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January 12, 2026

TO PARTIES OF RECORD IN CASE NO. 18-00383-UT

This is the Certification of Stipulation of hearing examiners Christopher Ryan and Jocelyn Barrett. Unless and until the Commission considers the matter and votes to approve it, the Certification of Stipulation has no legal effect. This matter will be considered at a future Open Meeting of the Commission. To confirm when the matter will be considered, please see the Commission's Open Meeting agenda, which is posted on the Commission's website at least 72 hours before each Open Meeting at: <https://www.nm-prc.org/nmprc-open-meeting-agenda/>.

The Commission may hold a deliberative meeting to address this matter in closed session in advance of the Open Meeting at which the matter will be considered, in accord with Section 10-15-1(H)(3) of the Open Meetings Act. NMSA 1978, § 10-15-1(H)(3) (2013). In such event, notice of the deliberative meeting will be posted on the Commission's website 72 hours in advance of the deliberative meeting at the https address set forth above.

A handwritten signature in black ink, appearing to read 'J Barrett', with a long horizontal line extending to the right.

Jocelyn Barrett
Chief Hearing Examiner

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

**IN THE MATTER OF THE FILING OF ADVICE NOTICE)
NO. 69 BY SOCORRO ELECTRIC COOPERATIVE, INC.)
SOCORRO ELECTRIC COOPERATIVE, INC.,)
APPLICANT.)**

Case No. 18-00383-UT

CERTIFICATION OF STIPULATION

Christopher P. Ryan & Jocelyn Barrett
Hearing Examiners

January 12, 2026

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ABBREVIATIONS

THE CITY.....	City of Socorro
COOP.....	electric cooperative
IOU.....	investor owned utility
OTIER.....	operating times interest earned ratio
SEC.....	Socorro Electric Cooperative
TECH.....	New Mexico Institute of Mining and Technology

I. EXECUTIVE SUMMARY

(1) The Commission is asked to approve an uncontested stipulation¹ resolving issues stemming from a series of events that began in 2018. The stipulation should be approved, as it is the appropriate action to bring these lengthy proceedings to an end. But this in no way limits the Commission from extracting and internalizing valuable lessons from these events as the Commission thinks about its forward-moving relationship with Socorro Electric Coop (“SEC”) and New Mexico coops more generally.

(2) All intervenors and Staff support the stipulation.² The City of Socorro pithily summarizes why it is beneficial: it is a “pragmatic resolution” to this dispute and “a critical pivot point” in this case and for Commission oversight of SEC.³ The City explains that the stipulation “provides concrete refunds of overpayments to City residents and harmed members, reflects a clear and direct effort to change how business has been done in SEC’s troubled past, and it provides a strong foundation for the future.”

(3) SEC’s new management and board have shown an authentic and commendable commitment to moving beyond the disagreements that produced the events of the last seven years. This deserves recognition and the stipulation itself expressly does that. It states that “SEC’s new management has demonstrated a strong commitment to transparency, collaboration, and honest and efficient management.”⁴ There is no reason to doubt these claims.

¹ Uncontested Stipulation (Nov. 07, 2025).

² The stipulation lists the parties as SEC, Commission Staff, the City, Tech, and Donald J. Steinnerd.

³ City of Socorro Letter in Support of Stipulation (Nov.17, 2025) at 1.

⁴ Uncontested Stipulation at 1.

(4) Contrast this with the fact that, at one point in these proceedings, SEC filed an emergency petition for a writ of mandamus⁵ arguing to the Supreme Court that electric coop rate setting is a “matter[] that lie[s] within the exclusive authority of SEC’s Trustees.” SEC’s counsel at that time insisted that the Commission’s final order in the 2018 rate case adopting the hearing examiner’s various modifications to the rates SEC proposed “was entered without jurisdiction and not in accordance with the law.” SEC emphasized that the hearing examiner assigned to the case “overstepped her authority” and the PRC erroneously “adopted her flawed recommendation.”⁶ The petition went on to claim that the Commission and hearing examiner’s resolution was “unfair to SEC’s members who were not present during the hearing” and that the changes are “unwarranted and unrequested.” This claim (or something nearly identical) was repeated by SEC in many filings in this case.

(5) The record in this case indicates that some form of fundamental breakdown in communication and expectations occurred between SEC, its members, and this Commission. Why exactly did the breakdown happen? How can the Commission support SEC and the other coops to ensure these kinds of events never repeat? How does the Commission support New Mexico electric coops as they confront issues that will impact all providers of electric service?

(6) These questions are all appropriate and implicated here. SEC reports that it faces meaningful challenges in the coming years.⁷ SEC’s stipulation witness explains that “[t]he costs

⁵ The writ of mandamus asks the Supreme Court to stay the proceedings. At the time the writ was filed, SEC had already asked the Court for a stay that the Court did not grant. The fact that an alternative mechanism for the relief sought existed, had been exercised by SEC, and was not granted by the Court is itself logically determinative of the writ.

⁶ Emergency Verified Petition for Writ of Mandamus and Request for Stay (May 08, 2020) at 5.

⁷ Direct Testimony of Manuel J. Gonzales (Nov. 14, 2025) at 5. Note that the title of this docket entry fails to specify that, in addition to Mr. Gonzales’s testimony, SEC also supplied the testimony of witness Montoya. The two testimonies were submitted together but the docket suggests the filing includes only the Gonzales testimony.

of operating a utility have [risen significantly in recent years.”⁸ SEC must upgrade parts of its system “which have become old and in need of modernization, including implementing the use of new technology” including supervisor control and data acquisition hardware and software to enable “remote monitoring of SEC’s electrical grid and the remote control of circuit breakers and other devices.”⁹ SEC must supply service to a widely dispersed, rural area.¹⁰ All of this will need to be undertaken while confronting the reality that SEC’s members have meaningful economic constraints.

(7) What is apparent from these statements is that SEC and the other coops are, like the IOUs operating in New Mexico, exposed to the challenges associated with this transformational moment in the power sector. Just like the IOUs, the coops will have to confront the affordability challenge. They will have to make non-optional investments in advanced grid technologies in the coming years. They will have to facilitate movement towards a distributed system and figure out how to pay for that. There will be new costs for coop members. SEC’s witness here explains that these are “challenges” that will require “the full attention of management.” It will also be a challenge for this Commission as the regulator of the coops, and it should find proactive ways to support SEC’s management in that endeavor.

(8) This case all but proves that a proactive regulatory approach to the coops is needed. That proactive approach should facilitate (at a minimum) two goals. SEC and the coops more generally must understand the needs and limitations of their members. Similarly, members must

⁸ *Id.* at 4.

⁹ *Id.* at 5.

¹⁰ *Id.* at 4.

concomitantly understand the needs and constraints of the utilities—whether cooperatives or IOUs—that provide them an essential and life-sustaining service.

(9) For the reasons discussed below, approval of the stipulation is in the public interest. It is also a sufficient bookend to the discrete events that occurred here. The Commission can be assured that the stipulation is a good outcome to this specific moment, but it also highlights the Commission’s need to reflect upon and find innovative ways to support SEC, its members, and the other New Mexico coops move as seamlessly as possible into the future.

II. STIPULATION TERMS

(10) The reader is encouraged to review the stipulation¹¹ in its entirety as submitted by the parties. It is a well thought out, highly detailed document that conveys more than can be effectively summarized here. However, below is an attempt at a paraphrased summation of the core terms.¹²

- SEC concedes that it violated Commission orders and refused to impose rates that the Commission ordered it to impose.
- SEC concedes that this course of action was *not* in the best interests of its members.
- SEC concedes that it did not inform its member that it refused to comply with Commission directives or alert members of the risks associated with doing that.
- SEC agrees to acknowledge all of this in a public way by publishing a letter (drafted collaboratively by the parties here) in the local Socorro newspaper describing SEC’s missteps.
- SEC will refund ratepayers any amount over collected during the time the Commission-approved rates were supposed to be in effect but, due to SEC’s recalcitrance, were not in effect. That refund will occur as a one-time payment.

¹¹ See Uncontested Stipulation.

