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SENATE BILL 49

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

INTRODUCED BY

Stephen H. Fischmann

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

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

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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 on the internet  
18 or by using other alternative methods of informing interested  
19 persons and on the sunshine portal of the department of  
20 information technology pursuant to rules of the Sunshine Portal  
21 Transparency Act or on a link to the sunshine portal.

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

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1 sunshine portal. The summaries shall be prepared as part of  
2 filings and shall include information prescribed by the  
3 commission pursuant to rule, including impacts on rates  
4 compared to alternative options as well as a summary listing of  
5 actions implemented and total costs and benefits realized as a  
6 result of the filing. The commission shall consult with  
7 utility docket intervenors and consumers to identify the  
8 summary information that will be the most valuable. The  
9 commission shall adopt rules to implement the provisions of  
10 this subsection by September 1, 2011.

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

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

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