

# **New Mexico Renewable Energy Transmission Authority**

**Minutes of Board Meeting  
September 5, 2019  
1:00 p.m.**

**NM State Capitol – Room 317  
490 Old Santa Fe Trail  
Santa Fe, New Mexico, 87501**

## **Present**

Robert (Bob) Busch, Chairman  
Dr. James Miller, Member  
Brian Moore, Member  
Megan O'Reilly, Member  
Noah Long, Member  
Louise Martinez, Designee for EMNRD Cabinet Secretary

## **Absent**

Yovanne Lucero, Designee for Tim Eichenberg

## **RETA Staff**

Fernando Martinez, RETA Executive Director  
Lynn Mostoller and Mariposa Padilla-Sivage – General Counsel, Sutin Thayer & Browne  
Ginny Selvin – RETA Manager of Finance  
Gloria Castillo – RETA Administrative Assistant

### **1. Call to Order and Roll Call**

Chairman Busch called the meeting to order at 1:00 p.m. A quorum was present for the meeting.

Chairman Busch welcomed new Board Member Megan O'Reilly, who replaces former member Jonathan Elms. Chairman Busch thanked Jonathan Elms for his dedication and service.

### **2. Approval of Agenda**

Member Moore made a motion to accept the agenda as presented. Member Long seconded the motion. There being no further discussion, Chairman Busch called for a vote and it passed unanimously.

### **3. Approval of June 13, 2019 Board Meeting Minutes**

Member Miller made a motion to accept the June 13, 2019 Board Minutes as presented. Member Moore seconded the motion. There being no additional discussion, corrections, additions or updates to the minutes, Chairman Busch called for a vote and it passed unanimously.

#### **4. Report of the Chairman**

Chairman Busch reported on the following:

- RETA is working with Pattern Energy and PNM on the PRC approval of PNM's acquisition of the Western Spirit Transmission Project.
- He provided written rebuttal testimony for PNM's filings and appeared at the PRC hearing, in conjunction with PNM's witnesses, to be subject to cross examination by the other parties and the hearing examiner. At the hearing, Chairman Busch explained RETA's role in the development of Western Spirit Transmission lines and how RETA is the owner of such lines. Ms. Mostoller explained the procedure involved and noted that the Hearing Examiner will issue a recommended decision in the next few weeks and the parties will have an opportunity to file exceptions to the recommended decision. Once that process is completed, the matter will be placed on a PRC open meeting, where we hope to receive a favorable decision on the acquisition.
- RETA has received several notices from several bidders who are interested in submitting a proposal for the Transmission Storage and Study RFP. Proposals are due mid-September. The Evaluation Committee, which consists of Member Miller, Member Martinez and the Chairman, will look through the submittals, select finalists to give oral presentations to the Evaluation Committee and then select a winning bidder. In addition, the Advisory Committee has been selected, and will begin meeting soon after the contractor is selected. Chairman Busch noted that pages 20-23 of the RFP explains the detailed Scope of Work and are the most important pages of the RFP. A copy of the RFP can be found on RETA's website.
- Chairman Busch introduced and welcomed RETA's new Executive Director, Fernando Martinez, Jr.

#### **5. Review and Consider Approval of 2019 Open Meetings Resolution**

Ms. Mostoller noted that the content of the 2019 Open Meetings Resolution remains the same as last year's, except for the Resolution No. that changes to 2019-02 and the approval date of September 5, 2019.

Member Long made a motion to approve the 2019 Open Meetings Resolution as presented. Member O'Reilly seconded the motion. There being no further discussion, Chairman Busch called for a vote and it passed unanimously

#### **6. Review and Consider Approval of Draft Financial Statement for the Year Ending June 30, 2019**

Ms. Selvin presented the financial statements for the period ending June 30, 2019.

Member Moore made a motion to approve the financial statements for the period ending June 30, 2019. Member Miller seconded the motion. There being no further discussion, Chairman Busch called for a vote and it passed unanimously.

**7. Review and Consider Approval of Amendments to the Build Transfer Agreement (BTA)**

Ms. Mostoller explained that the amendment to the BTA is to extend the deadline date for the EPC Contractors to apply for a Private Letter Ruling from NMTRD by 180 days. This extension was needed because the process for selecting an EPC Contractor is ongoing and the deadline in the original BTA was too soon for timely submission of the application. Member Miller noted that the execution date of the First Amendment would have to be in September because of the timing of this meeting.

