NEW MEXICO STATE UNIVERSITY BOARD OF REGENTS
SPECIAL MEETING MINUTES
October 23, 2019 at 3:30pm

Regents Room of the Educational Services Building
NMSU Las Cruces Campus, 1780 East University Avenue
Las Cruces, New Mexico

Regents of New Mexico State University
Chair Dina Chacón-Reitzel, Vice Chair Ammu Devasthali, Secretary/Treasurer Luke Sanchez, Debra Hicks

Non-Voting Advisory Members • ASNMSU President Evan Conner (absent), Faculty Senate Chair Becky Corran, Employee Council Chair Sonia White

University Officials • Chancellor Dan E. Arvizu, Ph.D., Vice Chancellor Ruth Johnston, Ph.D., President John D. Floros, Ph.D., Provost Carol Parker, J.D., Senior Vice President Andrew Burke, Ed.D. (absent), General Counsel Roy Collins III, J.D.

MINUTES

A. Call to Order, Chairwoman Chacón-Reitzel

The meeting was called to order by Chairwoman Chacón-Reitzel at 3:38 PM.

1. Confirmation of Quorum, Chairwoman Chacón-Reitzel

Board staff confirmed that all board members were present in the board room. The board has one vacancy due to the resignation of Jerean Camuñez Hutchinson. Four members present include Chair Dina Chacón-Reitzel, Vice Chair Ammu Devasthali, Secretary/Treasurer Luke Sanchez, and Regent Debra Hicks.

2. Approval of the Agenda, Chairwoman Chacón-Reitzel

Regent Devasthali requested to amend the agenda move item C-22 from the consent agenda to action and Regent Hicks requested to move item C-3 to action. Chairwoman Chacón-Reitzel moved to amend the agenda to move items C-3 and C-22 to action with a second by Regent Hicks. Motion passed.

3. Public Comment, Regents Staff Adam Cavotta

There were no sign-ups for public comment.

B. Confirmation of Prior Executive Session on October 23, 2019, Chairwoman Chacón-Reitzel

Regents Staff read the confirmation of prior executive session:
The Board of Regents met in a closed executive session at 8:00 AM on Wednesday, October 23, 2019 in Hadley Hall, Room 130 on the Las Cruces Campus, 2850 Weddell Street, Las Cruces, New Mexico. The closed executive session meeting was held to discuss the incentive compensation and evaluation for Chancellor Arvizu and President Floros as permitted under the personnel matters exemption the New Mexico Open Meetings Act, NMSA Section 10-15-1, subsection (H)(2).

In addition, the board discussed the Board’s personnel plans for the Board staff position as permitted by NMSA Section 10-15-1, subsection (H)(2) of the Open Meetings Act.

Board members certified by roll call vote that only matters of that nature were discussed.

Regent Hicks responded yes, Regent Chacón-Reitzel responded yes, Regent Devasthali responded yes, and Regent Sanchez responded yes.

C. Consent Items, Chairwoman Chacón-Reitzel

A motion to approve the consent agenda as amended entered by Regent Hicks with a second by Regent Devasthali. Motion passed.

1. Approval of Purchase and Sale Agreement for 19,075 sq. ft. of vacant land on Locust Street and Illinois Ave., President & CEO Scott Eschenbrenner

2. Alamogordo: Exterior Building Renovations (Tays Center Roof and PPD), University Architect Heather Watenpaugh

3. Ag Science Center Improvements (moved from consent to action by previous motion), University Architect Heather Watenpaugh

4. Carlsbad: Site Improvements, University Architect Heather Watenpaugh

5. Carlsbad: Learning Assistance Center, University Architect Heather Watenpaugh


7. Alamogordo: Site Improvements and Lighting, University Architect Heather Watenpaugh


9. Selective Building Demolition (Regents Row), University Architect Heather Watenpaugh

10. Grants: Fidel Hall Renovations, University Architect Heather Watenpaugh

11. Central Utility Plant Reroof, University Architect Heather Watenpaugh

12. Doña Ana: East Mesa Campus Main Building Re-roof, University Architect Heather Watenpaugh


14. Name Gerald Thomas Hall Room 119, 123 – 125 the Marriot Hospitality Futures Center, Interim Vice President Tina Byford

