

MEETING OF THE NEW MEXICO BOARD OF
LICENSURE FOR PROFESSIONAL ENGINEERS
AND PROFESSIONAL SURVEYORS held at
9:00 a.m., Friday, December 15, 2023,
Virtual

Members Present – Robert Gromatzky, PS, Chair
Emilie Dohleman, PE, Vice Chair
Stephen Ney, PE, Secretary
Elizabeth McNally, PE
John Wayne, PS
Benjamin Aragon, PS
Karl Tonander, PE

Members Absent – Maxine McReynolds, Esq., Public Member
Dr. Ahmed Elaksher, PEPS
Karen Nichols, Public Member

Others Present – Perry Valdez, BLPEPS, Executive Director
Crystal Bustamante, BLPEPS, Budget/Finance Manager, CPO
Miranda Gonzales, BLPEPS, Administrative Manager
Isaac Maes, BLPEPS, Executive Assistant
Antonio Sanchez, Farmers Electric Co-op
Carmen Campbell, NM Rural Electric Co-op
David Spradlin, Springer Electric Co-op
Ignacio Avila, NRCS
Ernie Chacon, El Paso Electric Co-op
Wes Hacker, Zia Natural Gas Company
David Suarez, El Paso Electric Co-op
Fransico Gonzalez, El Paso Electric Co-op
Oliva Dulany, NMSU
Frank Esparza, El Paso Electric Co-op
Randall Pettigrew, PE, Representative
Dominic Martinez, NM Gas Company
Alena Brandenberger, Central NM Electric Co-op
Bryn Davis, El Paso Electric Co-op

1. Convene, Roll Call and Introduction of Audience

Prior to convening the meeting Mr. Gromatzky read the meeting script regarding the virtual meeting protocols. He convened the meeting at 9:04 a.m., roll call was taken and a quorum was noted. Audience introductions made at this time.

2. **Meeting Notification**

Mr. Valdez informed the Board the meeting was noticed on the Board's website and at the Board's Office.

3. **Approval of Agenda**

MOTION by Mr. Tonander to approve the agenda as presented, **SECONDED** by Ms. McNally,

Roll Call Vote:

Voting 'Aye': Mr. Gromatzky, Ms. Dohleman, Mr. Ney, Ms. McNally, Mr. Wayne, Mr. Aragon, Mr. Tonander

The motion **PASSED** unanimously.

4. **New Business**

a. **Exceptions to Scholarship Criteria**

1) **NMSU**

Mr. Valdez informed the Board that NMSU notified Ms. Bustamante about a Geomatics scholarship recipient who needs 9 credit hours to graduate in May 2024. They've requested the Board to make an exception to the scholarships full-time student requirement, so this student may continue to receive the scholarship in his last semester before graduating.

Ms. McNally recommended that the Board prorate the \$2,000 scholarship that NMSU awards for full-time enrollment, to nine credit hours because this is what the student needs to graduate and not because he's under-enrolled.

MOTION by Mr. Aragon to prorate the \$2,000 scholarship award to 9 credit hours versus the required 12 hours for full-time enrollment, **SECONDED** by Ms. Dohleman,

Roll Call Vote:

Voting 'Aye': Ms. Dohleman, Mr. Ney, Ms. McNally, Mr. Wayne, Mr. Aragon, Mr. Tonander

Abstained: Mr. Gromatzky

The motion **PASSED**.

b. **G. Thurow – PDH Requirements: Vendor Demonstrations**

Mr. Gromatzky stated that he received an email from Mr. Thurow regarding a

conference he attended. Mr. Thurow stated that the conference had applicable GIS and other software capabilities. He added that NMPS does approve the conference for PDH hours but was unsure if it is eligible for license renewal PDH requirements.

Mr. Valdez clarified that the reason Mr. Thurow thought this conference would not qualify for PDH requirements was because it was a vendor demonstration.

Mr. Aragon stated that he also attended, and that it was called the Trimble Dimensions User Conference, which was not a single course, but multiple courses throughout the day. The classes he attended were proactive in the surveying GIS profession, and there were many technical studies and applications discussed.

