Sec. 2. [Responsibilities of public regulation commission.]

The public regulation commission shall have responsibility for regulating public utilities as provided by law. The public regulation commission may have responsibility for regulation of other public service companies in such manner as the legislature shall provide. (As added November 5, 1996; as amended November 6, 2012 and November 3, 2020.)

ANNOTATIONS

The 2020 amendment, which was proposed by SJC/SRC/S.J.R. Nos. 1 & 4 (Laws 2019) and adopted at a general election held on November 3, 2020 by a vote of 445,655 for and 355,471 against, clarified that the public regulation commission is required to regulate public utilities as provided by law, and provided that the commission may be required to regulate other public service companies as the legislature may provide; after "regulating public utilities", deleted "including electric, natural gas and water companies; transportation companies, including common and contract carriers; transmission and pipeline companies, including telephone, telegraph and information transmission companies; and" and added "as provided by law. The public regulation commission may have responsibility for regulation of", and after "shall provide.", and deleted "The public regulation commission shall have responsibility for regulating insurance companies and others engaged in risk assumption as provided by law until July 1, 2013.".

2012 Amendments. — This section was compiled as a composite of the amendments proposed by H.J.R. 16, Section 1 (Laws 2012) and H.J.R. 17, Section 1 (Laws 2012) and adopted at the general election held on November 6, 2012. Although Section 1 of H.J.R. 17 did not delete the authority of the public regulation commission to charter and regulate business corporations, the compiled section deleted that authority because the authority of the public regulation commission to charter and regulate business corporations was deleted in Section 1 of H.J.R. 16; the ballot question for H.J.R. 16 stated that Constitutional Amendment 3 proposed to amend Article 11, Section 2 and to enact a new section of Article 11 to remove authority to charter and regulate corporations from the public regulation commission and provide authority to charter corporations to the secretary of state; and Section 2 of H.J.R. 16 authorized the secretary of state to charter corporations. Although Section 1 of H.J.R. 16 did not delete the authority of the public regulation commission to regulate insurance companies and others engaged in risk assumption, the compiled section deleted that authority because the authority to regulate insurance companies and others engaged in risk assumption was deleted in Section 1 of H.J.R. 17; the ballot question for H.J.R. 17 stated that Constitutional Amendment 4 proposed to amend Article 11 to remove the regulation of insurance companies and others engaged in the assumption of risk from the public regulation commission and place it under a superintendent of insurance; and Section 2 of H.J.R. 17 created the office of superintendent of insurance and authorized the superintendent of insurance to regulate insurance companies and others engaged in risk assumption.

Mandamus was the appropriate remedy where the New Mexico public regulation commission refused to follow a nondiscretionary duty. — Where petitioners filed an emergency petition on behalf of the state of New Mexico seeking a writ of mandamus against the New Mexico public regulation commission (commission) to direct the commission and its individual commissioners to apply the Energy Transition Act (ETA), 62-18-1 to 62-18-23 NMSA 1978, to proceedings related to public service company of New Mexico's (PNM) abandonment of units one and four of the San Juan generating station (San Juan), and where the commission asserted that the ETA did not apply because abandonment proceedings had already begun prior to the ETA's enactment, petition for writ of mandamus was granted because the commission did not have the authority to initiate an abandonment proceeding, and as a matter of law, abandonment proceedings for San Juan units one and four did not effectively begin until PNM filed its application for abandonment, which was after the ETA was enacted. The ETA serves as the statutory scheme that the legislature provided for abandonment proceedings, and therefore the commission had a nondiscretionary obligation to apply the ETA to the San Juan abandonment proceedings. *State ex rel. Egolf v. N.M. Pub. Regulation Comm'n*, 2020-NMSC-018.

The Energy Transition Act does not invade the public regulation commission's responsibility for regulating public utilities. — Where the public regulation commission (Commission) gave leave for the public service company of New Mexico to issue energy transition bonds of up to $361,000,000 in connection with the abandonment of its interests in the San Juan generating station units one and four and to collect separate and non-bypassable energy transition charges from its customers in repayment of the bonds, pursuant to the Energy Transition Act (ETA), §§ 62-18-1 through 62-18-23 NMSA 1978, and where appellants, two organizations that represent energy consumers, claimed that the ETA invades the Commission's responsibility for regulating public utilities under this section by eliminating the Commission's authority to review and disallow a public utility's energy transition costs for imprudence or unreasonableness, appellants' separation of powers claim is without merit, because although the Commission is constitutionally tasked with the responsibility of regulating public utilities as provided by law, the parameters of that policy are for the legislature to decide. *Citizens for Fair Rates & the Env't v. NMPRC*, 2022-NMSC-010.

Local ordinance not preempted by state law. — Reading the New Mexico Telecommunications Act (Chapter 63, Article 9A NMSA 1978) and N.M. Const., art. XI, § 2 in *pari materia* with New Mexico's Municipal Code (Chapter 3 NMSA 1978) and N.M. Const., art. X, § 6, the provisions of a Santa Fe telecommunications ordinance, regulating the power to contract with a service provider and to enforce provisions related to land use and rights of way held by the city, were not preempted by state law, inasmuch as they did not purport to usurp New Mexico's public regulation commission power to issue certificates of public convenience and necessity to providers of public telecommunications services or to regulate rates and quality of service for intrastate telecommunications services. *Qwest Corp. v. City of Santa Fe*, 224 F. Supp. 2d 1305 (D.N.M. 2002), *aff'g in part*, 380 F.3d 1258 (10th Cir. 2004).

Law reviews. — For comment on State ex rel. State Corp. Comm'n v. Zinn, 72 N.M. 29, 380 P.2d 182 (1963), see 3 Nat. Resources J. 356 (1963).

For comment on State ex rel. Palmer v. Miller, 74 N.M. 129, 391 P.2d 416 (1964), see 4 Nat. Resources J. 606 (1964).