¹² This list is distilled from the enumerated list of 39 stipulated points included on pages 1-4 of the Uncontested Stipulation.

- SEC will forego any under collection that occurred due to these circumstances.
- SEC has agreed to meaningful changes to its bylaws and governance structure to avoid any repetition of the events that occurred here.
- SEC concedes that former cooperative management provided the Commission with inaccurate, incomplete, and incorrect information.
- SEC's board is now comprised of almost entirely new personnel. There is only one member on the board who served at the time of the incidents that led to this case.
- SEC operates under new management and new management is committed to transparency, collaboration, honesty, and efficiency.
- SEC will not pay the fines previously imposed by the Commission as this would ultimately harm SEC's members; rather, those fines will be held in abeyance for three years during which time SEC will be expected to fully comply with all Commission directives.
- During that three-year period, SEC will comply with extensive reporting requirements. SEC will provide reports to both the Commission and SEC's members.
- In the future and when SEC desires to amend rates, it will participate in a transparent process worked out by the stakeholders in this case.
- SEC will develop an economic development rate as requested by the City and refund the City costs the City incurred replacing legacy streetlighting bulbs.

(11) The stipulation is supported by the testimonies of SEC's CEO Manuel J. Gonzales, SEC's CFO Ronnita Marie Montoya, Commission Staff witness Gabriella Dasheno, New Mexico Institute of Mining and Technology ("Tech") Delilah A. Walsh, Dr. Larry Blank who testified on behalf of both Tech and the City of Socorro, and SEC coop member Donal Steinnerd.¹³ Counsel for the City also supplied a letter explaining the City's support for the stipulation.

¹³ Mr. Steinnerd has been involved in this issue for several years and was present for all meetings with the Hearing Examiners in this phase of the proceedings. The Hearing Examiners want to recognize his unique contribution and commitment as a pro se member of the public and express appreciation for his participation.

(12) For efficiency purposes, and because no party opposed the stipulation, the hearing examiners granted the parties' request to forego a public hearing and (as proposed by the parties) admitted all necessary evidence into the record as though it had been formally filed at hearing. As there was no hearing, there were no post-hearing briefs.

III. DISCUSSION

(13) The Commission's procedural rules make clear that "[s]ettlement stipulations shall be binding only if approved by the commission."¹⁴ The procedural rules specify that "[u]pon receipt of a stipulation which would settle substantive issues, the commission or presiding officer shall conduct a public hearing to determine whether the stipulation should be approved by the commission"¹⁵ In cases where a hearing examiner has been assigned, the hearing examiner may do one of two things following hearing:

(1) determine that the settlement stipulation should not be certified to the commission at all, in which event the hearing examiner may indicate to the parties and staff whether additional evidence or legal argument in support of the stipulation or amendments to the stipulation might resolve reservations; or (2) certify the settlement stipulation to the commission for its review[.]

(14) The rules specify that the "certification shall include a recommended disposition of the stipulation, whether the recommendation be positive or negative or otherwise suggest a manner of disposition[.]" The proponents of a stipulation have the burden of supporting it with sufficient evidence and legal argument to allow the Commission to approve it.¹⁶ They must show that the stipulation is fair, just, reasonable and in the public interest. The proponent of the stipulation must demonstrate that (1) the parties and Staff had notice and an opportunity to be heard on the

¹⁴ 1.2.2.20 NMAC.

¹⁵ 1.2.2.20(A)(3) NMAC.

¹⁶ *Id.*

stipulation, (2) the stipulation is in accordance with applicable law, and (3) a preponderance of the evidence in the record (as a whole) supports the Commission’s conclusion that the stipulation is fair, just, reasonable, and in the public interest.¹⁷

(15) When a coop proposes new rates, those rates “shall” take effect “without a hearing” with limited exceptions.¹⁸ The coop is required to provide members who will be affected by the increase with notice of the proposal thirty days before filing.¹⁹ If a certain number of coop members protest the proposed rates, then the Commission may suspend the rates and conduct a hearing at which the Commission can review the reasonableness of the rates.²⁰

(16) The stipulation is the result of meaningful bargaining and is in the public interest. The most effective way to prove this is to provide a granular discussion of the events that transpired in this case. As these proceedings spanned seven years, there is much to describe. By providing in depth description of the events the hope is that the Commission will have clear vision about the merits of the stipulation.

(17) What follows is a narrative description of the events that occurred. The writing is linear but is not intended to be just a series of dates and events. Effort was made to tell the story of how and why this proceeding unfolded as it did with principal effort given to illuminating pain points

¹⁷ See Case No. 24-00089-UT, Certification of Stipulation, p.14-15 (04/08/2025).

¹⁸ NMSA 1978, § 62-8-7(H) (2011) (“Whenever there is filed with the commission a schedule proposing new rates by a rural electric cooperative . . . the rates shall become effective as proposed by the rural electric cooperative . . . without a hearing, except as provided in this subsection.”).

¹⁹ *Id.* (“[t]he rural electric cooperative . . . shall give written notice of the proposed rates to its affected patrons in New Mexico at least thirty days prior to the filing with the commission.”).

²⁰ *Id.* (“Upon the filing with the commission of a protest setting forth grounds for review of the proposed rates signed by the lesser of one percent of or twenty-five members of a customer rate class of the rural electric cooperative . . . and if the commission determines that there is just cause for reviewing the proposed rates on one or more of the grounds of the protest, the commission shall suspend the rates and conduct a hearing concerning the reasonableness of any proposed rates filed by a rural electric cooperative . . . pursuant to Subsections C and D of this section.”).

and sources of the breakdown. By the conclusion of this section of writing, the hope is that it will be self-evident why the Hearing Examiners feel strongly that approving the stipulation is in the public interest and are recommending that it be approved. It is also hoped that, by the end of this writing, the Commission will find in the events of this case some guiding lights to prevent in the future the types of events that occurred here.

A. SEC’s 2018 Rate-Increase Proposal

(18) SEC serves approximately 8,600 customers over an area that includes seven counties.²¹ It has approximately 3,314 miles of distribution line which equates to roughly 2.6 members per mile. This is, according to SEC, “much less than the number of customers per mile of line of the larger [IOUs].” SEC’s challenges include the fact that it is a provider of service to a rural area and that its members are geographically dispersed.²² Many of those members are also low income.

(19) SEC filed the advice notices that set the 2018 rate case into motion on December 3, 2018. Below is a graphical display of the summary of the *base-revenue increase* proposed in that 2018 filing.²³

Customer Class	Percentage Revenue Increase	Dollar Revenue Increase
Residential	6.66%	\$664,285
Small Commercial	5.38%	\$177,634
Large Commercial	2.66%	\$255,743
Irrigation	10.26%	\$6,051
Load Management	3.35%	\$38,701
Energy Thermal Storage	7.22%	\$1,360
Lighting	9.08%	\$33,375
Average	4.80%	

²¹ Direct Testimony of Manuel J. Gonzalez at 4.

²² *Id.*

²³ Recommended Decision (Aug. 15, 2019) at 8. Note that this table appears in the RD but was created using information supplied by SEC. That information was entered into the Commission’s docketing system on June 21, 2019, as the power point presentation given by SEC at the public comment session in Socorro.

(20) The rate-increase impact of this request for an average-use residential customer was projected to be about five dollars or just shy of six percent.²⁴ SEC proposed to increase the customer charge from \$15.00 to \$22.75, a \$7.75 or 51.67 percent increase.²⁵ SEC also proposed a new \$5.00 monthly minimum-use charge for residential, small commercial, and energy thermal storage classes. The purpose of the minimum charge was to recover from zero and minimum-use customers portions of customer-related costs not recovered through the monthly customer charge.²⁶

B. Protests & Assignment of Hearing Examiner

(21) At the end of November 2018 (before SEC had even filed the advice notices with the Commission), an SEC member filed a letter asserting that the rate increase SEC intended to file was “fundamentally flawed” and a product of “mismanagement.”²⁷ The commenter identified himself as “[a]n unhappy member” of SEC and contended that the coop had been mismanaged for “many years.”