Mr. Tonander said that by description, the conference fits 16.39.2.8 NMAC, and there is nothing in the rules that state it can or cannot be a vendor demonstration, so long as it provides an educational experience for the attendee.

5. Old Business

a. 2024 Responding to Concerns Received Regarding the Industrial Exemption pursuant to NMSA 61-23-22 and 61-23-27.10 and NMAC 16.39.3.11 G. and 16.39.5.8 G.

Mr. Gromatzky brought up the draft November 3, 2023, Full Board Meeting Minutes, and noted that they have not been reviewed or approved by the Board yet. The minutes were presented to confirm the questions from the November 3rd meeting, for consideration and review during today's meeting.

Mr. Gromatzky read the 2.4.22 Rule Hearing Notices, Exhibits 1-5. He stated that this document was presented because there were questions regarding the NMAC, public rule hearing notice, which was published in the NM Register, NM Sunshine Portal, Albuquerque Journal, by the Public Rule Hearing and Regular Board Meeting Notice and was sent to the Legislative Council Services.

Mr. Gromatzky introduced documents: 22-00058 UT-2023-05-10 PNM Response Brief, Bruno Brief-In-Chiefrevcor, and Bruno_W-Letter, which were discussed at length.

Mr. Tonander stated that normally, if an allegation like this is brought to the Board, and if it was determined to potentially be a practice of engineering, it should be given to an investigator who will then come back to the Board with their findings, rather than us trying to do so in a public meeting.

Mr. Gromatzky stated that if Mr. Bruno feels strongly about this, he may file a

complaint with the Board. Mr. Valdez will also forward Mr. Bruno's documents to the PRC.

Mr. Gromatzky read the letter from PNM, which listed their questions regarding the changes to the NMAC, Industrial Exemption for both engineers and surveyors, to ensure their compliance. These questions were raised at the November 3, 2023, Full Board Meeting, with intent to address them in today's meeting.

- *Regarding Public Spaces, are utility easements or owned property, even if not secured by physical protections, considered to be in public space?*

Answer: Mr. Gromatzky stated that utility easements and rights-of-way are considered to be in public space; meaning, everything behind the fence is within their industrial exemption area, meaning their facilities and their transformer sites.

Mr. Tonander stated that is correct, owned property behind the imaginary fence is in public space. Though relatively rare, a public utility easement that is not their owned property would also be considered public.

- *PNM is interpreting the rule to be limited to transmission line and distribution line design. Does the Licensing Board Rule change also contemplate associated protection design and settings? Does the rule extend beyond those designs of line and facilities in the public space?*

Ms. Dohleman disclosed that PNM contacted her in October. Based on her conversation with PNM, she clarified their question regarding "protection". The example used was if a pole gets hit by a car and the energized wire falls to the ground. There are relays and other protection devices located at the substation, with specific settings. If the settings indicate that the (electric) current and voltage are not accurate, the distribution/transmission line will be turned off. She added that what they're asking is, if the protection they have in place at the substation that guides the operation of the transmission line or the distribution line require the engineers stamp?

Answer: Mr. Tonander stated that the protection is located at the transformer site itself, which would be industrial exempt.

- *PNM does not employ enough licensed staff currently to comply as of today - how does PNM go about seeking an additional extension to comply? While PNM is working to establish revised job descriptions and hire additional staffing, it may take*

an extended time to complete those efforts, which are already underway but will not be fully completed by January 1, 2024.

Answer: Mr. Valdez stated that when this rule became effective, the Board granted an extension for enforcement which will expire January 2024. It's the Board's discretion to extend the current extension to allow the utilities enough time to meet the standard and/or to address these concerns.

Mr. Tonander suggested that a one-year extension should be sufficient.

- *How does PNM comply if designs are coming from out of state engineering firms or out of country large electrical equipment manufacturers, such as transformer manufacturers for example?*

Answer: Ms. Dohleman responded saying that out-of-state engineering firms that are practicing engineering in the state should seek state licensure before the engineering is finalized or completed. Large electrical equipment manufacturers provide a piece of equipment that say the equipment meets the specifications and can be used in the following manner. It is still the obligation of the user to ensure they put it in to applicable use, but it's the manufacturer's responsibility to ensure that the equipment meets the specifications.

