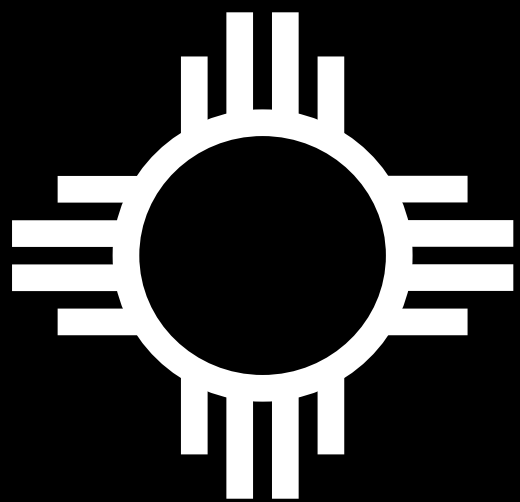


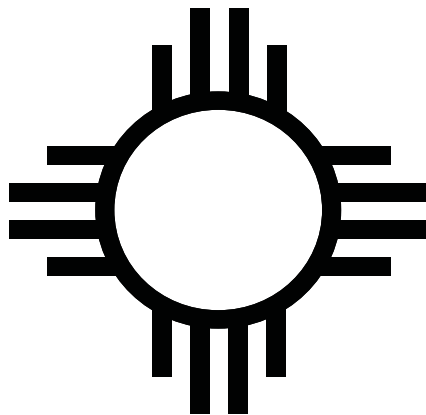
**NEW
MEXICO
REGISTER**



Volume XXII
Issue Number 11
June 15, 2011

New Mexico Register

Volume XXII, Issue Number 11
June 15, 2011



The official publication for all notices of rulemaking and filings of adopted, proposed and emergency rules in New Mexico

The Commission of Public Records
Administrative Law Division
Santa Fe, New Mexico
2011

COPYRIGHT © 2011
BY
THE STATE OF NEW MEXICO

ALL RIGHTS RESERVED

New Mexico Register

Volume XXII, Number 11

June 15, 2011

Table of Contents

Notices of Rulemaking and Proposed Rules

Children, Youth and Families Department

Protective Services Division

Notice of Public Hearing 405

Energy, Minerals and Natural Resources Department

Energy Conservation and Management Division

Notice of Postponement of Public Hearing 405

Environmental Improvement Board

Notice of Public Hearing to Consider Proposed Amendments to 20.7.11 NMAC

(Liquid Waste Treatment and Disposal Fees) Correction Notice 405

Finance and Administration, Department of

Board of Finance

Notice of Board of Finance Rule 405

Human Services Department

Medical Assistance Division

Notice of Withdrawal of Proposed Regulations 405

Public Regulation Commission

Insurance Division

Notice of Hearing to Address Matters Related to the Regulation
of Title Insurance Other than the Promulgation of Premium Rates and Procedural Order 406

Notice of Hearing to Consider Promulgation of Premium Rates and Procedural Order 407

Adopted Rules

Effective Date and Validity of Rule Filings

Rules published in this issue of the New Mexico Register are effective on the publication date of this issue unless otherwise specified. "No rule shall be valid or enforceable until it is filed with the records center and published in the New Mexico register as provided by the State Rules Act. Unless a later date is otherwise provided by law, the effective date of a rule shall be the date of publication in the New Mexico register." Section 14-4-5 NMSA 1978.

A=Amended, E=Emergency, N=New, R=Repealed, Rn=Renumbered

DNA Identification System Oversight Committee and Administrative Center

10.14.200 NMAC A DNA Identification System 409

Public Regulation Commission

17.5.410 NMAC R Residential Customer Service by Gas, Electric
and Rural Electric Cooperative Utilities 413

17.5.410 NMAC N Residential Customer Service by Gas, Electric
and Rural Electric Cooperative Utilities 413

Other Material Related to Administrative Law

Agriculture, Department of

Public Meeting Notice 427

The *New Mexico Register* is available free at <http://www.nmcpr.state.nm.us/nmregister>

The New Mexico Register
Published by
The Commission of Public Records
Administrative Law Division
1205 Camino Carlos Rey
Santa Fe, NM 87507

The *New Mexico Register* is published twice each month by the Commission of Public Records, Administrative Law Division. The cost of an annual subscription is \$270.00. Individual copies of any Register issue may be purchased for \$12.00. Subscription inquiries should be directed to: The Commission of Public Records, Administrative Law Division, 1205 Camino Carlos Rey, Santa Fe, NM 87507. Telephone: (505) 476-7907; Fax (505) 476-7910; E-mail staterules@state.nm.us.

Notices of Rulemaking and Proposed Rules

**NEW MEXICO
CHILDREN, YOUTH AND
FAMILIES DEPARTMENT
PROTECTIVE SERVICES DIVISION**

**NEW MEXICO
CHILDREN, YOUTH AND FAMILIES
DEPARTMENT**

PROTECTIVE SERVICES DIVISION

NOTICE OF PUBLIC HEARING

Protective Services Division (PSD) of the Children, Youth and Families Department (CYFD) will hold a public hearing in Santa Fe on Thursday, June 30, 2011 from 10:00 a.m. to 11:30 a.m. in the PERA Building, 1120 Paseo de Peralta, PSD conference room, # 227, to take comments regarding the proposed changes to the following policy:

* 8.26.4 NMAC “Licensing Requirements for Foster and Adoptive Homes”

* 8.26.5 NMAC “Child Placement Agency Licensing Standards”

The PERA building is accessible to people with disabilities. Documents can be available in different formats to accommodate a particular disability upon request by calling 505-827-8400. If assistance is required to attend the hearing, please call 505-827-8400 to arrange accommodation. Written comments are provided the same weight as comments received during the public hearings.

The proposed changes to the policies above may be reviewed between 8:00 a.m.-5:00 p.m. at the PSD Director’s office, Room 254, in the PERA building in Santa Fe as of the date of publication of this notice. Copies of the policies may be purchased (for the cost of copying); contact Andrea Poole, Bureau Chief, CYFD-PSD, at 505-827-8474.

**NEW MEXICO ENERGY,
MINERALS AND NATURAL
RESOURCES DEPARTMENT
ENERGY CONSERVATION AND
MANAGEMENT DIVISION**

**NOTICE OF POSTPONEMENT OF
PUBLIC HEARING
OF THE NEW MEXICO
ENERGY, MINERALS AND NATURAL
RESOURCES DEPARTMENT
Agricultural Biomass Credit-Personal
and Corporate Income Tax**

The New Mexico Energy, Minerals

and Natural Resources Department (“Department”) had issued notice of public hearing at 1:00 P.M. Monday, June 20, 2011 in Porter Hall, Wendell Chino Building, 1220 S. St. Francis Drive, Santa Fe, New Mexico.

The purpose of this announcement is to notify the public that this hearing on proposed rules 3.4.20 and 3.3.33 NMAC for administration of the Agricultural Biomass Tax Credit, as authorized by Sections 7-2-18.24 and 7-2a-24 of NMSA 1978 has been postponed until further notice.

**NEW MEXICO
ENVIRONMENTAL
IMPROVEMENT BOARD**

**NEW MEXICO ENVIRONMENTAL
IMPROVEMENT BOARD
NOTICE OF PUBLIC HEARING
TO CONSIDER PROPOSED
AMENDMENTS TO 20.7.11 NMAC
(LIQUID WASTE TREATMENT AND
DISPOSAL FEES).**

CORRECTION NOTICE

Notice was published for a hearing in the above matter in the **May 31, 2011** edition of the New Mexico Register for a hearing to be held on August 1, 2011. The **May 31, 2011** Notice contained an erroneous deadline (August 15, 2011) by which an individual with a disability who requires assistance could request such assistance. The correct deadline should have been July 15, 2011. The second to last paragraph in the Notice is hereby corrected to read as follows:

If you are an individual with a disability and you require assistance or an auxiliary aid, e.g. sign language interpreter, to participate in any aspect of this process, please contact the Personnel Services Bureau by July 15, 2011. The Personnel Services Bureau can be reached at the New Mexico Environment Department, 1190 St. Francis Drive, P.O. Box 5469, Santa Fe, NM 87502-5469, (505) 827-9872. TDD or TDY users may access this number via the New Mexico Relay Network (Albuquerque TDD users: (505) 275-7333; outside of Albuquerque: 1-800-659-1779.)

All other aspects of the Notice published **May 31, 2011**, remain as originally published.

**NEW MEXICO
DEPARTMENT OF FINANCE
AND ADMINISTRATION
BOARD OF FINANCE**

**NOTICE OF BOARD OF FINANCE
RULE**

The State Board of Finance is in the process of revising one of its rules: Real Property Acquisitions, Sales, Trades or Leases. Copies of the existing rule and proposed changes are available in room 181, Bataan Memorial building, Santa Fe, NM 87501 and on the Board of Finance website, <http://board.nmdfa.state.nm.us>. The Board will consider adopting the proposed rule at its July 19, 2011 meeting, which takes place at 9:00 in the Governor’s Cabinet Room, State Capitol building. Please mail or deliver written comments on the proposed changes to Stephanie Schardin Clarke, 181 Bataan Memorial building, Santa Fe, NM 87501 by July 14, 2011.

**NEW MEXICO HUMAN
SERVICES DEPARTMENT
MEDICAL ASSISTANCE DIVISION**

Notice

The New Mexico Human Services Department (HSD) published a Notice of Public Hearing in the New Mexico Register Volume XXII, Number 7 dated April 15, 2011. The public hearing was held on May 16, 2011 to obtain input on the following rule: 8.315.4 NMAC, *Personal Care Option Services*.

The Department will issue a “**Withdrawal of Proposed Regulations**” register. At a later date the Department intends to initiate the rulemaking process, at which time a notice will be published and a public hearing scheduled.

NEW MEXICO PUBLIC REGULATION COMMISSION
INSURANCE DIVISION

BEFORE THE NEW MEXICO SUPERINTENDENT OF INSURANCE

IN THE MATTER OF:
THE 2011 BIENNIAL TITLE
INSURANCE HEARING -
NON RATE DOCKET

Docket No. 11-00213-IN

NOTICE OF HEARING TO ADDRESS MATTERS RELATED TO THE REGULATION OF TITLE INSURANCE OTHER THAN THE PROMULGATION OF PREMIUM RATES AND PROCEDURAL ORDER

THIS MATTER comes before the New Mexico Superintendent of Insurance ("Superintendent") upon the Superintendent's own motion, pursuant to the statutory mandate of NMSA 1978 § 59A-30-8(A) (2009), requiring the Superintendent to hold a biennial hearing during November of each calendar year to consider promulgation of premium rates and any other matters related to the regulation of the business of title insurance deemed necessary by the Superintendent. The Superintendent, being fully advised in the premises, hereby issues the following notice and order:

1. A public hearing shall be held on Monday, November 14, 2011, at 9:00 a.m., and continuing thereafter as necessary in the Public Regulation Commission Board Room, Third Floor (Ground Floor), P.E.R.A. Building, corner of Paseo de Peralta and Old Santa Fe Trail, Santa Fe, New Mexico. The hearing shall be held for the purpose of adopting and/or amending regulations and forms, for determining the Insurance Fraud Fund assessment for title insurers pursuant to NMSA 1978 § 59A-16C-14, and for addressing other matters related to the business of title insurance. The proceeding shall be informal within the meaning of NMSA 1978 § 59A-4-18.

2. The staff of the Insurance Division ("Staff") and all other persons wishing to submit proposals relating to adopting and/or amending regulations and forms, determining the insurance fraud fund assessment for title insurers pursuant to NMSA 1978 § 59A-16C-14, and other matters related to the business of title insurance shall file the following items in this docket on or before Tuesday October 11, 2011: (a) written proposal(s) and an electronic version in Microsoft Word of each proposal; and (b) written comments and exhibits in support of their proposal(s). The electronic versions may be filed in the docket on a diskette or e-mailed to the Hearing Officer assigned to this matter. All written comments shall state and discuss the particular reasons for the proposal and where necessary or appropriate to effectuate the proposal, shall include specific language to implement the proposal.

3. All interested persons may testify at the hearing.

4. Written comments on proposals filed in this docket shall be filed on or before Friday, October 21, 2011

5. All written comments suggesting changes to proposals shall state and discuss the particular reasons for the suggested changes and, where necessary or appropriate to effectuate the changes being suggested, shall include specific language for incorporation into the proposal.

6. The parties shall meet and confer to discuss the narrowing of issues to be addressed at the hearing and any other unresolved issues to be addressed at the hearing. The parties shall prepare and file a joint proposed hearing agenda regarding regulation of title insurance other than promulgation of premium rates on or before Wednesday, November 09, 2011.

7. A pre-hearing conference shall be held on Wednesday, November 09, 2011, at 9:00 a.m. at the Public Regulation Commission Hearing Room, Fourth Floor, P.E.R.A. Building, Corner of Paseo de Peralta and Old Santa Fe Trail, New Mexico. The Superintendent or his designated hearing officer shall preside at the pre-hearing conference. The purpose of the pre-hearing conference is to narrow the issues to be addressed at the hearing, to hear all pending motions related to the hearing, and to set the agenda for the hearing.