15. Name Devasthali Hall Room 109 the Marineau Room Interim Vice President Tina Byford

16. Name Devasthali Hall Room 118A the Phillip Born Administrative Office, Interim Vice President Tina Byford

17. Name Devasthali Hall Room 118E the Kathleen Cordova and Nathan Dickerson Art History Office, Interim Vice President Tina Byford

18. Name Devasthali Hall Room 118F the LightbriDGe Room, Interim Vice President Tina Byford

19. Name Devasthali Hall Room 229 the Garrey E. and Katherine T Carruthers Study/Resource room, Interim Vice President Tina Byford
20. Name Devasthali Hall Room 230 the Kenneth Barrick Painting Studio, Interim Vice President Tina Byford

21. Name Devasthali Hall Room 231 the Billy and Cynthia Garrett Computer Lab, Interim Vice President Tina Byford

22. NMSU Solar + Storage Project Special Rate Contract (moved from consent to action by previous motion), Executive Director Wayne Savage

D. Action Items

1. Ag Science Center Improvements (moved from consent to action by previous motion), University Architect Heather Watenpaugh

Regent Hicks asked about the proposed scope of work for the project noting that it looks like there are approximately three million dollars spread out across the science centers and she asked for explanation of the type of construction that is occurring. University Architect Heather Watenpaugh responded that there is an RFP for a design team that will help to identify and prioritize the project, to include things like infrastructure improvements, roofing and projections of assets. There is not an exact scope of work because part of the RFP is to identify the needs. Regent Hicks the asked to clarify that the project is currently in RFP phase and Ms. Watenpaugh responded yes.

Regent Hicks moved to approve the Ag Science Center Improvements with a second by Regent Devasthali. Motion passed.

2. NMSU Solar + Storage Project Special Rate Contract (moved from consent to action by previous motion), Executive Director Wayne Savage

Chancellor Arvizu invited Arrowhead Center Executive Director Wayne Savage and Assistant General Counsel Scott Field to provide additional information. Chancellor Arvizu noted that this project is something that has been discussed before and that there are a number of things that need to happen before the project can be implemented and for construction to start. One of the steps is to have this go before the Public Regulatory Commission (PRC). Chancellor Arvizu added that he has pre-brief all the members of the PRC and met with the PRC in open session hearing to discuss NMSU’s interest and strategic objectives in the project. The project has received support for the regulators. What needs to happen next in the process is that El Paso Electric needs to go before the PRC for approval. There are two documents that they need to have approved. One is the Certificate of Convenience and Necessity (CCN) and the second document is the Special Rate Contract (SRC). The SRC looks a lot like a Power Purchase Agreement (PPA). The PRC needs to approve these documents and NMSU needs to have an agreement with El Paso Electric regarding what NMSU is going to pay over the life of the project in order to proceed with the approval.

Mr. Savage introduced to the contract by referencing a previously sign Memorandum of Understanding (MOU) and the parties have been going forward based on what was embodied in the MOU. Mr. Savage noted that NMSU is a ratepayer and we are currently purchase electricity under rate 26, which is a El Paso electric rate for university activities. This is a special rate that basically takes into account the demand that the university places on the system and the amount of kilowatt hours (kWh) that NMSU purchases. Under the load retention statute, El Paso Electric can negotiate with a customer to retain their load on the system. Under this statute, NMSU can go to any party
with the intent of purchasing renewal energy, including El Paso Electric. El Paso Electric has authority under the PRC to negotiate with a client a rate for electricity so long as costs are not transferred to other public rate payers. NMSU has been working with El Paso Electric to negotiate an agreement that gives NMSU the best possible cost for renewable energy and at the same time doesn’t put El Paso Electric in a situation so they are transferring costs to other rate payers. Those are the requirements of that statute and we have met that requirement in the agreement being put before the board for approval today. One of the basic assumptions is that the purchase of renewable energy would be net cost neutral or even net cost positive to NMSU compared to our current rate 26 billing structure over the thirty year lifetime of this agreement. The way the agreement is structured, NMSU is going to pay about 8.2¢/kWh for the solar power and because of the negotiated agreement and existing credits that are allowed under the PRC regulations, NMSU will receive certain credits, some being statutory and many are subject to change in future rate cases for El Paso Electric, but there is also a negotiated capacity credit that NMSU will receive under this agreement that brings NMSU’s total costs back to the rate 26 billing. When one looks at the additional cost of the renewable energy minus the credits the net bill over the life of this thirty year contract will be either net neutral on a present value basis or will be net positive. Over the course of the thirty years, the statutory credits have the potential to change under PRC review. Costs of energy change over time. As these assumptions that are built into the current cost model, a review will occur in 5 years actual costs for that period evaluate if and how credits have changed and evaluate the impact of the change and the cost of the credits to ensure that we are still on track for a net cost neutral to positive for NMSU based on the thirty year term. If not on track, then a capacity credit in the agreement that will be adjusted so that it is assured for the remainder of the term and at the end of the agreement the price target of net cost neutral to positive will be met.

