

PUBLIC UTILITIES REGULATION BOARD
(PURB Board)
Conference Room, 7th Floor of El Paso City Hall
Friday, February 04, 2010
4:00 PM

BOARD MINUTES

The Public Utilities Regulation Board met at the above place and date. The meeting was called to order at 4:15 p.m. The following board members were present:

Les Parker
Lisa Turner
Moises Rodriguez, Jr.
Stafford Thurmond
Tom Brown
Robert Schulz
Brian Burds
Blanca Estela Enriquez
Jimmy W. Janacek

The following board member was not present:
N/A

1. Call to Order

The meeting was called to order at 4:08 p.m.

2. Approval of Minutes of January 22, 2010.

The approval of minutes was postponed to for a latter part during the meeting due to some board members not having a chance to review with in a reasonable amount of time.

Motion made Lisa Turner, seconded by Les Parker and unanimously carried out to approve the Minutes of January 22, 2010.

AYES: Mr. Parker, Ms. Turner, Mr. Rodriguez, Mr. Schulz, Mr. Brown, Mr. Thurmond, Mr. Burds, Mr. Janancek & Mrs. Enriquez

NAYS: none

ABSTAIN: none

ABSENT: none

NOT PRESENT: none

3. Public Comment

There were no members of the public that chose to comment.

4. Discussion and Action regarding additional information required at hearing scheduled on March 10, 2010 for the consideration of the Statement of Intent of Texas Gas Service Company, a division of ONEOK, Inc. to increase rates within the City of El Paso filed December 3, 2009.

Questions by the PURB members were answered at this time by City staff and from the Texas Gas Service Company. The PURB requested to obtain rate case

studies from Norman Gordon from other cities in Texas and for any other additional information or questions are to contact Bertha Ontiveros, Assistant City Attorney with the City of El Paso.

There was no motion taken for this item.

5. Discussion and Action regarding additional information required at hearing scheduled on April 19, 2010 for the consideration of the Application of El Paso Electric Company to Change Rates, to Reconcile Fuel Costs, to Establish Formula-Based Fuel Factors, and to Establish an Energy Efficiency Cost Recovery Factor before the Public Utility Commission of Texas, Docket No. 37690 filed December 9, 2009

PURB requested to obtain materials from rate case studies in reference to the Electric Companies and their shareholders in other cities as well copies of the annual reports for both the Electric and Texas Gas Companies. Questions from PURB members were answered by City staff and from El Paso Electric Company.

6. Discussion and Action regarding scheduling of meetings.

Discussion was brought out on the issue of witnesses during the upcoming rate case meetings and the ability for each to speak briefly.

A motion was made by Tom Brown and seconded by Stafford Thurmond to prepare an oral summary testimony of no more than 5 minutes from witnesses.

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| AYES: | Mr. Parker, Ms. Turner, Mr. Rodriguez, Mr. Schulz, Mr. Brown, Mr. Thurmond, Mr. Burds, Mr. Janancek & Mrs. Enriquez |
| NAYS: | none |
| ABSTAIN: | none |
| ABSENT: | none |
| NOT PRESENT: | none |

The issue in reference to the open meetings act was brought to attention by Bertha Onitiveros.

A motion was made by Brian Burds and seconded by Tom Brown to be able to have the ability to call a meeting in closed session.

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| AYES: | Mr. Parker, Mr. Rodriguez, Mr. Brown, Mr. Thurmond, Mr. Burds, Mr. Janancek & Mrs. Enriquez |
| NAYS: | Ms. Turner and Mr. Schulz |
| ABSTAIN: | none |
| ABSENT: | none |
| NOT PRESENT: | none |

7. Adjournment

Motion made to adjourn at 5:08 p.m. by Mr. Thurmond, seconded by Mr. Brown and unanimously carried.

PLEASE NOTE: AUDIO OR VIDEO RECORDINGS OF THE MEETING AND ATTACHMENTS ARE ON FILE WITH THE ORIGINAL AGENDA/MINUTES AT THE CITY CLERK'S OFFICE.

Approved as to Content:

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

Tom Brown

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CHAIRMAN'S SUGGESTED CHANGES

6. Discussion and Action regarding scheduling of meetings.

Discussion was brought out on the issue of witnesses during the upcoming rate case meetings and the ability for each to speak briefly.

A motion was made by Tom Brown and seconded by Stafford Thurmond to prepare an oral summary testimony of no more than 5 minutes from witnesses.

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|--------------|---|
| AYES: | Mr. Parker, Ms. Turner, Mr. Rodriguez, Mr. Schulz, Mr. Brown, Mr. Thurmond, Mr. Burds, Mr. Janancek & Mrs. Enriquez |
| NAYS: | none |
| ABSTAIN: | none |
| ABSENT: | none |
| NOT PRESENT: | none |

The issue in reference to the open meetings act was brought to attention by Bertha Onitiveros, Assistant City Attorney, technically advising the PURB that the opening meetings act law does not apply to the PURB. Mr. Thurmond and Lisa Turner had brought up the issue on executive sessions and that since the PURB is an advisory board and not a government entity or committees that have final decision making authority such as the City Planning Commission board, the decisions and recommendations of the board have no impact and are not binding. It was stated by the City Attorney that it is the opinion of the City Attorney, and 18 other cases, that the opening meetings act does not apply to the PURB. Further discussion from Mrs. Ontiveros reflected the board's discussion at the last Texas Gas Case where the PURB went into executive session and Texas Gas did not object to it. Lisa Turner requested chapter and verse about what was told by Bertha Ontiveros, in reference to the opens meetings act, stating of why the PURB can hold these meetings in secret and not have the public present. PURB discussion noted that during the last rate case, the Board was advised not to talk to the media and to have no conversations after testimony. Norman Gordon then crystallized the discussion by advising that under the open meeting law, this board has the ability to conduct deliberation in closed session if the board wants as well as advised the board that it does not have to if it decides. Bertha Ontiveros said the issue that she was raising was in order to find out what the board desired. Mrs. Turner asked Bertha Ontiveros to clarify the difference between a closed session and executive session. Bertha Ontiveros defined that in the open meetings act you can have an executive session only under certain kinds of conditions. She then stated because the open meeting acts does not apply to the PURB, those conditions are irrelevant. She then stated that pass Boards have had discussions with out City Staff and without members of the utility present. Norman Gordon also stated that because the PURB had been advised from council that there was not executive session for this board. Lisa Turner stated that having closed session would lead to mistrust with the public. Bertha Ontiveros mentioned that normally the

opportunity for public comment at this time was not required but is the practice of the board. Les Parker discussed changing the term executive session to closed session in order to clarify the advice from council.

A motion was made by Brian Burds and seconded by Tom Brown to be able to have the ability to call a meeting in closed session.

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| AYES: | Mr. Parker, Mr. Rodriguez, Mr. Brown, Mr. Thurmond, Mr. Burds, Mr. Janancek & Mrs. Enriquez . |
| NAYS: | Ms. Turner and Mr. Schulz |
| ABSTAIN: | none |
| ABSENT: | none |
| NOT PRESENT: | none |