8. Proposals and comments will be available for public inspection during regular business hours at the Public Regulation Commission's docketing office. An original and two copies of all proposals, reports, comments, motions, notices and other materials to be filed shall be submitted in person or by mail to the docketing office, citing the above-referenced docket. The docketing office is located in Room 406, P.E.R.A. Building, Corner of Paseo de Peralta and Old Santa Fe Trail, New Mexico and its mailing address is P.O. Box 1269, Santa Fe, New Mexico 87504-1269. An additional copy of all proposals, reports, comments, motions, notices and other materials filed in this docket shall be delivered or mailed to Hearing Officer assigned to this matter at the following address: Title Insurance Hearing Officer, Insurance Division, Room 431, P.E.R.A. Building, Corner of Paseo de Peralta and Old Santa Fe Trail, P.O. Box 1269, Santa Fe, New Mexico 87504-1269.

9. All submissions shall be deemed filed as of the date and time stamped by the docketing office.

10. Staff shall arrange for distribution and publication of this notice pursuant to NMSA 1978 § 59A-4-16, and other applicable law.

11. Any individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing, should contact Mariano Romero at (505) 827-4526 no later than **November 09, 2011**. Public documents, including the transcript, agenda or minutes, if any, can be provided in various accessible forms. Please contact Mariano Romero if a summary or other type of accessible form is needed.

12. Interested persons should contact the Docketing Office or Staff for confirmation of the hearing date, time and place because hearings are rescheduled on occasion.

DONE AND ORDERED this 26th day of May, 2011.

John G. Franchini
Superintendent of Insurance

NEW MEXICO PUBLIC REGULATION COMMISSION
INSURANCE DIVISION

BEFORE THE NEW MEXICO SUPERINTENDENT OF INSURANCE

IN THE MATTER OF: THE 2011 BIENNIAL TITLE INSURANCE HEARING)))))))	Docket No. 11-00162-IN
--	---------------------------------	-------------------------------

NOTICE OF HEARING TO CONSIDER PROMULGATION OF PREMIUM RATES AND PROCEDURAL ORDER

THIS MATTER comes before the New Mexico Superintendent of Insurance (“Superintendent”) upon the Superintendent’s own motion, pursuant to the statutory mandate of NMSA 1978 § 59A-30-8(A) (2009), requiring the Superintendent to hold a biennial hearing during November of each calendar year to consider promulgation of premium rates and any other matters related to the regulation of the business of title insurance deemed necessary by the Superintendent. The Superintendent, being fully advised in the premises, hereby issues the following notice and order:

1. A public hearing shall be held commencing on **Tuesday, November 15, 2011, at 9:00 a.m.**, and continuing thereafter as necessary in the Public Regulation Commission Board Room, Third Floor (Ground Floor), P.E.R.A. Building, corner of Paseo de Peralta and Old Santa Fe Trail, Santa Fe, New Mexico. The hearing shall be held for the purpose of considering title insurance rates. The proceeding shall be a formal administrative hearing within the meaning of NMSA 1978 § 59A-4-17. Certain provisions of the Administrative Procedures Act, specifically NMSA 1978 §§ 12-8-10 through 12-8-13 and 12-8-15, shall apply to the proceeding.

2. Pursuant to NMSA 1978 § 59A-30-6(C), title insurance rates shall not be excessive, inadequate, or unfairly discriminatory, and shall contain an allowance permitting a profit which is not unreasonable in relation to the riskiness of the business of title insurance.

3. Any person intending to file a rate proposal or otherwise participate as a party to this proceeding shall file a motion for leave to intervene on or before **Friday, August 5, 2011**. Objections to motions for leave to intervene shall be filed on or before **Friday, August 12, 2011**.

4. Techniques of pre-hearing discovery permitted in civil actions in New Mexico, such as interrogatories, depositions, and requests for production of documents, may be employed by Staff or any party commencing on or after **Friday, September 2, 2011**. The time in which to respond to interrogatories and requests for production of documents shall be shortened to 10 calendar days after service.

5. Staff of the Insurance Division Title Insurance Bureau (“Staff”) and all other persons who have been granted leave to intervene (“parties”) who wish to submit independent written rate proposal(s) and actuarial reports(s) relating to the rate proposals(s) shall file such proposal(s) and report(s) in this docket on or before **Friday, October 14, 2011**.

6. Staff and all parties shall file the following items in this docket on or before **Friday, October 14, 2011**: (a) Notice of Intent to Call Expert Witnesses, which shall include the name, address, and business association of each expert witness; (b) Witness List, which shall include addresses and telephone numbers for each witness named; and (c) Pre-filed Direct Testimony and copies of related exhibits for each lay witness and for each expert witness.

7. All lay witnesses and all expert witnesses shall file pre-filed direct testimony, appear at the hearing and submit to examination under oath.

8. Staff and all parties shall file the following items in this docket on or before **Monday, October 31, 2011**: (a) Pre-filed

Rebuttal Testimony and copies of related exhibits; and (b) Objections to Pre-filed Direct Testimony and exhibits.

9. Staff and all parties shall file Objections to Pre-filed Rebuttal Testimony and exhibits in this docket on or before **Wednesday, November 09, 2011**.

10. Staff and all parties shall meet and confer to discuss the narrowing of issues to be addressed at the hearing, stipulations regarding undisputed material facts and admissibility of all uncontested documents, and any other unresolved issues to be addressed at the hearing. The parties shall prepare and file a joint proposed hearing agenda regarding the promulgation of premium rates and any stipulations reached by the parties on or before **Wednesday, November 09, 2011**.

11. No discovery requests or notices of taking deposition shall be served after **Wednesday, November 09, 2011**.

12. A pre-hearing conference shall be held on **Wednesday, November 09, 2011, at 10:00 a.m.** at the Public Regulation Commission Hearing Room, Fourth Floor, P.E.R.A. Building, Corner of Paseo de Peralta and Old Santa Fe Trail, New Mexico. The Superintendent or his designated hearing officer shall preside at the pre-hearing conference. The purpose of the pre-hearing conference is to narrow the issues to be addressed at the hearing, to hear all pending motions and other outstanding matters related to the hearing, and to set the agenda for the hearing.

13. An original and two copies of all proposals, reports, comments, motions, notices and other materials to be filed shall be submitted in person or by mail to the Public Regulation Commission's Docketing Office, citing the above-referenced docket. The Docketing Office is located in Room 406, P.E.R.A. Building, Corner of Paseo de Peralta and Old Santa Fe Trail, New Mexico and its mailing address is P.O. Box 1269, Santa Fe, New Mexico 87504-1269. An additional copy of all proposals, reports, comments, motions, notices and other materials filed in this docket shall be delivered or mailed to Title Insurance Hearing Officer, Insurance Division, Room 431, P.E.R.A. Building, Corner of Paseo de Peralta and Old Santa Fe Trail, P.O. Box 1269, Santa Fe, New Mexico 87504-1269.

14. All submissions shall be deemed filed as of the date and time stamped by the Docketing Office.

15. Staff shall arrange for distribution and publication of this notice pursuant to NMSA 1978 § 59A-4-16, and other applicable law.

16. Any individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing, should contact Mariano Romero at (505) 827-4526 no later than **Wednesday, November 09, 2011**. Public documents, including the transcript, agenda or minutes, if any, can be provided in various accessible forms. Please contact Mariano Romero if a summary or other type of accessible form is needed.

DONE AND ORDERED this 26th day of May, 2011.

John G. Franchini
Superintendent of Insurance

End of Notices and Proposed Rules Section

Adopted Rules

NEW MEXICO DNA IDENTIFICATION SYSTEM OVERSIGHT COMMITTEE AND ADMINISTRATIVE CENTER

This is an amendment to 10.14.200 NMAC, Sections 2, 6, 7, 8, 10, 12, 13 and 16. The purpose of these changes are to effect the amending of 10.14.200.2 NMAC, 10.14.200.6 NMAC, Subsection C of 10.14.200.7 NMAC, Subsection D of 10.14.200.8 NMAC, Subsection J of 10.14.200.10 NMAC, Subsections J, K, M and N of 10.14.200.12 NMAC, Paragraph 2 of Subsection B and Paragraph 1 of Subsection E of 10.14.200.13 NMAC and Subsections D, E and F of 10.14.200.16 NMAC all to be effective on June 30, 2011.

10.14.200.2 SCOPE: Department of public safety, department of corrections, attorney general, state medical investigator, local, county and state New Mexico law enforcement agencies, jails and detention facilities, city of Albuquerque, covered offenders[,] and persons arrested for [certain] felony offenses [as specified in Paragraph (3) of Subsection D of 29-3-10 NMSA 1978]. [3/1/1998; 10.14.200.2 NMAC - Rn, 10 NMAC 14.200.2, 5/1/2000; A, 7/1/2003; A, 12/29/2006; A, 6/30/2011]

10.14.200.6 OBJECTIVE: To establish a DNA identification system for covered offenders, persons arrested for [certain] felony offenses [as specified in Paragraph (3) of Subsection D of 29-3-10 NMSA 1978], unidentified persons and unidentified human remains. To facilitate the use of DNA records by local, state and federal law enforcement agencies in the identification, detection or exclusion of persons in connection with criminal investigations, the registration of sex offenders required to register pursuant to the provisions of the Sex Offender Registration and Notification Act and to facilitate the use of DNA records by local, state and federal law enforcement agencies and the state medical investigator in the identification of unidentified persons or unidentified human remains pursuant to the DNA Identification Act. [3/1/1998; 10.14.200.6 NMAC - Rn, 10 NMAC 14.200.6, 5/1/2000; A, 7/1/2003; A, 7/1/2005; A, 12/29/2006; A, 6/30/2011]

10.14.200.7 DEFINITIONS:

A. "Administrative center" means the part of a national DNA index system qualified New Mexico crime

laboratory that administers and operates the DNA identification system and is governed by the DNA oversight committee.

B. "Analysis" means DNA profile generation.

C. "Arrestee" for purposes of DNA sample collection means any person as [listed] described in Subsection A of 29-3-10 NMSA 1978. [that is arrested for a felony offense committed as an adult and as defined by Paragraph (3) of Subsection D of 29-3-10 NMSA 1978. The qualifying arrestee offenses are:

(1) 30-2-1 murder in the first or second degree;

(2) 30-2-3 voluntary or involuntary manslaughter;

(3) 30-2-4 assisting suicide;

(4) 30-3-2 aggravated assault;

(5) 30-3A-3.1 aggravated stalking;

(6) 30-3-5(C) aggravated battery (only when the result is great bodily harm or is committed with a firearm or explosive);

(7) 30-3-7 injury to pregnant woman (only when the injury results in a stillbirth);

(8) 30-3-8 shooting at dwelling or occupied building; shooting at or from a motor vehicle;

(9) 30-3-9(C) aggravated assault upon a school employee;

(10) 30-3-9(F) aggravated battery upon a school employee (only when the result is great bodily harm or is committed with a firearm or explosive);

(11) 30-3-9.1(D) aggravated assault upon a sports official;

(12) 30-3-9.1(H) aggravated battery upon a sports official (only when the result is great bodily harm or is committed with a firearm or explosive);

(13) 30-3-9.2(C) aggravated assault upon a health care worker;

(14) 30-3-9.2(F) aggravated battery upon a health care worker (only when the result is great bodily harm or is committed with a firearm or explosive);

(15) 30-3-13 aggravated assault against a household member;

(16) 30-3-14 assault against a household member with intent to commit a violent felony;

(17) 30-3-16(C) aggravated battery against a household member (only when the result is great bodily harm or is committed with a firearm or explosive);

(18) 30-4-1 kidnapping (in any form);

(19) 30-4-3 false imprisonment (only when the victim is less than eighteen years of age and the offender is not a parent of the victim);

(20) 30-6-1(B) abandonment of a

child (only when the abandonment results in death or great bodily harm);

(21) 30-6-1(E) abuse of a child (only when the abuse results in great bodily harm);

(22) 30-6-1(F) abuse of a child (only when the abuse results in death);

(23) 30-6-1(G) abuse of a child (only when the child is 12 to 18 years of age and the abuse results in death);

(24) 30-6-1(H) abuse of a child (only when the child is under 12 years of age and the abuse results in death);

(25) 30-6A-3 sexual exploitation of children;

(26) 30-6A-3 attempted sexual exploitation of children as defined in 30-6A-3(B), 30-6A-3(C) or 30-6A-3(D);

(27) 30-6A-4 sexual exploitation of children by prostitution;

(28) 30-6A-4 attempted sexual exploitation of children by prostitution;

(29) 30-7-5 dangerous use of explosives;

(30) 30-9-11 aggravated criminal sexual penetration;

(31) 30-9-11 attempted aggravated criminal sexual penetration;

(32) 30-9-11 criminal sexual penetration in the first, second, third or fourth degree;

(33) 30-9-11 attempted criminal sexual penetration in the first, second or third degree;

(34) 30-9-12 criminal sexual contact in the fourth degree;

(35) 30-9-13 criminal sexual contact of a minor in the second, third or fourth degree;

(36) 30-9-13 attempted criminal sexual contact of a minor in the second or third degree;

(37) 30-9-13 solicitation to commit criminal sexual contact of a minor in the second, third or fourth degree;

(38) 30-9-14.3 aggravated indecent exposure;

(39) 30-10-3 incest (when the victim is less than eighteen years of age);

(40) 30-10-3 attempted incest (when the victim is less than eighteen years of age);

(41) 30-16-1 larceny (stolen property over \$500; livestock of any value; or firearm of any value);

(42) 30-16-2 robbery;

(43) 30-16-3 burglary (in any form);

(44) 30-16-4 aggravated burglary;

(45) 30-17-6 aggravated arson;

(46) 30-20A-3 Antiterrorism Act; unlawful acts;

(47) 30-22-17(B) assault by prisoner;

~~_____ (48) 30-22-22 aggravated assault upon a peace officer;~~

~~_____ (49) 30-22-25(C) aggravated battery upon a peace officer (only when the result is great bodily harm or is committed with a firearm or explosive);~~

~~_____ (50) 30-28-3 solicitation to commit criminal sexual contact of a minor in the second, third or fourth degree;~~

~~_____ (51) 30-37-3.2 child solicitation by electronic communication device;~~

~~_____ (52) 30-47-4(D) abuse of a resident;~~

~~_____ (53) 30-47-5(D) neglect of a resident;~~

~~_____ (54) 66-8-101 homicide by vehicle; great bodily harm by vehicle;~~

~~_____ (55) 66-8-101.1 injury to pregnant woman by vehicle (only when the result is a stillbirth).]~~

D. "Buccal cell" means cells from the interior linings of the cheek and gum.

E. "CODIS" means the federal bureau of investigation's national DNA index system for storage and exchange of DNA records submitted by designated forensic DNA laboratories.

