

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR
HOUSE BILL 70

57TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2026

AN ACT

RELATING TO PUBLIC UTILITIES; DISTINGUISHING BETWEEN THE PUBLIC REGULATION COMMISSION AND THE AGENCY THAT SUPPORTS THE COMMISSION; CLARIFYING AGENCY STATUTORY DUTIES; REQUIRING COMPLIANCE WITH THE GIFT ACT; MAKING OTHER CLARIFYING AND CLEANUP CHANGES TO THE PUBLIC REGULATION COMMISSION ACT; CREATING THE UTILITY OVERSIGHT FUND; CHANGING DISTRIBUTION OF COLLECTED FEES AND PENALTIES; PROVIDING FOR THE ENFORCEMENT OF FEES BY THE PUBLIC REGULATION COMMISSION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 62-8-9 NMSA 1978 (being Laws 1957, Chapter 25, Section 1, as amended) is amended to read:

"62-8-9. DISPOSITION OF FUNDS--INTEREST AND PENALTY ON
LATE PAYMENTS.--

A. All fees and money collected under the

.233733.2

provisions of the Public Utility Act, including fees provided for in Section 62-13-2 NMSA 1978 and including fees and charges for inspection and supervision, for stenographic services and for transcripts of evidence, shall be remitted by the commission to the state treasurer and credited to the utility oversight fund not later than the day following receipt. Payments provided for in the Public Utility Act shall be obligatory upon all utilities subject to the Public Utility Act.

B. When a fee is not paid on the date it is due, interest shall be paid to the state on the amount due. The interest on the amount due shall start to accrue on the day following the due date and will continue to accrue until the total amount due is paid. The rate of interest on a late fee payment shall be fifteen percent per year, computed at the rate of one and one-fourth percent per month.

C. In addition to any interest due on a late fee payment, a penalty shall be paid to the state for failure to pay the fee when it was due. The penalty imposed shall be two percent of the amount of the fee due.

D. The ~~[attorney general, in the name of the state]~~ commission shall bring suit to collect fees, interest and penalties that remain unpaid."

SECTION 2. Section 62-12-1 NMSA 1978 (being Laws 1941, Chapter 84, Section 73) is amended to read:

.233733.2

1 "62-12-1. MANDAMUS--INJUNCTION--UTILITIES.--Whenever the

2 commission [~~shall be~~] is of the opinion that any person or
3 public utility is failing or omitting or about to fail or omit
4 to do anything required of it by [~~this~~] the Public Utility Act
5 or by any order of the commission or is doing [anything] or
6 about to do anything or permitting [anything] or about to
7 permit anything to be done contrary to or in violation of
8 [~~this~~] that act or of any order of the commission, it may
9 [~~direct the attorney general of New Mexico to~~] commence an
10 action or proceeding in the district court [~~in and~~] for the
11 county of Santa Fe, or in the district court of the county in
12 which the complaint or controversy arose, in the name of the
13 state of New Mexico for the purpose of having [such] the
14 violations or threatened violations stopped and prevented
15 either by mandamus or injunction. The [~~attorney general of New~~
16 ~~Mexico~~] commission shall [~~thereupon~~] begin [such] an action or
17 proceeding by petition to [such] the court alleging the
18 violation or threatened violation complained of and praying for
19 appropriate relief by way of mandamus or injunction. It [~~shall~~
20 ~~thereupon be~~] is the duty of the court to specify a time, not
21 exceeding thirty days after the service of the copy of the
22 petition, within which the public utility or person complained
23 of must plead, and in the meantime [said] the public utility or
24 person may for good cause shown be restrained. In case of
25 default, the court shall immediately inquire into the facts and

.233733.2

1 circumstances of the case. Such ~~corporations or~~ persons as
2 the court ~~may deem~~ deems necessary or proper to be joined as
3 parties, in order to make its judgment, order or writ
4 effective, may be joined as parties. The final judgment in any
5 such action or proceeding shall either dismiss the action or
6 proceeding or direct that the writ of mandamus or injunction
7 issue or be made permanent as prayed for in the petition or in
8 such modified or other form as will afford appropriate relief.
9 An appeal may be taken as in other civil actions."

10 **SECTION 3.** A new section of the Public Utility Act is
11 enacted to read:

12 "[NEW MATERIAL] **UTILITY OVERSIGHT FUND.**--The "utility
13 oversight fund" is created as a nonreverting fund in the state
14 treasury. The fund consists of fees collected pursuant to
15 Sections 62-8-8, 62-8-9 and 63-7-20 NMSA 1978, as well as
16 appropriations, gifts, grants and donations and earnings on
17 investment of the fund. The fund shall be administered by the
18 commission. Money in the fund is subject to appropriation by
19 the legislature to the commission to carry out the commission's
20 duties pursuant to the Public Utility Act. Disbursements from
21 the fund shall be made by warrant of the secretary of finance
22 and administration pursuant to vouchers issued and signed by
23 the chief financial officer of the commission or the chief
24 financial officer's authorized representative."

