

**STATE OF NEW MEXICO
COUNTY OF BERNALILLO
SECOND JUDICIAL DISTRICT**

STATE ETHICS COMMISSION,

Plaintiff,

v.

ELEVATE NEW MEXICO,

Defendant.

No. D-202-CV-2026-03769

COMPLAINT

1. The Lobbyist Regulation Act (“LRA”), NMSA 1978, §§ 2-11-1 to 2-11-10 (1977, as amended through 2023), “require[s] reporting and disclosure, thereby bringing lobbying activities—including the identity of the lobbyists; the interests they are employed to represent; the amounts of money spent to influence legislation; and the source of that money—into public view[.]” *N.M. Families Forward v. N.M. State Ethics Comm’n*, 2025-NMCA-016, ¶ 52, 571 P.3d 70.

2. Among its provisions, the LRA requires organizations that engage in influencing the actions of state officials through a lobbying advertising campaign—rather than through direct contact with state officials—to register with the Secretary of State and to disclose the contributions and expenditures for the lobbying advertising campaign, much like the individual lobbyists engaged in direct lobbying. *See* NMSA 1978, § 2-11-6(I) (2019); *see also* *N.M. Families Forward*, 2025-NMCA-016, ¶ 56.

3. Defendant Elevate New Mexico (“Elevate”) spent at least \$2,500 on an advertising campaign for the purpose of lobbying New Mexico Environment Department Secretary Kenney to approve two air permit applications submitted by Acoma, LLC for the

construction of two microgrids—i.e., two natural-gas-fueled power plants—to power Project Jupiter, a proposed data center in Doña Ana County.

4. Despite the Commission’s request for compliance with the registration and disclosure requirements imposed by Section 2-11-6(I) of the LRA, Elevate refuses to register and to disclose any information related to its expenditures and contributions for its advertising campaign for the purpose of lobbying Secretary Kenney to approve Acoma, LLC’s air permit applications.

5. Under the LRA, New Mexicans have a right to know who is contributing money to fund advertising campaigns for the purpose of lobbying, including who Elevate is and, moreover, who is contributing money to Elevate to fund its advertising campaign for the purpose of lobbying Secretary Kenney to approve Acoma, LLC’s air permit applications.

6. Considering the quantity of greenhouse gases and nitrogen oxides that the proposed Project Jupiter microgrids are likely to emit, this matter is of great public import; consequently, it is necessary that New Mexicans and their representative government, including the Environment Department, be informed as to who is responsible for and who is funding Elevate’s advertising campaign to lobby Secretary Kenney to approve Acoma, LLC’s air permit applications.

7. Plaintiff State Ethics Commission therefore brings this civil action to compel Elevate’s compliance with the LRA.

PARTIES

8. Plaintiff State Ethics Commission is an independent state agency established by Article V, Section 17(A) of the State Constitution with constitutional and statutory authority to enforce New Mexico’s ethics laws, including the LRA.

9. Defendant Elevate New Mexico is an active Virginia Nonstock Corporation formed on January 13, 2026, incorporated by Steve Roberts, and registered with the Commonwealth of Virginia’s State Corporation Commission under an entity ID of 11953909.

10. Defendant Elevate New Mexico’s registered agent is Northwest Registered Agent LLC, located at 1209 Mountain Rd. Pl. NE, Ste. R, Albuquerque, NM 87110.

JURISDICTION AND VENUE

11. The Court has jurisdiction for this action pursuant to N.M. Const., Art. VI, § 13.

12. Venue is proper. *See* NMSA 1978, § 10-16G-9(F) (2021); NMSA 1978, § 38-3-1(F) (1988).

FACTUAL ALLEGATIONS

Following Acoma, LLC’s November 2025 applications for two air permits to construct two new power plants to power Project Jupiter, the New Mexico Environment Department publicly noticed the applications and opened public comment in late January 2026.

13. Project Jupiter is a proposed data center campus in Doña Ana County.

14. Acoma, LLC, is a Delaware limited liability company, whose manager is Yucca Growth Infrastructure, LLC, also a Delaware limited liability company.

