

Public Regulation Commissioner Candidate Questionnaire Answers

Candidate: Flavious J. Smith, Jr.

1. New Mexico has the potential to be a leader in the region, delivering low-cost renewable resources to serve its citizens and the rest of the West, benefiting New Mexico's economy, ratepayers, and supporting grid reliability. What do you see as the role for a New Mexico Commissioner as it relates to regional discussions on power markets and interstate transmission; how are you best suited to engage in these regional forums?

As a New Mexico Commissioner, my role in regional discussions on power markets and interstate transmission would be centered on ensuring that New Mexico maximizes its potential as a leader in renewable energy. Key responsibilities would include:

1. **Advocacy for New Mexico's Interests:** Representing the state's priorities in regional forums, ensuring that our unique resources and needs are considered in power market decisions.
2. **Collaboration and Partnership Building:** Fostering relationships with neighboring states and regional organizations to encourage cooperative approaches to energy planning and resource sharing, which can enhance both economic and environmental outcomes.
3. **Support for Infrastructure Development:** Advocating for investments in interstate transmission infrastructure that facilitate the export of New Mexico's renewable energy resources, while also supporting grid reliability and resilience.
4. **Promoting Competitive Energy Markets:** Encouraging policies that promote competition among energy providers, which can help lower costs for consumers and improve service quality.

I am well-suited for this role due to my background in communicating with stakeholders and my commitment to stakeholder engagement. My ability to navigate complex policy discussions and build consensus will be essential in advancing New Mexico's interests and fostering a collaborative regional energy landscape.

2. Competition between generators, whether utility- or Independent Power Producer-owned, helps ensure the lowest cost, best suited resource is procured by electric utilities, ultimately resulting in the best deal for customers. What do you see as the role of a Commissioner in ensuring fair and transparent competition in resource procurement?

As a Commissioner, my role in ensuring fair and transparent competition in resource procurement involves:

1. **Regulatory Oversight:** Establishing and enforcing clear rules that promote competition among utility and independent power producers, ensuring all participants have a fair opportunity to compete.

2. **Transparency**: Mandating transparent processes for resource procurement, including clear criteria for evaluating bids, to build trust and accountability among stakeholders.
3. **Market Monitoring**: Actively monitoring market conditions to identify any anti-competitive behaviors or barriers to entry that may disadvantage certain providers.
4. **Stakeholder Engagement**: Facilitating discussions among utilities, producers, and consumers to ensure that diverse perspectives are considered in procurement decisions.

By fulfilling these responsibilities, I can help create a competitive marketplace that drives down costs and ensures the best resources are utilized for the benefit of customers.

3. What is the "public interest" in the context of utility regulation?

In the context of utility regulation, "public interest" refers to the overarching goal of ensuring that utility services are safe, reliable, affordable, and accessible to all consumers. It encompasses the need to protect consumer rights, promote fair pricing, encourage sustainable practices, and ensure environmental stewardship. Ultimately, it aims to balance the needs of consumers, the utility companies, and the broader community to foster a fair and equitable energy landscape.

4. What is the role of electric utilities in decarbonizing the economy and what is the Commission's role in overseeing that process?

Electric utilities play a crucial role in decarbonizing the economy by transitioning from fossil fuels to renewable energy sources, enhancing energy efficiency, and investing in cleaner technologies. Their actions directly impact carbon emissions and energy sustainability.

The Commission's role in overseeing this process involves:

1. **Regulatory Framework**: Establishing policies and regulations that incentivize utilities to adopt renewable energy and reduce emissions.
2. **Monitoring Compliance**: Ensuring that utilities meet state decarbonization targets and comply with environmental standards.
3. **Supporting Innovation**: Encouraging investment in new technologies and practices that facilitate the transition to a low-carbon economy.
4. **Consumer Protection**: Safeguarding the interests of consumers by promoting affordable and reliable energy during the transition.

Together, utilities and the Commission can drive significant progress toward a sustainable and decarbonized energy future.

5. What is the PRC's role in ensuring broadband is universally available?

The PRC's role in ensuring universal broadband availability involves:

1. **Regulatory Oversight:** Establishing rules and standards that promote broadband access and competition among providers.
2. **Funding and Support:** Facilitating access to state and federal funding programs aimed at expanding broadband infrastructure, particularly in underserved areas.
3. **Consumer Advocacy:** Protecting consumers by ensuring affordable pricing, quality service, and addressing complaints related to broadband services.
4. **Collaboration:** Working with local governments, service providers, and community organizations to identify gaps in service and develop solutions for broader access.

