

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR
HOUSE BILL 11

54TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2020

This document incorporates amendments that have been adopted during the current legislative session. The document is a tool to show the amendments in context and is not to be used for the purpose of amendments.

AN ACT

RELATING TO PUBLIC REGULATION; REORGANIZING THE OPERATING
STRUCTURE OF THE PUBLIC REGULATION COMMISSION; CREATING THE
COMMISSION RESOURCES DIVISION WITHIN THE PUBLIC REGULATION
COMMISSION; CREATING THE OFFICE OF PUBLIC REGULATION COMMISSION
REGULATORY AFFAIRS AS AN AGENCY ADMINISTRATIVELY ATTACHED TO
THE REGULATION AND LICENSING DEPARTMENT; TRANSFERRING PERSONNEL
AND NON-REGULATORY DUTIES FROM THE PUBLIC REGULATION COMMISSION
TO THE OFFICE OF PUBLIC REGULATION COMMISSION REGULATORY
AFFAIRS; PROVIDING POWERS AND DUTIES; REQUIRING COMMISSIONERS
TO ACT IN THE PUBLIC INTEREST OF THE STATE; MAINTAINING THE

.217397.3AIC February 17, 2020 (10:13am)

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight↔
delete = →bold, red, highlight, strikethrough↔

FIRE MARSHAL DIVISION AND PIPELINE SAFETY DUTIES WITHIN THE PUBLIC REGULATION COMMISSION; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978; MAKING TECHNICAL AND CONFORMING CHANGES Hf1→; ~~DECLARING AN EMERGENCY~~←Hf1.

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

SECTION 1. A new section of the Public Regulation Commission Act is enacted to read:

"[NEW MATERIAL] COMMISSION RESOURCES DIVISION-- ORGANIZATION--CHIEF OF STAFF--STAFF--DUTIES.--

A. The "commission resources division" is created in the public regulation commission and shall consist of staff necessary to carry out the duties and responsibilities of the commission, including:

- (1) commission resources staff;
- (2) hearing examiners;
- (3) administrative services staff; and
- (4) pipeline safety bureau staff.

B. A chief of staff of the commission resources division shall be appointed to serve a six-year term beginning January 1; provided that the initial chief of staff shall Hf1→ **be appointed as soon as practical on or after the effective date of this 2020 act, subject to senate confirmation at the next legislative session, and shall**←Hf1 serve for a term ending December 31, 2023. If Article 11, Section 1 of the

.217397.3AIC February 17, 2020 (10:13am)

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight←
delete = →bold, red, highlight, strikethrough←

constitution of New Mexico provides for the election of commissioners, the governor shall provide the commission with a list of finalists for the position of chief of staff and, within thirty days, the commission shall select a person from the list to be appointed chief of staff; provided that if the commission fails to select a chief of staff within thirty days, the governor shall appoint the chief of staff. If Article 11, Section 1 of the constitution of New Mexico provides for the appointment of commissioners, the commission shall appoint the chief of staff. Appointment of the chief of staff by the governor or commission shall be subject to senate confirmation. The chief of staff may only be removed for cause by the appointing authority Hf1→, ~~and a~~←Hf1 Hf1→; provided that notice and an opportunity for a hearing shall first be provided and the governor and a majority of the commissioners shall approve the removal. A←Hf1 vacancy shall be filled for the remainder of the unexpired term in the same manner as the original appointment was made. If reappointed in accordance with this subsection, a person may serve multiple terms as the chief of staff.

C. The chief of staff shall:

- (1) manage the operations of the commission resources division;
- (2) hire and direct the staff of the

.217397.3AIC February 17, 2020 (10:13am)

commission resources division, including hearing examiners, pipeline safety bureau staff, administrative services staff and commission resources staff with expertise in regulatory law, engineering, utility accounting, motor carrier regulation, railroad safety, pipeline safety, ambulance standards, telecommunications, economics and other professional or technical disciplines to carry out the duties of the division. The chief of staff may hire on a temporary, term or contract basis other experts or staff as the commission requires for a particular case. The staff shall be subject to the Personnel Act, as applicable; and

(3) ensure that hearing examiners have decisional independence.

D. Commission resources staff shall:

(1) serve as staff to the commission in carrying out its duties and responsibilities;

(2) provide advice and counsel to the commission, including hearing examiners, on legal or technical issues and to commissioners on policy issues;

(3) analyze case records;

(4) analyze recommended decisions;

(5) assist the commission in the development of rules;

(6) assist the commission in writing final orders;

.217397.3AIC February 17, 2020 (10:13am)

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight←
delete = →bold, red, highlight, strikethrough←

(7) record and track post-order compliance by regulated entities;

(8) conduct research; and

(9) perform other duties as required by the chief of staff or the commission.

E. The administrative services staff shall perform the following functions for the commission:

(1) case docketing;

(2) records management;

(3) budget and accounting;

(4) human resources;

(5) procurement; and

(6) information systems services.

F. The administrative services staff shall record the rules, orders and other proceedings of the commission and make a complete index to the rules, orders and other proceedings; issue and attest all processes issuing from the commission and affix the seal of the commission to them; and preserve the seal and other property belonging to the commission.

G. Upon request and consent of all parties to a formal consumer complaint, the chief of staff, or a commission resources staff member appointed by the chief of staff, may arbitrate the complaint. The arbitration shall be completed

.217397.3AIC February 17, 2020 (10:13am)

underscoring material = new
[bracketed material] = delete
Amendments: new = → bold, blue, highlight ←
delete = → bold, red, highlight, strikethrough ←

within a time period set by the chief of staff, and the decision may be appealed to the commission. The commission shall adopt rules for arbitration of formal complaints.

H. Informal consumer complaints received by the commission resources division against a regulated entity shall be referred to the office of public regulation commission regulatory affairs."

SECTION 2. A new section of the Public Regulation Commission Act is enacted to read:

"[NEW MATERIAL] OFFICE OF PUBLIC REGULATION COMMISSION REGULATORY AFFAIRS--DIVISIONS--DIRECTOR--DUTIES.--"

A. The "office of public regulation commission regulatory affairs" is created and is administratively attached to the regulation and licensing department. The office of public regulation commission regulatory affairs consists of:

- (1) the legal division;
- (2) the utility division;
- (3) the transportation division;
- (4) the administrative services division; and
- (5) the consumer relations division.