Chancellor Arvizu noted that the contract is structured in such a way that we do not need to go before the PRC to get another approval on those changes.

Mr. Savage added that it is expect that the PRC will approve the contract language largely as it is written. If the PRC chooses to make changes assumptions or language there are clauses in the document that allow both NMSU and El Paso Electric to review and evaluate changes and choose a course of action. Along with the special rate contract, there are two other documents including a land lease for thirty acres on the southern tip of Arrowhead Park where Interstate 10 and Interstate 25 meet. The other document is a Research and Education Collaboration Agreement which is in outline form. The agreement would allow for research and educational programs to be conducted by NMSU faculty and students. El Paso Electric would own and operate the facility and NMSU will work to provide opportunities for faculty and staff learning and research in the facility.

Mr. Field noted a few points for consideration. In the event that NMSU were to breach the agreement, there is a provision that NMSU would be responsible for project costs (in Exhibit B), but there are also offsets to that would require El Paso Electric to find another place to sell the power. In essence, the fundamental responsibilities are to pay our bill. It was also noted that if something happens with El Paso Electric, there are also provisions in the contract to handle this by allowing El Paso Electric to sell the project to someone else while granting some ability for NMSU to approve that process, if such process were to occur.

Mr. Savage noted that El Paso Electric is currently in the process of acquisition by an arm of JP Chase Morgan called the Infrastructure Investment Fund (IIF). This acquisition must also be approved by the
PRC and the process is approval ongoing. NMSU has had conversations with El Paso Electric management and have made clear to NMSU that the contents of the contract have been discussed with the acquiring company, IIF. Through NMSU’s external counsel, it has also been verified that counsel for IIF is aware of this project as well and supportive of the project. Therefore, there don’t appear to be any issues regarding the acquisition on the contract.

Chancellor Arvizu noted some details, including that it is a one axis tracking solar array with a one-megawatt battery with a capacity of four hours so that is four megawatt hours. Considering the present state of technology, the thirty-year life on the array itself is not an issue. NMSU has arrays in the southwest station on campus that are older than that. The battery, however, is new lithium-ion technology and we have costed into the contract a replacement for the battery after 15 years.

Mr. Savage noted that the expected lifespan of the battery is 15 years and that point a significant capital investment has to made by El Paso Electric to replace that capacity. The cost has been estimated, in the current levelized cost of energy they are charging us. We would expect that the way technology is going that the cost of the battery would be significantly less than what it is today. The contract has calculated in a 65% replacement cost for a lithium-ion battery of a one megawatt capacity. It may be that in 15 years we will be working with battery technologies that are not currently available in the market. If the 65% replacement cost is not accurate to replace a one megawatt battery, we will see a slight change in our fixed rate.

Chairwoman Chacón-Reitzel asked for clarification on the definition of a credit. Mr. Field responded by indicating that in Attachment 1 it lists the various credits and in the contract defines the credits. Most of the credits are approved by the PRC.

Chairwoman Chacón-Reitzel asked how often the credits change. Mr. Savage responded that some are set on an annual basis by the PRC and others are reviewed under periodic rate case filings related to their own cost of delivering service. Those can change periodically every three to five years, depending on El Paso Electrics rate case pleadings before the PRC. Looking at Exhibit B, going from column G through column L those are credits that Scott mentioned are set or approved periodically by the PRC. In our agreement with El Paso Electric, column M the Avoided Capacity Cost and that figure is the one that will be reviewed and adjusted every five years in order to assure that we achieve our net cost neutral or positive target for this project.

