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## The Strategic Race for the Public Regulation Commission

by Kent Paterson

It might not be as glamorous as the governor's run for state or national office, or as attention grabbing as the Wilson-Madrid slugfest in Congressional District 1, but November's contest for District 4 of the New Mexico Public Regulation Commission (PRC) is a key one. Many New Mexicans would be hard-pressed to name the PRC's five members, but the elected officials who sit on the commission make critical decisions that define the state's everyday quality of life.

In their deliberations, the PRC's commissioners help decide how much money you will pay for electric and gas service. They certify whether the insurance companies that take ever-bigger bites from your paycheck are in sound financial condition, and they set the rates for title insurance. They have a role in making sure the natural-gas pipeline running near your community or the charter bus chugging down the highway is safe. And they oversee the life-and-death functions of the state fire marshal and the firefighter academy.

In an energy-hungry century, the PRC will be a strategic player in the transition from a fossil-fuel-based to an alternative-energy-based economy. Established in 1996, the PRC is a young institution whose power and influence in state life is still yet to be truly harnessed.

"I think the PRC is a very important office," avows Matt Farrauto, the executive director of the New Mexico Democratic Party. "If you break it down and look how it impacts our lives, it is not insignificant."

Two candidates are competing for District 4, an ethnically and socially diverse region that encompasses San Juan, McKinley, Cibola, Sandoval and Los Alamos counties, as well as portions of Socorro, Valencia, Bernalillo, Santa Fe and Rio Arriba counties. Hoping to conquer District 4 are Green Party candidate David Bacon and his opponent, Democrat Carol Sloan. The Republican Party is not running a candidate in the race. Either Bacon or Sloan will replace outgoing PRC commissioner Lynda Lovejoy, who is running for the presidency of the Navajo nation.

A 58-year-old Santa Fe Country resident whose 2002 gubernatorial run and long record as a community activist make him a familiar figure, Bacon is running for the PRC on a strong pro-consumer and alternative-energy platform. Among his many activities, Bacon is the president of the Southwest Energy Institute, an alternative-energy advocacy organization, and he is active with the Los Alamos Study Group, the nationally known, Santa Fe-based nuclear watchdog and environmental-protection group.

In a coup of sorts, Bacon has won the endorsement of the Sierra Club, the big environmental powerhouse that typically backs Democrats for office. Holding that large corporations with their legions of lobbyists and lawyers hold disproportionate power over the body politic, Bacon gets right to the point of why he wants to be a PRC commissioner: "Because there is a chance to change the structure of how we regulate corporations."

A proponent of universal health-insurance coverage, Bacon says he will convene a statewide forum of health-action activists in order to begin devising solutions to the health-insurance-coverage crisis. Besides leaving nearly a quarter of New Mexico's population uninsured, the current administratively heavy insurance system is reaping unproductive economic consequences and resulting in more and more "small businesses strapped trying to buy health insurance," he contends.

As a counterbalance to corporate power, Bacon proposes that the voice of labor ring loud in the PRC's arena. After talking with oil and gas workers in the booming San Juan Basin, Bacon is convinced that a well-paid, well-treated and unionized workforce is vital to the economic health and public safety of New Mexico. "There's going to be an incredible increase in pipeline production," Bacon adds. "If I'm on the commission, I want to have labor there."

Stumping District 4, Bacon notes he is struck by the frustration many residents express over corporate control of their everyday lives. Qwest's telecommunications services, as well as the quality of high-speed Internet service, especially in rural areas, are issues Bacon says he hears a lot about from residents. "This really isn't about the old liberal-conservative splits. It's about doing business as well as is possible," he asserts. "No one wants their rates to go up and everybody wants better service, whether it's telecommunications, insurance . . . In a sense, it's not political — it's how you get the most efficient service to benefit the local economy." The abilities of home-based professionals, small businesses and even schools to function are at stake, Bacon maintains.

Bacon criticizes the recent \$265 million settlement of a dispute between Qwest and the state of New Mexico over previous commitments made by the company to expand the telecommunications infrastructure in the state. Reached between Qwest and the governor's and attorney general's offices, the agreement calls on Qwest to invest in high-speed Internet service, infrastructure upgrades and quality educational programs in some "at risk" public schools. Governor Bill Richardson contends that the \$265 million investment will "help close the digital divide, boost our economy and improve education in our neediest schools." Under the terms of the settlement, the PRC will monitor Qwest's compliance.

Countering that the PRC was bypassed in the settlement, Bacon adds that it is difficult to know if Qwest's new services will ultimately benefit the public to the full extent they should. "To me, this is an issue [in which] the PRC needs to have full authority," he declares. "The PRC is at the mercy of political forces, the Legislature and corporate interests."