25 **SECTION 4.** Section 62-19-2 NMSA 1978 (being Laws 1998,

.233733.2

underscored material = new
[bracketed material] = delete

1 Chapter 108, Section 2, as amended) is amended to read:

2 "62-19-2. DEFINITIONS.--As used in the Public Regulation

3 Commission Act:

4 A. "agency" means the organization supporting the
5 commission, including all employees;

6 [A.] B. "commission" means the public regulation
7 commission created by Article 11, Section 1 of the constitution
8 of New Mexico;

9 [B.] C. "commissioner" means a person appointed to
10 the [public regulation] commission; and

11 [C.] D. "person" means an individual, corporation,
12 firm, partnership, association, joint venture or similar legal
13 entity."

14 SECTION 5. Section 62-19-4 NMSA 1978 (being Laws 2020,
15 Chapter 9, Section 18) is amended to read:

16 "62-19-4. PUBLIC REGULATION COMMISSION NOMINATING
17 COMMITTEE.--

18 A. The "public regulation commission nominating
19 committee" is created and consists of seven members who are:

20 (1) knowledgeable about public utility
21 regulation;

22 (2) not employed by or on behalf of or have a
23 contract with a public utility that is regulated by the
24 commission;

25 (3) not applicants or nominees for a position on

.233733.2

underscored material = new
[bracketed material] = delete

1 the commission; and

2 (4) appointed as follows:

3 (a) four members appointed one each by the
4 speaker of the house of representatives, the minority floor
5 leader of the house of representatives, the president pro
6 tempore of the senate and the minority floor leader of the
7 senate, with no more than two members being from the same
8 political party;

9 (b) two members appointed one each by the
10 secretary of energy, minerals and natural resources and the
11 secretary of economic development; and

12 (c) one member who is a member of an Indian
13 nation, tribe or pueblo appointed by the governor.

14 B. A committee member shall:

15 (1) be a resident of New Mexico;

16 (2) serve a four-year term; and

17 (3) serve without compensation, but shall be
18 reimbursed for expenses incurred in pursuit of the member's
19 duties on the committee pursuant to the Per Diem and Mileage
20 Act.

21 C. The committee and individual members shall be
22 subject to the Governmental Conduct Act, the Inspection of
23 Public Records Act, the Financial Disclosure Act and the Open
24 Meetings Act.

25 D. Administrative support shall be provided to the

.233733.2

1 committee by the ~~staff of the commission~~ agency.

2 E. Initial appointments to the committee shall be
3 made by the appointing authorities prior to July 1, 2022.
4 Subsequent appointments shall be made no later than thirty days
5 before the end of a term.

6 F. The first meeting of the appointed members of the
7 committee shall be held prior to September 1, 2022. The
8 committee shall select one member to be chair and one member to
9 be secretary. Following the first meeting, the committee shall
10 meet as often as necessary in order to submit a list to the
11 governor of no fewer than five qualified nominees for
12 appointment to the commission for the terms beginning January
13 1, 2023. The list shall be developed to provide geographical
14 diversity, and nominees on the list shall be from at least
15 three different counties of the state.

16 G. Subsequent to January 1, 2023, the committee shall
17 meet at least ninety days prior to the date on which the term
18 of a commissioner ends and as often as necessary thereafter in
19 order to submit a list to the governor, at least thirty days
20 prior to the beginning of the new term, of no fewer than two
21 qualified nominees from diverse geographical areas of the state
22 for appointment to the commission for each commissioner
23 position term that is ending.

24 H. Upon the occurrence of a vacancy in a commissioner
25 position, the committee shall meet within thirty days of the

.233733.2

1 date of the beginning of the vacancy and as often as necessary
2 thereafter in order to submit a list to the governor, within
3 sixty days of the first meeting after the vacancy occurs, of no
4 fewer than two qualified nominees from diverse geographical
5 areas of the state for appointment to the commission to fill
6 the remainder of the term of each commissioner position that is
7 vacant.

8 I. If a position on the committee becomes vacant
9 during a term, a successor shall be selected in the same manner
10 as the original appointment for that position and shall serve
11 for the remainder of the term of the position vacated.

12 J. The committee shall actively solicit, accept and
13 evaluate applications from qualified individuals for a position
14 on the commission and may require an applicant to submit any
15 information it deems relevant to the consideration of the
16 individual's application.

17 K. The committee shall select nominees for submission
18 to the governor who, in the committee's judgment, are best
19 qualified to serve as a member of the commission.

20 L. A majority vote of all members of the committee in
21 favor of a person is required for that person to be included on
22 the list of qualified nominees submitted to the governor."