- *Does PNM need to seal/stamp both its standards and its individual designs, or are the standards sufficient?*

Answer: Ms. Dohleman stated yes, seal/stamp is required for both standards and individual designs.

- *Additionally, does PNM need to seal/stamp design reviews or Issued for Construction document packages done by contract engineering firms, including those out of state?*

Answer: Mr. Tonander stated that if any industrial exempt user (a direct employee of an industrial exempt company) is contracting with out-of-state contractors for engineering or surveying services, the industrial exemption does not extend to those other providers. They are now working in the public sector and need to be sealing those drawings. Designs that are coming from out-of-state engineering firms should be stamped by a New Mexico licensed engineer.

Ms. Dohleman clarified that the industrial exemption applies to an industrial exempt user (i.e. a company, or a direct employee of an industrial exempt

company). The industrial exemption does not apply to a contracted engineering or surveying company hired by the industrial exempt user, including those out-of-state, who must be licensed and the documents they produce must be stamped.

- *Does the Licensing Board require PNM stamp/seal in addition to joint use entity stamp/seal for attachments to utility assets by joint use third parties?*

Ms. Dohleman clarified that the term “joint use” comes from the lower lines on a distribution pole, and are communications facilities owned by others. The distribution pole standard is probably already stamped; and may say this pole design can carry 2 joint use lines, in addition to its electrical facilities and must go in a certain place on the pole. If a third-party performs work not covered by the standard, it must be evaluated. She added that she believes PNM is asking who is responsible for evaluating this, them, or the joint user, and if the latter is acceptable.

Answer: Ms. Dohleman stated that so long as somebody with a license reviewed and sealed it, it wouldn't make a difference with it was PNM or the joint user. It is prudent that both parties reviewed the evaluation and agreed that it is feasible.

Mr. Gromatzky added that, whether the responsibility lies with PNM or the joint user, is entirely up to PNM as they have the vested interest in knowing that their pole meets the specifications.

Mr. Gromatzky read the documents, “Perry Valdez, NM Board Draft 2”, and the “Gromatzky response to Bruno”. The first document contains questions from Mr. Bruno, and the second document compiled the answers as follows:

- *Does the NM Engineering and Surveying Practices Act require that when a utility (or any company) undertakes a project that may affect public safety, said project to be implemented outside of the private property boundaries of said company, the company must designate a professional engineer to be in “responsible charge” of that project?*

Answer: Mr. Gromatzky said that an engineer or surveyor would be required for projects that involve the public welfare/domain. There may be multiple professional engineers and/or surveyors responsible for specific components of a project.

- *Is the answer to the above question the same regardless of whether the current project was submitted for regulatory approval prior to the recent clarification of the Industrial Exemption (61-23-22. B.) that took effect on July 1, 2023?*

Answer: Mr. Gromatzky said yes, if the work is being undertaken after the Industrial Exemption is enforced, anything prior to that is under the prior Practice Act.

Ms. McNally said if there's still an active part of the project that's not complete, they should be following applicable rules and regulations.

- *If public officials approve a project that may affect public safety, after the safety of the project has specifically been called to question by members of the public (issues such as potential fire hazard and adherence to industry standards are raised by the public), and there is not an engineer designated as being in "responsible charge" upon which the public officials are basing their decision, would those officials be practicing engineering, in violation of the act, by making a determination that the project meets applicable standards and that the project is safe?*

Answer: Mr. Gromatzky stated no, Public Officials would not be practicing engineering or surveying by making a determination or taking action on a project that involves engineering or surveying, where the engineering or surveying work has been completed by a Professional Engineer or Surveyor.

Mr. Tonander stated that the way the question is worded implies that the Board is making a determination of liability for their decision, which we would never do. It is completely outside of the Board's purview.

Mr. Gromatzky read the document, "Responses to letters signed by New Mexico State Board of Licensure, September 2023". This document was comprised of the questions from El Paso Electric Company that were received and answered at the November 3rd meeting.