Lately, the PRC has been touched by another controversy involving its state insurance superintendent's office, which determines title-insurance rates. A scandal erupted this year after charges of a "pay for play" scheme broke in the press, alleging that State Insurance Superintendent Eric Serna was pressuring title-insurance companies to donate to a charity he helped found in return for favorable treatment. Serna retired from office earlier this year, while his deputy, Joe Ruiz, was dismissed under a similar cloud of allegations this past summer. Quoted in the *Albuquerque Journal*, Ruiz disputes that he was involved in any wrongdoing.

For Bacon, the title-insurance scandal is another example of why the PRC needs to be a forceful consumer advocate. "PRC commissioners ought to be active at this table," Bacon says. "Really, what the PRC is, is what stands between an utter rip-off in New Mexico and a not-so-bad rip-off," he adds, half-chuckling. A proponent of public financing, Bacon is putting his money where his mouth is in running for office. Under a new pilot public-financing law, he has agreed to accept public monies in return for limiting his campaign expenditures.

### THE ENERGY FACTOR

The PRC commissioners elected in November will hear a historic rate-increase request by the Public Service Company of New Mexico (PNM). For the first time, in considering this request, the PRC will take into account state legislation that requires utility providers to supply 10 percent of their energy generation from alternative sources like

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PRC hopeful David Bacon

wind power by the year 2011. The rate-hike request comes amid rapid population growth, booming energy consumption and the shift toward greater use of refrigerated air in New Mexico, placing the state in a crucial juncture of meeting energy demands while protecting the environment.

Though PNM is increasing the amount of electricity it generates from environmentally friendly sources like wind, company CEO Jeff Sterba has stated that his company could expand its power portfolio by getting more electricity from the Palo Verde nuclear power plant in Arizona, which is partly owned by PNM.

“PNM’s load is growing very fast, and we’re very concerned about that,” says Ben Luce, the director of the Coalition for Clean and Affordable Energy, a statewide organization representing 20 groups. “Our concerns are trying to transition the utilities and consumers over to renewable energy resources,” he affirms. “[PRC] commissioners have to be very involved in this.”

Bacon says the commission should push New Mexico in the direction of European nations that are moving away from centralized, dirty-power generation to an on-site, distributive system based on renewable resources. “We have to start looking at these alternatives,” states the PRC hopeful. In Bacon’s view, the unsightly coal-fired plants that scarred the skies of the Four Corners region and beyond should be consigned to an obsolete past.

#### **BACON’S OPPONENT**

Running against Bacon on the Democratic Party ticket is Carol Sloan, a former two-term McKinley County clerk. A Dine (Navajo) woman from the Twin Lakes chapter, Sloan scored an upset victory in last June’s primary to win the Democratic nomination for the PRC District 4 seat. State Democratic Party Executive Director Matt Farrauto says Sloan mounted a “grassroots” campaign on Navajo lands, visiting chapter houses and campaigning in her native language. “She really networked in McKinley County, where she garnered an impressive vote total,” he points out. “Hats off to her.”

In two brief telephone conversations with this reporter, Sloan declined to discuss her goals as a PRC commissioner and said she would only answer questions in writing. Nearly three months after the Democratic primary, Sloan had no website or widely distributed campaign literature available. She referred further questions to the state Democratic Party, which also had no campaign material immediately on hand. Earlier, Sloan filed a statement with the Office of the Secretary of State promising not to spend more than \$1,000 in the primary race, a pledge that exempted her from having to file campaign contribution and expenditure reports.

Although Sloan is largely unknown outside McKinley County, political analyst Brian Sanderoff, owner of Albuquerque-based Research and Polling Inc., predicts she will carry the race against Bacon by virtue of her Democratic nomination coupled with the absence of a Republican candidate.

Sanderoff says the exclusion of Green Party strongholds in urban Albuquerque and Santa Fe from District 4 will hurt Bacon and favor Sloan. “Greens do well in places like the city of Santa Fe and the university area, but you go into the South Valley and [voters] stick with the Democrats,” he explains. Additionally, Bacon’s eco-message is not very popular in the conservative “oil and gas” country of the Farmington area, Sanderoff contends. “Sometimes Republicans go Green for a kick,” he adds, not discounting that Bacon could sway some voters from the GOP.

The PRC’S District 4 race tests an interesting array of political forces that have emerged in state politics, including the viability of public financing, the ability of third parties to expand beyond their base constituencies, and, very importantly, Native American voting power. Pueblo, Navajo and Jicarilla Apache nations are all represented in the district.

Sloan’s bid for the PRC District 4 seat is her first attempt at state office. While Sloan was county clerk, the official in charge of overseeing elections, McKinley County attracted national and even international attention during the 2004 presidential election when questions cropped up about Navajo vote undercounts for president registered in McKinley County’s electronic voting machines.