(22) On December 4, 2018, a day after SEC filed its rate-increase request, the City filed a protest.²⁸ It asserted that the new, increased rates would have a “negative impact” on the City and that the proposed rates are not “just and reasonable.”

²⁴ *Id.* at 9.

²⁵ *Id.* at 8.

²⁶ *Id.* This is not a full summary of all authorizations requested. It is only an overview to give context about the nature of the filing that triggered the events here.

²⁷ Protest to Proposed Rate Increase (Nov. 28, 2018) (describing the protest of J. Lopeman).

²⁸ City Of Socorro, NM Protest of Socorro Electric Coop. Revision of Its Retail Electric Rates (Dec. 04, 2018).

On December 12, 2018, thirty SEC members filed protests.²⁹ Each protest looks identical and includes the same assertions. The individual coop members who submitted them simply filled in (by hand) their name, address, and contact information. An additional protest³⁰ was filed on December 14, 2018 and thirteen more on December 18, 2018.³¹

(23) On December 19, 2018, the Commission suspended the proposed rates contained in the advice notices.³² In that order, the Commission directed Staff to file by January 9, 2019, a statement identifying the number of “valid, timely protests” filed and an assessment of whether SEC’s advice notice constitutes a “complete application for a rate increase pursuant to Section 62-8-7(B)”

(24) Three additional, individual protests were filed on December 21, 2018.³³

(25) New Mexico Institute of Mining and Technology (“Tech”) filed its protest on December 21, 2018.³⁴ It objected that its electric costs had “more than doubled in the past decade,” and that even higher rates would be problematic for Tech’s finances. It estimated that first year increases under the proposed rates would be \$48,957. That additional cost would, Tech asserted, continue

²⁹ Protests of Residential Ratepayers (30) (Dec. 12, 2018). The individuals included L. Pineda, Jr.; R. Chavez; C. Lukesh; S. Saavedra; M. Lara; A. Gonzales; T. Jaramillo; A. Baca, Jr.; I. Angel; D. Aragon; R. Bhasker; C. Stewart-Roache; N. Feraldi; D. Monette; M. Salazar; J. Sedillo; L. Chavez; R. Lopez; S. Hinojosa; D. Murietta & T. Jojola; V. Alvarado; T. Rivera; J & B DiCosta; J. Rivera; J. Valencia; Z. Anaya; M. Tarango; S. Anaya; B. Anaya; V. Alonzo.

³⁰ Protest to Proposed Rate Increase (Dec. 14, 2018) (protest of J. Quaranta).

³¹ Protests of Residential Ratepayers (13) (Dec.18, 2025). The protesting individuals included M. Gonzales; A. Salome; S. Vivian; O. Acosta; J. Padilla; D. Silva; E. Trujillo; J. Peralta; J. Griego; J. Flores, Jr.; T. Montoya; D. Guttierrez; S. Standiford.

³² Order Suspending Proposed Rates (Dec.,19, 2018).

³³ Protests of Residential Ratepayers (2) (Dec. 21, 2018). The protesters included C. Baca and R. & M. Serna. A separate protest was filed by D. Steinnerd on this same day.

³⁴ Protest by NM Institute of Mining & Technology of Increased Rates Proposed by Socorro Electric's A/N Nos. 69, 70 & 71 (Dec. 21, 2018).

to grow in subsequent years. Most broadly, Tech argued that the rate increases could impact the economic development in Socorro that Tech was trying to incentivize.

(26) On January 3, 2019, SEC filed a response to the protests.³⁵ SEC asked the Commission to dismiss the protests of the residential members, the City, and Tech. SEC emphasized that its application sought an increase of total system revenue requirement of \$1,249,993, which (SEC claimed) is a 5.06 percent increase compared to the adjusted test year total revenue.³⁶ SEC further emphasized that the requests included in the filing were just and reasonable as they were intended to set rates that more closely recovered cost of service, reduced intra-class subsidies, and reduced SEC's throughput incentive.³⁷

(27) SEC also alleged that many of the protests were the product of an orchestrated campaign led by City political leadership who, according to SEC, had voiced a desire to "take over" SEC's service territory. SEC claimed that it was "informed that City . . . workers were asked by their supervisor to complete the pre-printed protest forms which were distributed to them by the City."

(28) Over the next several months, Commission personnel received additional public comments urging the Commission to reject SEC's rate-increase request. One commenter alleged that board and annual meetings had been "highly contentious," the general manager's compensation excessive, SEC's member services non-responsive, and that SEC was a "rogue organization."³⁸

(29) On January 9, 2019, Staff filed the pleading requested by the Commission identifying the number of valid protests filed and whether SEC's application was complete.³⁹ Staff determined

³⁵ The Socorro Electric Cooperative, Inc.'s Objections to Rate Protests (Jan. 03, 2019).

³⁶ *Id.* at 6.

³⁷ *Id.* at 10, 17.

³⁸ Comments (4) (Jan. 08, 2019). See the comment of Paul Stoehr.

³⁹ Staff Determination Regarding Valid, Timely Protests (Jan. 09, 2019).

that “there are at least 48 clear and valid protests” from residential members; one valid protest from the City, who expressed concern about the residential rate, the load-management rate, and the area-lighting rate; and one valid protest from Tech who receives service under the large-commercial rate.⁴⁰

(30) In a subsequent order by the Commission assigning a hearing examiner, the Commission concluded that the forty-eight protests filed constitute more than one percent of SEC’s members and that forty-eight is obviously greater than twenty-five.⁴¹ As explained in a previous section of this document, our statutes specify that the Commission may hold a hearing on the rates proposed by a coop where the lesser of these numbers are exceeded.

(31) The Commission, in the initial order assigning a hearing examiner, directed the assigned individual to address whether: there was sufficient evidence supplied by SEC to support its rate request for each class and to support allocation issues more generally; conclude that the proposed rates per class are fair, just, and reasonable; assess SEC’s revenue and operating margins and whether the proposed increase is required; and, determine whether the increases to the customers charges in SEC’s rate request are justified.

(32) The assigned hearing examiner issued a procedural schedule that set a public hearing for the end of June 2019.⁴²

⁴⁰ *Id.* at 2.

⁴¹ Initial Order Appointing Hearing Examiner (Jan. 23, 2019).

⁴² Procedural Order (Feb. 15, 2019).

C. Public Comment Session

(33) The City requested that the Commission schedule a public comment session in Socorro prior to the scheduled hearing.⁴³ SEC opposed this request on grounds that sufficient process for public comment had already been given and anyone wishing to file any new comments could do so in writing or at the opening of the public hearing.⁴⁴ The Commission granted the City's request.⁴⁵

(34) The public comment session occurred on June 3, 2019, in Socorro.⁴⁶ The procedures adopted at the session were intended to maximize information for any SEC members who appeared. SEC was given the opportunity at the start of the session to make a presentation about the rate-increase request, and anyone who appeared was given opportunity to ask SEC personnel questions about the filing. After that was completed, comments were welcomed.

(35) What occurred at the session is interesting and worthy of study. A summary is provided immediately below. The information that follows is not offered as comment on what is true, but rather to help provide insight into the tension and cognitive dissonance that existed between SEC's board and management and SEC's coop members at the time of the session.

(36) SEC's presentation illuminated that it was (at that time) applying rates set in 2011 and that inflation and cost increases had taken their toll. SEC explained that the present 2018 rate-increase request was in line with previous requests. The 2018 filing sought \$1.2 million in additional

⁴³ City of Socorro's Motion Requesting the Public Regulation Commission Schedule Public Comment in Socorro, NM (Mar. 08, 2019).

⁴⁴ SEC's Response in Opposition to City of Socorro's Motion Requesting the PRC Schedule Public Comment in Socorro, NM (Mar. 21, 2019).

⁴⁵ Order Scheduling Public Comment Meeting (May 08, 2019).