B. The office of public regulation commission regulatory affairs shall represent the public interest in proceedings before the commission. In order to represent the public interest, the office shall, as the office deems necessary:

.217397.3AIC February 17, 2020 (10:13am)

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight←
delete = →bold, red, highlight, strikethrough←

(1) present the commission with its recommendations on how the commission should fulfill its responsibility to the public interest and balance the interests of consumers and investors;

(2) have the status of a party in any proceeding before the commission, without being required to file a motion to intervene, but shall not have a right to appeal;

(3) be entitled to enter an appearance, conduct discovery, file written testimony and exhibits, introduce evidence, examine and cross-examine witnesses, make arguments and generally participate in the conduct of a proceeding before the commission;

(4) be entitled to petition the commission and file motions with the commission, including protests to decisions of the commission and motions for the commission to review rate proposals;

(5) perform economic, accounting and engineering review and analysis of a commission-regulated entity's operations, regulatory compliance and applications and other filings before the commission;

(6) submit written recommendations to the commission as to whether a commission-regulated entity's applications or filings with the commission comply with the

.217397.3AIC February 17, 2020 (10:13am)

underscored material = new
[bracketed material] = delete
Amendments: new = → bold, blue, highlight ←
delete = → bold, red, highlight, strikethrough ←

procedures and objectives of the particular application or filing; and

(7) do all other things necessary to carry out its duties Hf1→ **or those duties delegated to it by the commission**←Hf1.

C. A director of the office of public regulation commission regulatory affairs shall be appointed by the governor and confirmed by the senate to serve a six-year term beginning January 1; provided that, as soon as practical on or after the effective date of this 2020 act, the governor shall appoint an initial director, who shall be subject to senate confirmation at the next legislative session, for a term ending December 31, 2026. The director may only be removed for cause by the governor Hf1→ ~~, and the~~←Hf1 Hf1→; **provided that notice and an opportunity for a hearing shall first be provided.**

The←Hf1 same individual, if reappointed and confirmed, may serve multiple terms as the director. Hf1→ **A vacancy shall be filled for the remainder of the unexpired term in the same manner as the original appointment was made.**←Hf1

D. The director shall:

- (1) manage the operations of the office of public regulation commission regulatory affairs;
- (2) direct the legal, utility and transportation divisions in representing the public interest in matters before the commission;

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight←
delete = →bold, red, highlight, strikethrough←

(3) direct the work of the consumer relations division; and

(4) hire division directors and the professional, technical and support staff necessary to carry out the duties of the office. Division directors and staff shall be subject to the Personnel Act.

E. The director may:

(1) apply for and receive, with the governor's approval, in the name of the office any public or private funds, including United States government funds, available to the office to carry out its programs, duties or services;

(2) enter into contracts to carry out the office's powers and duties; and

(3) adopt reasonable administrative, regulatory and procedural rules as may be necessary or appropriate to carry out the duties of the office.

F. The legal division shall serve as counsel to the office of public regulation commission regulatory affairs and represent the office in matters before the commission.

G. The utility division shall serve as subject matter experts in the areas of electric, natural gas, renewable energy sources, telecommunications and water and wastewater systems regulation.

H. The transportation division shall serve as

.217397.3AIC February 17, 2020 (10:13am)

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight←
delete = →bold, red, highlight, strikethrough←

subject matter experts and technical staff in the areas of motor carrier regulation and enforcement, railroad safety enforcement, pipeline safety and ambulance standards.

I. The administrative services division shall provide administrative services to the office of public regulation commission regulatory affairs, including:

- (1) budget and accounting;
- (2) human resources;
- (3) procurement; and
- (4) information systems services.

J. The consumer relations division shall:

(1) receive and investigate informal consumer complaints and assist consumers in resolving, in a fair manner and within sixty days unless extended by the director, complaints against a person under the authority of the commission, including mediation and other methods of alternative dispute resolution; provided, however, that assistance pursuant to this paragraph does not include legal representation of a private complainant in an adjudicatory proceeding;

(2) record complaints received regarding quality or quantity of service provided by a regulated entity or its competitors to determine general concerns of consumers. A report of consumer complaints and their status shall be included in the commission's annual report;

.217397.3AIC February 17, 2020 (10:13am)

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight←
delete = →bold, red, highlight, strikethrough←

(3) inform the commission of the necessity for and progress of corrective action against a regulated entity based on complaints received against a regulated entity;

(4) work with the consumer protection division of the attorney general's office, the governor's constituent services office and other state agencies as needed to ensure fair and timely resolution of complaints; and

(5) identify, research and advise the commission on consumer issues and assist the commission in the development and implementation of consumer policies and programs.

K. Office of public regulation commission regulatory affairs staff shall not have ex parte communications with commissioners or a hearing examiner assigned to a pending matter before the commission, except as expressly permitted by Section 8-8-17 NMSA 1978."

SECTION 3. Section 8-8-4 NMSA 1978 (being Laws 1998, Chapter 108, Section 4) is amended to read:

"8-8-4. COMMISSION--GENERAL POWERS AND DUTIES.--

A. The commission shall administer and enforce the laws with which it is charged and has every power conferred by law.

B. In carrying out the duties of the commission, commissioners shall act in the public interest of the state.

underscoring material = new
[bracketed material] = delete
Amendments: new = → bold, blue, highlight
delete = → bold, red, highlight, strikethrough

[B-] C. The commission may:

(1) [~~subject to legislative appropriation~~] appoint and employ [~~such professional, technical and clerical assistance~~] administrative staff as it deems necessary and may direct the chief of staff of the commission resources division to hire, subject to the Personnel Act, professional and technical staff, as needed, to assist it in performing its powers and duties;

(2) delegate authority to subordinates Hf1→**or the office of public regulation commission regulatory affairs**←Hf1 as it deems necessary and appropriate, clearly delineating such delegated authority and any limitations;

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

(4) organize into organizational units as necessary to enable it to function most efficiently, subject to provisions of law requiring or establishing specific organizational units;

(5) take administrative action by issuing orders not inconsistent with law to assure implementation of and compliance with the provisions of law for which the commission is responsible and to enforce those orders by

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight←
delete = →bold, red, highlight, strikethrough←

appropriate administrative action and court proceedings;

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

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

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

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

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

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

(12) 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.

[E-] D. The commission shall:

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

.217397.3AIC February 17, 2020 (10:13am)

~~[(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)]~~ (2) 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;
- (c) 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)]~~ (3) provide a toll-free telephone number and publish it and the commission's general telephone number in local telephone directories.

~~[D-]~~ E. A majority of the commission constitutes a quorum for the transaction of business; provided, however, that a majority vote of the commission is needed for a final decision of the commission."

SECTION 4. Section 8-8-9.3 NMSA 1978 (being Laws 2007, Chapter 161, Section 4) is amended to read:

"8-8-9.3. FIRE MARSHAL DIVISION.--

A. The fire marshal division is created in the

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight←
delete = →bold, red, highlight, strikethrough←

commission and includes the following:

- [A.] (1) the firefighter training academy bureau;
- [B.] (2) the fire service support bureau;
- [C.] (3) the fire investigations bureau; and
- [D.] (4) the fire code enforcement bureau.

B. The chief of staff of the commission resources division shall oversee the operations of the fire marshal division."

SECTION 5. Section 59A-52-3 NMSA 1978 (being Laws 1984, Chapter 127, Section 949, as amended) is amended to read:

"59A-52-3. DEPUTY STATE FIRE MARSHAL AND OTHER EMPLOYEES--QUALIFICATIONS OF DEPUTY.--The state fire marshal may employ, with the consent of the chief of staff of the commission resources division of the public regulation commission, deputy state fire marshals and other employees to assist in the execution of the marshal's duties."