Voting data posted on the voteraction.org website document undercounts ranging from 12.22 to 16.07 percent in seven McKinley County precincts. While slightly exaggerated, the presidential vote undercount in the seven McKinley County precincts was a pattern repeated in other Native American districts across New Mexico, where undercounts hovered around the 10 percent mark. “That was a big problem, generally, in Indian Country,” reveals Paul Stokes, the coordinator of United Voters of New Mexico.

Subsequently, a lawsuit against the use of the electronic voting machines in New Mexico was filed by several citizen plaintiffs against Secretary of State Rebecca Vigil Giron and 18 county clerks, including Sloan (*Lopategui v. Rebecca Vigil Giron*). According to plaintiff’s attorney John Boyd, the suit became “moot” after a state law was passed during the last legislative session to scrap the electronic machines in favor of paper ballots. Because of loopholes in the law that permit the temporary use of some electronic machines, the suit could be revived if new problems emerge, Boyd adds. The Albuquerque lawyer says the county clerks have since been dropped from the lawsuit.

#### **A TURBULENT PRIMARY SETS THE STAGE FOR NOVEMBER**

During her last days as McKinley County clerk in November 2004, Carol Sloan watched the election of her daughter, then 25-year-old Jacqueline Sloan, to fill her shoes as the new county clerk. Resurfacing on the political scene this year, Sloan beat several better-known primary opponents for the PRC District 4 Democratic nomination, including State Environment Department Deputy Secretary Derrith Watchman-Moore, Steve Gallegos, Andrew Leo Lopez and Lou Gallegos.

In a generational twist of *déjà vu*, Jacqueline Sloan was county clerk during the primary election her mother won. According to Ray Baray, spokesman for the Office of the Secretary of State, New Mexico does not prohibit a county clerk from exercising his or her duties if a relative is on the ballot during an election.

Vote tallies compiled by the Office of the Secretary of State show that McKinley County swung the Democratic primary to Sloan. In fact, more votes were cast in the PRC race — 6,077 to be precise — than in any other race appearing on the ballot in McKinley County — including the uncontested governor’s or U.S. senator’s races. Statewide, Sloan received 6,759 ballots, beating out her closest opponent, Steve Gallegos, who received 5,231 votes. Fellow Navajo Watchman-Moore received 5,187 statewide.

In Watchman-Moore’s view, Sloan won the primary election by turning it into a referendum over who was more Navajo rather than debating the issues. “She was telling people I wasn’t Navajo, that I don’t speak Navajo. . . . These aren’t the issues,” Watchman-Moore says. What’s more, Watchman-Moore accuses the Sloan camp of taking down about 400 of her campaign signs, plastering over posters and pressuring some supporters. “People were stealing my signs right and left,” Watchman-Moore reports. “I believe she stole them. . . . This election has defeated the democratic process.”

Asked about the primary controversy, Sloan rejects charges that she was involved with sign snatching. Labeling the accusations “gossip” and “hearsay,” Sloan insists that she has “no idea what happened.” The former McKinley County clerk claims that some of her own signs were taken down, especially around the Twin Lakes chapter on the Navajo Reservation, and others were damaged in the Albuquerque area. Insisting that she is not into “crashing anybody’s campaign,” Sloan considers the primary “water already under the bridge.” Sounding miffed, she once again declined to discuss her current campaign goals and hung up the telephone on this reporter.

Adding that she is saddened that important issues were ground up in the dust of a murky primary, Watchman-Moore says the PRC District 4 seat is a critical position for Navajo and other rural communities that endure isolation and inferior services. According to the environmental engineer, the PRC needs to be more visible, spreading the word about its very existence and responsibilities to far-flung communities.

A cloistered PRC, Watchman-Moore asserts, renders the important decision-making body subject to the manipulation of special interests. “That’s kind of scary because you can glide in and make all this money and not interact with the people,” she adds. “You’re leaving all those political decisions to a small group of people.” While not specifically endorsing Bacon in the general election, Watchman-Moore will only say that she supports “the best candidate.”

Back on the road, Bacon is attempting to attract voters that don’t normally go for the Green Party. Entering the campaign’s homestretch, the Green candidate is organizing support committees in the Farmington and Gallup areas.

Recently, he spoke at the San Juan County Labor Day celebration and then marched with hundreds of others in a Farmington-area memorial walk convened to commemorate the Native American victims of violent racism and discrimination. In the coming days, Bacon plans to visit Navajo chapter houses.

“A lot of people we’re hooking up with are going to help out,” says the PRC hopeful. “We’re going to really work McKinley and Cibola counties.” In his bid for political office, Bacon insists he’s tapped a sympathetic ear from Native Americans, Democrats and even some Republicans. “They’re more apt to vote for me,” he says of GOP supporters. “We clearly don’t agree on everything, but we agree on a well-run PRC.”

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