Through these efforts, the PRC may bridge the digital divide and ensure that all New Mexicans have access to reliable and affordable broadband services.

6. Should providers of broadband be regulated as a utility? Why or why not?

Yes, broadband providers should be regulated as a utility because broadband is an essential service, much like electricity or water, that is critical for education, employment, healthcare, and daily communication. Regulating it as a utility would ensure fair access, prevent monopolistic practices, and promote equitable service in underserved and rural areas, ensuring that all communities have reliable, affordable internet access.

However there is an argument to be made that broadband should not be considered a utility because the fast-evolving nature of technology and competition in the market encourages innovation and lower prices. Regulating broadband as a utility could impose rigid rules that stifle innovation, slow infrastructure development, and deter private investment, potentially limiting advancements in broadband technology and service improvements.

7. To what extent, if any, should rate-setting decisions of the PRC consider social, cultural, and environmental externalities? When, if ever, should social, cultural, and environmental externalities lead the PRC to approve rates higher than could be approved if such externalities were not considered?

Rate-setting decisions of the PRC should consider social, cultural, and environmental externalities to the extent that they impact the overall welfare of communities and the sustainability of the environment. By incorporating these factors, the PRC can ensure that rates reflect not only the costs of service provision but also promote equity, protect vulnerable populations, and encourage

environmentally sustainable practices. This holistic approach can lead to more informed and just decisions that benefit both consumers and the broader community.

Social, cultural, and environmental externalities should lead the PRC to approve higher rates when the benefits of addressing these factors significantly outweigh the costs. For instance, if higher rates can fund renewable energy projects that reduce long-term environmental harm, support low-income communities, or preserve cultural heritage, the PRC may justify the increase. This approach recognizes the broader societal value of sustainable practices and equitable access, ultimately fostering a more resilient and inclusive energy system.

8. Please discuss your views on governance and the appropriate roles of Commissioners and staff, appropriate levels of delegation and your expected level of involvement in the administration of the agency.

In governance, Commissioners should provide strategic oversight and policy direction, while staff handle day-to-day operations and technical implementation. An effective balance of delegation is essential; Commissioners should empower staff to make routine decisions while retaining authority over significant policy issues and regulatory matters.

I expect to be actively involved in high-level decision-making and stakeholder engagement, ensuring transparency and accountability, while also supporting staff in their roles. This collaborative approach fosters efficiency and enhances the agency's ability to serve the public effectively.

9. As you evaluate issues before the PRC, which factors do you view as most important and why?

When evaluating issues before the PRC, the most important factors to consider are:

- 1. Consumer Impact: Assessing how decisions affect affordability, reliability, and access to services for ratepayers is crucial for ensuring public welfare.**
- 2. Environmental Sustainability: Evaluating the environmental implications of energy production and infrastructure decisions is essential for promoting long-term sustainability and compliance with state goals.**
- 3. Economic Viability: Considering the economic impacts on local communities and the overall economy helps ensure that decisions support growth and job creation.**
- 4. Equity and Inclusion: Ensuring that marginalized and underserved communities are considered in decision-making fosters fairness and access to essential services.**

These factors are interrelated and critical for making informed, balanced decisions that align with the public interest.

10. Is there a state whose energy regulatory policies that you believe New Mexico should emulate? If so, which one and why?

While recognizing the uniqueness of New Mexico, New Mexico should consider emulating the energy regulatory policies of California, Colorado, and New York for their innovative approaches to sustainable energy transition.

1. **California:** Its aggressive renewable energy targets and comprehensive energy efficiency programs provide valuable insights into integrating diverse renewable resources and modernizing the grid.
2. **Colorado:** Known for its collaborative stakeholder processes and strong commitments to decarbonization, Colorado's policies encourage regional cooperation and support for community-based renewable energy projects.
3. **New York:** With its emphasis on energy equity and a clean energy standard, New York's initiatives prioritize underserved communities while driving investments in clean energy technologies.

By learning from these states, New Mexico can enhance its energy policies to promote sustainability, equity, and economic growth.

11. Briefly describe your experience with regulatory topics including: utility rate setting, promulgating regulations, and the New Mexico Energy Transition Act.