F. "Collection kit" see Subsection N of 10.14.200.7 NMAC.

G. "Core loci" means the chromosomal locations designated as being required for a convicted offender profile to be considered complete by the board of the national DNA index system, and consistent with the federal DNA Identification Act of 1994 and subsequent federal laws.

H. "Covered offender" for purposes of fee assessment means any person convicted of a felony offense, committed after July 1, 1997, and as defined by Subsection C of 29-16-3 NMSA 1978 and as described in Paragraphs (1) through (3) of Subsection A of 29-16-6 NMSA 1978.

I. "Covered offender" for purposes of DNA sample collection means any person as defined by Subsection C of 29-16-3 and Subsection A of 29-16-6 NMSA 1978.

J. "DNA" means deoxyribonucleic acid.

K. "DNA Identification Act" means Sections 29-16-1 to 29-16-13 NMSA 1978, and any subsequent amendments or additions to these sections, the law that authorizes the DNA identification system and the DNA oversight committee.

L. "DNA identification system" means the system established pursuant to the DNA Identification Act.

M. "DNA oversight committee" means the DNA identification system oversight committee.

N. "DNA sample collection kit" means materials designed for the collection of DNA samples.

O. "FTA card" means

an FTA collection card, a card of blotter paper designed for the collection of liquid biological samples or any other device designed for the collection of liquid biological samples.

P. "Head of the administrative center" means the authorized person who supervises the day-to-day operations of the administrative center.

Q. "Identification system" see Subsection L of 10.14.200.7 NMAC.

R. "In writing" means a document hand or typewritten on paper and includes the use of facsimile copies or computer requests that can be printed.

S. "Kit" see Subsection N of 10.14.200.7 NMAC.

T. "Records" means the results of analysis, testing, and related information.

U. "Sample" means a sample of biological material sufficient for DNA testing.

V. "Sample collection kit" see Subsection N of 10.14.200.7 NMAC.

W. "Sample profile hit" means a match of the examined loci as determined by the servicing forensic DNA laboratory.

X. "Secured" means limited and controlled access only by authorized personnel including use of protection and safety devices such as restricted space access, physical locks and keys, passwords, encryption, firewalls etc. to safeguard any and all functions of that equipment or facility.

[3/1/1998; 10.14.200.7 NMAC - Rn & A, 10 NMAC 14.200.7, 5/1/2000; A, 7/1/2003; A, 7/1/2005; A, 12/29/2006; A, 5/15/2007; A, 4/30/2008; A, 5/14/2009; A, 6/30/2011]

10.14.200.8 COLLECTION AND TRANSFER OF SAMPLES AND FEES:

A. Routine collection of samples from a covered offender shall be performed only by trained employees of the department of corrections adult prisons or probation and parole divisions, jail or detention facility personnel, employees of the county sheriff office, members of the administrative center or persons designated by the administrative center as trained by and in coordination with the administrative center, utilizing the collection protocol approved by the oversight committee.

B. Collection and deposit of assessed fees from covered offenders shall be performed by employees of the department of corrections adult prisons and probation and parole divisions pursuant to policies and procedures established by the department of corrections.

C. The department of corrections shall be responsible for establishing policies and procedures for the collection of samples and assessed

fees from covered offenders utilizing a collection protocol to be approved by the DNA oversight committee when custody is maintained by private or out-of-state, probation and parole or corrections facilities.

D. Routine collection of samples from arrestee's shall:

(1) be performed only by trained jail or detention facility personnel, members of the administrative center or persons designated by the administrative center as trained by and in coordination with the administrative center, utilizing the collection protocol approved by the oversight committee; and

(2) include the issuance to each collected arrestee a written statement or notice informing the arrestee that if the arrestee is not convicted of the felony charges in this arrest, or that the felony charges are otherwise dismissed, that the arrestee may request that the collected DNA sample and records be expunged, as well as how the arrestee can obtain information related to expungement procedures. Such written statement or notice shall also include information that if the arrestee posted bond or was released prior to appearing before a judge or magistrate and then failed to appear for a scheduled hearing, that the arrestee's DNA sample will automatically be analyzed.

E. DNA sample collection kits and information on the collection, storage, and transfer of samples shall be provided at no cost by the administrative center.

F. The routine method of sample collection shall be by buccal cell collection using the standardized sample collection kit as supplied by the administrative center. In non-routine circumstances, including a refusal by an arrestee or a covered offender, the collection shall, pursuant to Section 29-16-9 NMSA 1978:

(1) be referred to the administrative center;

(2) require a written consent or court order;

(3) consist of an appropriate, alternative sample type as designated by the administrative center or the court; and

(4) shall be collected by members of the administrative center; or

(5) by persons trained in the collection of the designated alternative sample type in coordination with, and as designated by, the administrative center.

G. In the case of an arrestee who refuses to provide a DNA sample to jail or detention facility personnel upon booking as required by Subsection A of 29-3-10 NMSA 1978, the jail or detention facility personnel shall immediately document the refusal and shall immediately report the refusal to the administrative center in order for the administrative center to coordinate,

with the office of the district attorney for the county where the arrest took place, the initiation of the required legal proceedings as required by Paragraph (2) of Subsection F of 10.14.200.8 NMAC.

H. The determination of a person's eligibility for DNA sample collection as a qualifying arrestee or as a covered offender shall be the responsibility of the authorized collector designated in Subsection A or D of 10.14.200.8 NMAC. The determination of a person's eligibility shall be based upon the statutory requirements for the specific collection.

I. Questions on supplies, collection or packaging should be directed to the administrative center.

[3/1/1998, A, 4/30/99; 10.14.200.8 NMAC - Rn, 10 NMAC 14.200.8, 5/1/2000; A, 7/1/2003; A, 7/1/2005; A, 12/29/2006; A, 5/15/2007; A, 5/14/2009; A, 6/30/2011]

10.14.200.10 S A M P L E PROCESSING AND ANALYSIS:

A. All samples received by the administrative center for DNA analysis should be considered potentially bio-hazardous. Universal safety precaution procedures shall be followed when handling biological samples.

B. The mechanism of sample collection authorization for samples collected pursuant to Subsection B of 29-16-6 NMSA 1978 shall be documented and a copy of that authorization maintained by the administrative center.

C. Samples shall be handled, examined, and processed individually to avoid possible cross-contamination from another sample or from the examiner.

D. Samples tested shall follow DNA testing procedures approved by the administrative center. Remaining samples shall be returned to secured storage.

E. Five percent of all samples tested shall consist of samples with a known DNA profile and shall be presented to the analyzing laboratory in a "blind" fashion to ensure proficiency and to act as a quality assurance measure. Results of these analyses are to be evaluated with the corresponding offender or arrestee samples. Should any resultant "blind" sample's DNA profile not match the expected known result for that sample, an error rate is to be calculated by the administrative center and be presented to the analyzing laboratory and to the oversight committee.

F. The genetic markers analyzed shall consist of those contained in commercial analysis kits approved by the DNA oversight committee and approved by the board of the national DNA index system, having been selected for identification and statistical purposes only. Approved are the profiler plus, cofilier and identifiler analysis

kits; as well as any other kit(s) that may be approved subsequent to the amending of this section.

G. Excess extracted or amplified arrestee and offender DNA shall be destroyed within thirty (30) days after completion of analysis.

H. Excess DNA collected or extracted pursuant to Subsection C of 29-16-2 NMSA 1978 shall be retained by the administrative center, the analyzing laboratory or the submitting agency at the discretion of the submitting agency. Excess amplified DNA generated pursuant to Subsection C of 29-16-2 NMSA 1978 shall be destroyed within thirty (30) days after completion of analysis.

I. No written letters of notification shall be released on any specific DNA sample except as authorized by the DNA Identification Act and these rules.

J. Analysis of arrestee DNA samples collected on, or after, July 1, 2011, shall only be analyzed in conformance with the requirements of Subsection B of 29-3-10 NMSA 1978.

[3/1/1998; 10.14.200.10 NMAC - Rn & A, 10 NMAC 14.200.10, 5/1/2000; A, 7/1/2003; A, 7/1/2005; A, 12/29/2006; A, 5/14/2009; A, 6/30/2011]

10.14.200.12 EXPUNGEMENT OF INFORMATION:

A. A person may request expungement of his arrestee or offender DNA sample and DNA records from the DNA identification system on the following grounds:

(1) that the conviction that led to the inclusion of the offender DNA sample and DNA records in the DNA identification system has been reversed; or

(2) that the arrest that led to the inclusion of the arrestee DNA sample and DNA records in the DNA identification system has resulted in a felony or misdemeanor charge that has been resolved by a dismissal with or without prejudice, nolle prosequi, the successful completion of a pre-prosecution diversion program or a conditional discharge, misdemeanor conviction or acquittal; or

(3) that the arrest that led to the inclusion of the arrestee DNA sample and DNA records did not result in a felony charge being filed within one year of the date of arrest.

B. The head of the administrative center shall expunge a person's arrestee or offender DNA sample and DNA records from the DNA identification system when the person provides the administrative center with the following materials:

(1) a written request for expungement of the sample and DNA records; and

(2) for offender samples and DNA

records, a certified copy of a court order or mandate that reverses the conviction that led to the inclusion of the sample and DNA records in the DNA identification system; or

(3) for arrestee samples and DNA records, a certified copy of the dismissal with or without prejudice, nolle prosequi, conditional discharge, misdemeanor conviction or acquittal or, documentation certifying the successful completion of a pre-prosecution diversion program or, a sworn affidavit that the arrest that led to the inclusion of the sample has not resulted in a felony charge being filed within one year of the date of arrest.

C. Before expungement of an arrestee or offender DNA sample the administrative center shall, within thirty (30) days of the receipt of the request for expungement, request that an independent review of the submitted materials be conducted by the attorney general's office. The attorney general shall confirm or reject the expungement request, or request a reasonable extension of time for the review of the request from the administrative center, in writing within forty five (45) days from the receipt of the request for review by the attorney general's office. If no action is taken and there is no request for an extension of the review by the attorney general after forty five (45) days from the receipt of the request for review, expungement shall automatically occur.

D. A person may request expungement of his DNA sample and DNA records from the missing persons DNA identification system at any time.

E. The head of the administrative center shall expunge a person's sample and DNA records from the missing persons DNA identification system when the person provides the administrative center with the following materials.

(1) A written request for expungement of his sample and DNA records.

(2) A certified copy of a court order overturning any original search warrant or court order that led to the inclusion of his sample and DNA records in the missing persons DNA identification system, if applicable.

F. Before expungement of a DNA sample collected for the missing persons DNA identification system, a review of the mechanism of sample collection authorization shall be conducted by the administrative center. The administrative center shall confirm or reject the expungement request in writing within thirty (30) business days from the receipt of the written request by the administrative center.

G. Requests for a review extension and the rejection of requests for expungement shall not be made without cause.

H. Should a request for expungement be rejected, the written notification shall include information as to the reason for rejection and that the rejection may be appealed to the oversight committee.

I. The administrative center shall not expunge a person's sample or DNA records from the DNA identification system if the person has a prior felony conviction or a pending felony charge for which collection of a sample is authorized pursuant to the provisions of the DNA Identification Act.

J. When a person's sample and DNA records are to be expunged from the DNA identification system, the head of the administrative center shall ensure that the person's sample and DNA records are expunged from CODIS within thirty (30) days after the receipt of the confirmation of the expungement request by the attorney general.

K. Written confirmation of the expungement shall be sent to the requesting party and a record of the written confirmation, as well as all expungement related correspondence and checklists, shall be securely kept solely by the head of the administrative center.