SECTION 6. Section 62-6-17 NMSA 1978 (being Laws 1941, Chapter 84, Section 29, as amended) is amended to read:

"62-6-17. OFFICE, BOOKS AND RECORDS--SANCTION--PENALTY.--

A. Every utility furnishing service within the state shall maintain an office located in the state. The commission by order may require any utility or any officer or agent of any utility to produce within the state or provide

underscored material = new
[bracketed material] = delete
Amendments: new = → bold, blue, highlight ←
delete = → bold, red, highlight, strikethrough ←

access to, at such reasonable time and place as the commission may designate, any books, records, accounts or documents kept in any office or place within or without the state, or certified copies thereof, whenever the production thereof is reasonably required and pertinent to any matter under investigation before the commission.

B. Whenever the production of books, records, accounts or documents is reasonably required by the commission and pertinent to any matter under investigation before the commission, the commission may require the utility or any affiliated interest participating in a Class I or II transaction to produce or provide access to, at such reasonable time and place as the commission may designate, such books, records, accounts or documents.

C. Any person whose interest may be adversely affected by the production of any books, records, accounts or documents may petition the commission for a protective order for confidential or proprietary information. The commission shall determine the materiality and relevancy of the books, records, accounts or documents to any matter before the commission and determine whether such books, records, accounts or documents contain confidential or proprietary information. If the commission determines such books, records, accounts or documents contain confidential or proprietary information that is material and relevant to the proceeding, it shall determine

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight←
delete = →bold, red, highlight, strikethrough←

whether the public interest requires that such books, records, accounts or documents be produced in any hearing or investigation held under the Public Utility Act or that an abstract of or the extraction of specific information from such books, records, accounts or documents be produced for use in any such hearing or investigation. Any books, records, accounts or documents determined under this section to contain confidential or proprietary information are not subject to the Public Records Act.

D. For so long as such information determined by the commission to contain confidential or proprietary information retains its confidential or proprietary character, any person who intentionally discloses such confidential or proprietary information is guilty of a misdemeanor and upon conviction shall be fined not less than five hundred dollars (\$500) nor more than five thousand dollars (\$5,000).

E. To carry out its duties, the office of public regulation commission regulatory affairs may seek an order from the commission for the production of books, records, accounts or documents in accordance with this section."

SECTION 7. Section 62-6-23 NMSA 1978 (being Laws 1941, Chapter 84, Section 35) is amended to read:

"62-6-23. **AUTHORITY TO ENTER PREMISES.**--The commission and its officers and employees [øf] or other persons authorized

.217397.3AIC February 17, 2020 (10:13am)

by the commission may during all reasonable hours, after reasonable notice to the utility, enter upon any premises occupied by any utility for the purpose of making examinations and tests and exercising any power provided for in [~~this~~] the Public Utility Act and may set up and use on such premises any apparatus and appliances necessary therefor. [~~Such~~] The public utility shall have the right to be represented at the making of [~~such~~] the examination, tests and inspections and shall be given sufficient time before the making thereof to secure the presence of a representative of its selection."

SECTION 8. Section 62-8-7.1 NMSA 1978 (being Laws 1985, Chapter 221, Section 3, as amended) is amended to read:

"62-8-7.1. HEARING PROCEDURES FOR CHANGE OF RATES OF SMALL WATER AND SEWER UTILITIES.--

A. Whenever there is filed with the commission any schedule proposing any new rates pursuant to Section 62-8-7 NMSA 1978 by any public utility as defined in Paragraph (3) or (5) of Subsection G of Section 62-3-3 NMSA 1978 with equal to or fewer than an aggregate of one thousand five hundred service connections in any utility operating district or division in New Mexico averaged over the previous three consecutive years, the rates shall become effective as proposed by the utility without a hearing; provided that the utility shall be required to give written notice of the proposed rates to the ratepayers receiving service from the utility at least sixty days prior to

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight↔
delete = →bold, red, highlight, strikethrough↔

filing the proposed rate change with the commission; and provided further that the commission shall enter upon a hearing concerning the reasonableness of any proposed rates filed by such a utility pursuant to Subsections C and D of Section 62-8-7 NMSA 1978 when a rate increase would have the effect of increasing the rates fifty percent or more in a twelve-month period or upon the filing with the commission of a protest seeking review of the proposed rates signed by ten percent or more of the ratepayers or twenty-five ratepayers, whichever is more, receiving service from such a utility if the commission determines there is just cause for reviewing the proposed rates. For purposes of this section, a "service connection" means a metered hookup to the utility's water system or a sewer tap to the utility's wastewater system, and each person who receives a separate bill equals one ratepayer and each person who receives multiple bills equals one ratepayer. The petition shall be signed by the person in whose name service is carried. The petition shall be filed no later than twenty days after the filing with the commission of the schedule proposing the new rates. In all other respects, Section 62-8-7 NMSA 1978 shall apply to such water utilities. If a utility provides both water and sewer service, the service connection revenues attributable to the provision of water service only shall determine whether the procedures specified in this subsection

.217397.3AIC February 17, 2020 (10:13am)

shall apply to a schedule proposing new rates for water service, and the service connection revenues attributable to the provision of sewer service shall determine whether the procedures specified in this subsection shall apply to a schedule proposing new rates for sewer service. Nothing in this subsection shall prevent a utility from filing for a rate change pursuant to any other rule or procedure of the commission.

B. Whenever there is filed with the commission a schedule proposing new rates pursuant to Section 62-8-7 NMSA 1978 by a public utility as defined in Paragraph (3) or (5) of Subsection G of Section 62-3-3 NMSA 1978, with more than an aggregate of one thousand five hundred service connections and fewer than an aggregate of five thousand service connections in any utility operating district or division in New Mexico averaged over the previous three consecutive years, the rates shall become effective as proposed by the public utility without a hearing; provided that the public utility shall be required to give written notice of the proposed rates to the ratepayers receiving service from the public utility at least sixty days prior to filing the proposed rate change with the commission; and provided further that the commission shall enter upon a hearing concerning the reasonableness of proposed rates filed by such a public utility pursuant to Subsections C and D of Section 62-8-7 NMSA 1978 when a rate increase would

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight←
delete = →bold, red, highlight, strikethrough←

have the effect of increasing rates more than eight percent in a twelve-month period, or upon the ~~[commission staff's]~~ office of public regulation commission regulatory affairs' motion or upon the filing with the commission of a protest seeking review of the proposed rates signed by ten percent or more of the ratepayers receiving service from the public utility, if the commission determines there is just cause for reviewing the proposed rates. The petition shall be signed by the person in whose name service is carried. The petition shall be filed no later than twenty days after the filing with the commission of the schedule proposing the new rates. In all other respects, Section 62-8-7 NMSA 1978 shall apply to such water utilities. If a public utility provides both water and sewer service, the service connection revenues attributable to the provision of water service only shall determine whether the procedure specified in this subsection shall apply to a schedule proposing new rates for water service, and the service connection revenues attributable to the provision of sewer service shall determine whether the procedures specified in this subsection shall apply to a schedule proposing new rates for sewer service. Nothing in this subsection shall prevent a public utility from filing for a rate change pursuant to any other rule or procedure of the commission.