I have experience in regulatory topics, I have had exposure to the following:

1. **Utility Rate Setting:** I have analyzed and participated in rate cases, focusing on ensuring that rates are fair and equitable while balancing the financial needs of utilities and the interests of consumers.
2. **Regulatory Compliance:** I have been involved in the development of regulations that govern the energy industry including pipeline utility operations, ensuring compliance with state laws and promoting transparency and accountability in the regulatory process.
3. **New Mexico Energy Transition Act:** I have a board understating of the provisions of the Energy Transition Act, its goals of transitioning to renewable energy and supporting affected communities, while overseeing utilities' compliance with decarbonization targets.

This experience equips me to navigate the complexities of regulatory frameworks effectively.

12. New Mexico has 23 distinct sovereign Native American tribes within its borders. Please explain your familiarity with the State - Tribal relationship with an emphasis on how this relationship is applicable to utilities including power generation, right of ways and alternative energy?

I am familiar with the State-Tribal relationship in New Mexico, recognizing the sovereignty and unique rights of the 23 Native American tribes within the state. This relationship is critical in utility regulation, particularly regarding:

1. **Power Generation**: Tribes often have their own energy resources and interests, requiring consultation and collaboration on energy projects that may affect their lands and communities.
2. **Rights of Way**: Obtaining rights of way for utility infrastructure must respect tribal sovereignty and involve meaningful engagement with tribal leaders to address concerns and ensure fair compensation.
3. **Alternative Energy Initiatives**: Collaborating with tribes on renewable energy projects can empower tribal communities, provide economic opportunities, and enhance energy independence while respecting cultural values and land use.

Understanding this relationship is essential for developing equitable and sustainable energy policies that honor tribal rights and foster cooperation.

13. The Public Regulation Commission is a regulatory body. Often the line between regulation and policy can get blurred. Please explain your view as to where the line between regulation and policy is.

The line between regulation and policy is defined by their respective roles:

Regulation involves the specific rules and procedures that govern utility operations, ensuring compliance and protecting consumer interests, while policy refers to broader strategic goals and frameworks that guide the direction of regulatory practices.

Regulation is often more technical and focused on implementation, whereas policy encompasses the overarching objectives, such as promoting renewable energy or ensuring equitable access. While they are interconnected, clear communication and delineation are essential to maintain accountability and effectiveness in the regulatory process.

14. What is the most consequential action or decision of the PRC in the last twenty years? Why?

The most consequential action of the PRC in the last twenty years is the implementation of the Energy Transition Act (ETA) in 2019. This legislation set ambitious targets for renewable energy, requiring utilities to achieve 100% carbon-free electricity by 2045. The ETA's impact on reducing greenhouse gas emissions, promoting economic growth through renewable investments, and facilitating a just

transition for affected communities has positioned New Mexico as a leader in the clean energy movement. This decision significantly shapes the state's energy landscape and aligns with broader environmental goals.

15. Per NMSA 1978 Section 62-19-5 please provide the following: please provide the following:
a. Do you hold a baccalaureate degree from an institution of higher education that has been accredited by a regional or national accrediting body? (If you hold a professional license or a post-graduate degree, skip to subsection b.

I hold post graduate degree(s) M.S. Education, Juris Doctorate-Law

Do you have at least ten years of professional experience in an area regulated by the commission or in the energy sector and involving a scope of work that includes accounting, public or business administration, economics, finance, statistics, policy, engineering or law?

I have been employed in the energy business for over 40 years. I have extensive experience in accounting, finance, statistics, business administration, economics, engineering and law.

Please detail how your work experience meets this requirement, including noting the specific number of years in each relevant role.

Director, Energy Wealth Management

Bank of America-Dallas-Fort Worth, TX April 2024 to Present

I serve as an asset manager managing a portfolio of accounts and as team lead in the oil and gas management team. Bank of America manages trust and agency accounts for thousands of entities with interests in 10s of thousands of wells across the lower 48.

Partner –

Tenn-Tex Partners, LLC-Fort Worth, TX

January 2015 to 2024

I served as a partner in Tenn-Tex Partners, LLC, an energy investing company. The firm's focus is to create lasting value for our partners, and the assets and companies

in which we invest. With an entrepreneurial ethos, we strive to create value by investing in assets and businesses where our strategic insights, industry expertise, and operational knowledge will naturally compel value creation. Our investment approach is centered on a disciplined due diligence process and strict return criteria that is focused on the people sustaining our investments, while measuring enterprise risk and identifying channels for value creation. Given our long term, multi-generational time horizon, we are patient investors, and committed to achieving the best long-term outcomes for our investments, operating partners, and our stakeholders. A proven record of accomplishment and diverse background buttresses the firm's senior leadership. We participate in oil and gas drilling through direct investments, working interests and royalties in non-operated positions and in equity and debt in onshore North American public and private companies.