L. Expungement related confirmation, correspondence and checklists shall not list any results of DNA testing or the NMDIS database number and if such items do contain these identifiers the identifiers shall be obliterated.

M. All items kept by the head of the administrative center pursuant to Subsection K of 10.14.200.12 NMAC shall be destroyed not less than six months, nor greater than seven months, from the date of the [expungement] written confirmation of the expungement being sent to the requesting party.

N. For purposes of this section, expungement means the complete destruction of all samples, records, personal identification and information concerning that person, such that the person could not be re-associated with the expunged materials as described in this section.

[3/1/1998; 10.14.200.12 NMAC - Rn, 10 NMAC 14.200.12, 5/1/2000; A, 7/1/2003; A, 12/29/2006; A, 6/30/2011]

10.14.200.13 OPERATION AND OVERSIGHT OF THE ADMINISTRATIVE CENTER:

A. The joint powers agreement required in Section 29-16-4 NMSA 1978 shall:

(1) provide for the general terms of the operation and administration of the administrative center; and

(2) define the relationship between the department of public safety and the law enforcement agency or unit that administers and operates the DNA identification system;

and

(3) be read and interpreted consistent with the provisions of these rules and the DNA Identification Act.

B. Personnel staffing.

(1) Staffing for the administrative center, to include the head of the administrative center, shall be selected by the law enforcement agency or unit that administers and operates the DNA identification system following the agency or unit's standard hiring policies.

(2) In the event of a vacancy of the position held by the head of the administrative center, the law enforcement agency or unit that administers and operates the DNA identification system shall notify the oversight committee chairperson of the vacancy and coordinate the inclusion of [one] two or more oversight committee members, not affiliated with the law enforcement agency that administers and operates the DNA identification system, for the selection interviews.

(3) The head of the administrative center shall meet or exceed the educational and experience requirements of a technical leader or a CODIS administrator as required by the FBI's quality assurance standards.

(4) All analysts shall meet or exceed the educational and experience requirements of an analyst as required by the FBI's quality assurance standards.

C. Funding of positions.

(1) All positions funded by the DNA identification system shall be for the execution of the duties listed in Subsection B of 29-16-4 NMSA 1978 and for the benefit of the DNA identification system.

(2) The creation of any full-time or permanent, DNA identification system funded staff positions by the law enforcement agency or unit that administers and operates the DNA identification system shall be approved by the oversight committee prior to the hiring process.

(3) The utilization of part-time or temporary, DNA identification system funded staff positions shall be at the discretion of the head of the administrative center, however any such positions shall be limited in duration and maintained only for such time as their specific need exists.

D. Authority of the head of the administrative center.

(1) The head of the administrative center is authorized to make all reasonable administrative decisions as are required to comply with the duties listed in Subsection B of 29-16-4 NMSA 1978, these rules, the operational procedures of the board of the national DNA index system and the FBI's quality assurance standards.

(2) The head of the administrative center shall abide by all decisions of the oversight committee.

E. General strategic plan.

(1) The head of the administrative center shall present a general strategic plan to the oversight committee [in] within the first [quarter] four months of each calendar year, for approval by the committee.

(2) Should significant changes to the strategic plan, the operations or processes of the administrative center be necessary during the interim period, those changes shall require the prior approval of the oversight committee.

F. Authority of the administrative center over forensic laboratories with respect to their participation in CODIS.

(1) The administrative center shall have "stop work" authority over forensic laboratories. This authority shall not be exercised without cause.

(2) Forensic laboratories shall utilize and provide any documents as designed by, or otherwise required by, the administrative center.

(3) Forensic laboratories shall abide by all policies and procedures established by the administrative center.

(4) Forensic laboratories shall abide by all federal and New Mexico laws, rules and standards as shall be enacted.

[3/1/1998; 10.14.200.13 NMAC - Rn, 10 NMAC 14.200.13, 5/1/2000; A, 12/29/2006; A, 6/30/2011]

10.14.200.16 MISCELLANEOUS PROVISIONS:

A. Savings clause. These rules shall be read and interpreted consistent with the provisions of the DNA Identification Act. If a topic is not addressed in these rules, reference shall be made to the DNA Identification Act.

B. Annual review. These rules shall be reviewed on, at least, an annual basis by the DNA oversight committee.

C. Purpose and intent. The purpose and intent of these rules is to fully implement the provisions of Sections 29-3-10, 29-16-1 et seq. and 29-11A-1 et seq. NMSA 1978. These rules are governed by the Uniform Statute and Rule Construction Act, Section 12-2A-1 et seq. NMSA 1978. These rules rely on the primary text of each statute and the common and technical use of the language in each statute.

D. Chairperson. The DNA oversight committee shall, in such a manner and for such duration as the DNA oversight committee may choose, select from the members of the DNA oversight committee, a chairperson and a vice-chairperson. In the absence of the chairperson, the vice-chairperson shall act in the capacity of the chairperson. In the circumstance that the chairperson is no longer willing, or able, to continue to act as the chairperson, the vice-chairperson shall act in the capacity of the chairperson until such time that the

DNA oversight committee selects a new chairperson. The chairperson is eligible to vote on all motions brought before the DNA oversight committee.

[D:] E. Spokesperson. The chairperson of the DNA oversight committee, or designee, shall be empowered to act as the official spokesperson on behalf of the DNA oversight committee and the administrative center.

F. Proxy, abstention and electronic participation and voting. Designation of a proxy by any member of the DNA oversight committee is allowed when the respective member is unable to attend a meeting of the DNA oversight committee. Such proxy shall count towards establishing a quorum and be eligible to cast a vote as may be necessary. Any member of the DNA oversight committee, or their proxy, may abstain from any vote and such abstention shall not count towards, or against, the majority on any motion. Electronic participation and voting may be allowed pursuant to the approval of a majority of the quorum that is physically present at any meeting of the DNA oversight committee. Such approved electronic participation and voting shall be considered to be the same as if the member of the DNA oversight committee were physically present at that meeting.

[3/1/1998; 10.14.200.16 NMAC - Rn, 10 NMAC 14.200.16, 5/1/2000; A, 7/1/2003; A, 12/29/2006; A, 6/30/2011]

NEW MEXICO PUBLIC REGULATION COMMISSION

Repealer: The New Mexico Public Regulation Commission repeals its rule entitled "Residential Customer Service By Gas, Electric And Rural Electric Cooperative Utilities", 17.5.410 NMAC (filed 10-11-2001) and replaces it with the new rule 17.5.410 NMAC, "Residential Customer Service By Gas, Electric And Rural Electric Cooperative Utilities". Effective date of Repeal: July 1, 2011.

NEW MEXICO PUBLIC REGULATION COMMISSION

TITLE 17 PUBLIC UTILITIES AND UTILITY SERVICES

CHAPTER 5 U T I L I T Y INTERCONNECTIVITY AND COOPERATIVE AGREEMENTS

PART 410 R E S I D E N T I A L CUSTOMER SERVICE BY GAS, ELECTRIC AND RURAL ELECTRIC COOPERATIVE UTILITIES

17.5.410.1 ISSUING AGENCY: Public Regulation Commission.

[17.5.410.1 NMAC - Rp, 17.5.410.1 NMAC, 7-1-11]

17.5.410.2 SCOPE:

A. This rule applies to electric, rural electric cooperative and gas utilities subject to the jurisdiction of the New Mexico public regulation commission.

B. In case of conflict between provisions of this rule and 17.9.560 NMAC or 17.10.650 NMAC, the provisions of this rule control.

[17.5.410.2 NMAC - Rp, 17.5.410.2 NMAC, 7-1-11]

17.5.410.3 S T A T U T O R Y AUTHORITY: NMSA 1978, Sections 8-8-4, 8-8-15, 27-6-17, 27-6-18.1, 62-6-4A, 62-6-19 through 62-6-21, 62-8-3 and 62-8-10.

[17.5.410.3 NMAC - Rp, 17.5.410.3 NMAC, 7-1-11]

17.5.410.4 D U R A T I O N : Permanent.

[17.5.410.4 NMAC - Rp, 17.5.410.4 NMAC, 7-1-11]

17.5.410.5 EFFECTIVE DATE: July 1, 2011, unless a later date is cited at the end of a section.

[17.5.410.5 NMAC - Rp, 17.5.410.5 NMAC, 7-1-11]

17.5.410.6 OBJECTIVE: The purpose of this rule is to establish uniform standards to be followed by electric, gas, and rural electric cooperative utilities in dealing with residential customers, to aid residential customers in obtaining and maintaining essential utility services, to promote safe and adequate service to residential customers, and to establish a basis for determining the reasonableness of such demands as may be made upon utilities by residential customers.

[17.5.410.6 NMAC - Rp, 17.5.410.6 NMAC, 7-1-11]

17.5.410.7 DEFINITIONS: In addition to the definitions contained in

NMSA 1978, Section 62-3-3, as used in this rule, unless otherwise specified:

A. administering authority means the human services department or a tribal or pueblo entity that administers a tribe's or pueblo's low-income home energy assistance program under NMSA 1978, Section 27-6-18.1;

B. automatic adjustment clause means the adjustment procedure approved by the commission to recognize variations in the cost of fuel for electric generation, cost of purchased power, cost of purchased gas, or for any other cost factor approved by the commission;

C. billing period means a utility service usage period in accordance with applicable tariff schedules;

D. chronically delinquent means the status of a residential customer who during the prior twelve (12) months has been disconnected by that utility for nonpayment or who on three (3) or more occasions during the prior twelve months has not paid a bill by the date a subsequent bill is rendered;

E. cycle billing means a system employed by a utility which results in the rendition of bills for utility service to various residential customers on different days but on or about the same day of each billing period;

F. delinquent means the status of a bill rendered to a residential customer for utility service which remains unpaid after the due date of the bill;

G. discontinuance of service means an intentional cessation of service by a utility not voluntarily requested by a residential customer;

H. estimated bill means a bill for utility service which is not based on an actual reading of the residential customer's meter or other measuring device for the period billed;

I. heating season means the period beginning November 15 and continuing through March 15 of the subsequent year;

J. HSD means the New Mexico human services department;

K. installment agreement means an arrangement by a utility customer pursuant to 17.5.410.40 NMAC to make a series of payments of past due utility charges scheduled over a period greater than forty-five (45) days, and may be referred to as "payment plan" in customer notices;

L. LIHEAP means the low-income home energy assistance program administered by HSD or a tribal or pueblo entity that administers a tribe's or pueblo's low-income home energy assistance program under NMSA 1978, Section 27-6-18.1;

M. line extension means that part of a utility's system for the delivery

of gas or electric utility service which extends and connects the utility's existing system to a residential customer, exclusive of yard lines or service drops;

N. medical professional means a licensed physician, physician's assistant, osteopathic physician, osteopathic physician's assistant or certified nurse practitioner;

O. nonheating season means the period beginning March 16 and continuing through November 14 of the same year;

P. rendition of a bill means the date of mailing or personal delivery of a bill by a utility;

Q. residential customer means any person being supplied with and legally liable for the payment of an electric or gas utility service for that person's household or domestic uses;

R. residential service means the provision of or use of electricity or gas for household or domestic purposes;

S. seriously or chronically ill means an illness or injury that results in a medical professional's determination that the loss of utility service would give rise to a substantial risk of death or would gravely impair health;

T. settlement agreement means an agreement between a utility and a residential customer establishing terms and conditions for resolving a dispute;

U. special service means a service provided to a residential customer by a utility which is not subject to a tariff schedule;

V. specific date means an exact date, or a period of no more than five (5) business days beginning with an exact date. The date specified on the most recent bill or notice as the date by which past due amounts must be paid to avoid discontinuance of service constitutes a specific date for purposes of this rule;

W. utility charges means the billing or charges for the provision of utility service and other charges authorized by the commission pursuant to approved tariffs.

[17.5.410.7 NMAC – Rp, 17.5.410.7 NMAC, 7-1-11]

17.5.410.8 APPLICATION:

A. A utility shall not unreasonably discriminate against any residential customer. Neither shall a utility discriminate against or penalize a residential customer for exercising any right granted by 17.5.410 NMAC, nor shall any provision herein be construed to relieve any residential customer from liability for proper utility charges.

B. A utility may adopt such reasonable rules governing its relations with residential customers as are necessary and

which are not inconsistent with 17.5.410 NMAC and as prescribed in 17.1.210 NMAC.

C. Unless otherwise specified a utility shall not be required to file new tariffs pursuant to 17.5.410 NMAC. To the extent that existing tariffs are inconsistent with 17.5.410 NMAC, such tariffs are deemed to be superseded by the requirements of 17.5.410 NMAC and all provisions of 17.5.410 NMAC are deemed to apply to all utilities as though set forth in applicable tariffs unless the differences between the tariffs and 17.5.410 NMAC are permitted pursuant to an exemption or variance requested under 17.5.410.9 NMAC and granted by the commission.

[17.5.410.8 NMAC – Rp, 17.5.410.8 NMAC, 7-1-11]

17.5.410.9 EXEMPTION AND VARIANCE:

A. Exemption. If unreasonable hardship with no reasonable alternative to a utility or to a residential customer results from the application of any provision of 17.5.410 NMAC, application may be made to the commission for temporary or permanent exemption from its requirements.

