

## **NOTICE OF CHANGES TO THE DATES TO SUBMIT WRITTEN COMMENTS AND TO THE DATE OF THE RULEMAKING PUBLIC HEARING AND SECOND NOTICE OF PROPOSED RULEMAKING**

The New Mexico Public Regulation Commission (Commission) first ordered a notice of proposed rulemaking in this matter on September 12, 2018, but the notice was not submitted to the state records administrator in time to be published in the New Mexico register on a date at least 30 days prior to the rulemaking public comment date that was set by the commission in that previous order. Although the first notice of proposed rulemaking was published in two newspapers of general circulation, which provided partial notice to the public, official notice was not provided to the public by publishing in the New Mexico register as required by the State Rules Act. As a result of not being published in the New Mexico register in a timely fashion, changes must be to the dates to submit written comments and to the date of the rulemaking public hearing, and those changed dates must be provided to the public.

Out of an abundance of caution, and to avoid confusion, a second notice of proposed rulemaking was issued by the commission on October 24, 2018 changing comment submission dates and changing the date of the rulemaking public comment hearing. Notice is hereby provided to the public that changes were made to the dates for submitting comments and to the date for the rulemaking public hearing, as were originally contained in the first notice of proposed rulemaking. This second notice of proposed rulemaking gives notice of proposed revisions to Part 5 of Title 18, Chapter 60 of the New Mexico Administrative Code (18.60.5 NMAC), regulated by the commission pursuant to the laws pertaining to excavation damage to pipelines and underground utility lines and provided by the Pipeline Safety Act, Section 70-3-11 NMSA 1978 et seq.

### Rulemaking Statutory Authority:

General rulemaking authority: New Mexico Constitution, Article XI, Sec. 2 and, Paragraph (10) of Subsection B of Section 8-8-4 and Section 8-8-15 NMSA 1978 of the Public Regulations Commission Act. Subject matter regulation authority: Section 62-14-10 NMSA 1978 of the excavation damage to pipelines and underground utility lines statute and Subsection A of Section 70-3-13 NMSA 1978 of the Pipeline Safety Act.

### Proposed Rule Summary and Explanation of Purpose:

The purpose of the proposed rulemaking is to clarify that the rule applies to all underground facilities, with the exemption of those preempted by federal law; to implement or revise particular procedures, reporting requirements, and deadlines used to prevent damage to underground utilities; and to address procedures to be taken when damage occurs during pipeline excavation activities. A copy of the order providing notice to changes to the dates to submit written comments and to the date of the rulemaking public hearing and issuing second notice of proposed rulemaking, a copy of the full text of the proposed rule, as well as written comments, additional information, and filing instructions, may be downloaded from the proposed rulemaking section of the commission's website at <http://www.Commission.state.nm.us> under Case No. 18-00262-PL or may be otherwise obtained by calling the commission's records management bureau at (505) 827-6968.

### Comments/Deadlines:

Written initial comments and written response comments must be filed with the commission's records management bureau at P.O. Box 1269, Santa Fe, NM 87504-1269 or by hand delivery to the commission's records management bureau at 1120 Paseo de Peralta, Room 406, Santa Fe, NM 87501 by these deadlines: Written initial comments must be filed by December 14, 2018 at 5:00 p.m., and written response comments by December 18, 2018 at 5:00 p.m. Comments shall refer to Case No. 18-00262-PL. Written initial and response comments will be posted on the commission's website.

### Rulemaking Public Hearing:

The rulemaking public hearing will be held on December 14, 2018 beginning at 2:00 p.m. at the offices of the commission located in the 4th Floor Hearing Room of the old PERA Building, at 1120 Paseo de Peralta, in Santa Fe. The purpose of the rulemaking public hearing is to receive oral comments about the proposed rule revisions. Because commenters are afforded the opportunity to submit written comments and written responses to the commission, any individual delivering oral comments shall be limited to five minutes to express their comments, subject to the commission's discretion. The commission may also determine that a spokesperson be designated to speak on behalf of an organization, a group, or a group of individuals that share the same message or seek the same goals, in order to maximize the efficiency of the rulemaking public comment hearing. Because this case is a rulemaking proceeding, no testimony or other evidence will be taken at the hearing.

Because hearings are occasionally rescheduled, interested persons should contact the commission to confirm the date, time, and place of the rulemaking public hearing. If you are an individual with a disability that requires assistance or an auxiliary aid (such as a sign language interpreter) to participate in any aspect of this process, please contact Ms. Kathleen Segura at (505) 827-4501 at least 48 hours prior to the commencement of the hearing.

The record of this case will close on December 19, 2018 at 5:00 p.m.