Executive Vice President

Forestar Group, Inc-Fort Worth, TX

July 2008 to December 2014

Beginning in 2008, as the key hire in the Oil & Gas Business Segment, I built a high achieving team, and led a stand-alone E&P business segment with 50 employees. I served as a Section 16 officer for Forester Group Inc., a NYSE listed public corporation. I created catalyst for rapid growth through M&A with the acquisition of Credo Petroleum, in 2012. The \$146MM merger of Credo Petroleum Corporation, a NASDAQ traded company, doubled production and reserves in Forester's oil and gas segment and provided a platform to accelerate growth of our core business. Formulated aggressive strategic initiatives that drove growth in segment reserves from \$56 million at YE 2009 to \$317 million at YE 2013 (CAGR 54%). On a discounted basis, 2014 YE reserves (PV10 \$229 million) were up 20% from YE 2013 (PV10 \$183 million). Developed and executed aggressive multi-year strategic business plans designed to generate immediate EBIT while driving long-term shareholder value. Following our strategic plan and initiatives, and through disciplined investment, we grew revenues +/- \$25 million (YE 2010) to +/- \$ 65 million (YE 2014). Formulated and drove the implementation of systems and processes for best practices in the segment to insure regulatory, audit and SOX compliance. I was responsible for the evaluation, selection implementation, and integration of the Land Administration, Accounting and Engineering (Aries) database and systems. Developed key reporting metrics and insured effective, efficient process flow throughout the organization. I formulated capital investment

budgets that met strict minimum rate of return criteria and were measurable through key performance metrics. I directed allocation of resources within a \$100 million Capex investment budge, in 2013 and \$120 million, in 2014. Provided Board of Director guidance and briefings, communicated segment operational activities and represented the business segment to the shareholders, stakeholders, industry groups, operating partners, and the banking and investment community.

Division Land Manager- Business Development

EOG Resources, Inc-Pittsburgh, PA & Fort Worth, TX

2006 to 2008

I was a key leader in Barnett and Marcellus exploration and production efforts with a capital budget of \$260 million. Identified drafted and closed multiple complex investment transactions across our area of operations ensuring a continual supply of quality drillable locations. I served as the face of the division interacting with operating partners. Was part of a multi-company initiative to develop and implement a new land administration software system to address the complex land administration functions involving joint venture accounting designed to be auditable and SOX compliant, I led a team of 12 In-house and 150+ field land professionals. Lead and coordinate both exploration and production efforts, including mid-stream activities. I was a leader and active participant in EH&S training and Emergency Response planning. Help formulate and was key driver of division investment strategy based upon measurable deliverables. Also, I was involved in the creation of and operations of Pecan Pipeline a public utility owned by EOG Resources to transport natural gas.

MORE IF REQUIRED.

Do you hold a professional license or a post-graduate degree from an institution of higher education that has been accredited by a regional or national accrediting body in an area regulated by the commission, including accounting, public or business administration, economics, finance, statistics, policy, engineering or law?

Yes, I earned my Juris Doctorate from Oklahoma City University School of Law.

Do you have at least ten years of experience within the field in which you hold your license or post-graduate degree? Please detail how your work experience meets this requirement, including noting the specific number of years in each relevant role.

I used my law degree as a Landman throughout my career and later as Executive Vice President of Forestar Group, Inc. I also was directly involved in state regulatory testimony and compliance throughout my career as a landman.

See relevant experience in Answer 15 above.

I am an entrepreneurial senior energy executive with an accomplished career building and leading high achieving teams. I am an exceptional leader, mentor, and fact based decision maker. I have a strategic focus and possess unique creative negotiating ability with strong communication skills. I am an exceptional problem solver and critical thinker with the ability to excel in a very fast paced competitive environment. I possess the ability to quickly assess highly technical business situations and take necessary actions to accomplish goals, aggressively identify opportunities, develop focus, and achieve year over year growth and create long term value.