⁴⁶ Transcript of Proceedings 06/03/2019 Hearing (Jun. 18, 2019).

revenue. A 2011 filing sought \$1.5 million in additional revenue. A 2005 filing sought \$1 million. SEC also emphasized that the proposed 2018 rates would impose a 5.6 percent increase on the average residential customer. This increase was smaller than what had been imposed in SEC's last two rate increases. In 2011, the average residential customer incurred a 12 percent increase. In 2005, SEC increased rates for the average residential user by 9.2 percent.

(37) SEC also explained that its cost-of-service study showed that the residential class was not contributing to its full cost of service.⁴⁷ It was deficient by about twenty percent. The large commercial customers, on the other hand, were over-contributing by about the same percentage.⁴⁸ SEC put this in simple terms for the members present: "large commercial is subsidizing the residential."⁴⁹

(38) The proposed rates were, SEC explained, an attempt to move towards unity in class contribution to cost of service consistent with gradualism.⁵⁰ SEC management also touched upon a host of technical issues including class allocation principles, depreciation schedules, intergenerational equity, the tension between low-consuming customers and the need to maintain assets collected through fixed costs, peak versus off peak use and its impact on customer bills, the difference between fixed and volumetric costs, how load factors of particular industrial and commercial customers bear on any particular industrial or commercial customer's overall bill, and the difference between energy and capacity costs.⁵¹

⁴⁷ *Id.* at 18.

⁴⁸ *Id.*

⁴⁹ *Id.* at 23.

⁵⁰ *Id.* at 22.

⁵¹ *Id.* at 19-20, 22, 28, 34, 64,

(39) The questions and comments SEC received from the members who appeared reveal fundamental misalignment in perception between SEC and its members about the need for and equity associated with the proposed rate increase.

(40) A question about roof-top solar and how SEC intended to treat those customers revealed that SEC had (at that time) approximately 100 net metering customers the majority of whom were excess producers.⁵² A member suggested to SEC that those net-metering customers only used SEC's system for "backup" and that SEC's proposed rate increase "penalizes" the "lower users" for conserving energy.⁵³

(41) Another member objected that the proposed rate increase "penalized" residential customers for being energy "efficient" and trying to "bring down their electric bill."⁵⁴

(42) Another member argued that residential ratepayers should pay less than commercial customers and that any rate increase should be "straight across the board."⁵⁵

(43) One member objected to the installation of new meters on grounds that they are unnecessary and the existing ones sufficient as they last for "years and years."⁵⁶ Another claimed that the new-meter technology should produce cost savings for residential customers because new "meters are more efficient."⁵⁷

(44) On the question of interclass subsidies, one member contended that businesses are better able to absorb higher rates as they can take advantage of "tax break[s]" residential customers

⁵² *Id.* at 16.

⁵³ *Id.* at 16-17.

⁵⁴ *Id.* at 18.

⁵⁵ *Id.* at 32.

⁵⁶ *Id.* at 32-33.

⁵⁷ *Id.* at 34.

cannot.⁵⁸ That member also argued that businesses can implement other strategies to reduce cost and maximize income which residential customers cannot.

(45) One member made a general and impassioned appeal to both SEC and the Commission personnel present at the session about the economic conditions SEC coop members confront and how rate increases of any kind negatively impact them. That member's appeal is presented in full here as it is worthy of serious reflection by the Commission.

[A]ll of these [members] are here because they are concerned that the rate increase is going to affect their ability to have a good life here.

And the [intervenors] who are going to [and do actively participate in Commission proceedings], and you know, in Santa Fe and stuff, they have great knowledge of how all the system works so they can represent themselves in a really smart, and you know, sway-the-PRC kind of way, where we are just people. We are just here, because you can tell, people are saying, 'Why are we being charged more as residential when businesses aren't,' or 'these different load classes,' et cetera?

And when we say 'load classes,' I think half the time we are going 'yeah, load classes, whatever that means' kind of thing. And I'm just wondering if there is some mechanism where like people can sign a petition or sort of make the PRC understand how this is going to impact us. Because this is insane, that costs 29 percent more, this costs 20 percent more, and I look on the data, and the rate increase in wages in Socorro, New Mexico is 1.2 percent since the last census.

I mean, we're talking -- we're talking a very small amount of money that everybody is making in Socorro, and yet now we have to pay this much more for electricity, that kind of stuff. I'm just wondering what kind of mechanism do we have as just citizens in Socorro with the PRC?

Please take into account that this is a community that is in poverty. Not all of us live below the poverty line, but half of us do, and we feel sort of disenfranchised, not represented. You know, even at the coop meetings it's kind of like, we want to pass things and they don't pass. And we go, 'what happened?' And I guess that's sort -- I just want to emphasize that to you as a member of the community[.]⁵⁹

⁵⁸ *Id.* at 44.

⁵⁹ *Id.* at 37-38.

(46) This sentiment was echoed by another member who explained that he chose to attend the comment session for the specific purpose of reminding SEC that its members have minimal financial security and that rate impacts like the one proposed have potentially dire consequences for them. Again, the statement is worthy of review and significant reflection.

So that's why I'm here is to point out that we have 38 percent living in poverty, and a lot of those individuals are not able to afford that kind of rate increase because they only make \$600 a month.

And if you want to have something that's going to take away 10 percent of that income just for the privilege of having electricity, that means they go without food, they go without water, they don't go to the doctor, they get heat exhaustion, and they freeze in the wintertime.⁶⁰

D. Recommended Decision

A public hearing was conducted on June 24, 25, and 26 of 2019. The hearing examiner issued an RD in mid-August 2019. The RD begins with recognition that, because rural electric cooperatives do not have investors, the interests to be balanced in a coop rate case are the interests of cooperative management and coop members.⁶¹ The RD then recommends that the Commission deny the rate request due to the fact that SEC's self-identified revenue requirement and the as-proposed rates do not appropriately balance those interests.

(47) Specifically, the RD concluded that SEC's proposed operating times interest earned ratio ("OTIER") is too high. This ratio measures how many times a cooperative earns its interest expense.⁶² The RD determined that SEC's present OTIER enabled adequate revenues to provide service and emphasized that SEC's management does not have free reign to pursue objectives without constraint or concern of the impact of the costs of those policy objectives on its members.

⁶⁰ *Id.* at 68.

⁶¹ Recommended Decision (Aug. 15, 2019) at 13.

⁶² *Id.* at 6.

The RD goes on to offer recommendations about SEC’s allocation of cost to the coop’s varying classes. Modifications were proposed to SEC’s proposals in order “to gradually move toward each [c]lass paying its cost of service.” The RD accepted that increased revenue should be collected from the residential and other classes that were and are subsidized by the large commercial and load management service class, but the RD independently judged what constitutes a just and reasonable allocation of costs and how much movement towards unity is necessary and desirable. The particulars of that proposed reallocation need not be reviewed in any detail here. It is sufficient to note that the RD advocated a reduction in the percentage increases SEC proposed on the subsidized classes (residential and lighting) and a reduction to the rate reduction SEC proposed for the subsidizing classes.

(48) The RD also advocated that the Commission reject SEC’s proposed minimum use charge and residential customer charge. The RD proposed a smaller increase for the customer charge.

(49) Lastly, the RD concluded that Tech had shown that it was in the public interest for SEC to develop and implement an economic development rate. The RD determined that the Commission should order SEC to initiate the process of offering that rate.⁶³

(50) Because the RD proposed modifications to rates, the hearing examiner assembled a confidential panel of technical assistants to assist with clarifying the rate impacts of her proposed modifications.⁶⁴ Several exhibits are attached to the RD. The hearing examiner’s recommended

⁶³ *Id.* at 19.

⁶⁴ Confidentiality and Non-Disclosure Agreement (Larry Blank) (Jul. 03, 2019); Confidentiality and Non-Disclosure Agreement (Justin W. Proctor) (Jul. 16, 2019). Dr. Blank represented both the City and Tech. Witness Proctor was a witness for SEC.

rates are found in exhibit two to the RD.⁶⁵ The bill changes produced by the recommended rates are included in exhibit three.⁶⁶

E. SEC's Exceptions to RD

(51) SEC's principal argument in exceptions to the RD concerned the power of the Commission over coops and their rates.⁶⁷ SEC argued that the RD was directing "the Commission to exceed its statutory authority and . . . substitute its judgment for that of SEC's duly elected" board. This, SEC claimed, was unlawful.