23 **SECTION 6.** Section 62-19-6 NMSA 1978 (being Laws 2013,
24 Chapter 64, Section 2, as amended) is amended to read:

25 "62-19-6. CONTINUING EDUCATION REQUIREMENTS FOR
.233733.2

underscored material = new
[bracketed material] = delete

1 COMMISSIONERS.--

2 A. [Beginning July 1, 2013] A commissioner shall
3 complete:

4 (1) [an] at least six hours of ethics
5 [~~certificate~~] training at a course provided in person or online
6 by a [~~New Mexico public~~] post-secondary educational institution
7 in the first twelve-month period after taking office and at
8 least [~~one two-hour ethics course~~] two hours of ethics training
9 conducted by a post-secondary educational institution or by a
10 provider of ethics training that is approved by the
11 professional licensing board by which a commissioner is
12 licensed in each subsequent twelve-month period that the
13 commissioner serves in office; and

14 (2) at least thirty-two hours of continuing
15 education relevant to the work of the commission in each
16 twelve-month period that the commissioner serves in office.

17 B. Continuing education courses shall be endorsed by
18 the national association of regulatory utility commissioners,
19 by a post-secondary educational institution or by [the
20 relevant] a licensing or professional association for a
21 qualifying area of study. [~~for degree holders pursuant to this~~
22 ~~section.~~

23 B.] C. A commissioner shall be responsible for having
24 the endorsing organization submit certification of completion
25 of the hours of education required pursuant to Subsection A of

.233733.2

1 this section to the [commission's] chief of staff.

2 [C.] D. If a commissioner fails to comply with the
3 education requirements in Subsection A of this section by the
4 last day of a twelve-month period, the commissioner's
5 compensation for performing the duties of the office shall be
6 withheld by the [commission] agency until the requirements for
7 the preceding twelve-month period or periods have been met."

8 SECTION 7. Section 62-19-8 NMSA 1978 (being Laws 1998,
9 Chapter 108, Section 19, as amended) is amended to read:

10 "62-19-8. PROHIBITED ACTS--NOMINEES--COMMISSIONERS AND
11 EMPLOYEES.--

12 A. As used in this section, in addition to the
13 definitions provided in Section [16 of this 2020 act] 62-19-2
14 NMSA 1978:

15 (1) "affiliated interest" means a person who
16 directly controls or is controlled by or is under common
17 control with a regulated entity, including an agent,
18 representative, attorney, employee, officer, owner, director or
19 partner of an affiliated interest. For the purposes of this
20 definition, "control" includes the possession of the power to
21 direct or cause the direction of the management and policies of
22 a person, whether directly or indirectly, through the
23 ownership, control or holding with the power to vote of ten
24 percent or more of the person's voting securities;

25 (2) "intervenor" means a person who is

1 intervening as a party in an adjudicatory matter [~~or commenting~~
2 ~~in a rulemaking pending~~] before the commission or has
3 intervened in an adjudicatory [~~or rulemaking~~] matter before the
4 commission within the preceding twenty-four months, including
5 an agent, representative, attorney, employee, officer, owner,
6 director, partner or member of an intervenor;

7 (3) "pecuniary interest" includes owning or
8 controlling securities; serving as an officer, director,
9 partner, owner, employee, attorney or consultant; or otherwise
10 benefiting from a business relationship. "Pecuniary interest"
11 does not include an investment in a mutual fund or similar
12 third-party-controlled investment, pension or disability
13 benefits or an interest in capital credits of a rural electric
14 cooperative or telephone cooperative because of current or past
15 patronage; and

16 (4) "regulated entity" means a person whose
17 charges for services to the public are regulated by the
18 commission and includes any direct or emerging competitors of a
19 regulated entity and includes an agent, representative,
20 attorney, employee, officer, owner, director or partner of the
21 regulated entity.

22 B. In addition to the requirements of the Financial
23 Disclosure Act and the Governmental Conduct Act, nominees for
24 appointment to the commission, commissioners and employees of
25 the [~~commission~~] agency shall comply with the requirements of

.233733.2

1 the Public Regulation Commission Act, as applicable.

2 C. A nominee for appointment to the commission shall
3 not solicit or accept anything of value, either directly or
4 indirectly, from a person whose charges for services to the
5 public are regulated by the commission. For the purposes of
6 this subsection, "anything of value" includes money, in-kind
7 contributions and volunteer services to the nominee or the
8 nominee's organization, but does not include pension or
9 disability benefits.