Specific Strengths

Expert in Land, Land Administration, and Business Development

Subject Matter Expert in the Energy Sector

Juris Doctorate with an Emphasis in Energy Law and Commercial Transactions

Experience across most United States producing Basins

Excellent P & L, Financial Management and Investment Analysis Skills

Driver of Operational Excellence, Process Improvement & Quality Control

Strong Senior Leadership, Management, and Team Development Skills

Solid Understanding of the Audit Process and SOX compliance

Polished in Stakeholder, Shareholder/Investor, Board and Banking Relations

Expert in Strategic Planning & Execution

Unique Broad Understanding of All Functional Disciplines

Persuasive Skilled Negotiator

Do you have a financial interest in a public utility in New Mexico or elsewhere? **NO**

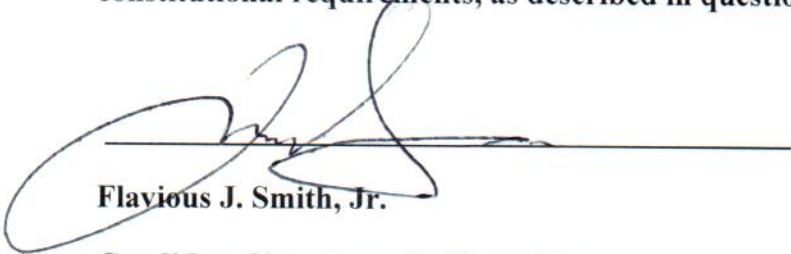
Have you been employed by a commission-regulated entity at any time during the last two years? **NO**

Do you agree that you will give your entire time to the business of the commission and will not pursue any other business or vocation or hold any other office for profit? **YES**

16. The two sitting PRC Commissioners are registered to vote with the Democratic Party. The New Mexico Constitution requires that no more than two PRC Commissioners can be registered to vote with the same political party. Please state your registered party affiliation.

REPUBLICAN

I affirm that the above information is true and correct, and I have met the statutory and constitutional requirements, as described in questions 15 and 16 above.



Flavious J. Smith, Jr.

Candidate Signature of Affirmation

NEW MEXICO PRC NOMINATING COMMITTEE

COMMITTEE MEMBERS

RIKKI SEGUIN, CHAIR
ALONZO BALDONADO, SECRETARY
RON LOVATO
CATHERINE NICOLAOU
CYDNEY BEADLES
WILLIAM BRANCARD
DENISE RAMONAS



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Public Regulation Commissioner Candidate Questionnaire

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5. What is the PRC's role in ensuring broadband is universally available?
6. Should providers of broadband be regulated as a utility? Why or why not?
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8. Please discuss your views on governance and the appropriate roles of Commissioners and staff, appropriate levels of delegation and your expected level of involvement in the administration of the agency.
9. As you evaluate issues before the PRC, which factors do you view as most important and why?
10. Is there a state whose energy regulatory policies that you believe New Mexico should emulate? If so, which one and why?
11. Briefly describe your experience with regulatory topics including: utility rate setting, promulgating regulations, and the New Mexico Energy Transition Act.

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15. Per NMSA 1978 Section 62-19-5 please provide the following:
 - a. Do you hold a baccalaureate degree from an institution of higher education that has been accredited by a regional or national accrediting body? (If you hold a professional license or a post-graduate degree, skip to subsection b.)
 - i. Do you have at least ten years of professional experience in an area regulated by the commission or in the energy sector and involving a scope of work that includes accounting, public or business administration, economics, finance, statistics, policy, engineering or law? Please detail how your work experience meets this requirement, including noting the specific number of years in each relevant role.
 - b. Do you hold a professional license or a post-graduate degree from an institution of higher education that has been accredited by a regional or national accrediting body in an area regulated by the commission, including accounting, public or business administration, economics, finance, statistics, policy, engineering or law?
 - i. Do you have at least ten years of experience within the field in which you hold your license or post-graduate degree? Please detail how your work experience meets this requirement, including noting the specific number of years in each relevant role.
 - c. Do you have a financial interest in a public utility in New Mexico or elsewhere?
 - d. Have you been employed by a commission-regulated entity at any time during the last two years?
 - e. Do you agree that you will give your entire time to the business of the commission and will not pursue any other business or vocation or hold any other office for profit?
16. The two sitting PRC Commissioners are registered to vote with the Democratic Party. The New Mexico Constitution requires that no more than two PRC Commissioners can be registered to vote with the same political party. Please state your registered party affiliation.

Please affirm this statement with your signature below:

I affirm that the above information is true and correct, and I have met the statutory and constitutional requirements, as described in questions 15 and 16 above.

Candidate Signature of Affirmation