Chairwoman Chacón-Reitzel asked to clarify if NMSU will be evaluating this over time to ensure that we are not paying more per kilowatt hour than we are paying now. Mr. Savage went on to say that it is a net cost neutral agreement. Mr. Savage noted column O which says Net Cost and noted the first number of $49,547. That is to say, in year one it is estimated NMSU would be paying $49,547 more relative to our current rate 26 cost. As the avoided capacity credit increases you see in year six that there is a credit of $1,818 in NMSU’s favor and that credit increases every year through the end of the term so that the net present value is positive to NMSU. Mr. Savage noted that if you examine the bottom of the far-right column, you’ll see a net present value of $635,314 to NMSU. While it is in parenthesis, it is a credit to NMSU. This agreement is set out currently based on our assumptions on each of these credits and the fixed cost of renewable energy into this agreement. Our goal is not to be $635,314 positive in this agreement. Our goal is to be neutral and that figure allows for wiggle room in the credits over time.
Regent Hicks asked for clarification on the capacity of the battery. Chancellor Arvizu explained that the capacity of the battery is one megawatt but for four hours, so that’s four megawatt hours, but it is a one megawatt battery.

Regent Hicks also wanted to clarify that it is owned and operated by El Paso Electric company and so that means that El Paso Electric still owns the equipment and NMSU is not responsible for the equipment. Mr. Savage confirmed and noted that NMSU is also not responsible for disposal of the system at that point.

Regent Hicks noted that NMSU does include an insurance certificate and asked what risk NMSU had with regard to liability. Mr. Field responded that from the current contract, there really isn’t much liability other than breach of contract. With the ground lease, in that there is a potential for liability. It may have been unnecessary for the attachment of the insurance certificate in the case of the contract.

Regent Hicks asked to clarify the other documents that are related. Mr. Savage noted that there are a ground lease and Research and Education Collaboration Agreement. Regent Hicks requested that the board be able to see these documents as well and Mr. Savage responded affirmatively.

Chairwoman Chacón-Reitzel asked how much land the project covers. Mr. Savage responded that it’s just shy of 30 acres.

Regent Sanchez asked about how the opportunities for research were going to be determined. Mr. Savage responded that NMSU Electrical Engineering Department, specifically Dr. Satish Ranade and Dr. Olga Lavrova have an outline of the kinds of research activities they would like to see done including possible voltage fluctuations, inverter performance, and a variety of other topics. A research plan will be submitted to El Paso Electric and the requirements will be reviewed and NMSU would receive the data that comes from the research and use it in our studies. Mr. Savage noted that, with respect to risks for NMSU, students and faculty will not engage in operating those systems.

Chancellor Arvizu added that is was the intent from the start to make this project a research and instruction tool and noted that during the school year NMSU will have broader access than during the summer months. During the summer months El Paso Electric has peek usage and NMSU has fewer classes. Mr. Savage added that as NMSU may request to take the system offline to serve a research purpose, it is important to maximize the output of the system serving both renewable energy production and research components. The battery provide opportunity to El Paso Electric to discharge the stored energy NMSU as a customer which reduces the load on the rest of the system during peek usage times.

Regent Hicks asked if there were any potential roadblocks with the PRC. Mr. Savage noted that NMSU has met directly with staff and have reviewed the structure of the agreement with them and they are supportive of it. Mr Savage expects it to be approved. Approval may take between four to six months and construction and testing time would be an additional eleven months.

Chairwoman Chacón-Reitzel asked if a good estimate would be to have it up and running by the end of next year. Mr. Savage said it could be or earlier the following year.
Regent Hicks moved to grant the Chancellor authority to approve and sign Special Rate Agreement between El Paso Electric Company and the Regents of New Mexico State University on terms and in substantially the same form as provided. Material changes to the Special Rate Agreement, if any, will be brought back to the Board of Regents for approval prior to signature. The motion was seconded by Regent Sanchez. Motion passed.

Mr. Savage thanked people that have worked on this project for the past year, including NMSU Facilities, Alton Looney, Dale Harrel, Patrick Chavez, and Scott Field from General Counsel’s office, specifically Dr. Ranade and Dr. Lavrova and Joan Drake our external counsel.

E. **Adjournment, Chairwoman Chacón-Reitzel**

Motion to adjourn entered by Regent Sanchez with a second by Regent Devasthali. Meeting adjourned at 4:16 PM.

Meeting Minutes Approved on December 5, 2019 by the New Mexico State University Board of Regents.

Dina Chacón-Reitzel
Board of Regents Chair

Luke Sanchez
Board of Regents Secretary/Treasurer