15. Yucca Growth Infrastructure, LLC’s manager is BorderPlex Manager, LLC, also a Delaware limited liability company.

16. To power Project Jupiter, Acoma, LLC proposes to build two microgrid natural-gas-fueled power plants.

17. To build these microgrid energy generation facilities, Acoma, LLC must obtain an air quality permit issued by the New Mexico Environment Department (“NMED”).

18. James Kenney is the NMED Secretary.

19. In November 2025, Acoma, LLC applied to NMED for an initial New Source Review (“NSR”) permit for its proposed east and west microgrid power plants: No. NSR 10732 (IEDA ID No. 41309 – PRNM20250001), Acoma, LLC – East Microgrid; and No. NSR 10734 (IEDA ID No. 41311 – PRNM20250001), Acoma, LLC – West Microgrid.

20. NMED’s Air Quality Bureau received Acoma, LLC’s permit applications on November 17, 2025, and ruled them complete on January 22, 2026.

21. On or about January 26, 2026 through January 30, 2026, NMED published public notices of Acoma, LLC’s permit applications and the related public comment period in English and in Spanish in both the *Albuquerque Journal* and the *Las Cruces Sun News*.

22. The public comment period for both applications began on or about January 31, 2026 and ended March 2, 2026.

23. During the public comment periods, the Air Quality Bureau received approximately 7,155 public comments.

Concurrently with the public comment period on Acoma, LLC’s permit applications, Elevate New Mexico conducted an advertising campaign in print media to lobby NMED Secretary Kenney to approve the permit applications.

24. Concurrently with the public comment period on Acoma, LLC’s permit applications, Elevate conducted an advertising campaign for the purpose of lobbying Secretary Kenney for approvals.

25. Elevate’s advertising campaign included its website, print mailers, and digital advertisements on Meta platforms, Google platforms, and LinkedIn.

26. Elevate’s website, <https://elevatenewmexico.org>, is almost entirely devoted to supporting Project Jupiter. See <https://elevatenewmexico.org> (last accessed April 13, 2026).

27. In furtherance of its advertising campaign for the purpose of lobbying, Elevate added a “TAKE ACTION” campaign webpage to lobby Secretary Kenney to approve air permits for Project Jupiter. *See* Ex. 1, Elevate New Mexico, “TAKE ACTION TODAY: Move New Mexico Forward with Project Jupiter”; *see also* <https://elevatenewmexico.quorum.us/campaign/153779/> (last accessed Apr. 1, 2026).

28. Elevate’s campaign webpage urged visitors to “Make your voice heard. Tell Secretary Kenney you support Project Jupiter and urge approval of its air permit.” *See* Ex. 1, Elevate’s TAKE ACTION webpage; *see also* <https://elevatenewmexico.quorum.us/campaign/153779/> (last accessed Apr. 13, 2026).

29. Elevate’s campaign webpage also included a fillable form, whereby visitors could provide their name, address, email, and a pre-authored public comment, “urg[ing] NMED to approve the air permit so these benefits can reach our community.” *See* Ex. 1, Elevate’s TAKE ACTION webpage; *see also* <https://elevatenewmexico.quorum.us/campaign/153779/> (last accessed Apr. 13, 2026) (noting that the campaign has concluded).

30. Elevate’s campaign fillable form concluded with a button—“Submit Your Comment to Sec. Kenney.” *See* Ex. 1, Elevate’s TAKE ACTION webpage; *see also* <https://elevatenewmexico.quorum.us/campaign/153779/> (last accessed Apr. 13, 2026).

31. In addition to Elevate’s campaign webpage, Elevate circulated physical purple and yellow mailers to New Mexicans in January 2026. *See* Ex. 2, Elevate Mailer, at 1 (“Figure 1”).

Figure 1.