B. Variances. A utility may file a written application with the commission seeking a variance from all or part of 17.5.410 NMAC for good cause shown, except that no variances shall be allowed from the provisions of 17.5.410.30 NMAC. Each variance request shall include an explanation for the requested variance together with an alternate proposal designed to achieve the purpose of the rule to be waived and to be implemented for application to the condition(s) requiring the variance.

C. Stay pending application for exemption or variance. An application for an exemption or a variance shall stay the application of 17.5.410 NMAC to the utility applying for the exemption or variance as it relates to the matter on which an exemption or a variance is sought for a period of twenty (20) days. Within that time frame the commission may for good cause shown extend the period of the stay.

D. Notice of application for exemption or variance. A utility filing an application for an exemption or a variance with the commission shall contemporaneously with such filing mail copies of such application by first class mail to the attorney general, and the intervenors in the utility's most recent rate case.

E. Exemption or variance hearings. The commission may schedule a hearing on any proposed exemption or variance.

[17.5.410.9 NMAC – Rp, 17.5.410.9 NMAC, 7-1-11]

17.5.410.10 RENDITION OF BILLS:

A. A utility shall render a bill to every residential customer for each billing period in accordance with applicable tariffs and the requirements and options of 17.5.410 NMAC.

B. A utility may either bill all of its residential customers on the same day of each billing period or bill its residential customers on a billing cycle. If a utility significantly alters a billing cycle, notice shall promptly be given to the affected residential customer(s).

C. When billing for concurrent service at a residence the usage and charge attributable to each such service shall be clearly set forth on the bill. Utility service to multiple locations billed to a single residential customer shall be stated separately for each location.

D. Upon approval of an experimental rate by the commission a utility shall give full written disclosure of such rate to the affected residential customer prior to implementing such rate, and the utility shall advise its residential customers of the financial impact of such rate based on typical patterns of usage.

[17.5.410.10 NMAC – Rp, 17.5.410.10 NMAC, 7-1-11]

17.5.410.11 BUDGET PAYMENT PLANS:

A utility shall offer a budget payment plan to its residential customers. Such plans must be approved by the commission and must contain the following provisions at a minimum.

A. The budget payment plan shall provide the residential customer with a method of levelizing the bill for utility service. It shall be designed to avoid the accumulation of an unpaid balance which will be burdensome to pay in a single payment.

B. The budget payment plan shall be available to any residential customer who is then either current in payments for utility service or who has entered into and is complying with a settlement agreement or an installment agreement at any time during the year, without regard to the residential customer's length of service with the utility. Should a chronically delinquent residential customer fail to pay the amount specified in the budget payment plan, the utility may remove that residential customer from the plan and withhold the plan from that residential customer for up to twelve (12) succeeding months. A utility may also petition the commission for an order permitting it to offer its budget payment plan at specified times only or for less than a prospective twelve (12) month period upon a showing by the utility that offering such a plan at and for times specified in 17.5.410

NMAC will result in an undue financial burden to the utility.

C. In determining one (1) year's budget payment plan the computation shall be specific to each residential customer. If the residential customer has been served by the utility at the same location for the previous year, the budgeted payment should be based on the residential customer's actual use for the previous year and may be adjusted for known price changes, bill averages and normalized weather conditions. If the residential customer has not been served by the utility during the previous year at that location, the budgeted payment should be based on the actual use at that location for the previous year and may be adjusted for known price changes, bill averages and normalized weather conditions, as applied to the residential class of customers or similar residences.

D. The specific methodology of the plan shall be approved by the commission and shall be nondiscriminatory.
[17.5.410.11 NMAC – Rp, 17.5.410.11 NMAC, 7-1-11]

17.5.410.12 CONTENTS OF BILLS: Bills for utility service shall include:

A. the beginning and ending meter reading dates or the number of days in the billing cycle and the date of the ending meter reading;

B. clear and conspicuous language identifying the bill as an estimated bill, if the bill has been estimated;

C. the number and kind of units metered;

D. any conversions from meter reading units to billing units;

E. any multiplier constants used to determine billing;

F. the date the bill is due;

G. any previous balance;

H. an identification of the applicable rate tariff;

I. the amount due for electric or gas usage;

J. the amount due for special services;

K. the total amount due;

L. gross receipts taxes and any other taxes or fees, if not a part of the base rate;

M. the automatic adjustment clauses approved by the commission in total and in cost per unit basis, as applicable;

N. contact information of the utility designating where the residential customer may initiate an inquiry or complaint regarding the bill as rendered or the service provided;

O. if the residential customer is on a budget payment plan, a statement of:

(1) the actual charges for service incurred for the current billing period;

(2) the budgeted amount due; and

(3) the actual balance of total services rendered.

[17.5.410.12 NMAC – Rp, 17.5.410.12 NMAC, 7-1-11]

17.5.410.13 PAYMENT STANDARDS:

A. A residential customer shall be given at least twenty (20) calendar days from the date of rendition of a bill for payment in full before the bill is deemed delinquent.

B. A residential customer shall be given at least fifteen (15) calendar days from the date the bill is deemed delinquent before a utility may disconnect utility service, pursuant to the requirements of 17.5.410.31 through 17.5.410.35 NMAC.

C. If the last day for payment of a bill falls on a Saturday, Sunday, legal holiday, or other day when the offices of the utility which regularly receive payments are not open to the general public, the due date shall be extended to the next business day.

D. Receipt by a utility of a payment at the utility's address shall be deemed received by the utility on that date. If payment is made on the utility's website or at a third-party payment location authorized by the utility, the payment shall be deemed received within two business days of the payment date. If payment is made through any other third-party payment process, the date of payment shall be the date the payment is received by the utility from the third party. If the residential customer making payment has received a disconnect notice and provides verification of the payment to the utility prior to disconnection, the utility shall stop disconnection activities and shall not disconnect the residential customer without providing a subsequent final notice.

E. Any monies received by a utility from a residential customer in excess of the amount of a bill owing shall be credited immediately. Any monies received by a utility from a residential customer that exceed the amount billed by twenty five-dollars (\$25) or more shall be refunded upon request.

[17.5.410.13 NMAC – Rp, 17.5.410.13 NMAC, 7-1-11]

17.5.410.14 FINANCE, SERVICE, CARRYING, PENALTY AND SPECIAL SERVICE CHARGES:

A. Unless otherwise approved by the commission a utility shall not assess a finance, service, carrying, or penalty charge to a residential customer for the reason that any utility service balance due and owing upon the bill remains outstanding beyond the period of time established for

payment.

B. A utility shall not impose on residential customers a late fee for unpaid amounts due for utility service that is greater than eight percent (8%) on an annual basis.

C. A utility may include charges for special services together with utility charges on the same bill if the charges for special services are designated clearly and separately from utility charges. If partial payment is made the utility shall first credit such payment to any arrearage for utility charges.

D. A charge for connection or reconnection may not exceed the actual cost involved but shall be no less than the minimum allowed in applicable tariffs.

[17.5.410.14 NMAC – Rp, 17.5.410.14 NMAC, 7-1-11]

17.5.410.15 ESTIMATED BILLS:

A. A utility may render a bill based on estimated usage to a seasonally billed residential customer if an appropriate tariff is on file with the commission and an actual reading is obtained before each change in the seasonal cycle.

B. A utility may render a bill based on estimated usage to a residential customer other than a seasonally billed residential customer if the utility through no fault of its own is unable to obtain access to the residential customer's premises for the purpose of reading the meter or in situations where the residential customer makes reading the meter unnecessarily difficult; a meter is defective or has been evidently tampered with or bypassed; or weather conditions prohibit meter readings or where other force majeure conditions exist. If the utility is unable to obtain an actual meter reading for these reasons it shall attempt to contact the residential customer to obtain access to the premises, or it shall undertake reasonably practical alternatives to obtain a meter reading.

C. Notwithstanding the provisions of Subsection B of 17.5.410.15 NMAC, a utility may not render a bill based on estimated usage for more than two (2) consecutive billing periods without prior notification to the commission, nor for an initial or final bill for service, unless otherwise agreed to by the residential customer and the utility.

D. The estimating procedures employed by the utility must be contained in a tariff on file with the commission.

E. The utility must, for no less than twelve (12) months, maintain accurate records of the reasons for each estimate and the efforts made to secure an actual reading.

F. If a utility underestimates a residential customer's

usage and subsequently seeks to correct the bill, the residential customer shall be given an opportunity to participate in an installment agreement with regard to the underestimated amount.

G. Upon request, a utility shall explain to any residential customer how to read and report electric or gas usage. Upon an agreement between a residential customer and a utility, a residential customer may read and report the electric or gas usage as long as such usage is reported on a regular and accurate basis. The utility shall provide a reasonable means for the residential customer to report meter readings. In such a case, at least annually, a utility shall obtain an actual meter reading of residential customer usage in order to verify the accuracy of readings reported in this manner. 17.5.410 NMAC shall not prevent a utility from reading meters on a regular basis.

H. A utility's tariff may provide for a residential customer to read and report the electric or gas usage on a regular and accurate basis.

I. Notwithstanding Subsections B, C and H of 17.5.410.15 NMAC, a utility may estimate a billing in the event that a residential customer fails to timely and accurately report the self-reading. [17.5.410.15 NMAC – Rp, 17.5.410.15 NMAC, 7-1-11]

17.5.410.16 RESIDENTIAL SECURITY DEPOSITS OR GUARANTEES:

A. A utility may not require a security deposit or other guarantee of payment as a condition of new or continued service to a residential customer except in the case of service:

(1) to a residential customer who has not previously had utility service with the utility and who has not established an acceptable credit rating;

(2) to a chronically delinquent residential customer of the utility;

(3) as a condition for reconnection of service following discontinuance of service by the utility; and

(4) to a residential customer who in an unauthorized manner has interfered with or diverted the service of the utility situated on or about or delivered to the residential customer's premises.

B. If a residential customer or prospective residential customer can demonstrate to the utility that the residential customer does not have adequate financial resources to pay the security deposit and the residential customer meets the qualifications of LIHEAP, or is subject to other special circumstances, the utility shall give special consideration to such a residential customer in determining whether or in what amount a security deposit will be charged. In making such determination, a utility shall accept

documentation from the administering authority that such residential or prospective residential customer meets the qualifications of LIHEAP.

[17.5.410.16 NMAC – Rp, 17.5.410.16 NMAC, 7-1-11]

17.5.410.17 METHODS TO ESTABLISH ACCEPTABLE CREDIT RATING:

A. In determining whether a residential customer who has not previously had utility service with the utility has an acceptable credit rating, a utility shall consider the following:

(1) documentation that the residential customer owns or is purchasing the residence served;

(2) documentation that the residential customer has an adequate income;

(3) documentation that the residential customer has an adequate credit reference from a utility where the residential customer had prior utility service;

(4) documentation obtained by the utility from a commercial credit source; or

(5) any other reasonable documentation.

B. If a prospective residential customer cannot establish an acceptable credit rating but previously received utility service under the name of a spouse, the utility may consider prior utility service to that spouse in determining whether and in what amount a security deposit will be charged.

[17.5.410.17 NMAC – Rp, 17.5.410.17 NMAC, 7-1-11]

17.5.410.18 AMOUNTS OF AND ACCOUNTING FOR SECURITY DEPOSITS: Any deposit policy shall be as set forth in the utility's tariff on file with the commission pursuant to 17.1.210 NMAC, but shall conform to the following provisions.

A. A deposit for a residential customer shall not exceed an amount equivalent to one sixth (1/6) of that residential customer's estimated annual billings or not more than one and one half (1 1/2) times that residential customer's estimated maximum monthly bill. A utility shall base its deposit criteria upon the most recent available prior twelve-month corresponding period at the same service location; or, if there is not a comparable period of service at the same service location, the deposit shall be based upon consumption of similar units in the same area.

B. Simple interest on deposits at a rate not less than the rate required by law shall accrue annually to the residential customer's credit for the time the deposit is held by the utility. The deposit shall cease to draw interest on the date it is returned, on the date service is terminated,

or on the date the refund is sent to the residential customer's last known address.

C. Each residential customer who posts a security deposit shall receive in writing at the time of tender of deposit or with the first bill a receipt as evidence thereof. The receipt shall contain the following minimum information:

(1) name of residential customer;

(2) date of payment;

(3) amount of payment; and

(4) statement of the terms and conditions governing the payment, retention, interest, and return of deposits.

D. A utility shall provide means whereby a residential customer entitled to a return of deposit is not deprived of the deposit refund even though the residential customer may be unable to produce the original receipt for the deposit, provided the residential customer can produce adequate identification to insure that the residential customer is entitled to a refund of the deposit.