10 [D. A commissioner or employee of the commission
11 shall not:

12 (1) accept anything of value from a regulated
13 entity, affiliated interest or intervenor. For the purposes of
14 this paragraph, "anything of value" does not include:

15 (a) the cost of refreshments totaling no
16 more than five dollars (\$5.00) a day or refreshments at a
17 public reception or other public social function that are
18 available to all guests equally;

19 (b) inexpensive promotional items that are
20 available to all customers of the regulated entity, affiliated
21 interest or intervenor; or

22 (c) pension or disability benefits received
23 from a regulated entity, affiliated interest or intervenor;

24 (2) have a pecuniary interest in a regulated
25 entity, affiliated interest or intervenor, and if a pecuniary

1 ~~interest in an intervenor develops, the commissioner or~~
2 ~~employee shall divest that interest or self recuse from the~~
3 ~~proceeding with the intervenor interest; or~~

4 ~~(3) solicit any regulated entity, affiliated~~
5 ~~interest or intervenor to appoint a person to a position or~~
6 ~~employment in any capacity.]~~

7 D. Commissioners and employees of the agency shall
8 comply with the provisions of the Gift Act.

9 E. After leaving the commission:

10 (1) a former commissioner shall not be employed
11 or retained in a position that requires appearances before the
12 commission by a regulated entity, affiliated interest or
13 intervenor within two years of the former commissioner's
14 separation from the commission;

15 (2) a former employee shall not appear before
16 the commission representing a party to an adjudication or a
17 participant in a rulemaking within one year of ceasing to be an
18 employee; and

19 (3) a former commissioner or employee shall not
20 represent a party before the commission or a court in a matter
21 that was pending before the commission while the commissioner
22 or employee was associated with the commission and in which the
23 former commissioner or employee was personally and
24 substantially involved in the matter.

25 F. The attorney general or a district attorney may

1 institute a civil action in the district court for Santa Fe
2 county or, in the attorney general's or a district attorney's
3 discretion, the district court for the county in which a
4 defendant resides if a violation of this section has occurred
5 or to prevent a violation of this section. A civil penalty may
6 be assessed in the amount of two hundred fifty dollars (\$250)
7 for each violation, not to exceed five thousand dollars
8 (\$5,000)."

9 SECTION 8. Section 62-19-9 NMSA 1978 (being Laws 1998,
10 Chapter 108, Section 4) is amended to read:

11 "62-19-9. COMMISSION--GENERAL POWERS AND DUTIES.--

12 A. The commission shall:

13 (1) administer and enforce the laws with which
14 it is charged and has every power conferred by law;
15 (2) appoint a chief of staff;
16 (3) prepare an annual budget for submission to
17 the legislature;

18 (4) adopt rules to streamline the resolution of
19 cases before it when appropriate by:

20 (a) the use of hearing examiners;
21 (b) the taking of evidence with the least
22 delay practicable;
23 (c) limiting repetitious testimony; and
24 (d) adopting procedures for resolving cases
25 in ways other than by trial-type hearings when appropriate,

1 including consent calendars, paper hearings, conferences,
2 settlements, mediation, arbitration and other alternative
3 dispute resolution methods and the use of agency staff
4 decisions;

5 (5) provide a toll-free telephone number and
6 publish it on the agency website; and

7 (6) resolve all complaints regarding
8 telecommunications providers within sixty days unless extended
9 for good cause by an order of the commission or hearing
10 examiner that states with specificity the reason for and length
11 of the extension.

12 B. The commission may:

13 [~~(1) subject to legislative appropriation,~~
14 ~~appoint and employ such professional, technical and clerical~~
15 ~~assistance as it deems necessary to assist it in performing its~~
16 ~~powers and duties;~~

17 [~~(2) (1) delegate authority [to subordinates] as~~
18 ~~it deems necessary and appropriate, clearly delineating such~~
19 ~~delegated authority and any limitations;~~

20 [~~(3) retain competent attorneys to handle the~~
21 ~~legal matters of the commission and give advice and counsel in~~
22 ~~regard to any matter connected with the duties of the~~
23 ~~commission and, in the discretion of the commission, to~~
24 ~~represent the commission in any legal proceeding;~~

25 [~~(4) organize into organizational units as~~

.233733.2

1 necessary to enable it to function most efficiently, subject to
2 provisions of law requiring or establishing specific
3 organizational units;

4 (5) (2) take administrative action by issuing
5 orders not inconsistent with law to assure implementation of
6 and compliance with the provisions of law for which the
7 commission is responsible and to enforce those orders by
8 appropriate administrative action and court proceedings;

9 [(6) conduct research and studies to improve the
10 commission's operations or the provision of services to the
11 citizens of New Mexico;

12 (7) (3) conduct investigations as necessary to
13 carry out the commission's responsibilities;

14 [(8) apply for and accept grants and donations
15 in the name of the state to carry out its powers and duties;

16 (9) enter into contracts to carry out its powers
17 and duties;

18 (10) (4) adopt such reasonable administrative,
19 regulatory and procedural rules as may be necessary or
20 appropriate to carry out its powers and duties;

21 [(11) (5) cooperate with tribal and pueblo
22 governments on topics over which the commission and the other
23 governments have jurisdiction and conduct joint investigations,
24 hold joint hearings and issue joint or concurrent orders as
25 appropriate; and

[~~12~~] (6) apply to the district court for injunctions to prevent violations of any laws that it administers or rules or orders adopted pursuant to those laws.