C. Notwithstanding the provisions of Subsections A

.217397.3AIC February 17, 2020 (10:13am)

and B of this section, a public utility, as defined in Paragraph (3) or (5) of Subsection G of Section 62-3-3 NMSA 1978, with fewer than an aggregate of five thousand service connections in any utility operating district or division in New Mexico averaged over the previous three consecutive years, that is currently in good standing with all applicable requirements of the commission, may adjust its charges for commodity and service by up to two percent in any calendar year without a hearing; provided that the public utility shall not have changed its rates in the prior twelve-month period; and provided further that the public utility shall be required to give written notice of the proposed rate adjustments to the ratepayers receiving service from the public utility prior to its effective date. The increased rates shall not become effective until at least thirty days after notice and filing with the commission. If a public utility provides both water and sewer service, the service connection revenues attributable to the provision of water service only shall determine whether the procedure specified in this subsection shall apply to any schedule proposing any new rate or rates for water service, and the service connection revenues attributable to the provision of sewer service shall determine whether the procedures specified in this subsection shall apply to any schedule proposing any new rate or rates for sewer service. Nothing in this subsection shall prevent a public utility from filing for

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight←
delete = →bold, red, highlight, strikethrough←

a rate change pursuant to any other rule or procedure of the commission."

SECTION 9. Section 63-9H-7 NMSA 1978 (being Laws 1999, Chapter 295, Section 7, as amended) is amended to read:

"63-9H-7. REGULATION OF RETAIL RATES OF INCUMBENT RURAL TELECOMMUNICATIONS CARRIER.--

A. Rates for retail rural public telecommunications services provided by an incumbent rural telecommunications carrier shall be subject to regulation by the commission only in the manner and to the extent authorized by this section.

B. An incumbent rural telecommunications carrier shall file tariffs for all retail public telecommunications services that, other than residential local exchange service, shall be effective after ten days' notice to its customers and the commission. An incumbent rural telecommunications carrier shall remain subject to complaint by an interested party subject to Section 63-9H-10 NMSA 1978.

C. An incumbent rural telecommunications carrier may increase its rates for residential local exchange service in the manner provided in Subsection B of this section to comply with requirements imposed by any federal or state law or rule. The procedures of Subsections D, E and F of this section shall not apply to increases under this subsection.

D. Except as provided in Subsection C of this

underscored material = new
[bracketed material] = delete
Amendments: new = → bold, blue, highlight ←
delete = → bold, red, highlight, strikethrough ←

section, rates for residential local exchange service may be increased by an incumbent rural telecommunications carrier only after sixty days' notice to all affected subscribers. The notice of increase shall include:

- (1) the reasons for the rate increase;
- (2) a description of the affected service;
- (3) an explanation of the right of the subscriber to petition the commission for a public hearing on the rate increase;
- (4) a list of local exchange areas that are affected by the proposed rate increase; and
- (5) the dates, times and places for the public informational meetings required by this section.

E. An incumbent rural telecommunications carrier that proposes to increase its rates for residential local exchange service pursuant to Subsection D of this section shall hold at least one public informational meeting in each public regulation commissioner's district as established by the Public Regulation Commission Apportionment Act in which there is a local exchange area affected by the rate change.

F. Residential local exchange service rates increased by an incumbent rural telecommunications carrier pursuant to Subsections D and E of this section shall be reviewed by the commission only upon written protest signed by two and one-half percent of all affected subscribers or upon

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight←
delete = →bold, red, highlight, strikethrough←

the [~~commission staff's own~~] office of public regulation
commission regulatory affairs' motion for good cause. The
 protest shall specifically set forth the particular rate or
 charge as to which review is requested, the reasons for the
 requested review and the relief that the persons protesting
 desire. If a proper protest is presented to the commission
 within sixty days from the date notice of the rate change was
 sent to affected subscribers of an incumbent rural
 telecommunications carrier, the commission may accept and file
 the complaint and, upon proper notice, may suspend the rates at
 issue during the pendency of the proceedings and reinstate the
 rates previously in effect and shall hold and complete a
 hearing thereon within ninety days after filing to determine if
 the rates as proposed are fair, just and reasonable. The
 commission may, within sixty days after close of the hearing,
 enter an order adjusting the rates at issue, except that the
 commission shall not set any rate below the intrastate cost of
 providing the service, which shall include the cost methodology
 and rate of return authorized by the federal communications
 commission. In the order, the commission may order a refund of
 amounts collected in excess of the rates and charges as
 approved at the hearing, which may be paid as a credit against
 billings for future services. If the complaint is denied, the
 commission shall enter an order denying the complaint within

.217397.3AIC February 17, 2020 (10:13am)

sixty days after the close of the hearing, and the rates shall be deemed approved. For purposes of this section, cost shall also include a reasonable amount of joint and common costs incurred by the telecommunications carrier in its operations and may include other accounting adjustments authorized by the commission.

G. An incumbent rural telecommunications carrier may at any time elect to file an application with the commission requesting the commission to prescribe fair, just and reasonable rates for the carrier, based on [~~the carrier's revenue, expenses and investment in accordance with traditional rate-making principles~~] factors that may include the carrier's revenues, expenses or investment, in accordance with traditional rate-making principles, in a manner consistent with the policy calling for relaxed regulation of incumbent rural telecommunications carriers expressed in Section 63-9H-2 NMSA 1978 and Subsection C of Section 63-9H-4 NMSA 1978. The commission shall decide cases filed under this subsection with reasonable promptness but no later than nine months following the filing of an application, unless the commission finds that a longer time will be required, in which case the commission may extend the period for an additional three months.

H. Rates for local exchange, vertical and long distance service to retail end-user customers may be reduced to a level equal to, but not below, the intrastate cost, which

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight↔
delete = →bold, red, highlight, strikethrough↔

shall include the cost methodology and rate of return authorized by the federal communications commission. If an incumbent rural telecommunications carrier loses its exemption pursuant to Section 251 of the federal act, the rate for a service, excluding basic service, must cover the cost of the service, including the imputed rate of wholesale service elements as may be required by the commission. The cost of long distance service must also include any interexchange access rates charged to another telecommunications carrier for the service.

I. An incumbent rural telecommunications carrier operating pursuant to this section shall have the ability to offer or discontinue offering special incentives, discounts, packaged offerings, temporary rate waivers or other promotions, or to offer individual contracts."