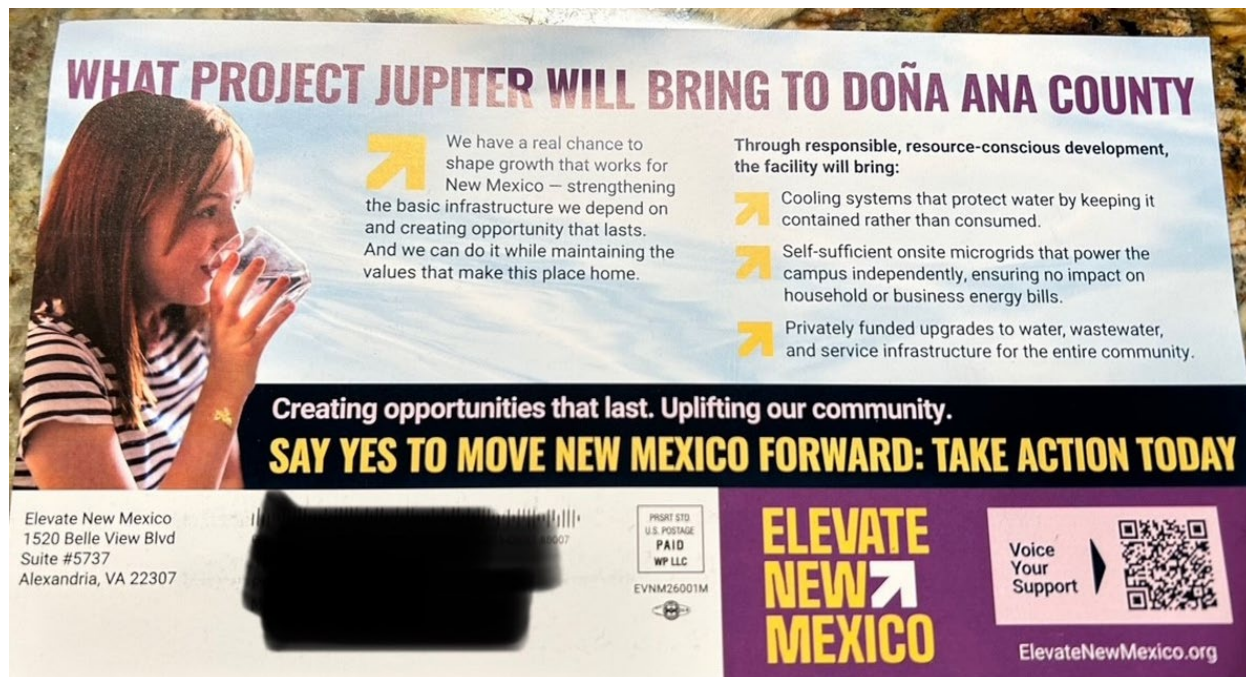


32. The mailers announced that Project Jupiter would entail “\$360 MILLION in direct payments to support our local schools and public services” and a “\$50 MILLION investment in improving our community water systems.” *See id.*

33. The mailers included a stock photograph of a Hispanic model, who appears on Elevate’s website and who also happens to appear on Brident Dental and Orthodontics information webpage related to Medicaid coverage in the State of Texas. *Compare id., and* <https://elevatenewmexico.org> (last accessed April 13, 2026), *with* Brident Dental & Orthodontics, Texas Medicaid Dental Coverage, <https://www.brident.com/en-us/insurance-financing/medicaid/> (last accessed April 13, 2026).

34. On their opposite side, the mailers also contained a QR code, linking to Elevate’s campaign webpage. *See* Ex. 2, Elevate Mailer, at 2 (“Figure 2”).

Figure 2.



35. Unlike political campaign mailers, the mailers did not contain any information disclosing who paid for them. *Cf.* NMSA 1978, § 1-19-26.4(A) (2024).

36. The mailers did, however, include a return address at 1520 Belle View Blvd., Suite #5737, Alexandria, VA, 22307—which, on information and belief, is a commercial mail company.

37. The mailers were sent to and received by New Mexicans residing not only in Doña Ana County but also in Bernalillo County and Santa Fe County from on or about February 12, 2026 to on or about March 1, 2026.

Concurrently with the public comment period on Acoma, LLC’s permit applications, Elevate New Mexico’ advertising campaign also included digital media to lobby NMED Secretary Kenney to approve the permits.