[C. The commission shall:

(1) prepare an annual budget for submission to the legislature;

(2) provide for surety bond coverage for all employees of the commission as provided in the Surety Bond Act and pay the costs of such bonds;

(3) adopt rules to streamline the resolution of cases before it when appropriate by:

(a) the use of hearing examiners;

(b) the taking of evidence with the least delay practicable;

(e) limiting repetitious testimony; and

(d) adopting procedures for resolving cases

in ways other than by trial-type hearings when appropriate, including consent calendars, conferences, settlements, mediation, arbitration and other alternative dispute resolution methods and the use of staff decisions; and

(4) provide a toll-free telephone number and publish it and the commission's general telephone number in local telephone directories.

D-1 C. A majority of the commission constitutes a quorum for the transaction of business; provided, however, that

1 a majority vote of the commission is needed for a final
2 decision of the commission."

3 **SECTION 9.** Section 62-19-20 NMSA 1978 (being Laws 1998,
4 Chapter 108, Section 14, as amended) is amended to read:

5 "62-19-20. HEARING EXAMINERS.--

6 A. The commission may appoint a commissioner or a
7 hearing examiner to preside over any matter before the
8 commission, including rulemakings, adjudicatory hearings and
9 administrative matters. Hearing examiners shall conduct
10 proceedings and issue findings and recommendations based solely
11 on the record and applicable law, free from improper influence,
12 interference or pressure from any source within or outside the
13 commission.

14 B. A hearing examiner shall provide the commission
15 with a ~~recommended decision~~ written recommendation on the
16 matter assigned to the hearing examiner, including findings of
17 fact and conclusions of law. ~~[The recommended decision]~~ A
18 written recommendation shall be provided to the parties, and
19 they may file exceptions to the ~~[decision]~~ written
20 recommendation prior to the final decision of the commission.

21 C. When the commission has appointed a hearing
22 examiner to preside over a matter, at least one member of the
23 commission shall, at the request of a party to the proceedings,
24 attend oral argument."

25 **SECTION 10.** Section 62-19-21 NMSA 1978 (being Laws 1998,

.233733.2

underscored material = new
[bracketed material] = delete

1 Chapter 108, Section 15, as amended) is amended to read:

2 "62-19-21. COMMISSION RULES [PROCEDURES FOR ADOPTION].--

3 [A. Unless otherwise provided by law, no rule
4 affecting a person outside the commission shall be adopted,
5 amended or repealed except after public notice and public
6 hearing before the commission or a hearing examiner designated
7 by the commission.

8 B. Notice of the subject matter of the rule, the
9 action proposed to be taken, the manner in which interested
10 persons may present their views and the method by which copies
11 of the proposed rule, amendment or repealing provisions may be
12 obtained shall be published at least once at least thirty days
13 prior to the hearing date in the New Mexico register and two
14 newspapers of general circulation in the state and mailed at
15 least thirty days prior to the hearing date to all persons who
16 have made a written request for advance notice. For each rule,
17 amendment or repealing provision that affects only one or a
18 limited number of municipalities, towns, villages or counties,
19 notice shall be published in the largest circulation newspaper
20 published and distributed locally in those areas as well as in
21 a newspaper of general circulation in the state. Additional
22 notice may be made by posting on the internet or by using other
23 alternative methods of informing interested persons.

24 C. If the commission finds that immediate adoption,
25 amendment or suspension of a rule is necessary for the

1 ~~preservation of the public peace, health, safety or general~~
2 ~~welfare, the commission may dispense with notice and public~~
3 ~~hearing and adopt, amend or suspend the rule as an emergency.~~
4 ~~The commission's finding of why an emergency exists shall be~~
5 ~~incorporated in the emergency rule, amendment or suspension~~
6 ~~filed with the state records center. Upon adoption of an~~
7 ~~emergency rule that is intended to remain in effect for longer~~
8 ~~than sixty days, notice shall be given within seven days of~~
9 ~~filng the rule as required in this section for proposed rules.~~

10 ~~D. The commission shall issue a rule within eighteen~~
11 ~~months following the publication of that proposed rule or it~~
12 ~~shall be deemed to be withdrawn. The commission may propose~~
13 ~~the same or revised rule in a subsequent rulemaking.~~