[17.5.410.18 NMAC – Rp, 17.5.410.18 NMAC, 7-1-11]

17.5.410.19 REFUND OF DEPOSITS, TERMINATION OF GUARANTEES:

A. Any residential customer who has not been chronically delinquent for the twelve-month period from the date of deposit or guarantee shall promptly receive a credit or refund in the amount of the deposit together with accrued interest due or shall be permitted to terminate any guarantee. If the amount of the deposit exceeds the amount of the current bill, the residential customer may request a refund in the amount of the excess if such excess exceeds twenty five dollars (\$25). If the residential customer fails to qualify for a refund of the deposit on the first anniversary date of the deposit, that account shall be reviewed at least annually, and the amount of the deposit shall be credited if the residential customer has not been chronically delinquent during the preceding twelve (12) months. A residential customer may request a refund at any time after twelve (12) months payment history, which refund shall promptly be paid if the residential customer has not been chronically delinquent during the prior twelve-month (12) period, or a utility may pay such refund in the absence of a request within a reasonable period of time.

B. Unclaimed deposits shall be handled as provided by law.

[17.5.410.19 NMAC – Rp, 17.5.410.19 NMAC, 7-1-11]

17.5.410.20 RECORD OF DEPOSITS: A utility shall keep records of deposits and issue receipts of deposits in accordance with the requirements of Paragraphs (3), (4), (6) and (7) of Subsection B of 17.9.560.12 NMAC and Paragraphs

(3), (4), (6) and (7) of Subsection B of 17.10.650.11 NMAC.

[17.5.410.20 NMAC – Rp, 17.5.410.20 NMAC, 7-1-11]

17.5.410.21 INTERNAL UTILITY COMPLAINT PROCEDURES:

A utility shall establish internal procedures pursuant to 17.1.210 NMAC for the prompt, efficient, and thorough receipt, investigation, and, where possible, resolution of all residential customer inquiries, disputes, service requests, and complaints regarding residential utility service and charges. Such internal procedures shall provide that:

A. a utility shall be prepared at all times during normal business hours to receive all residential customer inquiries, disputes, service requests, and complaints;

B. a utility shall have qualified personnel available and prepared to respond to all residential customer inquiries, disputes, service requests, and complaints at all reasonable times during normal business hours;

C. a utility shall make reasonable arrangements for residential customers unable to communicate in the English language to receive assistance;

D. a utility shall provide qualified and authorized utility personnel at reasonable times during normal business hours to negotiate settlement agreements and installment agreements on behalf of the utility; and

E. a utility shall provide qualified personnel or other reasonable means at all times to receive and initiate responses to customer contacts regarding any emergency condition involving utility services.

[17.5.410.21 NMAC – Rp, 17.5.410.21 NMAC, 7-1-11]

17.5.410.22 TESTING OF UTILITY METERS:

A residential customer may request the testing of a utility meter pursuant to Subsection A of 17.9.560.14 NMAC and Paragraph (4) of Subsection A of 17.10.650.13 NMAC or NMSA 1978, Section 62-6-22.

[17.5.410.22 NMAC – Rp, 17.5.410.22 NMAC, 7-1-11]

17.5.410.23 PUBLIC NOTICE OF RESIDENTIAL CUSTOMER RIGHTS:

The utility shall prepare in both Spanish and English information subject to commission approval which in layman's terms summarizes the rights and responsibilities of the utility and its residential customers in accordance with 17.5.410 NMAC. This information shall be displayed prominently by the utility and shall be available to the general public. The utility shall advise new residential customers of the availability of such information upon commencement of

utility service and shall advise its existing residential customers of such availability on an annual basis. The information shall state that it is being provided in accordance with 17.5.410 NMAC and shall contain information concerning, but not limited to:

A. billing procedures, including estimated billing, budget payment plans, installment agreements, and third-party notification programs;

B. methods for residential customer verification of billing accuracy;

C. a description of the operation of applicable rate tariffs, automatic adjustment clauses, and cost of service indexing;

D. residential customer payment requirements and procedures;

E. security deposit and guarantee requirements;

F. special consideration in determining deposits and installment agreements for residential and prospective residential customers who meet the qualifications of LIHEAP;

G. procedures relating to discontinuance and reconnection of service;

H. the utility's inquiry, dispute, service request, and complaint procedures;

I. an explanation of meter reading procedures which would enable a residential customer to read his or her own meter;

J. a procedure whereby a residential customer may avoid discontinuance of service during an extended period of absence;

K. procedures for filing a complaint with the commission;

L. the utility's policy concerning discontinuance of service to those whose lives or health may be endangered by discontinuance;

M. the names and addresses of state and local governmental agencies which have programs available to assist eligible persons with payment of their utility bills;

N. winter moratorium protection; and

O. a statement that members of New Mexico tribes or pueblos who need help with translation or with other matters may contact the director of the commission's consumer relations division at (888) 427-5772, who will contact the appropriate tribal or pueblo official for assistance.

[17.5.410.23 NMAC – Rp, 17.5.410.23 NMAC, 7-1-11]

17.5.410.24 NOTICE, AVAILABILITY AND PUBLIC ACCESS TO SCHEDULES:

A. A utility shall keep on file and provide public access to a copy of

17.5.410 NMAC and its current applicable residential rates, rules, and regulations and shall maintain up-to-date maps, plans, or records of its entire transmission and distribution systems with such other information as may be necessary to enable the utility to advise prospective residential customers as to facilities for serving any locality. Suitable signs shall be posted conspicuously in public areas at utility offices calling to the public's attention that this information is available for inspection.

B. Unless otherwise directed by the commission a utility shall notify its affected residential customers of any change in its tariffs which have been suspended by the commission.

[17.5.410.24 NMAC – Rp, 17.5.410.24 NMAC, 7-1-11]

17.5.410.25 ASSISTANCE TO CUSTOMERS:

A. The utility shall assist the residential customer or prospective residential customer in selecting an appropriate rate tariff and furnish such additional information concerning that tariff as the residential customer may reasonably request.

B. A utility shall maintain residential customer records which contain details of all bills and correspondence sent to or received from the residential customer and evidence of all payments, deposits, guarantees, or other monies received from the residential customer.

C. Copies of residential customer records shall be furnished to that residential customer upon request.

D. Copies of a residential customer's records relevant to a matter in dispute, or for good cause shown, shall be furnished to any person authorized in writing by the residential customer to receive such records.

E. The utility shall correct any nondisputed mistakes in a residential customer's payment history that are brought to its attention.

F. A utility shall maintain records which contain the number of:

(1) disputes that require further action by the utility beyond the initial contact related to billing and services;

(2) settlement agreements made by the utility;

(3) discontinuance of service notices sent to residential customers;

(4) discontinuances of service and the number of reconnections for non-payment;

(5) security deposits collected, number credited or refunded, number of guarantees received and number terminated;

(6) residential customers with installment agreements;

(7) residential customers with

budget payment plans;

(8) estimated bills;

(9) medical certifications received before and after discontinuance of service pursuant to 17.5.410 NMAC;

(10) times beyond twelve (12) hours after receipt of a medical certification before each reconnection of service was accomplished; and

(11) residential customers within whose households resides a disabled, elderly, or other person who may suffer injury or death if utility service is discontinued to the extent that the utility has actual knowledge of the conditions.

G. The above-enumerated records shall be kept for the period of time required by 17.9.560 NMAC and 17.10.650 NMAC, or if not so required for at least three (3) years.

[17.5.410.25 NMAC – Rp, 17.5.410.25 NMAC, 7-1-11]

17.5.410.26 REPORTS TO COMMISSION:

Upon commission request the utility shall provide information required by Subsection F of 17.5.410.25 NMAC to the commission within ten (10) business days or other time period agreed to by the commission.

[17.5.410.26 NMAC – Rp, 17.5.410.26 NMAC, 7-1-11]

17.5.410.27 LINE EXTENSIONS:

Upon a residential customer's request for a line extension a utility shall:

A. provide the residential customer with a copy of the utility's line extension policy and explain the content of such policy;

B. establish a reasonable time not exceeding thirty (30) days after the residential customer has complied with all reasonable utility requirements for the delivery to the residential customer of the utility's estimate for the line extension;

C. complete construction of the line extension within sixty (60) days after the residential customer signs the utility's line extension agreement and after the utility has secured all applicable permits, rights-of-way, materials, and labor necessary for the line extension, and the utility has completed all other applicable contractual obligations; a utility shall be required to exercise due diligence and good faith in its efforts to obtain such permits, rights-of-way, materials, labor, and contractual compliance; however, the utility shall not be required to complete construction of the line extension within this time frame where *force majeure* or hazardous conditions exist;

D. advise the residential customer that if the residential customer is not satisfied with the line extension proposal of the utility including cost and time of construction, an informal review

of the proposal may be provided by utility personnel located in the service area of the residential customer and authorized to conduct such reviews; such personnel shall be in a position to modify such proposal, where appropriate;

E. inform the residential customer in writing of how the residential customer's options concerning the type of installation of a line extension will affect utility charges based on present rates or rates which are the subject of a pending case concerning rates; at a minimum comparisons of average annual utility charges for that residential customer shall be provided.

[17.5.410.27 NMAC – Rp, 17.5.410.27 NMAC, 7-1-11]

17.5.410.28 COST OF LINE EXTENSION:

The amount charged to the residential customer for a line extension shall be based on the estimated total cost to the utility and shall be clearly stated in the written line extension agreement entered into between the utility and the residential customer. The method for collecting the amount charged to the residential customer shall be outlined in applicable tariffs filed with the commission.

[17.5.410.28 NMAC – Rp, 17.5.410.28 NMAC, 7-1-11]

17.5.410.29 NOTICE OF AVAILABILITY OF ENERGY ASSISTANCE AND WINTER MORATORIUM PROTECTION:

Utilities shall make available to the public information regarding:

A. LIHEAP application forms, qualification requirements, application procedures, and locations at which residential customers may submit LIHEAP applications; and

B. winter moratorium protection against discontinued and disconnected service for residential customers who meet the qualifications of LIHEAP, including an explanation of payment options and circumstances under which services may be disconnected or discontinued.

C. Required notice.

(1) Required notice prior to heating season. Beginning with the August billing cycle and prior to the next heating season, all public natural gas and electric utilities subject to the terms of the winter heating season disconnection moratorium law shall communicate in writing to all residential customers at least two times the following statement on either a bill, in a bill insert or through a direct mailing:

(a) "Protection from winter shut-off begins November 15, (year). To avoid potential disconnection of services please contact the human services department at 800-283-4465, or the appropriate tribal or

pueblo entity for eligibility information for low income heating energy assistance program (LIHEAP). Your service will not be disconnected from November 15, (year), through March 15, (year), if you meet the qualifications of LIHEAP and have no past due amounts or you remain current on any settlement or installment agreement for amounts due as of November 15, (year). Members of New Mexico tribes or pueblos who need help with translation or with other matters may contact the commission's consumer relations division at (888) 427-5772, who will contact the appropriate tribal or pueblo official for assistance."

(b) Where it is technically feasible, the foregoing notice language shall be written in both English and Spanish. If not feasible the following statement shall be included "Para informacion en espanol llame (phone no.)."

(2) Required notice of end of moratorium protection. Beginning with the February billing cycle all public natural gas and electric utilities subject to the terms of the winter heating season disconnection moratorium law shall communicate in writing to all residential customers at least one time the following statement on either a bill, in a bill insert or through a direct mailing:

(a) "Protection from winter shut-off ends March 15, (year). To avoid potential disconnection of services please contact (utility name) (phone number) to make arrangements for payment. Members of New Mexico tribes or pueblos who need help with translation or with other matters may contact the commission's consumer relations division at (888) 427-5772, who will contact the appropriate tribal or pueblo official for assistance."

(b) Where it is technically feasible, the foregoing notice language shall be written in both English and Spanish. If not feasible the following statement shall be included "Para informacion en espanol llame (phone no.)."

(3) 15-day notice of discontinuance of service.

All natural gas and electric utilities subject to the terms of the winter heating season disconnection moratorium law shall include the following statements in both English and Spanish in all 15-day disconnect notices issued pursuant to this rule during the heating season:

(a) "15-day disconnect notice for services;"

(b) "Your service will not be disconnected from November 15, (year), through March 15, (year), if you meet the qualifications of the low income home energy assistance program (LIHEAP) and have no past due amounts, or you remain current on any settlement or installment agreement for amounts due as of November 15, (year). For information call New Mexico human

services department at 1-800-283-4465, or the tribal or pueblo entity that administers a tribe's or pueblo's LIHEAP."

[17.5.410.29 NMAC – N, 7-1-11]

17.5.410.30 W I N T E R MORATORIUM PROTECTIONS:

A. Unless requested by the residential customer, no utility shall discontinue or disconnect service to a residential customer during heating season for nonpayment of the residential customer's utility bill if the utility receives notice that the residential customer meets the qualifications of LIHEAP as determined by the administering authority for the current heating season and:

(1) the residential customer has no past due charges on November 15 of the current heating season; or

(2) the residential customer has a settlement agreement or an installment agreement with the utility for amounts other than those owing from the prior heating season, and the residential customer continues to make the agreed-upon payments under the settlement or installment agreement.

B. At any time during the current heating season, a residential customer may become eligible for winter moratorium protection from discontinuance or disconnection of service if a notice issued by the administering authority is provided to the utility that the customer meets the qualifications of LIHEAP and the residential customer either pays the amount due as of November 15 or enters into a settlement or installment agreement for such past-due amounts and continues to make the agreed-upon payments under the settlement or installment agreement.