(52) SEC went on and claimed that the RD effectively asks the Commission "to jettison substantial evidence in the record regarding the cost of providing electric utility services to customers in different rate classes and [to] override the rate decisions of the SEC Board[.]" If the Commission approved the RD, it would (SEC claimed) actively "frustrate the legislatively expressed public policy regarding the Commission's limited rate jurisdiction over rural electric cooperatives." SEC contended that "[t]he Commission does not have the authority to substitute its judgment for that of the utility's board and management."

(53) SEC also objected to the RD's assessment of the board's ability to identify policy objectives and pursue them in rates. SEC argued that "[t]he [b]oard's financial goals and objects are not a wish list." They are, rather, "the foundation for maintaining the financial integrity of the Cooperative." SEC added that "New Mexico rural electric cooperatives are largely self-governing entities invested with the authority . . . to govern themselves" Coop members have control

⁶⁵ RD at 17.

⁶⁶ *Id.*

⁶⁷ The Socorro Electric Cooperative, Inc.'s Exceptions To Recommended Decision (Aug. 15, 2019).

over and may exercise control of their coop by exercising “their ability to elect their trustees to represent them on the cooperative’s board.”

(54) The Commission, in its final order, approved the RD in its entirety and rejected SEC’s contention that the Commission did not have authority to independently amend SEC’s rates through scrutiny of the cost-of-service study, allocation factors, and rate design inquiry.⁶⁸ The final order concludes that “the Commission is not required to use the method favored by SEC’s [b]oard nor is the Commission required to simply ratify the[ir] plans and objectives”

F. Motion to Stay & New Mexico Supreme Court Appeal

(55) After the final order was issued, SEC filed a notice of appeal with the New Mexico Supreme Court⁶⁹ and, at the same time, filed a motion with the Commission to stay the final order adopting the RD in its entirety during the pendency of the appeal.⁷⁰ In the motion to stay filed with the Commission, SEC contended that the modifications to its cost of service and the changes to SEC’s rates contained in the RD and then adopted in the final order would cause SEC irreparable injury. That harm, SEC added, would be very difficult to unwind once imposed.

(56) Intervenors filed responses to the motion to stay. The City and Tech took the polar-opposite perspective.⁷¹ They argued that the rate modifications imposed by the RD and final order would benefit them, and that failure to impose those rates is the thing that would produce harm.

(57) The Commission denied SEC’s request for the stay. The Commission concluded that the RD correctly determined that SEC’s requested rates should not be approved, that the Commission

⁶⁸ Final Order Adopting Recommended Decision (Sept.11, 2019).

⁶⁹ The Socorro Electric Cooperative, Inc.'s Notice of Appeal (Oct. 11, 2019).

⁷⁰ SEC's Expedited Motion to Stay Pending Appeal and Brief in Support Thereof (Oct. 11, 2019).

⁷¹ City of Socorro & NM Institute of Mining & Technology's Joint Response to Motion for Stay (Oct. 24, 2019).

did have authority and the obligation to determine what rates are just and reasonable, and that imposition of the rates set by the RD and final order would not irreparably harm SEC but would, in fact, have positive effect in that the City and Tech were entitled to receive the benefit of the rates as set out in the RD and adopted by the Commission.⁷²

After the Commission denied the motion to stay, SEC then asked the Supreme Court to stay the imposition of the Commission's final order pending appeal.⁷³ The Commission, Tech, and the City filed responses with the Court in opposition to SEC's request about the stay.⁷⁴ The Court declined to rule on SEC's motion to stay. It is essential to point out that this inaction is, under New Mexico statutes, action. New Mexico statute provides that “[t]he pendency of an appeal shall not of itself stay or suspend the operation of the order of the commission, but, during the pendency of such proceedings, the supreme court in its discretion may stay or suspend, in whole or in part, the operation of the commission's order . . .”⁷⁵

G. Motion to Compel - Compliance with Final Order

(58) In April 2020, the City, Tech, and Commission Staff filed a motion asking the Commission to compel SEC to comply with the Commission's final order in the rate case.⁷⁶ The motion argues that “SEC has taken no action on any of the requirements of the [f]inal [o]rder, including the requirement that SEC start the process for offering an economic development rate.”

⁷² Order Denying SEC's Expedited Motion To Stay Pending Appeal (Oct. 30, 2019).

⁷³ SEC's Motion to Stay Pending Appeal and Brief in Support Thereof (Nov. 12, 2019).

⁷⁴ New Mexico Public Regulation Commission's Response in Opposition to Socorro Electric Cooperative, Inc.'s Motion to Stay Pending Appeal (Nov. 27, 2019); New Mexico Institute of Mining and Technology's Motion to Provisionally File Response To Socorro Electric Cooperative's Motion To Stay Pending Appeal (Nov. 27, 2019); City of Socorro's Joinder in New Mexico Public Regulation Commission and New Mexico Institute of Mining and Technology's Responses to Socorro Electric Cooperative, Inc.'s Motion to Stay Pending Appeal (Jan. 10, 2020).

⁷⁵ NMSA 1978, § 62-11-6 (1983) (emphasis added).

⁷⁶ City Of Socorro, NM Tech, and Staff's Joint Verified Motion to Compel (Apr. 03, 2020).

(59) The motion explains each of the movants’ unique interests. Tech expected to benefit from the decrease in its electric bills because of the 1.9 percent decrease in the large commercial rate and from the economic development rate provided for in the RD and the final order. The City “expected to see benefits from the final order in the form of new, cost-based LED rates and the implementation of an economic development rate”⁷⁷ Staff has an interest in ensuring that regulated entities comply with Commission orders. The motion adds that New Mexico statutes permit the Commission to impose monetary penalties on entities who refuse to comply with orders.

(60) The Commission then issued an order requiring SEC to file, by the close of the next business day, a response to the motion to compel.⁷⁸ The Commission noted that it had denied SEC’s motion to stay the final order and noted further that the motion to compel indicated that SEC had taken no efforts to follow the Commission’s final order. The Commission pointed out that “without a stay granted from the Supreme Court, ‘[t]he pendency of an appeal shall not of itself stay or suspend the operation of the order of the commission.’” The Commission’s order asked the joint movants whether they were asking the Commission to issue an order to show cause against SEC for noncompliance.

(61) SEC responded as directed.⁷⁹ It argued that the motion to compel should be denied given the fact that “the appeal of the RD is pending before the New Mexico Supreme Court which has not addressed SEC’s request for stay of the proceedings during the pendency of the appeal.” SEC’s position seems to have been that the Court had whatever time it deemed appropriate to

⁷⁷ *Id.* at 4.

⁷⁸ Order Requiring Response to The City of Socorro, NM Tech, and Staff's Joint Verified Motion to Compel (Apr. 09, 2020).

⁷⁹ The Socorro Electric Cooperative Inc.'s Response in Opposition to Motion to Compel (Apr. 10, 2020).

resolve the request for stay, and until the Court denied the motion there was effectively a motion in place that functioned like a stay. SEC expressed the point this way: “Whether to grant a stay pending the outcome of the appeal lies within the discretion of the Supreme Court and the statute contains no date by which the Supreme Court must address the motion to stay.”

(62) The joint movants then filed a reply.⁸⁰ They explicitly stated what seemed apparent from SEC’s response: “SEC’s attorney,” the reply says, appears to have taken the position, “with no supporting authority . . . that the mere fact that it asked the Supreme Court for a stay should be treated the same as the Supreme Court actually granting the requested stay.”⁸¹ Joint movants contended that SEC was, in taking this approach, exercising discretion itself to decide whether its own motion to stay should in fact stay the proceeding. The joint movants suggested that the Commission fine SEC and require SEC’s board to pay those fines as they were responsible for the noncompliance. The joint movants indicated that 185 days had elapsed since the time SEC was supposed to have imposed the rates in the final order.

