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AN ACT

RELATING TO UNDERGROUND UTILITIES; REVISING A DEFINITION;
REVISING THE PIPELINE ONE-CALL NOTIFICATION SYSTEM.

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

Section 1. Section 62-14-2 NMSA 1978 (being Laws 1973,
Chapter 252, Section 2, as amended) is amended to read:

"62-14-2. DEFINITIONS.-- As used in Chapter 62,
Article 14 NMSA 1978:

A. "advance notice" means two working days;

B. "blasting" means the use of an explosive to
excavate;

C. "cable television lines and related facilities"
means the facilities of any cable television system or
closed-circuit coaxial cable communications system or other
similar transmission service used in connection with any
cable television system or other similar closed-circuit
coaxial cable communications system;

D. "commission" means the public regulation
commission;

E. "emergency excavation" means an excavation that
must be performed due to circumstances beyond the excavator's
control and that affects public safety, health or welfare;

F. "excavate" means the movement or removal of
earth using mechanical excavating equipment or blasting and

1 includes augering, backfilling, digging, ditching, drilling,
2 grading, plowing in, pulling in, ripping, scraping,
3 trenching, tunneling and directional boring;

4 G. "excavator" means a person that excavates;

5 H. "means of location" means a mark such as a
6 stake, a flag, whiskers or paint that is conspicuous in
7 nature and that is designed to last at least ten working days
8 if not disturbed;

9 I. "mechanical excavating equipment" means all
10 equipment powered by any motor, engine or hydraulic or
11 pneumatic device used for excavating and includes trenchers,
12 bulldozers, backhoes, power shovels, scrapers, draglines,
13 clam shells, augers, drills, cable and pipe plows or other
14 plowing-in or pulling-in equipment;

15 J. "one-call notification system" means a
16 communication system in which an operation center provides
17 telephone services or other reliable means of communication
18 for the purpose of receiving excavation notice information
19 and distributing that information to owners and operators of
20 pipelines and other underground facilities;

21 K. "person" means the legal representative of or
22 an individual, partnership, corporation, joint venture,
23 state, subdivision or instrumentality of the state or an
24 association;

25 L. "pipeline" means a pipeline or system of

1 pipelines and appurtenances for the transportation or
2 movement of any oil or gas, or oil or gas products and
3 byproducts, subject to the jurisdiction of federal law or
4 regulation;

5 M. "reasonable efforts" means notifying the
6 appropriate one-call notification center or underground
7 facility owner or operator of planned excavation;

8 N. "underground facility" means any tangible
9 property described in Subsections C, L and O of this section
10 that is underground, but does not include residential
11 sprinklers or low-voltage lighting; and

12 O. "underground utility line" means an underground
13 conduit or cable, including fiber optics, and related
14 facilities for transportation and delivery of electricity,
15 telephonic or telegraphic communications or water, sewer and
16 fire protection lines."

17 Section 2. Section 62-14-7.1 NMSA 1978 (being Laws
18 1997, Chapter 30, Section 1, as amended) is amended to read:

19 "62-14-7.1. PIPELINE ONE-CALL NOTIFICATION SYSTEM.--

20 A. If a one-call system is operating in the
21 region, an owner or operator of an underground facility
22 subject to Chapter 62, Article 14 NMSA 1978 shall be a member
23 of a one-call notification system by April 15, 2008, unless
24 earlier membership is required by federal law. A one-call
25 notification system may be for a region of the state or

1 statewide in scope, unless federal law provides otherwise.

2 B. Each one-call notification system shall be
3 operated by:

4 (1) an owner or operator of pipeline
5 facilities;

6 (2) a private contractor;

7 (3) a state or local government agency; or

8 (4) a person who is otherwise eligible under
9 state law to operate a one-call notification system.

10 C. If the one-call notification system is operated
11 by owners or operators of pipeline facilities, it shall be
12 established as a nonprofit entity governed by a board of
13 directors that shall establish the operating processes,
14 procedures and technology needed for a one-call notification
15 system. The board shall further establish a procedure or
16 formula to determine the equitable share of each member for
17 the costs of the one-call notification system. The board may
18 include representatives of excavators or other persons deemed
19 eligible to participate in the system who are not owners or
20 operators.

21 D. Excavators shall give advance notice to the
22 one-call notification system operating in the intended
23 excavation area and provide information established by rule
24 of the commission, except when excavations are by or for a
25 person that:

1 (1) owns or leases or owns a mineral
2 leasehold interest in the real property on which the
3 excavation occurs; and

4 (2) operates all underground facilities
5 located in the intended excavation area.

6 E. The one-call notification system shall promptly
7 transmit excavation notice information to owners or operators
8 of pipeline facilities in the intended excavation area.

9 F. After receiving advance notice, owners and
10 operators of pipeline facilities shall locate and mark their
11 pipeline facilities in the intended excavation area.

12 G. The one-call notification system shall provide
13 a toll-free telephone number or another comparable and
14 reliable means of communication to receive advance notice of
15 excavation. Means of communication to distribute excavation
16 notice to owners or operators of pipeline facilities shall be
17 reliable and capable of coordination with one-call
18 notification systems operating in other regions of the state.

19 H. Operators of one-call notification systems
20 shall notify the commission of its members and the name and
21 telephone number of the contact person for each member and
22 make available to the commission appropriate records in
23 investigations of alleged violations of Chapter 62, Article
24 14 NMSA 1978.

25 I. One-call notification systems and owners and

1 operators of pipeline facilities shall promote public
2 awareness of the availability and operation of one-call
3 notification systems and work with state and local
4 governmental agencies charged with issuing excavation permits
5 to provide information concerning and promoting awareness by
6 excavators of one-call notification systems.

7 J. The commission may prescribe reasonable maximum
8 rates for the provision of one-call services in New Mexico,
9 provided that if the reasonableness of such rates is
10 contested in the manner provided by commission rule, the
11 burden of proof to show the unreasonableness of such rates
12 shall be upon the person contesting their reasonableness."