist it in performing its
2 powers and duties;

3 (2) delegate authority to subordinates as it
4 deems necessary and appropriate, clearly delineating such
5 delegated authority and any limitations;

6 (3) retain competent attorneys to handle the
7 legal matters of the commission and give advice and counsel in
8 regard to any matter connected with the duties of the
9 commission and, in the discretion of the commission, to
10 represent the commission in any legal proceeding;

11 (4) organize into organizational units as
12 necessary to enable it to function most efficiently, subject to
13 provisions of law requiring or establishing specific
14 organizational units;

15 (5) take administrative action by issuing
16 orders not inconsistent with law to assure implementation of
17 and compliance with the provisions of law for which the
18 commission is responsible and to enforce those orders by
19 appropriate administrative action and court proceedings;

20 (6) conduct research and studies to improve
21 the commission's operations or the provision of services to the
22 citizens of New Mexico;

23 (7) conduct investigations as necessary to
24 carry out the commission's responsibilities;

25 (8) apply for and accept grants and donations

1 in the name of the state to carry out its powers and duties;

2 (9) enter into contracts to carry out its
3 powers and duties;

4 (10) adopt such reasonable administrative,
5 regulatory and procedural rules as may be necessary or
6 appropriate to carry out its powers and duties;

7 (11) cooperate with tribal and pueblo
8 governments on topics over which the commission and the other
9 governments have jurisdiction and conduct joint investigations,
10 hold joint hearings and issue joint or concurrent orders as
11 appropriate; and

12 (12) apply to the district court for
13 injunctions to prevent violations of any laws that it
14 administers or rules or orders adopted pursuant to those laws.

15 C. The commission shall:

16 (1) prepare an annual budget for submission to
17 the legislature;

18 (2) provide for surety bond coverage for all
19 employees of the commission as provided in the Surety Bond Act
20 and pay the costs of such bonds;

21 (3) adopt rules to streamline the resolution
22 of cases before it when appropriate by:

23 (a) the use of hearing examiners;

24 (b) the taking of evidence with the
25 least delay practicable;

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1 (c) limiting repetitious testimony; and
2 (d) adopting procedures for resolving
3 cases in ways other than by trial-type hearings when
4 appropriate, including consent calendars, conferences,
5 settlements, mediation, arbitration and other alternative
6 dispute resolution methods and the use of staff decisions;
7 [~~and~~]

8 (4) provide a toll-free telephone number and
9 publish it and the commission's general telephone number in
10 local telephone directories; and

11 (5) adopt procedures to post information about
12 cases before the commission on the sunshine portal of the
13 department of information technology pursuant to rules of the
14 Sunshine Portal Transparency Act or a link to the sunshine
15 portal.

16 D. A majority of the commission constitutes a
17 quorum for the transaction of business; provided, however, that
18 a majority vote of the commission is needed for a final
19 decision of the commission."

20 SECTION 2. Section 8-8-15 NMSA 1978 (being Laws 1998,
21 Chapter 108, Section 15, as amended) is amended to read:

22 "8-8-15. COMMISSION RULES--PROCEDURES FOR ADOPTION.--

23 A. Unless otherwise provided by law, no rule
24 affecting a person outside the commission shall be adopted,
25 amended or repealed except after public notice and public

1 hearing before the commission or a hearing examiner designated
2 by the commission.

3 B. Notice of the subject matter of the rule, the
4 action proposed to be taken, the manner in which interested
5 persons may present their views and the method by which copies
6 of the proposed rule, amendment or repealing provisions may be
7 obtained shall be published at least once at least thirty days
8 prior to the hearing date in the New Mexico register and two
9 newspapers of general circulation in the state and mailed at
10 least thirty days prior to the hearing date to all persons who
11 have made a written request for advance notice. For each rule,
12 amendment or repealing provision that affects only one or a
13 limited number of municipalities, towns, villages or counties,
14 notice shall be published in the largest circulation newspaper
15 published and distributed locally in those areas as well as in
16 a newspaper of general circulation in the state. Additional
17 notice ~~[may]~~ shall be ~~[made by posting]~~ posted through a link
18 to the sunshine portal of the department of information
19 technology and also may be posted on the internet or by using
20 other alternative methods of informing interested persons.

21 C. The commission shall provide for executive
22 summaries of all utility rate, efficiency plan, renewable plan,
23 certificate of convenience and integrated resource plan filings
24 to be posted on a link to the sunshine portal. The summaries
25 shall be prepared as part of the initial utility filings and

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1 shall include information prescribed by the commission,
2 including impacts on rates. The commission shall consult with
3 interested parties and consumer groups to identify the summary
4 information that will be the most valuable. Comparative costs
5 of alternative options and benefits realized should be reported
6 only after the commission renders a final decision in the case.
7 The commission shall adopt procedures to implement the
8 provisions of this subsection by September 1, 2011.

9 ~~[G.]~~ D. If the commission finds that immediate
10 adoption, amendment or suspension of a rule is necessary for
11 the preservation of the public peace, health, safety or general
12 welfare, the commission may dispense with notice and public
13 hearing and adopt, amend or suspend the rule as an emergency.
14 The commission's finding of why an emergency exists shall be
15 incorporated in the emergency rule, amendment or suspension
16 filed with the state records center. Upon adoption of an
17 emergency rule that is intended to remain in effect for longer
18 than sixty days, notice shall be given within seven days of
19 filing the rule as required in this section for proposed rules.

20 ~~[D.]~~ E. The commission shall issue a rule within
21 eighteen months following the publication of that proposed rule
22 or it shall be deemed to be withdrawn. The commission may
23 propose the same or revised rule in a subsequent rulemaking.

24 ~~[E.]~~ F. All rules shall be filed in accordance with
25 the State Rules Act. Emergency rules shall be effective on the

1 date the rules are filed with the state records center. All
2 other rules shall be effective fifteen days after filing,
3 unless a later date is provided by the rule."

4 SECTION 3. Section 62-6-18 NMSA 1978 (being Laws 1941,
5 Chapter 84, Section 30) is amended to read:

6 "62-6-18. UTILITIES REQUIRED TO REPORT TO COMMISSION.--
7 Every utility, when and as required by the commission, shall
8 file with the commission [~~such~~] an annual report and such other
9 information as the commission may reasonably require. The
10 commission shall prepare and distribute to every utility blank
11 forms for the annual reports required under this section, and
12 the commission shall post the annual reports on a link to the
13 sunshine portal of the department of information technology."

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