SECTION 10. Section 65-2A-4 NMSA 1978 (being Laws 2003, Chapter 359, Section 4, as amended by Laws 2013, Chapter 73, Section 3 and by Laws 2013, Chapter 77, Section 3) is amended to read:

"65-2A-4. POWERS AND DUTIES OF THE COMMISSION.--

A. In accordance with the Motor Carrier Act, the commission shall:

(1) issue operating authorities for a motor carrier operating in New Mexico;

.217397.3AIC February 17, 2020 (10:13am)

(2) establish minimum requirements for financial responsibility for motor carriers; provided that the financial responsibility standards required shall not be inconsistent with applicable federal standards;

(3) establish safety requirements for intrastate motor carrier motor vehicles and drivers subject to the jurisdiction of the commission; provided that the safety requirements shall not be inconsistent with or more stringent than applicable federal safety standards;

(4) establish reasonable requirements with respect to continuous and adequate service to be provided under an operating authority;

(5) regulate the rates of tariffed service carriers to the extent provided in the Motor Carrier Act, including rates and terms of service for storing household goods and motor vehicles;

(6) determine matters of public interest and other matters relating to authorities, rates, territories, nature of service and other terms of service of motor carriers;

(7) have jurisdiction to determine any matter under the Motor Carrier Act relating to any transportation service carrier that has not obtained an appropriate operating authority from the commission;

(8) subpoena witnesses and records, enforce its subpoenas through a court and, through the court, seek a

underscored material = new
[bracketed material] = delete
Amendments: new = → bold, blue, highlight
delete = → bold, red, highlight, strikethrough

remedy for contempt;

(9) hold a public hearing specific to a protest or a request by the [~~transportation division of the commission~~] office of public regulation commission regulatory affairs that has been filed within the notice period in opposition to or in consideration of an application;

(10) create a statewide tariff for household goods service carriers establishing maximum rates that may be charged by carriers; and

(11) adopt rules, issue orders and conduct activities necessary to implement and enforce the Motor Carrier Act.

B. The commission may:

(1) designate inspectors who may inspect the records of a motor carrier subject to the Motor Carrier Act and who shall have the powers of peace officers in the state's political subdivisions with respect to a law or rule that the commission is empowered to enforce pursuant to Section 65-1-6 NMSA 1978, excluding the enforcement authority granted to the [~~motor transportation~~] New Mexico state police division of the department of public safety;

(2) institute civil actions in the district court of Santa Fe county in its own name to enforce the Motor Carrier Act, its orders and rules, and in the name of the state

underscored material = new
[bracketed material] = delete
Amendments: new = → bold, blue, highlight ←
delete = → bold, red, highlight, strikethrough ←

to recover assessments of administrative fines;

(3) from time to time, modify the type and nature of service, territory and terms of service of operating authorities previously issued, and change or rescind rates previously approved;

(4) establish statewide tariffs as needed for voluntary and optional use by tariffed service carriers; and

(5) adopt rules to implement these powers."

SECTION 11. Section 65-2A-5 NMSA 1978 (being Laws 2003, Chapter 359, Section 5, as amended by Laws 2013, Chapter 73, Section 4 and by Laws 2013, Chapter 77, Section 4) is amended to read:

"65-2A-5. APPLICATIONS IN GENERAL--MINISTERIAL GRANTS OF AUTHORITY--WHEN PUBLIC HEARINGS REQUIRED.--

A. A person shall file an application for any matter for which commission approval is required. An application shall be made in writing, verified and in a form that contains information and is accompanied by proof of service upon interested persons as required by the commission.

B. The commission shall simplify to the extent possible the process for approving applications. The commission may hold a public hearing on its own initiative or specific to an objection that has been filed within the notice period in opposition to or in consideration of an application.

C. The commission shall hold a public hearing on an

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight←
delete = →bold, red, highlight, strikethrough←

application whenever a protest is filed concerning the application during the notice period or the [~~transportation division of the commission~~] office of public regulation commission regulatory affairs requests a hearing during the notice period.

D. The commission may approve or deny an application in whole or in part, or allow or require particular terms of service as it may find reasonable and appropriate. If no objection, protest or request for hearing by the [~~transportation division of the commission~~] office of public regulation commission regulatory affairs is filed during the notice period, the commission may grant the application by ministerial action, if the application complies with the provisions of the Motor Carrier Act and the rules of the commission regarding fitness, ability, financial responsibility and safety."

SECTION 12. Section 65-2A-11 NMSA 1978 (being Laws 2003, Chapter 359, Section 11, as amended by Laws 2013, Chapter 73, Section 10 and by Laws 2013, Chapter 77, Section 10) is amended to read:

"65-2A-11. TEMPORARY AUTHORITY.--

A. The commission may without notice grant temporary authority to an applicant for a certificate or permit or for amendment, lease or transfer of all or part of a

.217397.3AIC February 17, 2020 (10:13am)

certificate or permit for a period not to exceed the duration of the application process, if it finds that:

(1) the notice period for such application has not yet expired, the application is one directly involving public safety, a governmental program or a specific public event, there is an urgent and immediate public need for such service and the public may be harmed by waiting for the notice period to expire;

(2) the applicant for temporary authority has a complete application for a certificate or permit or for amendment, lease or transfer of all or part of a certificate or permit, pending before the commission;

(3) the applicant is fit to provide the transportation service requested, is able to provide any certificated service requested and is in compliance with the safety and financial responsibility requirements of the Motor Carrier Act and the rules of the commission; and

(4) satisfactory proof of urgent and immediate need has been made by verified proof as the commission shall by rule prescribe.

B. An applicant for temporary authority as a tariffed service carrier shall file tariffs covering the transportation services for which temporary authority is being sought.

C. If a hearing is held before a hearing examiner

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight←
delete = →bold, red, highlight, strikethrough←

for any reason on an application for a certificate or permit or for amendment, lease or transfer of all or part of a certificate or permit or for a tariff rate increase, the applicant may move in such proceeding for a grant of temporary authority or rate approval for a period not to exceed the duration of the application process, and any protesting carrier or the ~~[transportation division of the commission]~~ office of public regulation commission regulatory affairs may move in such proceeding for reconsideration or modification of any grant of temporary authority previously granted by the commission or the hearing examiner. The hearing examiner in the proceeding shall hold an expedited preliminary public hearing on the grant of temporary authority on the issues in the proceeding and the testimony evidence presented in the hearing on such procedural basis as the commission shall by rule prescribe.

D. Motor carriers operating under temporary authority shall comply with the requirements of the Motor Carrier Act and the rules of the commission.