Mr. Suarez requested clarification regarding the answer to question number 7, pertaining to private construction license requirements. The original question and answer:

- *EPE design engineers do not perform surveying. EPE requires customers to hire a professional surveyor to install property irons. EPE only marks the location of proposed EPE overhead or underground electrical facilities. Does the definition of surveying in the Engineering and Surveying Practice Act require EPE to hire a licensed surveyor for all work that requires EPE to take field measurements? If this interpretation is correct, this will increase the cost of every job that will have a significant financial impact on all customers. Please clarify this interpretation.*

Answer: Mr. Gromatzky said, yes, if the work being done requires a professional license. Boundary and Easement surveying are the practice of Surveying. Staking of public infrastructure does require a Professional Surveyor. Private construction staking does not require a license.

- *Mr. Suarez's follow-up question was, what does "private property" mean; does this apply to customer owned property or utility owned property, i.e. if he received a request to extend a utility line through private property owned by a customer and is also paid for by the customer, would that be considered public (exempt or non-exempt)?*

Answer: Mr. Tonander stated that if you're not on property owned by your utility, the answer is non-exempt.

Ms. Dohleman stated that if the easement is visibly staked by a licensed surveyor, the construction staking itself is typically where the pole or the guy anchor go and is routinely done by designers across the nation.

Mr. Aragon stated that if the project is funded by public funds, you need a licensed surveyor to do the construction staking. If it is private construction funded by a private entity, then a licensed surveyor is not required.

Mr. Tonander clarified his answer to question number 8. The original question and answer was:

- *During construction, changes are sometimes made in the field. This requires that these changes be made by the GIS Specialist and mapped as redlines to the original map. Will these redline changes have to be re-stamped?*

Answer: Mr. Tonander stated that as-built (or "as-constructed" or "record") drawings are not required to be sealed. However, any change in engineering design needs to be approved by the original PE or reviewed and approved by a new PE.

Ms. Dohleman added that only if the as-built changes are not covered within the limits of the original engineering design or by the use of standards.

- Mr. Tonander clarified his answer by stating that it's not required by the Act. There might be a contractual requirement to do it. He added that because RUS keeps being mentioned here, if as-built drawings go into RUS or NMED, they do require a seal, but that is a contractual

issue. The Board doesn't require it to be sealed.

Mr. Gromatzky read the document, "November 3rd Industrial Exemption Questions-Gromatzky", which was comprised of the public comments and questions received at the November 3, 2023, Full Board Meeting. The Board answered the questions as follows:

Mario Romero, Otero County Electric Co-Op:

- *Will the utilities need a PE, if companies are following RUS guidelines?*

Mr. Sanchez added to this question saying that RUS has standards for overhead transmission and distribution as well as underground. There are special situations that are not typical in nature and are typically engineered by a licensed PE.

Answer: Mr. Gromatzky stated that he believes stamping of the standards would address many of the concerns.

Ms. Dohleman stated that it would be inappropriate to stamp the standards because they are Federal. However, it is different if a rural utility is building something that is not addressed in the standards. If people are using RUS standards, it's because they are required to, and she's unsure if it's appropriate to step-in.

Mr. Tonander said that this should be revisited and may require an advisory opinion, specifically.

- *Is the Board aware of any issues that have occurred in the past 80 years that prompted this rule change?*

This question was also asked by Representative Pettigrew, see his second question for the answer.

- *How far does this go; both as drop calculations, transformer sizing, and service drop sizing?*

Antonio Sanchez Jr., Farmers Electric Co-Op:

- *We cover 11,000 square miles in NM with hundreds of work orders annually. Does every work order have to be stamped by a PE? What typically happens in the Co-op industry is a percentage of work orders over a specified time period are randomly chosen to be inspected to make sure everything's in compliance with all standards and regulations, then they are stamped by a PE as having been reviewed, and those are turned into the federal government, USDA, for funding*

purposes. So not every single one we do is inspected, as they are randomly selected for inspection. So, we need more information on this rule. Is it going to apply to every work order we do or will our current process satisfy this requirement?

Answer: Mr. Tonander stated that a random sampling does not constitute compliance. Though if we agree that the RUS standards or some other version of that has been sealed, then it wouldn't be necessary, and the utility would be in compliance simply by using an approved standard book.