C. Any residential customer that has had services disconnected or discontinued during the current winter heating season for whom the utility receives, subsequent to the disconnection or discontinuance of service, a proof of qualification issued by the administering authority and has met the payment requirements of Subsection A of 17.5.410.30 NMAC, shall have service reconnected as soon as reasonable but not later than the next working day if otherwise qualified for protection. Immediate payment of a reconnection fee, if any, shall not be a prerequisite to such reconnection.

D. The utility shall make installment agreement options available to any residential customer that has an unpaid bill pursuant to the regulations of the commission.

E. A residential customer who has defaulted on the residential customer's chosen installment agreement and whose utility service has been discontinued or disconnected during the non-heating

season shall be reconnected and maintain the protection afforded by this section by paying reconnection charges if any, and by paying the amount due pursuant to the installment agreement by the date on which service is reconnected.

F. If a residential customer notifies the utility that the residential customer needs payment assistance and requests that the utility report the residential customer's need to the administering authority, the utility shall promptly report the request for assistance to the administering authority, provided that the administering authority called is willing to act on calls made by utilities on behalf of customers.

[17.5.410.30 NMAC – N, 7-1-11]

17.5.410.31 DISCONTINUANCE OF SERVICE:

A. A utility may discontinue utility service to a residential customer without prior notice in the event of:

(1) a condition determined by the utility to be hazardous;

(2) residential customer use of equipment in such manner as to adversely affect the utility's equipment or the utility's service to others;

(3) residential customer's tampering with, damaging, or deliberately destroying the equipment furnished and owned by the utility;

(4) unauthorized use of service provided by the utility.

B. A utility may discontinue service to a residential customer for:

(1) nonpayment of a delinquent account pursuant to 17.5.410.33 NMAC;

(2) failure to post a security deposit or guarantee pursuant to 17.5.410.33 NMAC, as applicable;

(3) failure to comply with the terms and conditions of a settlement agreement or installment agreement entered into pursuant to this rule.

C. A utility may discontinue utility service to a residential customer after three (3) days' prior written notice in the event of the residential customer's:

(1) refusal to grant access at reasonable times to equipment installed upon the premises of the residential customer for the purpose of inspection, meter reading, maintenance, or replacement;

(2) failure to furnish such service, equipment, permits, certificates, or rights-of-way as shall have been specified by the utility as a condition to obtaining service or in the event such equipment or permissions are withdrawn or terminated;

(3) violation of or noncompliance with the utility's rules on file with and approved by the commission;

(4) provision of a fraudulent

medical certification form or financial certification form.

D. The three-day notice required by Subsection C of 17.5.410.31 NMAC shall be in English and Spanish and shall include the following:

(1) a statement of the reason(s) why the utility has issued notice to discontinue utility service pursuant to Subsection C of 17.5.410.31 NMAC;

(2) the title(s), address, telephone number(s), and working hours of utility personnel responsible for carrying out the rights prescribed in 17.5.410 NMAC;

(3) a statement that the residential customer can obtain a review by utility personnel of the reasons for the proposed discontinuance of service, which shall stay the discontinuance during the review, and a statement that a complaint may be filed with the commission if the residential customer disagrees with the utility's determination of the facts upon which the proposed discontinuance is based.

(4) a statement that members of New Mexico tribes or pueblos who need help with translation or with other matters may contact the commission's consumer relations division at (888) 427-5772, who will contact the appropriate tribal or pueblo official for assistance.

[17.5.410.31 NMAC – Rp, 17.5.410.29 NMAC, 7-1-11]

17.5.410.32 PROHIBITIONS ON DISCONTINUANCE OF SERVICE: A utility shall not discontinue service for:

A. the failure of a residential customer to pay for special services;

B. the failure of a residential customer to pay for service received at a separate metering point, residence, or location; however, in the event of discontinuance or termination of service at a separate residential metering point, residence, or location, a utility may transfer any unpaid balance due to any other residential service account of the residential customer and proceed in accordance with subsection B of 17.5.410.31 NMAC;

C. the failure of the residential customer to pay for a different class of service received at the same or different location; however, placing more than one meter at the same location for purposes of billing the usage of specific devices under optional rate tariffs or provisions is not construed as a different class of service;

D. nonpayment of the disputed amount of a bill, as provided by 17.5.410.36 NMAC;

E. delinquency in payment for service to a previous occupant of the same premises unless a court has found the new residential customer legally liable

for the debt of the previous occupant or the previous occupant continues to reside at the premises;

F. failure of a residential customer to pay the bill of another residential customer as guarantor thereof;

G. failure of a residential customer to pay an estimated bill rendered in violation of 17.5.410.15 NMAC;

H. the failure of a residential customer to pay for service received during the heating season if the residential customer qualifies for winter moratorium protection; or

I. the failure of a residential customer to pay for service received if the utility has received a signed medical certification form and a financial certification form as provided by this rule. [17.5.410.32 NMAC – Rp, 17.5.410.30 NMAC, 7-1-11]

17.5.410.33 REQUIREMENTS PRIOR TO DISCONTINUANCE OF SERVICE PURSUANT TO SUBSECTION B OF 17.5.410.31

NMAC: Each utility shall file a tariff for its residential customer service that shall include the following minimum standards for discontinuance of utility services with standardized languages as provided below.

A. Fifteen-day notice. At least fifteen (15) days before a utility discontinues service to a residential customer, the utility shall provide written notice to the residential customer stating its intent to discontinue service and setting forth the residential customer's rights regarding discontinuance of service, budget payment plans, and installment agreements. The notice shall be in English and Spanish. The notice shall be delivered to the residential customer in person, by U.S. mail, postage prepaid, addressed to the last address for the residential customer known to the utility, or by electronic mail if a residential customer has elected to receive electronic billing.

(1) Notwithstanding the provisions of Paragraph (3) of Subsection C of 17.5.410.31 NMAC a fifteen-day notice shall contain:

(a) the title, address, telephone number, and working hours of utility personnel responsible for administering the procedures in this section;

(b) a statement that "if the past due balance on your account has been paid, please disregard this notice";

(c) a statement that "to avoid disconnection we must receive your past due balance of (\$___) no later than (month/day/year), or payment arrangements must be made; please see the enclosed notice for more information";

(d) a statement in both English and Spanish of "customers' rights and responsibilities" set forth in 17.5.410.42

NMAC, and a utility can choose the method of enclosing the required statement of "customers' right and responsibilities".

(2) Notice of winter moratorium protection. At a minimum, during the heating season, each utility shall notify its residential customers who have not been previously qualified for protection under the provisions of the winter moratorium of their rights set forth in this rule and in the format required by this rule.

(3) The 15-day notice shall include specific notice that the utility will not discontinue utility service if the residential customer provides the utility either of the following:

(a) documentation for winter moratorium protection in accordance with this rule; or

(b) valid medical and financial certification forms pursuant to this rule.

B. Final notice. Each utility shall communicate with a residential customer by telephone, mail if delivery to the residential service address can be verified, or personal contact at least two (2) days prior to the specific date of discontinuance of service to: remind the residential customer of the pending date of discontinuance of service; advise the residential customer again of the potential availability of financial assistance for utility service payments; obtain payment of delinquent accounts; and during the heating season, provide a reminder of the protection under the moratorium.

(1) The utility shall have up to five (5) business days from the specific date to perform the disconnection of services or be required to reissue a final notice pursuant to this subsection.

(2) The utility employee who personally contacts a residential customer and the utility employee sent to discontinue utility services shall note any information from the residential customer that a person living in the residential customer's residence is seriously or chronically ill. Such information shall immediately be reported to a utility employee authorized to prevent discontinuance. That employee shall either delay the discontinuance if it is apparent that the forms required by this rule will be received, or state in writing why discontinuance of service will not be delayed.

(3) However, a utility is not required to delay discontinuance of service pursuant to Paragraph (2) of Subsection B of 17.5.410.33 NMAC for more than two (2) times within a twelve-month period. The utility and utility employee shall be held harmless for errors made in good faith in noting, acting upon, or failing to act upon the information provided by the residential customer.

(4) A utility may use reasonable means to verify the accuracy of information

on a medical or financial certification form.

(5) The utility employee sent to discontinue utility service may be empowered to receive payment of delinquent bills, and upon receipt of approved payment method, shall cancel the discontinuance order.

(6) A utility shall not issue a final notice of discontinuance of service to a residential customer when the utility has received notice that actual termination is prohibited by law.

C. Third-party notification: Each utility shall offer its residential customers a third-party notification program and shall notify residential customers that such program is available. The utility shall extend the third-party notification program to those residential customers who notify the utility in writing of their desire to participate in the program and designate a specific person, organization, or governmental agency that is ready, willing, and able to assist the residential customer with the payment of utility bills. Upon receipt of such notice from a residential customer, a utility shall not discontinue service to a participating residential customer for nonpayment of past due charges without:

(1) contacting the designated person, organization, or governmental agency by phone or in writing at least fifteen (15) days prior to the proposed discontinuance of service; and

(2) determining that the designated person, organization, or governmental agency has not made a commitment to assist with payment of the residential customer's past due charge within a reasonable period of time.

D. Timing of discontinuance of service. A utility may discontinue service to a residential customer during the hours from 7:30 a.m. to 4:00 p.m. on Monday through Thursday. A utility may not discontinue service less than twenty-four (24) hours prior to a holiday or weekend unless the utility's business office is open for receipt of payment of past due charges and utility personnel are available to restore service during the holiday or weekend once payment is received.

[17.5.410.33 NMAC – Rp, 17.5.410.31 NMAC, 7-1-11]

17.5.410.34 EMERGENCY DISCONTINUANCE OF SERVICE:

Notwithstanding any other provision of 17.5.410 NMAC, a utility may temporarily and without notice discontinue residential service for reasons of operation, maintenance, health, safety, or a state of emergency.

[17.5.410.34 NMAC – Rp, 17.5.410.32 NMAC, 7-1-11]

17.5.410.35 RESTORATION OF

SERVICE: Upon a residential customer's request a utility shall restore service promptly when the cause for discontinuance of service has been eliminated, applicable restoration or reconnection charges paid, and, if required, satisfactory payment arrangements have been made. At all times a reasonable effort shall be made to restore service on the day restoration is requested, and in any event restoration shall be made no later than the next working day following the day on which the cause for discontinuance of service has been eliminated. Provided further that in the event a medical certification and a financial certification contemplated by Paragraph (6) of Subsection C of 17.5.410.42 NMAC is received, service shall be reestablished within twelve (12) hours of receipt. [17.5.410.35 NMAC – Rp, 17.5.410.33 NMAC, 7-1-11]

17.5.410.36 BILLING DISPUTES; NOTICE BY RESIDENTIAL CUSTOMER; PAYMENT OF UNDISPUTED AMOUNT: A residential customer may advise a utility by written notice, by telephone, by email, or in person that utility charges are in dispute. If a residential customer disputes the amount of utility charges, the residential customer shall pay the utility an amount equal to that part of the utility charges not in dispute. The amount not in dispute shall be mutually determined by the parties. Failure of a residential customer to pay a utility the nondisputed amount of utility charges shall constitute a waiver of the residential customer's right to continued service. [17.5.410.36 NMAC – Rp, 17.5.410.34 NMAC, 7-1-11]

17.5.410.37 SETTLEMENT OF DISPUTED AMOUNT:

A. When a utility and a residential customer settle a dispute, the utility and residential customer may enter into a settlement agreement to pay the amount of the bill. If applicable, any excess amount paid previously by the residential customer shall promptly be credited to the residential customer's account, and if the amount is in excess of twenty-five dollars (\$25) and if so requested by the residential customer, the excess amount shall promptly be refunded.

B. If the terms of the settlement agreement extend beyond forty-five (45) days, it shall be considered an installment agreement and shall be subject to the requirements of 17.5.410.40 NMAC.

C. If a residential customer fails to comply with the settlement agreement, a utility shall notify the residential customer at least seven (7) days before discontinuing service that service will be discontinued.

D. A settlement agreement to pay an outstanding past due balance does

not relieve the residential customer of the obligation to pay future bills on a current basis.

[17.5.410.37 NMAC – Rp, 17.5.410.36 NMAC, 7-1-11]

17.5.410.38 ADJUSTMENT OF BILLS: Bills that are incorrect due to meter or billing errors shall be adjusted in accordance with the requirements of 17.9.560 NMAC and 17.10.650 NMAC.

[17.5.410.38 NMAC – Rp, 17.5.410.38 NMAC, 7-1-11]

17.5.410.39 F I L I N G COMPLAINT WITH COMMISSION:

A. Notice to customers. If the residential customer and utility are unable to resolve a dispute, the utility representative shall:

(1) advise the residential customer that if the complaint cannot be resolved to the parties' satisfaction, each has a right to file an informal or formal complaint with the commission; and

(2) give the residential customer the address and telephone number where the residential customer may file a complaint with the commission;

(3) if the residential customer is a member of a New Mexico tribe or pueblo, the utility shall advise the customer that he or she can request help with translation or other assistance by contacting the commission's consumer relations division at (888) 427-5772, who will contact the appropriate tribal or pueblo official for assistance.