14 ~~E. All rules shall be filed in accordance with the~~
15 ~~State Rules Act. Emergency rules shall be effective on the~~
16 ~~date the rules are filed with the state records center. All~~
17 ~~other rules shall be effective fifteen days after filing,~~
18 ~~unless a later date is provided by the rule.] Unless otherwise~~
19 ~~provided by law, rules shall be adopted, amended or repealed in~~
20 ~~accordance with the State Rules Act."~~

21 SECTION 11. Section 62-19-22 NMSA 1978 (being Laws 1998,
22 Chapter 108, Section 16) is amended to read:

23 "62-19-22. RECORD OF PROCEEDINGS.--Unless otherwise
24 provided by law, the commission may by rule provide that oral
25 proceedings before the commission may be taken by any means

1 that provides a full and complete record, including tape
2 recording or stenography. The commission by rule shall
3 determine when tape recordings are transcribed. A party to the
4 proceeding may request a copy of a tape recording or a written
5 transcript if one is provided. The [commission] agency may
6 charge a reasonable fee for a copy of a proceeding. Copy costs
7 shall be determined by the commission by rule and money
8 collected shall be deposited in the [general] utility oversight
9 fund."

10 SECTION 12. Section 62-19-23 NMSA 1978 (being Laws 1998,
11 Chapter 108, Section 17, as amended) is amended to read:

12 "62-19-23. EX PARTE AND PERMITTED COMMUNICATIONS.--

13 A. A commissioner shall not initiate, permit or
14 consider a communication directly or indirectly with a party or
15 [his] the party's representative outside the presence of the
16 other parties concerning a pending rulemaking after the record
17 has been closed or a pending adjudication.

18 B. A hearing examiner shall not initiate, permit or
19 consider a communication directly or indirectly with a party or
20 [his] the party's representative outside the presence of the
21 other parties concerning a pending rulemaking or adjudication.

22 C. Notwithstanding the provisions of Subsections A
23 and B of this section, the following ex parte communications
24 are permitted:

25 (1) where circumstances require, ex parte

.233733.2

communications for procedural or administrative purposes or emergencies that do not deal with substantive matters or issues on the merits are allowed if the commissioner or hearing examiner reasonably believes that no party will gain an advantage as a result of the ex parte communication and the commissioner or hearing examiner makes provision to promptly notify all other parties of the substance of the ex parte communication;

(2) a commissioner may consult with another commissioner, subject to the requirements of the Open Meetings Act, or with advisory staff whose function is to advise the commission in carrying out the commissioner's rulemaking or adjudicative responsibilities;

(3) a hearing examiner may consult with the commission's advisory staff;

(4) a commissioner or hearing examiner may obtain the advice of a nonparty expert on an issue raised in the rulemaking or adjudication if the commissioner or hearing examiner gives notice to the parties of the person consulted and the substance of the advice and affords the parties reasonable opportunity to respond; and

(5) pursuant to the [public regulation] commission's rulemaking authority a party to a proceeding may consult with the commission's advisory staff. [By July 1, 2004, the commission shall establish such rules.]

1 D. A commissioner or hearing examiner who receives or
2 who makes or knowingly causes to be made a communication
3 prohibited by this section shall disclose it to all parties and
4 give other parties an opportunity to respond.

5 E. Upon receipt of a communication knowingly made or
6 caused to be made by a party to a commissioner or hearing
7 examiner in violation of this section, the commissioner or
8 hearing examiner may, to the extent consistent with the
9 interests of justice and the policy of the underlying statutes,
10 require the party to show cause why ~~his~~ the party's claim or
11 interest in the proceeding should not be dismissed, denied,
12 disregarded or otherwise adversely affected on account of the
13 violation of this section."

14 SECTION 13. Section 62-19-24 NMSA 1978 (being Laws 1998,
15 Chapter 108, Section 20) is amended to read:

16 "62-19-24. COMMISSION REPORTS.--By ~~December~~ May 1 of
17 each year, the commission shall report to the legislature and
18 the governor regarding its activities for the previous year in
19 sufficient detail to disclose the workings of the commission
20 and the impact of regulation on the industries regulated by the
21 commission. The report shall include information on consumer
22 complaints and their status. The report may include
23 suggestions and recommended changes in law, as the commission
24 deems appropriate, that would be in the public interest."

25 SECTION 14. A new section of the Public Regulation

.233733.2

underscored material = new
[bracketed material] = delete

1 Commission Act is enacted to read:

2 "[NEW MATERIAL] CHIEF OF STAFF.--

3 A. The chief of staff shall serve at the pleasure of
4 the commission and act consistent with its goals, decisions and
5 directives.