- *For the day-to-day right of way easements, are we going to have those surveyed?*

Answer: Mr. Gromatzky said proposed easements that are parallel to an existing boundary do not require a professional surveyor to complete. Proposed easements that do not run parallel to an existing boundary require completion under the responsible charge of a New Mexico Professional Surveyor. Easement descriptions that describe the easement only as being centered upon or otherwise related to the physical location of the utility are not acceptable. See 12.8.2.12 NMAC for the portion of the Minimum Standards for Surveying in New Mexico relating to Easement Surveying.

Divisions of land must follow the State Subdivision Act and applicable County or Municipal Subdivision Regulations and are required to be completed under the responsible charge of New Mexico Professional Surveyor. See NMSA 47-5, NMSA 47-6 for the State Subdivision Act. County or Municipal Subdivision Regulations are typically available through their respective Planning and Zoning office or County Manager.

We discussed in our last meeting that "all work orders" may not be the practice of engineering. We also discussed that the standards may be stamped by a PE and the replacement in the case of an emergency was not the practice of Engineering if the replacement was "in kind" or a "betterment". I'll look to the Engineering members to provide specific language.

Mr. Gromatzky recommended that this this question be included in the Board Advisory Opinion.

- *Under emergency situations such as tornadoes, can we rebuild without having it stamped as long as we go back to what was there because that would have been pre-engineered or grandfathered in?*

Mr. Gromatzky said we discussed in our last meeting that “all work orders” may not be the practice of engineering. We also discussed that the standards may be stamped by a PE and the replacement in the case of an emergency was not the practice of Engineering if the replacement was “in kind” or a “betterment”.

- *Will there be audits performed to see for compliance with respect to the rule?*

Answer: Mr. Gromatzky said the Board would investigate any complaints of the practice of Engineering or Surveying without a license that are not covered by the Industrial Exemption. Information on how to file a complaint may be found here:

<https://www.sblpes.state.nm.us/enforcement/file-a-complaint/>.

Joseph Herrera, Socorro Electric Co-Op:

- *The rule as written is burdensome on a utility such as Socorro Electric because we're mostly residential. We have many requests for 50-amp RV hook-up and 200-amp service hookup which do not require a PE stamp. I would like to ask the Board add clarification of how the rule is applied so the public can better understand it.*

Mr. Gromatzky stated that the Industrial Exemption applies to any work on their real property, excluding rights-of-ways and easements. All engineering and surveying work beyond those limits will require the responsible charge of New Mexico Professional Engineer and/or Surveyor.

Ted Benson, Central Valley Electric Co-Op:

- *How far does this new role extend; a service drop going to a house, to a secondary line being built another, to a primary line?*

Mr. Sanchez clarified Mr. Bensons question, he said when we build a service drop (that's what we call the line coming from our transformer to the utility meter), if that service drop extends into private property, will that need to be stamped by a PE?

Answer: Mr. Tonander stated that the only private property that is industrial exempt is that owned by the utility. It doesn't matter if it's coming off of an alleyway onto a piece of private property. If it's not on property owned by the utility, it's not exempt.

- *Another concern of his was the extra layer that they have to go through in order*

to release a project for construction. He said this will slow them down in building out a system and increase costs to their members.

David Spradlin, Springer Electric Co-Op:

- *How will this change affect engineering consultant reviews?*

Mr. Gromatzky stated that he's unsure if he understood the question, but he does not believe the review of works provided by professional engineers and surveyors is the practice of engineering or surveying.

Mr. Sanchez provided clarification to Mr. Spradlin's question. He brought up the fact that a certain percentage of work orders are reviewed by consultants. He believed that the question applies to the reviews that hired consultants do on behalf of the co-ops as a requirement by the federal government. He added that the general view of the question was, how is this going to change what the utilities are currently doing?