(63) The Commission agreed with the joint movants and entered an order granting the motion to compel and imposed fines.⁸² The Commission determined that SEC had not complied with the final order and could not point to the Supreme Court *declining to rule* on the motion to stay as effectively receiving a stay. The Commission agreed that monetary fines were appropriate, and that any fines should be paid by SEC’s board.⁸³ The Commission determined the finable amount was 185 days times \$1,000 per day or \$185,000. This was based on a proposal by the joint

⁸⁰ City of Socorro, NM Tech, and Staff’s Joint Reply to SEC’s Response to Motion to Compel (Apr. 13, 2020).

⁸¹ *Id.* at 3.

⁸² Order Granting the City of Socorro, Tech, and Staff’s Joint Motion to Compel Socorro Electric Cooperative to Comply with the Final Order and Order Assessing Fines for Non-Compliance (Apr. 15, 2020).

⁸³ *Id.*

movants. The Commission then clarified that it would waive this fine if SEC showed compliance with the final order in the rate case within sixty days.

H. First Petition for Writ of Mandamus & Request to the Attorney General

About three weeks after the Commission issued the order on the motion to compel and imposed the fines, SEC filed an emergency petition for writ of mandamus with Supreme Court asking the Court to “grant the writ and stay the enforcement of the Final Order and the Compliance Order until the parties can brief the jurisdiction of the PRC.”⁸⁴ Simultaneously, SEC filed a notice of appeal of the Commission’s compliance order in which the fines were imposed.⁸⁵ Roughly three weeks later, SEC and the Commission filed a joint motion with the Supreme Court asking that SEC’s mandamus action and SEC’s appeal of the compliance order both be stayed to allow the Commission opportunity to “modify and or withdraw the [c]ompliance [o]rder.”⁸⁶

(64) In August 2020, the City, Tech, and Commission Staff asked the Commission to request the Attorney General to take enforcement measures against SEC.⁸⁷ SEC opposed this request and made some notable criticisms of the moving parties in its response.⁸⁸ SEC objected that Commission Staff has “sent conflicting messages and taken inconsistent positions during this

⁸⁴ Emergency Verified Petition for Writ of Mandamus and Request for Stay (May 08, 2020).

⁸⁵ The Socorro Electric Cooperative, Inc.’s Notice of Appeal of the Compliance Order (May 13, 2020).

⁸⁶ Joint Motion of the Socorro Electric Cooperative, Inc. and the New Mexico Public Regulation Commission to Temporarily Stay Emergency Writ, Temporarily Stay Appeal of Compliance Order and Remand (May 29, 2020).

⁸⁷ City of Socorro, New Mexico Tech, and Staff’s Joint Motion to Direct Attorney General to Commence Mandamus Proceeding (Aug.06, 2020).

⁸⁸ The Socorro Electric Cooperative, Inc.’s Response in Opposition to The City of Socorro, NM Tech & Staff’s Joint Motion to Direct Attorney General to Commence Mandamus Proceeding (Aug.19, 2020).

proceeding.”⁸⁹ SEC asserted that Staff initially supported SEC’s rate proposal but then “changed its position midstream.”⁹⁰

(65) SEC once more protested that the protests to its initial rate filing in 2018 were illegitimate and the product of a campaign orchestrated by the City.⁹¹

(66) Towards the end of the response, SEC objected that the intervenors’ objections to SEC’s noncompliance were legally illegitimate. SEC explained that “[m]ovants are essentially displaying their impatience and complaining that they are tired of waiting for the Supreme Court to act on the case, whining like a child to a parent to buy him/her something at the grocery store. The system of justice and enforcement of the law do not work that way.”⁹²

(67) The Commission rejected the joint movants’ request to seek AG enforcement and concluded that the better option was to get the Supreme Court to stay the mandamus action and negotiate the compliance order.⁹³ The parties took steps that resulted in our Supreme Court remanding the writ and compliance-order issues to the Commission.⁹⁴ A considerable period of time—almost eighteen months—elapsed between the Commission’s rejection of the AG-enforcement action and the remand from the New Mexico Supreme Court.

(68) On remand, the Commission directed SEC, the City, Tech, and Staff to answer a set of questions to assess their positions on the final order and SEC’s compliance/noncompliance with

⁸⁹ *Id.* at 4.

⁹⁰ *Id.* at 5.

⁹¹ *Id.*

⁹² *Id.* at 7.

⁹³ Order Denying City of Socorro, New Mexico Tech, and Staff’s Joint Motion to Direct Attorney General to Commence Mandamus Proceeding (Aug. 26, 2020).

⁹⁴ Order NMSC Case No.37958 (Jan. 26, 2022)

it.⁹⁵ Timely responses to that inquiry were provided. In the City and Tech’s joint response, they pointed out that under the methodology of the initial compliance order, the fines against SEC had ballooned to \$866,000.⁹⁶

I. Revised Compliance Order and Order to Show Cause

(69) In March 2022, the Commission filed a revised compliance order and another order to show cause.⁹⁷ This revised compliance order did four notable things.

(70) First, it directed SEC to mail a notice to each of its members describing SEC’s unlawful refusal to impose the rates approved by the Commission. The notice explains that SEC management’s decisions caused the coop to incur fines that SEC’s members would have to pay.

(71) Second, the Commission found that SEC’s continued use of rates other than those authorized by the Commission was not in the public interest. SEC was ordered to show cause why it should not record, as of the effective date of the final order in the 2018 rate case, regulatory assets or liabilities for each customer class to account for what was due or owing from each class had SEC imposed the rates in the final order.

(72) Third, the Commission determined that it should issue a cease-and-desist order requiring SEC to stop billing customers in violation of the final order in the 2018 rate case.

(73) Fourth, the Commission indicated its intention to designate a hearing examiner to preside over the show cause and cease and desist proceedings. The Commission did indeed later appoint a hearing examiner.

⁹⁵ Initial Order on Remand (Feb. 09, 2022).

⁹⁶ City Of Socorro's and New Mexico Institute Of Mining and Technology's Joint Verified Response to Initial Order on Remand (Feb.23, 2022).

⁹⁷ Revised Compliance Order, Order to Show Cause Why SEC Should Not Book as Regulatory Assets or Regulatory Liabilities the Amounts Not Billed in Violation of the Final [sic.] and Order for SEC To Cease And Desist Its Violation of the Final Order (Mar. 20, 2022).

(74) In response to this order, SEC filed with the Commission an emergency motion to stay the revised compliance order.⁹⁸ This motion was filed on the day SEC was supposed to circulate the letter to its members contemplated by the revised compliance order.⁹⁹

(75) On the same day SEC filed its second emergency motion to stay the revised compliance order, SEC also filed another emergency petition for writ of mandamus with the Supreme Court asking the Court to stay the enforcement of the revised compliance order.¹⁰⁰ The petition was alternatively identified as a writ of prohibition or writ of superintending control.

(76) Staff filed a response to SEC’s motion to stay.¹⁰¹ In that response, Staff explained that “it is paramount” that SEC comply with the Commission’s final order in the 2018 rate case. Staff noted that SEC is “subject to the regulation of the Commission” and is “bound to follow the directives” contained in lawful Commission orders. SEC should not and “cannot be allowed to simply ignore the rate design set by the Commission” Staff then went on to lay out what it thought was a path to resolution.

(77) Staff explained that it thought the following compromise was an acceptable solution to what had become a deadlocked standoff. First, SEC should immediately file an advice notice that proposed rates consistent with the final order of the 2018 rate case and then implement those

⁹⁸ SEC’s Second Emergency Motion to Stay to Prevent Imposition of the Requirements of the Revised Compliance Order Etc., Issued March 30, 2022 (Apr. 07, 2022).

⁹⁹ Staff’s Response to SEC’s motion for Stay, p.2 (Apr. 15, 2022) (“[T]here is no demonstration that the timing of the Motion demonstrates an actual emergency. Had the situation been an actual emergency, Staff expects that this Motion would have been filed within a day, maybe two, of the Commission’s Revised Compliance Order. Instead, the Cooperative waited more than a week to file this Motion, until the very day that mailing to the Cooperative’s members was required.”).