6 B. The chief of staff shall:

7 (1) be responsible for the day-to-day operations
8 of the agency;

9 (2) ensure that the agency carries out all
10 duties and responsibilities with which it is charged by law;

11 (3) supervise and direct the staff and
12 operations of the agency;

13 (4) assign such personnel as are necessary to:

14 (a) serve as public interest advocacy staff
15 to the commission in the regulation of electric, natural gas,
16 renewable energy sources, telecommunications and water and
17 wastewater systems as provided by law. The staff may present
18 testimony and evidence, cross-examine witnesses and partner and
19 collaborate with other stakeholders in furtherance of the
20 advocacy staff's views on how the commission should fulfill its
21 responsibility to balance the public interest, consumer
22 interest and investor interest;

23 (b) serve as advisory staff to advise and
24 assist the commission on any matter before the commission;
25 provided that the advisory staff may have expertise in law,

underscored material = new
[bracketed material] = delete

1 engineering, economics or other professional or technical
2 disciplines;

3 (c) receive and investigate nondocketed
4 consumer complaints and assist consumers in resolving, in a
5 fair and timely manner, complaints against a person under the
6 authority of the commission, including mediation and other
7 methods of alternative dispute resolution; provided that
8 assistance pursuant to this subparagraph does not include legal
9 representation of a private complainant in an adjudicatory
10 proceeding;

11 (d) consult with other state agencies as
12 needed to ensure fair and timely resolution of consumer
13 complaints;

14 (e) advise the commission on how to maximize
15 public participation in commission proceedings, including ways
16 to eliminate language, disability and other barriers;

17 (f) identify, research and advise the
18 commission on consumer issues;

19 (g) assist the commission in the development
20 and implementation of consumer policies and programs;

21 (h) record, for the purpose of determining
22 general concerns of consumers, all complaints with regard to
23 quality or quantity of service provided by a regulated entity
24 or its competitors;

25 (i) review disputes between

underscored material = new
[bracketed material] = delete

telecommunications providers;

(j) investigate each complaint regarding a telecommunications provider on an expedited basis;

(k) address other telecommunications-related duties as required by the New Mexico Telecommunications Act and the commission;

(1) recommend telecommunications-related actions to the commission;

(m) record the judgments, rules, orders and other proceedings of the commission and make a complete index to the judgments, rules, orders and other proceedings;

(n) issue and attest all processes issuing from the commission and affix the seal of the commission to them;

(o) preserve the seal and other property belonging to the agency;

(p) perform other agency duties and responsibilities; and

(q) carry out the provisions of the Pipeline Safety Act;

(5) organize the agency into organizational units as necessary to enable it to function most efficiently and

(6) appoint a professional engineer who shall have at least five years' experience in the design,

1 construction, maintenance and operation of oil or gas pipeline
2 facilities, who shall be designated pipeline safety engineer
3 for the purposes of the Pipeline Safety Act.

4 C. The chief of staff may:

5 (1) employ such professional, technical and
6 clerical assistance as is necessary to assist the agency and
7 commission in performing their powers and duties;

8 (2) hire on a temporary, term or contract basis
9 such other experts or staff as the commission requires for a
10 particular case;

11 (3) retain competent attorneys to give advice,
12 counsel and representation in all legal matters of the
13 commission and agency;

14 (4) set minimum educational and experience
15 requirements for all staff positions;

16 (5) conduct research and studies to improve the
17 agency's operations or the provision of services to the
18 residents of New Mexico;

19 (6) apply for and accept grants and donations in
20 the name of the state to carry out the agency's powers and
21 duties; and

22 (7) enter into contracts on behalf of the
23 agency."

24 SECTION 15. Section 63-7-21 NMSA 1978 (being Laws 1951,
25 Chapter 194, Section 2, as amended) is amended to read:

.233733.2

underscored material = new
[bracketed material] = delete

"63-7-21. DISPOSITION OF FEES.--All [moneys] money collected under the provisions of [Chapter 194, Laws of 1951] Section 63-7-20 NMSA 1978 shall be deposited with the state treasurer and [by him] shall be credited to the [general] utility oversight fund."

SECTION 16. Section 70-3-2 NMSA 1978 (being Laws 1953, Chapter 42, Section 3, as amended) is amended to read:

"70-3-2. LICENSE--FEES--DISPOSITION.--[Each] An operator of a pipeline [~~or pipelines~~] operated in the state [~~of New Mexico~~] for the transportation of crude oil, natural gas or the products derived [~~therefrom~~] from either shall, during the month of July, obtain a license for the operation of [~~such~~] the pipeline. Application for [~~such~~] a license shall be made upon a form to be provided by the [~~corporation~~] public regulation commission and shall be accompanied by the license fee determined as [~~hereinafter~~] provided in this section. On receipt of [~~such~~] the application and license fee, the [~~corporation~~] public regulation commission shall issue a license to the applicant for the current fiscal year. All license fees [~~so~~] collected shall be paid to the state treasurer and [~~by him~~] credited to the [~~general~~] utility oversight fund.