38. Starting on January 29, 2026, and during the NMED public comment period, Elevate ran several separate advertisements in support of Project Jupiter on Meta platforms,

Google platforms, and LinkedIn. Ex. 3, Elevate Meta Advertisements; Ex. 4, Elevate LinkedIn Advertisements; Ex. 5, Elevate Google Advertisements.

39. These digital advertisements supported Elevate’s advertising campaign to lobby Secretary Kenney to approve Acoma, LLC’s permit applications for new power plants, for example, by explaining how, for example, “Project Jupiter will build and operate a state-of-the-art microgrid, supplying its own electricity so our homes and businesses keep the power we rely on. This means the project won’t make your bills go up or lights go out.” *Id.* at 8.

40. On information and belief, Elevate has made direct or indirect expenditures to Meta, Google, LinkedIn, APCO Worldwide LLC, and Adswerve, Inc., in connection with its advertising campaign for the purpose of lobbying state officials to take official acts in support of Project Jupiter. *See* Ex. 4, Elevate LinkedIn Advertisements, at 1–3; Ex. 5, Elevate Google Advertisements.

Elevate has refused to register as an advertising campaign for the purpose of lobbying and, further, has refused to disclose its contributions and expenditures for the advertising campaign, even after the Commission requested Elevate’s compliance with the LRA.

41. Under Section 2-11-6(I) of the LRA, Elevate was required to register its advertising campaign for the purpose of lobbying with the Secretary of State within forty-eight hours after expending \$2,500 on the advertising campaign.

42. Then, within fifteen days following the conclusion of the legislative session—i.e., on March 6, 2026—Elevate was also required to report “the contributions, pledges to contribute, expenditures and commitments to expend for the advertising campaign for the purpose of lobbying, including the names, addresses, employers and occupations of the contributors, to the secretary of state on a prescribed form.” § 2-11-6(I).

43. To date, Elevate has not registered its advertising campaign for the purpose of lobbying Secretary Kenney to approve Acoma, LLC's air permit applications.

44. Nor, to date, has Elevate disclosed any information about the contributions or expenditures for its advertising campaign.

45. Considering the State Ethics Commission's statutory obligation to "at all times seek to ensure voluntary compliance with the provision of the Lobbyist Regulation Act," NMSA 1978, § 2-11-8.2(C) (2021), on March 2, 2026, attorneys for the Commission sent correspondence to Elevate's attorneys, requesting Elevate's voluntary compliance with New Mexico's registration and disclosure requirements under Section 2-11-6(I) of the LRA.

46. Elevate incorrectly maintains that it has no obligation to register or report information regarding its contributors or expenditures.

47. Having attempted and failed to secure Elevate's voluntary compliance with the LRA, on April 17, 2026, the Commission authorized the commencement of this lawsuit to compel Elevate's compliance and remedy its violations of Section 2-11-6(I).

Count I
Violation of the Lobbyist Regulation Act, NMSA 1978, § 2-11-6(I)

48. Plaintiff incorporates by reference the foregoing paragraphs of this complaint as though fully set forth herein.

49. Elevate is an organization of two or more persons.

50. Alternatively, Elevate is "an individual who makes a[] representation as being an organization[.]" § 2-11-6(I); *see also* Rule 1-008(E)(2).

51. Within one calendar year, Elevate "expended funds in excess of two thousand five hundred dollars (\$2,500) not otherwise reported under the Lobbyist Regulation Act to conduct an advertising campaign for the purpose of lobbying[.]" § 2-11-6(I).

52. Elevate failed to register with the Secretary of State within forty-eight hours after expending two thousand five hundred dollars (\$2,500).

53. Elevate failed to “report the contributions, pledges to contribute, expenditures and commitments to expend for the advertising campaign for the purpose of lobbying, including the names, addresses, employers and occupations of the contributors” within the statutory deadline—namely, March 6, 2026, being fifteen days after the 2026 legislative session. § 2-11-6(I).