¹⁰⁰ SEC’S Second Emergency Verified Petition for Writ of Mandamus, or in the Alternative Writ of Prohibition, or in the Alternative Writ of Superintending Control, and Appeal of the PRC’s Revised Comp [sic.], (Apr.26, 2022).

¹⁰¹ Staff’s Response to SEC’s Motion for Stay (Apr. 15, 2022).

Commission-approved rates within thirty days. Second, If SEC filed the advice notice, then Staff would not object to the Commission waiving or removing its requirement that SEC send the notice attached as an exhibit to the revised compliance order to SEC’s members. Third, if SEC filed the advice notice, then Staff would also recommend that the fines arising from the initial compliance order be revisited upon ultimate resolution of SEC’s Supreme Court appeal of the final order of the 2018 rate case.

(78) In May 2022, Staff and SEC filed a stipulation with the Commission indicating their joint amenability to the terms of compromise proposed by Staff.¹⁰² The Commission approved the stipulation in mid-May 2022.¹⁰³ A month later, in June 2022, SEC and Staff filed a compliance notice informing the Commission that the terms of the stipulated agreement between SEC and Staff had been executed.

J. Supreme Court Opinion on 2018 Rate Case

(79) On June 10, 2024, the New Mexico Supreme Court issued its formal opinion on the question (stemming from the 2018 SEC rate filing) of the Commission’s authority to impose modified rates in an electric coop rate case.¹⁰⁴ As was noted in writing much earlier in this document, the case was resolved in the Commission’s favor. The Court issued its mandate on July 23, 2024.

(80) Because of the events that occurred in this case, our Supreme Court clarified that when the Commission’s jurisdiction to evaluate a coop’s rates has been appropriately invoked, the Commission then wields the same authority it holds when dealing with IOUs. The Supreme Court

¹⁰² Stipulation (May 11, 2022).

¹⁰³ Order Approving Socorro Electric Cooperative's and Staff's Stipulation (May 18, 2022).

¹⁰⁴ *Socorro Elec. Coop.*, 2024-NMSC-017.

put the point this way: “the Commission retains plenary authority to resolve the issues identified in a Section 62-8-7(H) proceeding and *may fix* just and reasonable rates for a rural electric cooperative *or order* the cooperative to propose new rates that the Commission has determined to be just and reasonable.”¹⁰⁵

(81) The significance of this proposition cannot be overstated. The case fundamentally clarifies the scope of the Commission’s rate setting power over coops.

K. Commission Response to Supreme Court Opinion

(82) Roughly three months after the Court issued its mandate, the Commission issued an initial order on remand.¹⁰⁶ That order acknowledged the practical necessities of the agreements reached by Staff and SEC in their compromise as well as the need to determine how all participants in these lengthy proceedings wished to proceed given the outcome at the Supreme Court.

(83) The compromise reached between SEC and Staff produced two issues that needed to be resolved. First, the Commission had to determine how to correct the accounts of those customers who were charged improper rates from September 11, 2019, to June 3, 2022 (note, that this June date is the date SEC started charging the correct, Commission-authorized rates). Second, the Commission also had to revisit the question of the fines that were imposed in the compliance order and then modified in the revised compliance order.

(84) As to the first matter, the Commission directed SEC to produce data reflecting billing that would have been in effect had the final-order rates been implemented when they should have

¹⁰⁵ *Socorro Elec. Coop., Inc. v. New Mexico Pub. Regulation Comm'n*, 2024-NMSC-017, ¶ 3.

¹⁰⁶ Initial Order Remand Order [sic.] Requiring Accounting for Period of Non-Compliance of Final Order, and Second Order to Show Cause (Oct. 31, 2024).

been. The Commission indicated that it would “review SEC’s calculations for accuracy and begin the process of rectifying the improper charges.”

(85) As to the question of fines, the Commission noted that the total amount of fines to which SEC exposed itself given its noncompliance was now \$948,000. The Commission determined that it was “appropriate to allow SEC another opportunity to show cause as to why \$948,000 [fine] should not be imposed upon SEC for its continuous and blatant violation of the Commission’s final order.”¹⁰⁷

L. SEC Response to Initial Order Following Remand

(86) In its response to the Commission’s initial order on remand, SEC suggested that it was the Supreme Court’s fault that SEC did not impose the rates authorized by the Commission at the end of the 2018 rate case.¹⁰⁸ Here is the exact language SEC used to make the point: “SEC is not responsible for the six-year delay in this case. The Supreme Court failed to address SEC’s motion to stay the effectiveness of the Final Order.”¹⁰⁹ Of course, this argument rests on the flawed notion that where the Court declines to grant a stay, a stay exists until decision is issued saying otherwise. This logic would transform a motion to stay that is never decided into a stay. The parties to this case and the Commission routinely condemned this reasoning.

(87) SEC went on to claim that the Supreme Court’s delay in this case produced a set of events SEC found dismaying (the actual word SEC chose is “consternation”). In the paragraphs that followed this claim, SEC nevertheless informed the Commission that the impact of SEC’s refusal to charge the rates approved by the Commission meant that SEC members now owed SEC a

¹⁰⁷ *Id.* at 12.

¹⁰⁸ SEC’s Response in Opposition to The PRC’s Order to Show Cause Why SEC Should Not Be Fined (Dec. 03, 2024).

¹⁰⁹ *Id.* at 2.

considerable sum of money. According to SEC, it “determined that it is owed in excess of \$4,000,000.00 from rate payers in most rate classes.”¹¹⁰ SEC further alleged that no party to the case was owed any kind of refund.

(88) As to the question of fines, SEC generally objected to what it perceived was needless inconsistency in Commission directions. SEC wrote that “[t]he PRC initially found that SEC had consciously violated the [f]inal [o]rder by failing to implement the rates dictated without any evidence of why SEC made this decision.”¹¹¹ SEC then went on to claim that PRC flipfopped on who should bear the cost of fines. The fines were first imposed on the individual trustees. When SEC objected, the PRC reversed course and imposed fines on SEC members.¹¹² SEC then went on to emphasize that, since entering the compromise with Staff, it had “been in compliance with the [f]inal [o]rder of the PRC.”¹¹³

(89) According to SEC, these events show that “[t]he question remains whether there is any justification for imposing the draconian fines on the members of SEC.”¹¹⁴ SEC asserted that “[a]t no point during this lengthy litigation was there any evidence or argument that the trustees were not acting in what they believed were the best interests of the members and managing SEC efficiently.”¹¹⁵

(90) Roughly a month after SEC filed its response to the Commission on what should occur post-remand, the City and Tech submitted a joint response to SEC’s response to the Commission’s

¹¹⁰ *Id.* at 4.

¹¹¹ *Id.* at 7.

¹¹² *Id.*

¹¹³ *Id.*

¹¹⁴ *Id.*

¹¹⁵ *Id.* at 8.

initial order on remand.¹¹⁶ In it, the City and Tech asserted that, “[a] review of the accounting of revenues during the rate non-compliance period in SEC’s Response . . . reveals key mistakes in the calculation of what it alleges is close to \$4 million in under-collection.”¹¹⁷ The City and Tech add that SEC’s claim that it undercharged certain classes \$4 million during the time it declined to impose the approved 2018 rates “is lacking credibility.”¹¹⁸ There was evidence already available that indicated SEC was overstating anticipated revenue to the tune of \$3.2 million. The City and Tech described with reference to specific aspects of SEC rate setting how they reached their position and, unsurprisingly, pointed out that their experts would “require SEC to provide the detailed calculations and source data” to fully review SEC’s accounting and form any final opinion about over or undercharging.¹¹⁹

(91) Putting that point aside, the City and Tech then persuasively argued that no matter what the analysis of SEC’s data might ultimately prove, it made no sense to permit SEC to collect any undercharges (if they occurred) as this would effectively reward SEC for refusing to comply with Commission orders. The City and Tech stated the point persuasively: “regardless of the ultimate amount of purported uncollected funds, any allowance of SEC to recover lost revenues should be resoundingly rejected as SEC is attempting to profit from its violation of the Public Utility Act and a duly issued final order.”¹²⁰ The City and Tech later restated the point quite succinctly: “SEC is attempting to use its violation of the Final Order to protect itself from its own self-inflicted

¹¹⁶ City of Socorro’s And New Mexico Institute Of Mining And Technology’s Verified Joint Response to (1) Commission Orders on Remand, Requiring Accounting and to Show Cause, and (2) Socorro Electric Cooperative, Inc.’s Response in Opposition to Order to Show Cause (Jan. 09, 2025).