SCHEDULE OF ANNUAL LICENSE FEES

A. [Each] A person [firm, association or corporation] transporting natural gas or [the] natural gas products [derived .233733.2

therefrom] by pipeline [~~or pipelines~~] in New Mexico and operating a pipeline [~~or pipelines~~] and appurtenant facilities within New Mexico shall pay an annual license fee of five hundred dollars (\$500) at the time of making the application required by this section. An additional fee shall be paid, measured by the aggregate installed rated horsepower of compression facilities located within New Mexico and operated by the licensee, in accordance with the following schedule:

(1) not exceeding [10,000] ten thousand

horsepower, the minimum fee with no additional fee;

(2) more than [10,000] ten thousand horsepower and not more than [30,000] thirty thousand horsepower, the minimum fee plus [\$2,275.00] two thousand two hundred seventy-five dollars (\$2,275);

(3) more than [30,000] thirty thousand

horsepower and not more than [50,000] fifty thousand

horsepower, the minimum fee plus [\$4,000.00] four thousand dollars (\$4,000);

(4) more than [50,000] fifty thousand horsepower and not more than [75,000] seventy-five thousand horsepower, the minimum fee plus [\$5,000.00] five thousand dollars (\$5,000);

(5) more than [75,000] seventy-five thousand horsepower and not more than [100,000] one hundred thousand horsepower, the minimum fee plus [\$.5,500.00] five thousand

.233733.2

1 hundred dollars (\$5,500); and

2 (6) more than [100,000] one hundred thousand
3 horsepower, the minimum fee plus [\$5,925.00] five thousand nine
4 hundred twenty-five dollars (\$5,925) and plus [\$75.00] seventy-
5 five dollars (\$75.00) additional for each [10,000] ten thousand
6 horsepower or fraction thereof in excess of [100,000] one
7 hundred thousand horsepower.

8 B. [Each] An operator of a pipeline [or pipelines]
9 for the transportation of oil or [the] its products [derived
10 therefrom] shall pay [the following fees, based on the number
11 of miles of such line operated in New Mexico] a basic fee of
12 five hundred dollars (\$500) [and in addition] plus fees based
13 on the number of miles of pipeline operated in New Mexico,
14 computed in accordance with the following schedule:

15 (1) for all lines up to and including eight
16 inches in diameter:

17 [\$13.00] (a) thirteen dollars (\$13.00) per
18 mile for the first [50] fifty miles;

19 [\$7.00] (b) seven dollars (\$7.00) per mile
20 for the next [25] twenty-five miles;

21 [\$4.00] (c) four dollars (\$4.00) per mile
22 for the next [25] twenty-five miles; and

23 [\$1.00] (d) one dollar (\$1.00) per mile for
24 each mile in excess of [100] one hundred miles; and

25 (2) for all lines more than eight inches in

underscored material = new
[bracketed material] = delete

1 diameter:

2 ~~[\$18.00]~~ (a) eighteen dollars (\$18.00) per
3 mile for the first [25] twenty-five miles;

4 ~~[\$13.00]~~ (b) thirteen dollars (\$13.00) per
5 mile for the next [25] twenty-five miles;

6 ~~[\$ 9.00]~~ (c) nine dollars (\$9.00) per mile
7 for the next [25] twenty-five miles;

8 ~~[\$ 6.00]~~ (d) six dollars (\$6.00) per mile
9 for the next [25] twenty-five miles; and

10 ~~[\$ 2.00]~~ (e) two dollars (\$2.00) per mile
11 for each mile in excess of [100] one hundred miles.

12 C. For the purposes of determining the license fees
13 payable under the provisions of ~~[this]~~ Subsection B of this
14 section, any pipeline owned by two or more persons ~~[firms or~~
15 ~~corporations]~~ shall be considered to be a separate pipeline
16 operation to be licensed as such in the name of the operator or
17 owners thereof. The basic fee to be paid in the licensing of
18 such lines under the ~~[foregoing]~~ fee schedule provided in
19 Subsection B of this section shall be:

20 ~~[\$500]~~ (1) five hundred dollars (\$500) on lines
21 less than twenty inches in diameter; and

22 ~~[\$850]~~ (2) eight hundred fifty dollars (\$850) on
23 lines twenty inches or more in diameter."

24 SECTION 17. REPEAL.--Sections 62-19-11 through 62-19-19
25 and 70-3-20 NMSA 1978 (being Laws 1998, Chapter 108, Sections 5

.233733.2

1 through 8 and 10; Laws 2023, Chapter 100, Section 19; Laws
2 1998, Chapter 108, Section 12; Laws 2000, Chapter 100, Section
3 1 and Laws 2000, Chapter 102, Section 1; Laws 1998, Chapter
4 108, Section 13; and Laws 1969, Chapter 71, Section 10, as
5 amended) are repealed.

6 - 32 -
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

underscored material = new
[bracketed material] = delete