54. Plaintiff State Ethics Commission seeks relief in the form of: (i) an injunction requiring Elevate to register its advertising campaign for the purpose of lobbying with the Secretary of State; (ii) an injunction requiring Elevate to “report the contributions, pledges to contribute, expenditures and commitments to expend for the advertising campaign for the purpose of lobbying, including the names, addresses, employers and occupations of the contributors”; (iii) civil penalties under NMSA 1978, § 2-11-8.2(D) (2021); (iv) civil penalties in the amount of five thousand dollars (\$5,000) under NMSA 1978, § 2-11-9 (1993); and (v) any other relief the Court deems proper.

PRAYER FOR RELIEF

WHEREFORE, the State Ethics Commission requests the Court to enter relief as follows:

- a. Injunctive relief ordering Elevate to comply with the registration and disclosure requirements of Section 2-11-6(I), including disclosure of “the contributions, pledges to contribute, expenditures and commitments to expend for the advertising campaign for the purpose of lobbying, including the names, addresses, employers and occupations of the contributors,” § 2-11-6(I);
- b. Civil penalties allowed by Sections 2-11-8.2(D) and 2-11-9;
- c. Assessment of costs under NMSA 1978, § 34-6-40.1; and
- d. For such other relief as the Court deems just and proper.

Respectfully submitted: April 17, 2026,

STATE ETHICS COMMISSION

By: /s/ *Jeremy Farris*

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TAKE ACTION TODAY: Move New Mexico Forward with Project Jupiter

Right now, Doña Ana County has a **once in a generation opportunity** to make a major leap forward — turning clear potential into real, long lasting opportunity for families. As the largest private investment in the state’s history, **Project Jupiter would transform long vacant land into a powerful engine for growth**, supporting the services, infrastructure, and career pathways that strengthen communities for decades to come.

This project delivers **far reaching, communitywide benefits**: more reliable water and wastewater systems supported by **over \$50 million in private investment**, stronger public services, new resources for schools and youth programs, and expanded training opportunities that help residents build careers here at home. Project Jupiter will also create **2,500+ construction jobs** and **1,500+ permanent positions**.

To move forward, the project needs approval of its air permit — a critical step that enables a campus designed around **responsible, resource conscious development**, including:

- **A closed loop cooling system** that protects water by keeping it contained rather than consumed.
- **A self sufficient onsite microgrid** that powers the campus independently, ensuring no added strain on the local grid and no impact on household or business energy bills.
- **Privately funded upgrades to water, wastewater, and service infrastructure**, delivering improvements for nearby neighborhoods and supporting long term community reliability.

Project Jupiter expands opportunity, strengthens infrastructure, protects local resources, and delivers forward looking growth that families can count on.

Make your voice heard. Tell Secretary Kenney you support Project Jupiter and urge approval of its air permit.

ACT NOW: Ask NMED to approve the air permit so these benefits can reach our community!

Take a few minutes to draft and submit your public comment. Use our draft below as a starting point, and feel free to add your own thoughts for greater impact!

Fields with an asterisk (*) are required.

First Name *

Last Name *

Address *

Email *

Public Comments *

As a New Mexico resident, I care about the future of our communities and about making sure people have real opportunities to build their lives here. I want to know that our local infrastructure can support the growth we’re already seeing. Doña Ana County needs investments like Project Jupiter that bring good jobs, strengthen local infrastructure and safeguard the environment. I urge NMED to approve the air permit so these benefits can reach our community.

A NEW DAY FOR NEW MEXICO

We have the opportunity to reshape our future and transform with Project Jupiter, a new technology campus in Doña Ana County.

OUR FAMILIES: \$360 MILLION

In direct payments to support our local schools and public services.

OUR WATER: \$50 MILLION

Investment in improving our community water systems.

OUR COMMUNITY: THOUSANDS

of high-paying careers, prioritizing Doña Ana residents.

**DID YOU
KNOW?**

AN INVESTMENT IN OUR FUTURE

Project Jupiter will build and operate a state-of-the-art microgrid, supplying its own electricity so local homes and businesses keep the power they rely on. This means the project won't make your bills go up or lights go out.