¹¹⁷ *Id.* at 4.

¹¹⁸ *Id.* at 5.

¹¹⁹ *Id.*

¹²⁰ *Id.* at 6.

harm[.]”¹²¹ The City and Tech then add that, as to fines, the Commission should take whatever action it can to recoup fines from sources other than SEC members.¹²² Other sources include private insurance policies for the trustees.¹²³ Lastly, the City and Tech noted that SEC’s “failure to consent to regulation and provide reliable service at just and reasonable rates would be grounds to revoke SEC’s operating authority.”

M. Hearing Examiners Assigned

(92) About four months after the Commission received the City and Tech’s response, the Commission issued an order assigning new co-hearing examiners.¹²⁴ That order directed the hearing examiners to take action necessary to issue a recommendation on the questions of rate reconciliation, fines, and ways fines might be paid that would not impact SEC members. The order also directed the hearing examiners to give the parties (as is customary in Commission proceedings) opportunity to reach a stipulated resolution.

(93) The hearing examiners conducted a prehearing on June 10, 2025. On June 18, 2025, they issued an order setting guidelines for settlement discussions to provide structure for the parties in their attempts to reach a negotiated resolution.¹²⁵ By that time, SEC had procured new counsel to represent it before the Commission.

(94) After issuing a protective order, receiving confidentiality agreements, and extending the deadline for resolution of the case by stipulation several times, the parties finally reached agreement about stipulated terms of resolution of this lengthy case in November 2025.

¹²¹ *Id.* at 7.

¹²² *Id.* at 8.

¹²³ *Id.* at 9.

¹²⁴ Order Assigning Co-Hearing Examiners (May 01, 2025).

¹²⁵ Order Setting Settlement Discussion Guidelines (Jun.18, 2025).

N. The Stipulation Now Before the Commission & Why it is in the Public Interest

(95) The stipulation at issue here was filed on November 7, 2025. Testimony supporting the stipulation was filed a week later. The many terms of the stipulation were summarized at the outset of this writing. It is extremely significant and must be highlighted that SEC, in the stipulation, took a fundamentally different approach to the events that occurred in this case. Unlike what appears in SEC's response to the Commission's initial order on remand, SEC now accepts that it violated Commission orders, that its actions were not in its members' best interest, and that the claim SEC would have collected \$4 million in additional revenue had it charged the rates approved in the final order in the 2018 rate case was incorrect and predicated on inaccurate information. The filing of this stipulation, and the process undertaken by the parties to reach it, has marked a stunning turnaround to a stunning series of events.

(96) The record in this case reflects one of the most protracted and adversarial regulatory breakdowns in the Commission's recent history, marked by years of litigation, non-compliance, and deep mistrust between SEC, its members, and the Commission. That breakdown produced real harm: members were billed under unlawful rates; the City and Tech were denied Commission-approved relief; and customers were exposed to the financial consequences of SEC's refusal to comply with duly issued Commission orders. The stipulation directly remedies those harms in ways that go to the core of the public interest. SEC will refund all amounts over-collected during the period when it failed to apply Commission-approved rates, will permanently waive any claimed under-collections arising from that non-compliance, will publicly acknowledge its misconduct to its members, and will submit to enhanced reporting, governance reforms, and future rate-setting procedures designed to ensure transparency and lawful

compliance. These are not abstract commitments; they are concrete, enforceable protections for ratepayers and the public that restore both financial equity and institutional accountability.

(97) Just as importantly, the stipulation aligns SEC's future conduct with the Commission's lawful authority as now definitively confirmed by the New Mexico Supreme Court. The Court has made clear that when the Commission's jurisdiction over a coop's rate case is properly invoked, the Commission has plenary authority to set just and reasonable rates and to require compliance with its orders. This stipulation reflects SEC's acceptance of that legal reality after years of resistance. Approving the stipulation therefore serves the public interest by converting a period of regulatory defiance into a framework of compliance, restitution, and forward-looking governance. It protects members from bearing the financial consequences of past violations, restores confidence in the Commission's oversight, and allows SEC's new leadership to focus on the operational and affordability challenges facing a rural utility rather than continued litigation. In these circumstances, the Hearing Examiners conclude that the stipulation is fair, just, reasonable, and in the public interest.

V. RECOMMENDED FINDINGS OF FACT AND CONCLUSIONS OF LAW

(98) The Commission has jurisdiction over the Socorro Electric Coop ("SEC") and the subject matter of this docket.

(99) Reasonable, proper, and adequate notice of this proceeding was provided.

(100) SEC is an electric cooperative subject to the provisions of NMSA 1978, § 62-15-1, to -37 (2019) and Section 62-8-7(H) and is subject to the jurisdiction of the Commission.

(101) The terms of the stipulation are in the public interest and were the product of meaningful negotiation between sophisticated parties. The agreements of the parties are a desirable and efficient outcome to this litigation which has been ongoing since 2018.

(102) The specific agreements reached in the stipulation are not restated here but are incorporated by reference. The stipulation itself, as submitted in the docket of this case, is the controlling document reflecting the parties' agreements and obligations.

(103) While the stipulation resolves this discrete set of events, there is much that can be gleaned by all in the regulatory community about producing a more productive regulatory environment for coops.

(104) SEC has volunteered to come before the Commission and offer a presentation on the changed culture that exists at the coop. The Commissioners should invite SEC to do that at an open meeting and there also discuss what structural obstacles SEC faces in the near and long term and how the Commission and the coop can move into a mutually reinforcing and productive regulatory future.

(105) The Commission and its Utility Division should find new and productive mechanisms to ensure a proactive regulatory environment where progress on common issues are addressed on an ongoing basis not just at a time when disagreement between a coop and its members reaches a zenith.

VI. RECOMMENDED DECRETAL PARAGRAPHS

(A) The findings, conclusions, decisions, rulings, and determinations in this certification of stipulation will be carried out.

(B) SEC will comply with all requirements placed on it in this case including matters involving future cases before the Commission.

(C) The requirements imposed on the parties are set out in the stipulation filed in the Commission's docketing system. Parties, courts, or any other interested person should refer to the stipulation to understand and assess compliance by all involved with the stipulation.

(D) Any finding or conclusion not specifically stated here but that is necessary to make this writing coherent and complete is adopted by the Commission as if it were stated.

(E) The Commission has taken administrative notice of all Commission orders, rules, decisions, and other relevant materials in all Commission proceedings cited in this final order.

(F) Any matter not specifically ruled on during the hearing or in this writing is resolved consistent with this final order.

(G) This Order is effective when signed.

ISSUED under the Seal of the Commission at Santa Fe, New Mexico, this 12th of January 2026.



NEW MEXICO PUBLIC REGULATION COMMISSION

A handwritten signature in black ink, appearing to read 'C. Ryan', written over a horizontal line.

Christopher P. Ryan
Hearing Examiner
Christopher.ryan@prc.nm.gov

A handwritten signature in black ink, appearing to read 'J Barrett', written over a horizontal line.

Jocelyn Barrett
Chief Hearing Examiner
Jocelyn.Barret@prc.nm.gov

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

IN THE MATTER OF THE FILING OF)
ADVICE NOTICE NO. 69 BY SOCORRO) Case No. 18-00383-UT
ELECTRIC COOPERATIVE, INC.)

CERTIFICATE OF SERVICE

I CERTIFY that on this date I sent to the parties listed here, via email only, a true and correct copy of the Certification of Stipulation.

Socorro Electric Cooperative

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DATED January 12, 2025

NEW MEXICO PUBLIC REGULATION COMMISSION

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