Member Long made a motion to approve the Amendments to the Build Transfer Agreement with the dates adjusted in order to accurately reflect RETA's approval date. Member O'Reilly seconded the motion. There being no further discussion, Chairman Busch called for a vote and it passed unanimously.

**8. FY 2019 Audit**

Member Moore informed the Board that the Loftis Group, RETA's Auditor, met with Audit Committee to review the FY2019 RETA Audit. Because of the audit rules, however, he is unable to discuss the audit with the Board until after the FY2019 Audit is approved by the State Auditor.

**9. Update on the Western Spirit**

Mr. Rentz reported on several recent Open Houses held by Western Spirit. Mr. Rentz also reported on progress on permitting, survey permission, and land acquisition. Chairman Busch asked if he had encountered any problems with the landowners. Mr. Rentz replied that some people agreed with the project, while others did not. Chairman Busch indicated that several landowners provided comments at the PRC hearing he had attended, but were not witnesses. Member Long asked about possible route changes. Mr. Rentz responded that several micro-siting route changes might be a possibility.

**10. Public Comments**

Romy Baca, resident of Bosque Farms, informed the Board that she represents several people within the area of Bosque Farms who have signed a petition against the Western Spirit Project crossing properties, which include farmlands and dairy lands. She expressed concern with the property values affected by placement of these lines.

Vicky Hudson, resident of Bosque Farms, expressed concern with property values, health issues, risk to farm equipment, and the proximity of the line to an airstrip. She requested that the transmission lines not go through Bosque Farms.

Bernadette Baca, resident of Bosque Farms, expressed concern with the property values and the danger for migrant birds. She suggested that the lines be moved to another area.

Stephanie McCleary, resident of Bosque Farms, expressed concern with the transmission lines being placed too close to her property line.

Martha Salas, Chairman of the Socorro Commission, expressed concern with certain tactics being used and with eminent domain issues.

### **11. Closed Session**

Chairman Busch called for a motion to go into closed session for confidential discussion of real estate acquisition status for Western Spirit Project, *see* NMSA 1978, § 10-15-1(H)(7) (meeting subject to attorney-client privilege pertaining to threatened or pending litigation in which the public body is or may become a participant); § 10-15-1(H)(8) (meeting for the discussion of the purchase, acquisition or disposal of real property or water rights by the public body); § 62-16A-16 (protecting the proprietary technical or business information obtained by the authority as confidential); *see also* NMAC § 17.8.2.9.

Member Moore made a motion to go into closed session. Member Long seconded the motion. There being no further discussion or comments, Chairman Busch called for a vote and it passed unanimously.

Chairman Busch announced that the Board would now go into closed session.

Chairman Busch called for a motion for the RETA Board to come out of closed session. Member Long made a motion for the Board to come out of closed session. Member O'Reilly seconded the motion. There being no further discussion, Chairman Busch called for a vote and it passed unanimously.

The Board returned to its regular meeting at 3:20 p.m. Chairman Busch announced that the only matter discussed in closed session was the item on the agenda set forth above and that no action or vote was taken.

### **12. Next Meeting**

Chairman Busch suggested that a tentative date of Thursday, October 10, 2019 at 1:00 p.m. be set for a regular RETA Board of Directors meeting.

### **13. Adjournment**

Chairman Busch called for a motion to adjourn the Board meeting.

Member Moore made a motion to adjourn. Member Long seconded the motion. The Board voted unanimously to adjourn.

The RETA Board meeting adjourned at 3:30 p.m.

**NEW MEXICO RENEWABLE ENERGY TRANSMISSION AUTHORITY**  
**Resolution Number 2019-02**  
**Open Meetings**

**WHEREAS**, the Renewable Energy Transmission Authority (“Authority”) Board met in on September 5, 2019; and

**WHEREAS**, Section 10-15-1(B) of the Open Meetings Act (NMSA 1978, Sections 10-15-1 through 10-15-4) states that, except as may be otherwise provided in the Constitution or the provisions of the Open Meetings Act, all meetings of a quorum of members of any board, council, commission or other policy-making body of any state agency held for the purpose of formulating public policy, discussing public business or for the purpose of taking any action within the authority of or the delegated authority of such a body, are declared to be public meetings open to the public at all times; and

**WHEREAS**, any meetings subject to the Open Meetings Act at which the discussion or adoption of any proposed resolution, rule, regulation or formal action occurs shall be held only after reasonable notice to the public; and

**WHEREAS**, the Authority resolves to generally comply with the Open Meetings Act; and

**WHEREAS**, Section 10-15-1(D) of the Open Meetings Act requires a determination annually of what constitutes reasonable notice of public meetings;