Randall Pettigrew, State Representative:

- *Believed rules should have legislative review before they are enacted because every rule ultimately comes from a piece of legislation.*
- *We have co-ops here today giving testimony that we have been doing this for over 80 years and now a new rule was written for it. Why is it necessary for the change in process?*

Answer: Mr. Gromatzky said there were several meetings with legislative committees regarding the Engineering and Surveying Practice Act. We briefed the committees regarding the changes to the Engineering and Surveying Practice Act. We did not receive adverse feedback regarding the Industrial Exemption. The Board is charged with protection of the public welfare regarding the practice of Engineering and Surveying. We recognize that certain organizations may perform engineering and surveying works within their own real estate and are covered under the Industrial Exemption withing the Engineering and Surveying Practice Act. However, the practice of Engineering or Surveying outside of the organization's real property impacts the public and is subject to the full requirements of the Engineering and Surveying Practice Act. There may have been disparate views in the past about what the Industrial Exemption was intended to cover. I believe the change to the Industrial Exemption was brought about to clarify to what extents the Industrial Exemption applied to.

Mr. Tonander said that in part, the change was meant to bring about clarity based on input from the public. We've received periodic inquiries

from the public over the past nine years regarding why certain activities do not fall under the Boards purview when they're in a public space where people interact with them. In addition, feedback was received from NTSB for an incident that happened out-of-state. They were recommending reduction in scope of industrial exemptions, noting too that not all US jurisdictions have an industrial exemption. Meaning if the jurisdictions that don't have the exemption, everyone must be licensed all the time. He said New Mexico is straddling a middle ground with this change, but we believe it places the line in a way that is manageable by industry. It doesn't slow things down or drive-up costs, but it's still meeting the mission of protecting the public.

- *This rule change has affected many different departments because they now have to write a new set of rules.*
- *With respect to the additional impacts on the co-ops, the major companies that are here, the gas companies, how does the fusion apply to wind, solar and broadband?*

Answer: Mr. Gromatzky stated that they would be treated no differently than power and generation. His understands of the rule is if they're impacting the public's footprint then they need to be doing professional engineering and surveying. If they're impacting their own footprint, then they are not.

Frank Esparza, El Paso Electric:

- *The rates we charge our customers will increase in order to have multiple PE's sign off on designs. What value does this add?*

Answer: Mr. Gromatzky stated that the added value is ensuring the public welfare is served for Engineering and Surveying works that affect the public.

Stephen Jenkins, PNM:

- *The Practice Act includes planning calculations, specifications, and design as covered under the practice of engineering. I work in Transmission Planning. Would this type of work be included under the revised practice act?*

Answer: Mr. Gromatzky stated that if the work is done within utility owned property, it falls under the industrial exemption, if the work is done out in the public footprint, that will require the practice of engineering and surveying.

Ms. Dohleman stated that Mr. Jenkins is in transmission planning, which by definition includes large switching stations and transmission lines. So, there will be facilities outside of the utilities right-of-way and those specifications and designs need to be stamped. The other type of work often done with transmission planning or distribution planning is a comparison of alternatives, which is more of an economics study that may not apply.

- *Would specifications and future designs be under the new definition of practice of engineering outside of the industrial exemption and how will this affect the day-to-day?*

Answer: Mr. Gromatzky stated that the discussion that we've had so far is, if it's out in the public footprint, that will require the practice of engineering and surveying. If it's within your own space, your own property, it falls under the industrial exemption.

- *Would a document similar to that of a standards document, that can be stamped by a PE, be utilized for planning in the future? *The Board asked Mr. Jenkins to provide a heavily redacted report as an example of this to the Board.*

Mr. Valdez stated that he had not received the redacted report from Mr. Jenkins yet.

Jenny Degreeff, New Mexico Gas Co.:

- *Which law required this change?*

Answer: Ms. McReynolds stated that rule changes are driven by a NM legislative change.

- *Was there any cost benefit analyst that was provided by the Board that companies can use as IOUS to justify the additional costs and rate cases?*

Answer: Mr. Gromatzky said there was no cost-benefit analysis (for the utilities) provided by the Board.

Mr. Valdez stated that the Board did a fiscal impact report for the bill. This report was based on the fiscal impact of the Board, not for the utilities or the companies.