ElevateNewMexico.org



WHAT PROJECT JUPITER WILL BRING TO DOÑA ANA COUNTY



We have a real chance to shape growth that works for New Mexico — strengthening the basic infrastructure we depend on and creating opportunity that lasts. And we can do it while maintaining the values that make this place home.

Through responsible, resource-conscious development, the facility will bring:



Cooling systems that protect water by keeping it contained rather than consumed.



Self-sufficient onsite microgrids that power the campus independently, ensuring no impact on household or business energy bills.



Privately funded upgrades to water, wastewater, and service infrastructure for the entire community.

Creating opportunities that last. Uplifting our community.

SAY YES TO MOVE NEW MEXICO FORWARD: TAKE ACTION TODAY

Elevate New Mexico
1520 Belle View Blvd
Suite #5737
Alexandria, VA 22307



EVNM26001M



**ELEVATE
NEW MEXICO**

Voice
Your
Support



ElevateNewMexico.org

Active

Library ID: 913074924506291

Started running on Feb 6, 2026

Platforms  



Elevate New Mexico



Sponsored

Library ID: 913074924506291

Young people shouldn't have to leave New Mexico to find good jobs or stable futures. Project Jupiter will create 1,500+ permanent jobs for our state. Show your support today!



ELEVATENEWMEXICO.QUORUM.US
Elevate New Mexico

Learn more

✓ Active



Library ID: 1567561651132608

Started running on Jan 29, 2026

Platforms  

See ad details



Elevate New Mexico

Sponsored

Our kids shouldn't have to leave to find a great career.
Let's bring thousands of high-paying jobs home to New Mexico.



ELEVATENEWMEXICO.ORG
Elevate New Mexico

Learn more

✓ Active



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Started running on Feb 5, 2026

Platforms  

See ad details



Elevate New Mexico

Sponsored

Our kids shouldn't have to leave to find a great career.
Let's bring thousands of high-paying jobs home to New Mexico.



ELEVATENEWMEXICO.ORG
Elevate New Mexico

Learn more

Active

Library ID: 910850848561683

Started running on Feb 6, 2026

Platforms  



Elevate New Mexico



Sponsored

Library ID: 910850848561683

Nuestros niños no deberían tener que irse para tener una carrera exitosa. Traigamos miles de empleos bien remunerados a Nuevo México.

**ELEVATE
NEW 
MEXICO**

ELEVATENEWMEXICO.ORG
Elevate New Mexico

Learn more

Ad Details



Elevate New Mexico
Promoted

Our kids shouldn't have to leave to find a great career. Let's bring thousands of high-paying jobs home to New Mexico.



Support more opportunities for New Mexico

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Video Ad

Advertiser [Elevate New Mexico](#)

Paid for by APCO Worldwide LLC

Please note that this ad may have multiple versions. Some versions may appear different on mobile or desktop screens with different sizes.

Ad Details



Elevate New Mexico

Promoted

Let's spark a new era of growth right here in New Mexico with the largest private investment in our history.



Support new jobs and new growth for New Mexico.

[Learn more](#)



About the ad

Video Ad

Advertiser [Elevate New Mexico](#)

Paid for by APCO Worldwide LLC



Please note that this ad may have multiple versions. Some versions may appear different on mobile or desktop screens with different sizes.

Ad Details



Elevate New Mexico

Promoted

Project Jupiter's protecting against water waste with smart tech and \$50M in water upgrades. Let's secure our future together.



Secure Our Water Future.

[Learn more](#)



About the ad

Video Ad

Advertiser [Elevate New Mexico](#)

Paid for by APCO Worldwide LLC



Please note that this ad may have multiple versions. Some versions may appear different on mobile or desktop screens with different sizes.

Ad Details



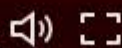
Elevate New Mexico

Promoted

Project Jupiter will build and operate a state-of-the-art microgrid, supplying its own electricity so our homes and businesses keep the power we rely on. This means the project won't make your bills go up or lights go out.

**ELEVATE
NEW 
MEXICO**

▶ ⏪ 0:13 / 0:15



Support economic development that benefits New Mexico.

[Learn more](#)

About the ad

Video Ad

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