E. A grant of temporary authority shall not create a presumption that permanent authority will be granted."

SECTION 13. Section 65-2A-13 NMSA 1978 (being Laws 2003, Chapter 359, Section 13, as amended by Laws 2013, Chapter 73, Section 12 and by Laws 2013, Chapter 77, Section 12) is amended

.217397.3AIC February 17, 2020 (10:13am)

to read:

"65-2A-13. PROTESTS, OBJECTIONS AND HEARINGS.--

A. Any interested person or any member of the public may provide information to the commission or express an objection to any application for a certificate or permit, or for amendment, lease or transfer of a certificate or permit, during the notice period for the application by filing a written objection in regard to the application. The commission shall consider any objections filed in regard to determining whether to hold a hearing on the application. The commission is not required to hold a hearing pursuant to any objection but may, in its discretion or on its own motion for any reason, hold a hearing on any application for a certificate or permit or for an amendment, lease or transfer of a certificate or permit.

B. The commission shall hold a hearing on an application whenever a protest is filed within the notice period or the ~~[transportation division of the commission]~~ office of public regulation commission regulatory affairs files a request for a hearing relative to an application within the notice period. The commission shall allow a protesting carrier to proceed as an intervenor in the application proceeding.

C. In any hearing held on an application:

(1) the applicant has the burden of proving that the applicant meets the requirements of the Motor Carrier

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight←
delete = →bold, red, highlight, strikethrough←

Act and the rules of the commission for the application at issue, the burden of demonstrating with reasonable specificity the nature and scope of its proposed transportation service, the burden of proving any particular factual matters that the commission or the [~~transportation division of the commission~~] office of public regulation commission regulatory affairs may identify and require, the burden of proving any additional allegations and matters of public interest that it may raise and, if the application pertains to ambulance service, the burden of proving that the ambulance service that currently exists in the territory sought in the application is inadequate and that the proposed service is directly responsive to a public need and demand for the service proposed;

(2) a protesting carrier has the burden of proving all matters of fact pertaining to its full-service operation within its certificated full-service territory, the burden of proving the potential impairment or adverse impact on its existing full-service operation by the transportation service proposed by the applicant and the burden of proving all other allegations and matters of public interest that it may raise. The protesting carrier's proof should include, without limitation, a demonstration with reasonable specificity of the nature of the existing full service being provided, the volume of passengers transported, economic analysis related to

.217397.3AIC February 17, 2020 (10:13am)

expenses and revenues of the full-service operation and the anticipated economic, business or functional effect of the proposed service on the existing provision of, or rates for, full-service transportation within the full-service territory;

(3) the commission may allow other interested persons to intervene, either generally or on the basis of specific facts or issues. A permissive intervenor has the burden of proof for its position on all factual matters and legal issues that it alleges and on which it is permitted to intervene; and

(4) all parties to a hearing may base their demonstration and proof on business data, experienced persons and mathematical calculations. Expert testimony shall not be required of any party but may be provided at the option of a party.

D. The commission shall not grant an application:

(1) for a certificate or permit for ambulance service, or for amendment, lease or transfer of such a certificate or permit, if it finds after hearing that the existing ambulance service is provided on a reasonably continuous and adequate basis in the territory in which the new service is sought or that the holder of the certificate or lessee providing the existing ambulance service in such territory is willing and able to provide, and does subsequently provide, reasonably continuous and adequate service within such

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight↔
delete = →bold, red, highlight, strikethrough↔

territory, as specified by commission order;

(2) for a new certificate for general taxicab service within the full-service territory of a protesting municipal taxicab service carrier; or

(3) for a certificate for any passenger service other than those identified in Paragraphs (1) and (2) of this subsection, or for a permit for passenger service other than for an ambulance service pursuant to a public-charge contract, or for amendment, lease or transfer of such a certificate or permit, within a protesting full-service carrier's full-service territory, if it finds after hearing that the grant of the application presents a reasonable potential to impair, diminish or otherwise adversely affect the existing provision of full-service passenger service to the public in the full-service territory or if the application is otherwise contrary to the public interest in the full-service territory. In considering the potential effect on provision of transportation services to the public in regard to such an application, the commission shall consider all evidence presented pertaining to such potential effect, including evidence of the effect that diversion of revenue or traffic may have on the provision of full-service passenger service to the community. Diversion of revenue or traffic from an existing motor carrier shall not, however, be sufficient grounds for

.217397.3AIC February 17, 2020 (10:13am)

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight←
delete = →bold, red, highlight, strikethrough←

denying the application without a showing that the diversion presents a reasonable potential to affect the provision of full-service passenger service to the community."

SECTION 14. Section 65-2A-15 NMSA 1978 (being Laws 2003, Chapter 359, Section 15, as amended by Laws 2013, Chapter 73, Section 14 and by Laws 2013, Chapter 77, Section 14) is amended to read:

"65-2A-15. MULTIPLE OPERATING AUTHORITIES AND BUSINESS TRADE NAMES ALLOWED.--

A. A person may simultaneously hold certificates for different kinds of certificated services, permits for different contracts and warrants for different kinds of warranted service within the same territory.

B. Any motor carrier that holds more than one certificate for the same kind and nature of certificated service in the same territory or more than one permit for the same contract shall file an application with the commission to consolidate such operating authorities.

C. The commission shall not grant any new operating authority to a motor carrier that duplicates the operating authority of the same kind and for the same territory already held by that motor carrier.

D. Certificated service carriers holding both a certificate and permit or warrant for related services may use the same vehicles and may transport passengers and property, or

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight←
delete = →bold, red, highlight, strikethrough←

mixed loads of household goods and property, pursuant to those authorities in the same vehicles and on the same trip.

E. Every certificated, permitted or warranted service carrier shall file with [~~the transportation division of~~] the commission all business trade names under which the carrier operates its service or services authorized and shall provide [~~the transportation division of~~] the commission with proof of financial responsibility for all business trade names in addition to its legal name. The commission shall accept business trade names as submitted by a carrier. Filing with [~~the transportation division of~~] the commission shall not, by itself, establish or otherwise affect the ownership or right to use a business trade name under the intellectual property laws of the state of New Mexico."

SECTION 15. Section 65-2A-20 NMSA 1978 (being Laws 2003, Chapter 359, Section 20, as amended by Laws 2013, Chapter 73, Section 18 and by Laws 2013, Chapter 77, Section 18) is amended to read:

"65-2A-20. TARIFFS.--

A. A tariffed service carrier shall not commence operations or perform a new service under its operating authority without having an approved tariff on file with the commission.

B. A tariffed service carrier shall file with the

.217397.3AIC February 17, 2020 (10:13am)

commission proposed tariffs showing the rates for transportation and all related activities and containing a description of the type and nature of the service, territory and all terms of service for transportation and related services. The rates shall be stated in terms of United States currency. Tariffs for individual carriers shall also include the carrier's legal name, all business trade names used by the carrier, contact information, information for service of process, the territory authorized for each transportation service listed in the tariff and any terms of service contained in the operating authorities for that particular carrier. Each tariffed service carrier operating pursuant to a statewide tariff shall file with the commission a tariff statement referencing the statewide tariff being used and include the carrier's legal name, all business trade names used by the carrier, contact information, information for service of process, the territory authorized for that carrier and any terms of service contained in the operating authority for that particular carrier.