- *Will the Board provide guidelines for the application of the rule or FAQ page as you work through the questions asked today?*

Answer: Mr. Gromatzky said he believes that he indicated in the Full Board Meeting that Board Advisory Opinions will be provided in the future and a formal response to the questions received will also be provided.

William Bruno:

- *I hope that the Board will help to ensure that PNM designates an engineer to be in "responsible charge" of its Grid Modernization project, which is before the PRC. PNM has not yet submitted any testimony that indicates that anyone has performed a coordination study to ensure that the new type of meters that they are planning to install on the public's private property and attached to our houses and businesses are properly protected from over voltage and fault current hazards on PNM's specific system.*
- *Also, PNM has thus far failed to submit any testimony from any engineer willing to be in responsible charge of the project, that asserts that the meters meet applicable standards and that whatever standards, or other criteria that PNM relies upon, are sufficient to ensure public safety. I'm troubled by this. Furthermore, it is my hope that the Board will let the NM Public Regulation Commission know that public officials must not inadvertently practice engineering by making engineering decisions, such as whether projects are safe or have had proper engineering analysis without basing those decisions on qualified expertise, i.e., testimony and/or reports by a licensed NM Professional Engineer who is in "responsible charge" of the project.*

Ms. Dohleman recommended that the Board not take a position or advise on anything, but instead inform the PRC that we received this information. Mr. Valdez will also forward the documents and questions from Mr. Bruno to the PRC.

Ernie Chacon, El Paso Electric:

- *When will the response to these questions be submitted (whether it is a FAQ or other guidelines) being that the rule is going into place on January 1, 2024? o Mr. Tonander clarified that the rule went into effect March of 2022, and is going to be enforced on January 1, 2024.*
 - o *Mr. Tonander clarified that the rule went into effect March of 2022, and is going to be enforced on January 1, 2024.*

Answer: Mr. Valdez suggested that a draft be presented to the Executive Committee and then to the Full Board in January 2024. The FAQ will be posted on the Board's website.

Mr. Gromatzky stated that Board action will be taken at this meeting to extend the industrial exemption deadline, as the current extension ends

on January 1st.

- *When a communication company submits a permit for an attachment to our poles and are enforced to have a PE stamp, where is the responsibility going to lie as far as how the Board sees it?*

Mr. Tonander stated that this question was previously answered.

- *I was looking for the \$100,000 or less exemption regarding utilities in the Public Works Section, but utilities were not included in there. This seems to be intended more for the state and its political subdivisions. Why did this change exclude utilities in the Public Works category.*

Answer: Mr. Gromatzky stated that the \$100,000 public construction staking has gone away. Anything that's public, regardless of dollar amount, is within the purview of professional surveying.

Daniel Esparza, El Paso Electric:

- *Do the proposed rule changes require engineering designs of electrical substations that are within a leased or owned property, to be PE stamped?*

Answer: Mr. Gromatzky said it was indicated in the Full Board meeting that engineering designs of electrical substations within a leased or owned property were covered by the Industrial Exemption.

Ms. Dohleman stated that the industrial exemption is applied if it was designed "in-house", if they went to a consultant for the design of a substation, then yes, that would need to be PE stamped.

The Board discussed extending the date of enforcing the changes to the industrial exemption. Mr. Tonander asked if the extension is specific to a group or to everyone. Mr. Ney stated that we would give an extension date and apply it to utilities.

Mr. Tonander restated that the Board is only extending the enforcement of the changes to the industrial exemption, and not the industrial exemption in its entirety.

MOTION by Mr. Tonander to delay enforcement of sections 61-23-22 NMSA, 61-23-27.10 NMSA, 16.39.3.11 G NMAC and 16.39.5.8 G NMAC with respect to the changes that were made to those rules, until January 1, 2025, **SECONDED** by Ms. Dohleman,

Roll Call Vote:

Voting 'Aye': Mr. Gromatzky, Ms. Dohleman, Mr. Ney, Ms. McNally, Mr. Wayne, Mr. Aragon, Mr. Tonander

The motion **PASSED** unanimously.

6. **Next Scheduled Meeting Date:** January 12, 2024 – Santa Fe/Virtual

7. **Adjourn**

Meeting adjourned at 12:06 p.m.

DRAFT