**NOW, THEREFORE, BE IT RESOLVED** by the Authority that:

1. Until such time as a regular schedule of meetings is established, meetings of the Authority shall occur on an as-needed basis from time to time as set forth in any notice. A notice of any meeting shall state the time and place of the meeting to which it pertains. The notice shall indicate where the public may obtain a copy of the proposed agenda.
2. A proposed agenda will be available and posted on the Authority’s website at least seventy-two (72) hours before the meeting, except for emergency meetings. Authority members may add items requiring Authority action to the agenda by notifying the Authority Chair in writing not less than seventy-two (72) prior to the meeting.
3. Notice of regular meetings will be given ten (10) calendar days in advance of the meeting date.
  - a. Notice requirements are met by posting notice on the website maintained by the Authority, sending notice by mail, facsimile, or email to newspapers and broadcast stations that have made a written request for notice, and sending notice by mail, facsimile or email to others who have made a written request for notice.

4. Special meetings may be called by the Chair or by four (4) of the members upon at least two (2) days' notice. The notice will include an agenda for the meeting or information on how members of the public may obtain a copy of the agenda. The agenda will be available to the public at least twenty-four (24) hours before any special meeting.
5. Emergency meetings will be called only under unforeseen circumstances which demand immediate action to protect the health, safety and property of citizens or to protect the public body from substantial financial loss. The authority will avoid emergency meetings whenever possible. Emergency meetings may be called by the Chair or by four (4) of the members upon twenty-four (24) hours' notice, unless threat of personal injury or property damage requires less notice. The notice for all emergency meetings will include an agenda for the meeting or information on how the public may obtain a copy of the agenda. If action is taken at an emergency meeting, the Authority shall, within five (5) working days of the meeting, report to the Attorney General's Office the action taken and the circumstances giving rise to the emergency.
6. For the purposes of special meetings and emergency meetings described in paragraphs 4 and 5 of this resolution, notice requirements are met if notice of the date, time, place and agenda is provided by telephone, email, or facsimile to at least two (2) newspapers of general circulation in the state and to newspapers and broadcast stations that have made a written request of notice of public meetings, and notice is posted on the website of the Authority.
7. In addition to the information specified above, all notices will include the following language with contact information included:

If you are an individual with a disability who is in need of a Reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing or meeting, please contact the Authority at (505) 699-0599 at least one week prior to the meeting, or as soon as possible. Public documents, including the agenda and minutes, can be provided in various accessible formats. Please contact the Authority at (505) 699-0599 if a summary or other type of accessible format is needed.
8. Pursuant to Open Meetings Act, Section 10-15-1(C), any or all members of the Authority may participate in a meeting of the Authority by means of a conference telephone or other similar communications equipment when it is otherwise difficult or impossible for the members to attend the meeting in person, provided that each member participating by conference telephone can be identified when speaking, all participants are able to hear each other at the same time and members of the public attending the meeting are able to hear any member of the Authority who speaks during the meetings.
9. The Authority may close a meeting to the public only if the subject matter of such discussion or action is excepted from the open meeting requirement under Section 10-

15-1(H) of the Open Meetings Act, if the Authority must consider confidential or proprietary business or technical information in the possession of the Authority as provided under § 62-16A-16, or if the Authority must consider confidential or proprietary business or technical information pertaining to the Authority or its board.

- a. If the decision to hold a closed meeting is made when the Authority is in an open meeting, the motion calling for a closed meeting shall state the authority for the closure and the subject to be discussed shall be stated with reasonable specificity, and the votes of each individual member shall be recorded in the minutes. If the motion is approved by a majority of a quorum of the Authority, the Authority may enter closed session only on those subjects announced or voted upon prior to closure.
- b. If the decision to hold a closed meeting is made when the authority is not in an open meeting, the closed meeting shall not be held until public notice, appropriate under the circumstances, stating the specific provision of law authorizing the closed meeting and the subjects to be discussed, is given to the members and to the general public.
- c. Following completion of any closed meeting, the minutes of the open meeting that was closed, or the minutes of the next open meeting if the closed meeting was separately scheduled, shall state that the matters discussed in the closed meeting were limited only to those specified in the motion for closure or notice of separate closed meeting.
- d. Except as provided in Section 10-15-1(H), any action taken as a result of discussions in a closed meeting shall be made by vote of the Authority in an open public meeting.

Passed by the New Mexico Renewable Energy Transmission Authority on September 5, 2019.

  
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Robert E. Busch, Chair  
New Mexico Renewable Energy Transmission Authority

Attest:

  
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