C. A tariffed service carrier shall not charge, or permit its agents, employees or contract drivers to charge, a different or additional rate, or to use different or additional practices or terms of service, for transportation or for a service rendered to or for the user of the service other than the rates and terms of service specified in approved tariffs in

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight↔
delete = →bold, red, highlight, strikethrough↔

effect at the time, except:

(1) for ambulance and household goods service carriers, in accordance with rates and terms of service established by federal or state law for federal or state governmental programs or operations; and

(2) for tariffed passenger service carriers other than ambulance service carriers, in accordance with the rates and terms of service established by governmental programs or operations in which they voluntarily participate.

D. A tariffed service carrier shall not pay or refund, directly or indirectly to any person, a portion of the rate specified in its approved tariff, offer to a person privileges or facilities, perform a service or remit anything of value, except:

(1) in accordance with tariffs approved by the commission;

(2) for ambulance and household goods service carriers, in accordance with rates and terms of service established by federal and state law for federal and state governmental entities, programs or operations;

(3) for tariffed passenger service carriers other than ambulance service carriers, in accordance with the rates and terms of service established by governmental programs or operations in which they voluntarily participate; or

underscoring material = new
[bracketed material] = delete
Amendments: new = → bold, blue, highlight ←
delete = → bold, red, highlight, strikethrough ←

(4) in settling or resolving a claim by a customer.

E. The commission shall post on its internet [~~web site~~] website electronic copies of all currently approved individual and statewide tariffs, and all tariff statements filed by carriers using statewide tariffs, in a manner to facilitate public access, review and comparison of rates and terms of service. A certificated passenger service carrier other than an ambulance service carrier shall post its tariff rates in each vehicle used in the provision of its transportation service.

F. A tariffed service carrier shall file an application with the commission for any change in the tariff, accompanied by the proposed tariff, at least twenty days prior to implementation of the amended rates and terms of service contained in the tariff. Except as provided in this section, an amended tariff shall be approved and become effective twenty days after filing of the application for a change in the tariff. The commission shall post notice of each application for a change in a tariff along with a copy of the proposed tariff on the commission [~~web site~~] website.

G. No changes in terms of service disapproved by [~~the transportation division of~~] the commission as inconsistent with the Motor Carrier Act, rule of the commission, the individual operating authority of the carrier or otherwise in

underscoring material = new
[bracketed material] = delete
Amendments: new = bold, blue, highlight
delete = bold, red, highlight, strikethrough

violation of law shall become effective or be part of the approved tariff. The following terms of service contained in a tariff shall not be considered inconsistent with, or predatory or discriminatory in nature under the Motor Carrier Act or commission rule:

(1) a carrier may decline or terminate service under circumstances that reasonably appear to present a physical danger to the driver, to another employee of the carrier or to passengers or, for carriers other than ambulance service carriers, a danger to the condition of the motor vehicle or cargo;

(2) a carrier is not responsible for cancellations or delays due to weather or road conditions when reasonably required for safety or when due to road construction, road closures, law enforcement stops or similar matters beyond the control of the carrier;

(3) a passenger service carrier may require that all firearms carried by any passenger other than an authorized law enforcement officer be unloaded and placed in a locked area of the vehicle during transport, along with all ammunition and any other weapons; or

(4) a passenger service carrier other than an ambulance service carrier may decline or terminate service when the passenger cannot give an adequate description of, or

.217397.3AIC February 17, 2020 (10:13am)

direction to, the destination or cannot transfer into or out of the motor vehicle without requiring physical assistance from the driver.

H. An application for amendment of tariff rates that increases any tariff rate to a level greater than that previously approved by the commission for a full-service carrier or a towing service providing nonconsensual tows shall not become effective until approved by the commission as reasonable under Section 65-2A-21 NMSA 1978. The commission shall hold a hearing appropriate to the type of transportation service provided by the carrier for any such application, if requested by the applicant or by the [~~transportation division of the commission~~] office of public regulation commission regulatory affairs, or if ordered in the discretion of the commission. The commission may provide for reasonable periodic rate increases for full-service carriers or towing services providing nonconsensual tows pursuant to a rate escalator or adjustment clause for any or all rates of a carrier on such basis as the commission finds reasonable.

I. A person may make a complaint in writing to the commission that a rate or term of service contained in a tariff, or a rate otherwise charged or practice otherwise effected, is inconsistent with or in violation of the Motor Carrier Act, commission rule or the operating authority or current tariff of the motor carrier. The commission may

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight↔
delete = →bold, red, highlight, strikethrough↔

suspend the operation of a rate, term of service or practice for a period not to exceed sixty days to investigate its reasonableness. If the commission finds that a rate charged by a tariffed carrier, or a term of service or practice effected by a tariffed carrier, is unauthorized, predatory or discriminatory, the commission shall prescribe the rate or the maximum or minimum rate to be observed or the terms of service to be made effective."

SECTION 16. Section 65-7-19 NMSA 1978 (being Laws 2016, Chapter 80, Section 19) is amended to read:

"65-7-19. TRANSPORTATION [~~DIVISION~~] FUND CREATED-- ASSESSMENT AND COLLECTION OF FEES.--

A. The "transportation [~~division~~] fund" is created in the state treasury for the purpose of ensuring the safety and financial responsibility of transportation network companies and transportation network company drivers. The fund shall consist of fees collected pursuant to the Transportation Network Company Services Act, administrative fines collected under that act, appropriations, gifts, grants, donations and earnings on investment of the fund. Balances in the fund shall not revert to the general fund or any other fund at the end of any fiscal year.

B. The transportation [~~division~~] fund shall be administered by the public regulation commission. Money in the

.217397.3AIC February 17, 2020 (10:13am)

fund is appropriated to the commission to carry out its duties pursuant to the provisions of the Transportation Network Company Services Act. Not more than five percent of the fees collected pursuant to this section shall be used by the commission for administrative purposes.

C. Payments from the transportation [~~division~~] fund shall be made upon vouchers issued and signed by the [~~director of the administrative services division of~~] chief of staff of the commission resources division of the public regulation commission or the [~~director's~~] chief of staff's authorized representative upon warrants drawn by the secretary of finance and administration."

SECTION 17. Section 70-3-21 NMSA 1978 (being Laws 2004, Chapter 80, Section 1) is amended to read:

"70-3-21. PIPELINE SAFETY FUND--CREATED--ASSESSMENT AND COLLECTION OF FEES.--

A. The "pipeline safety fund" is created in the state treasury for the purpose of enhancing the staffing and training of the Hf1→~~commission staff for carrying out the~~←Hf1 pipeline safety Hf1→~~[bureau] duties~~←Hf1 Hf1→~~bureau~~←Hf1 of the commission with the goal of assuming the function of inspection of interstate as well as intrastate pipelines. The fund shall consist of fees collected pursuant to Subsection D of this section, appropriations, gifts, grants, donations and earnings from investment of the fund. Balances in the fund shall not be

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight←
delete = →bold, red, highlight, strikethrough←

transferred to the general fund at the end of any fiscal year.

B. The pipeline safety fund shall be administered by the commission. Money in the fund is appropriated to the commission to carry out its duties pursuant to the provisions of the Pipeline Safety Act and Chapter 62, Article 14 NMSA 1978. Not more than five percent of the fees collected pursuant to Subsection D of this section shall be used by the commission for administrative purposes.

C. Payments from the pipeline safety fund shall be made upon vouchers issued and signed by the [~~director~~] chief of staff of the [~~administrative services~~] commission resources division of the commission or the [~~director's~~] chief of staff's authorized representative upon warrants drawn by the secretary of finance and administration.

D. The commission shall collect annual pipeline safety fees for the duties relating to inspection of intrastate pipelines from persons subject to the Pipeline Safety Act in accordance with and not to exceed the following amounts:

(1) for the transportation of gas:

(a) two dollars (\$2.00) per domestic service line;

(b) thirty-five dollars (\$35.00) per commercial service line;

(c) thirty-five dollars (\$35.00) per

.217397.3AIC February 17, 2020 (10:13am)

mile of line for the transportation of gas subject to inspection by the Hf1→~~[pipeline safety bureau] commission~~←Hf1 Hf1→pipeline safety bureau←Hf1, with a minimum assessment of four hundred dollars (\$400); and

(d) one hundred dollars (\$100) per master meter, direct sales lateral or liquified petroleum gas system; and

(2) for the transportation of oil, thirty-five dollars (\$35.00) per mile of transmission line subject to inspection by the Hf1→~~[pipeline safety bureau] commission~~←Hf1 Hf1→pipeline safety bureau←Hf1, with a minimum assessment of four hundred dollars (\$400). A fee shall not be assessed on mileage under the jurisdiction of or inspected by the federal department of transportation.

E. The commission shall annually conduct a public review of the fees collected and payments made from the fund and provide a summary to the legislative finance committee and the department of finance and administration. Based upon its findings, the commission shall adjust the annual fee rates authorized by Subsection D of this section in order to collect only that amount estimated to be necessary to carry out the provisions of the Pipeline Safety Act and Chapter 62, Article 14 NMSA 1978; provided that the fees shall not be greater than the amounts set forth in Subsection D of this section."

SECTION 18. TEMPORARY PROVISION--EXEMPT, CLASSIFIED AND

.217397.3AIC February 17, 2020 (10:13am)

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight←
delete = →bold, red, highlight, strikethrough←

PROBATIONARY PERSONNEL AND POSITIONS--APPOINTMENT--ADDITIONAL
PERSONNEL.--On the effective date of this act:

A. all classified employees and probationary employees employed by the public regulation commission shall continue to hold their present position classifications according to the Personnel Act and shall be transferred to the newly created commission resources division of the public regulation commission or the newly created office of public regulation commission regulatory affairs as provided in this section;

B. all classified employees, classified positions, filled or not filled, and probationary employees of the legal division, transportation division, utility division and administrative services division of the public regulation commission, whose functions are being transferred to the office of public regulation commission regulatory affairs, shall be transferred to the office of public regulation commission regulatory affairs;

C. all classified employees, classified positions, filled or not filled, and probationary employees of the consumer relations division of the public regulation commission shall be transferred to the office of public regulation commission regulatory affairs;

Hf1→~~D. all classified employees, classified~~

underscoring material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight←
delete = →bold, red, highlight, strikethrough←

~~positions, filled or not filled, and probationary employees of the legal division, transportation division, utility division or administrative services division of the public regulation commission, whose functions are not being transferred to the office of public regulation commission regulatory affairs, shall be transferred to the commission resources division of the public regulation commission;~~ ←Hf1

Hf1→D. all classified employees, probationary employees, temporary employees and classified positions, filled or not filled, of the public regulation commission, whose functions are not being transferred to the office of public regulation commission regulatory affairs, including hearing examiners, advisory staff, staff in the office of the general counsel and the public relations specialist position, shall be transferred to the commission resources division; ←Hf1

E. all classified employees, classified positions, probationary employees and duties of the pipeline safety bureau Hf1→and the fire marshal division ←Hf1 shall remain in the public regulation commission under the direction of the chief of staff of the commission resources division;

F. the governor shall provide the commission with a list of finalists for appointment to the newly created position of chief of staff of the commission resources division and shall appoint the newly created position of director of the office of public regulation commission regulatory affairs as

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight←
delete = →bold, red, highlight, strikethrough←

soon as practical;

G. after appointment, the chief of staff of the commission resources division may hire additional personnel in accordance with the Personnel Act;

H. after appointment, the director of the office of public regulation commission regulatory affairs may hire division directors for the newly created divisions and additional personnel in accordance with the Personnel Act;

I. subject to the Personnel Act, any qualified person, including present or past employees of the public regulation commission, may apply for any position in the commission resources division or the office of public regulation commission regulatory affairs; and

J. the executive assistants selected by each commissioner shall remain exempt employees of the public regulation commission.

SECTION 19. TEMPORARY PROVISION--TRANSFER OF APPROPRIATIONS, EQUIPMENT, SUPPLIES, RECORDS, MONEY AND CONTRACTS TO THE OFFICE OF PUBLIC REGULATION COMMISSION REGULATORY AFFAIRS.--On the effective date of this act:

A. all money, appropriations made before or after the effective date of this act, records, furniture, equipment, supplies and other property of the legal division, transportation division, utility division, administrative

underscoring material = new
[bracketed material] = delete
Amendments: new = bold, blue, highlight
delete = bold, red, highlight, strikethrough

services division and consumer relations division of the public regulation commission related to duties Hf1→or personnel←Hf1 transferred to the office of public regulation commission regulatory affairs, as necessary, shall be transferred to the office of public regulation commission regulatory affairs;

B. all existing contracts and agreements in effect pertaining to the duties of the legal division, transportation division, utility division, administrative services division and consumer relations division of the public regulation commission transferred to the office of public regulation commission regulatory affairs shall be binding and effective on the office of public regulation commission regulatory affairs; and

C. the rules, orders and decisions of the legal division, transportation division, utility division and consumer relations division of the public regulation commission shall remain in effect until repealed or amended.

SECTION 20. REPEAL.--Sections 8-8-5 through 8-8-8 and 8-8-10 through 8-8-13 NMSA 1978 (being Laws 1998, Chapter 108, Sections 5 through 8 and 10 through 12; Laws 2000, Chapter 100, Section 1 and Laws 2000, Chapter 102, Section 1; and Laws 1998, Chapter 108, Section 13, as amended) are repealed.

Hf1→~~SECTION 21. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.~~←Hf1

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight←
delete = →bold, red, highlight, strikethrough←

~~underscoring~~ material = new
~~[bracketed material]~~ = delete
Amendments: new = **new**, blue, highlight
~~delete~~ = ~~bold~~, red, highlight, strikethrough