B. Informal complaints by Native Americans. The commission's consumer relations division, to the extent practicable and consistent with applicable law, should process informal complaints filed by Native Americans in accordance with any applicable guidelines or directives established by the complainant's tribe or pueblo.

[17.5.410.39 NMAC – Rp, 17.5.410.39 NMAC, 7-1-11]

17.5.410.40 INSTALLMENT AGREEMENTS:

A. A utility shall attempt to arrange an installment agreement for the payment of past due charges when a residential customer who has not been chronically delinquent indicates an inability to pay the charges. Service will not be discontinued if, on or before the specific date for discontinuance, the residential customer enters into an installment agreement with the utility. The utility may also maintain a list of organizations in the area that may provide assistance to residential customers in paying utility bills and shall notify residential customers that application forms for LIHEAP are available upon request and at its billing offices. Utilities are encouraged

to refer low-income assistance inquiries to the administering authority consistent with Subsection A of 17.410.41 NMAC.

B. A utility is not required to enter into an installment agreement with a chronically delinquent residential customer. However, if a chronically delinquent residential customer can demonstrate to the utility that the residential customer does not have adequate financial resources to pay the outstanding bill without participation in an installment agreement because the residential customer meets the qualifications of LIHEAP, or is subject to other special circumstances, the utility shall give special consideration to such a residential customer in determining whether to offer an installment agreement. In making such determination, a utility shall accept documentation from the administering authority that such residential customer meets the qualifications of LIHEAP.

C. Every installment agreement shall provide that service will not be discontinued if the residential customer pays a reasonable portion of the outstanding bill when terms of the installment agreement are reached and agrees to pay the remaining outstanding balance in reasonable installments until the bill is paid. For purposes of determining reasonableness the parties shall weigh the following:

(1) the size of the outstanding balance;

(2) the residential customer's ability to pay;

(3) the residential customer's payment history;

(4) the time the balance has been outstanding;

(5) the reasons why the balance has been outstanding;

(6) a six month installment agreement for residential customers with significant arrearages; and

(7) any other relevant factors relating to the residential customer's service.

D. An installment agreement to pay an outstanding past due balance on a bill does not relieve the residential customer from the obligation to pay future bills on a current basis.

E. If the residential customer has entered into an installment agreement as provided by this rule, the residential customer shall receive a statement of:

(1) the actual service charges incurred for the current billing period;

(2) the amount of the installment payment due; and

(3) the total amount due (sum of (1) and (2)).

F. A residential customer may offer the utility a proposed installment agreement or a proposed change in the terms of an existing installment agreement.

If the utility and the residential customer do not reach an agreement, the utility may refuse the offer orally and shall note in that residential customer's records the reason for refusal and what special consideration was given for residential customers who meet the qualifications of LIHEAP. Upon final refusal, the utility also shall provide oral notice of the right of the residential customer to appeal the refusal to the commission.

[17.5.410.40 NMAC – Rp, 17.5.410.40 & 41 NMAC, 7-1-11]

17.5.410.41 FAILURE TO COMPLY WITH INSTALLMENT AGREEMENT:

A. If a residential customer fails to comply with an installment agreement, a utility may discontinue service after notifying the residential customer by personal delivery of written notice, by first class mail or electronic mail, if the residential customer has elected to receive electronic billing, that the residential customer is in default of the installment agreement.

(1) The notice shall be written in simple language in English and Spanish and shall state:

(a) the nature of the default;

(b) the specific date service shall be stopped; and

(c) the following statements: "if you have difficulty paying this bill, and feel you may qualify for assistance in paying your utility bill from the low-income home energy assistance program (LIHEAP) or another assistance program in your community, contact the human services department at 1-800-283-4465, the tribal or pueblo entity that administers a tribes or pueblo's LIHEAP, or contact the residential customer service representative at this utility; application forms for LIHEAP are available at the billing offices of this utility, at the human services department, and at the tribal or pueblo entity that administers a tribe's or pueblo's LIHEAP; application forms should be returned to the human services department or the tribe or pueblo entity that administer's a tribe's or pueblo's LIHEAP; the human services department and the tribal or pueblo entity, and not this utility, administer the program and determine your eligibility to receive assistance."

(2) The notice shall also state that unless a payment which brings the installment agreement current is made within seven (7) days from the date of notice the utility will discontinue service on or after the specific date identified in the notice; provided, however, that during the period from November 15 to March 15, the provisions of 17.5.410.30 NMAC shall apply.

B. Each utility shall provide a procedure for reviewing residential customer allegations that a proposed

installment agreement is unreasonable, that a utility charge is not due and owing, or that the residential customer has not violated an existing installment agreement. Such procedure shall provide due notice to residential customers, shall not be conducted by the credit department of the utility, and shall authorize the reviewing employee to order appropriate corrective action. A utility shall not discontinue service until the review is completed.-

C. Nothing in 17.5.410.40 through 17.5.410.41 NMAC shall preclude a utility and a residential customer from renegotiating the terms of an installment agreement.

[17.5.410.41 NMAC – Rp, 17.5.410.42 NMAC, 7-1-11]

17.5.410.42 CUSTOMERS' RIGHTS AND RESPONSIBILITIES:

A statement of customer's rights and responsibilities is required to be enclosed in each 15-day notice of discontinuance of service and served by a utility on a residential customer pursuant to 17.5.410.33 NMAC. Each statement shall be in both English and Spanish and shall be on file with the commission.

A. Each statement shall be entitled in bold letters "your rights and responsibilities regarding discontinuance of services".

B. Each statement shall be addressed to "Dear (utility name) residential customer.

C. Each statement shall include:

(1) a statement that "this notice is to inform you that your utility payment is past due; your service will be disconnected after the date printed on the enclosed bill if payment is not made by then; upon request, we can provide outstanding charge information to you including the dates of service during which the outstanding charges were incurred and the date and amount of the last payment";

(2) a statement that "you can participate in a payment plan if you can demonstrate that you do not have the financial resources to pay the outstanding amount, or if you are low income or are subject to other special circumstances";

(3) a statement in capital letters that "IF YOU HAVE DIFFICULTY PAYING THIS BILL, AND FEEL YOU MAY QUALIFY FOR ASSISTANCE IN PAYING YOUR UTILITY BILL FROM THE LOW INCOME HOME ENERGY ASSISTANCE PROGRAM, OR ANOTHER ASSISTANCE PROGRAM IN YOUR COMMUNITY, CONTACT THE COMMUNITY ASSISTANCE SECTION OF THE HUMAN SERVICES DEPARTMENT AT 1-800-283-4465, THE TRIBAL OR PUEBLO ENTITY

THAT ADMINISTERS A TRIBE'S OR PUEBLO'S LIHEAP, OR THE CUSTOMER SERVICE REPRESENTATIVE AT THIS UTILITY";

(4) a statement in capital letters that "LOW INCOME HOME ENERGY ASSISTANCE PROGRAM (LIHEAP) APPLICATION FORMS FOR THE LOW INCOME HOME ENERGY ASSISTANCE PROGRAM ARE AVAILABLE AT THE BILLING OFFICES OF THIS UTILITY, AT THE HUMAN SERVICES DEPARTMENT, AND AT THE TRIBAL OR PUEBLO ENTITY THAT ADMINISTERS A TRIBE'S OR PUEBLO'S LIHEAP. YOU SHOULD RETURN THE APPLICATION FORMS TO THE HUMAN SERVICES DEPARTMENT OR THE TRIBAL OR PUEBLO ENTITY THAT ADMINISTERS THE PROGRAM AND DETERMINES YOUR ELIGIBILITY TO RECEIVE ASSISTANCE";

(5) a statement that "if you believe that there is an error in your billing, contact us immediately for a review; after you pay the undisputed amount of your bill, we will postpone disconnection of your service until the dispute is resolved";

(6) a statement that "if you or someone in your household are seriously or chronically ill, we will not disconnect your service, if at least two days before the disconnection date, we receive an original of the attached [utility name] medical and financial certification forms; the medical certification form must be completed by a licensed medical professional; an original of the attached financial certification form, stating that you qualify for financial assistance, must be completed by an agency providing assistance in or for the state of New Mexico;

(7) a statement that "if your service has been disconnected, we will restore service within twelve hours after you have satisfied the certification requirements above; your obligation to pay your bill is not relieved if service is continued or reestablished because we receive these certifications";

(8) a statement that "between November 15 through March 15, if you qualify for low income home energy assistance program (LIHEAP), you may be protected from having your services disconnected for non-payment; for more information, please call us at (utility telephone number)";

(9) a statement in capital letter that "TO RESTORE SERVICE THAT HAS BEEN DISCONNECTED, A RECONNECT FEE OF \$ _____ MAY BE CHARGED";

(10) a statement of the utility-specific programs, if any;

(11) a statement that "we can put you in touch with other organizations in your community that might be able to help you; if you have a relative, friend, or agency that

will assist in paying your bills, and you want us to notify them when disconnect notices are sent, contact us”;

(12) a statement that “(utility budget bill program name) can help even out your payments throughout the year; you still pay for all of the energy you use; you can cancel your participation at any time; upon cancellation, all amounts are due and become payable within 30 days; any credits will be applied to your account”;

(13) a statement “see your bill for your local (utility name) payment office location; or, contact us for third-party and other pay locations nearest you”;

(14) a statement “to contact us, call us at (utility phone number) from (utility hours) (utility days); holiday hours vary or, go to (utility web site)”;

(15) a statement “if you are not satisfied with the arrangements that we provide, you have the right to file a complaint with the NMPRC, 1120 Paseo de Peralta, Santa Fe, NM 87501; telephone 505-827-6940 or 1-888-4 ASK PRC or 1-888-427-5772”; and

(16) a statement that “special consideration will be given to a residential customer who meets the qualifications of LIHEAP, or has other special circumstances, in determining deposits and installment agreements; in making such determination, a utility shall accept documentation from the administering authority that such residential customer meets the qualifications of LIHEAP.”

[17.5.410.42 NMAC – N, 7-1-11]

17.5.410.43 MEDICAL CERTIFICATION FORM:

MEDICAL CERTIFICATION

I (patient), hereby authorize the medical professional signing this certification to disclose to [utility] the information contained in this medical certification form.

signature date

NOTE: In order to continue to receive utility service, you must complete both parts of this medical certification form and a financial certification form. This certification is valid for ninety (90) days from the signature date of the medical professional.

I, [insert printed name of residential customer], hereby certify that I am the person responsible for the charges for utility service at [insert service address] that a seriously or chronically ill person, [insert name of seriously or chronically ill person] resides there, and that I am financially unable to pay my bill at this time. I understand that this certification does not relieve me of the responsibility to pay my bill, and that I must reapply for financial certification at least every ninety (90) days. In addition, I understand that I may make payment arrangements with [insert name of utility].

I certify the information provided is true and correct to the best of my knowledge.

date customer’s telephone number customer’s signature

I, [insert name of medical professional] certify that:

I am a licensed physician, physician’s assistant, osteopathic physician, osteopathic physician’s assistant or certified nurse practitioner who holds license number _____(insert license number) ____ (insert license holder initial) and that on _____(insert date) I examined _____(insert name of seriously or chronically ill person) who I am informed resides at _____(insert service address) ____ (insert license holder initial).

SAID PERSON IS SERIOUSLY OR CHRONICALLY ILL (DEFINITION OF SERIOUS AND CHRONICALLY ILL: AN ILLNESS OR INJURY THAT RESULTS IN A MEDICAL PROFESSIONAL’S DETERMINATION THAT THE LOSS OF UTILITY SERVICE WOULD GIVE RISE TO A SUBSTANTIAL RISK OF DEATH OR GRAVELY IMPAIR HEALTH)

Utility service is necessary for said person’s health during the recovery period for the following reason(s), (if applicable, list medically necessary equipment): _____, _____(insert license holder initial).

signature of medical professional

signature date

office address, telephone number, and fax number of medical professional

date of last examination

[17.5.410.43 NMAC – Rp, 17.5.410.43 NMAC, 7-1-11]

17.5.410.44 FINANCIAL CERTIFICATION FORM:

FINANCIAL CERTIFICATION

NOTE: You must complete Sections I and II or Section III of this financial certification form and a medical certification form must be completed for you to continue receiving utility service.

This certification is valid for ninety (90) days from the signature date of the medical professional on the medical certification form.

History of Repealed Material:

General Order No. 32, In the Matter of an Interim Policy Governing the Disconnection of Utility Service to - Repealed, 8-9-88

General Order No. 32-A, Rules Governing Discontinuance of Utility Service for Non-Payment of Past Due Utility Charges - Repealed, 3-23-87

17.5.410 NMAC, Residential Customer Service By Gas, Electric and Rural Electric Cooperative Utilities filed 10-11-2001 was replaced by 17.5.410 NMAC, Residential Customer Service By Gas, Electric and Rural Electric Cooperative Utilities, effective 07-1-2011.

End of Adopted Rules Section

This page intentionally left blank

Other Material Related to Administrative Law

**NEW MEXICO
DEPARTMENT OF
AGRICULTURE**

Public Meeting Notice

A meeting of the Acequia and Community Ditch Fund Committee will be held to determine distribution of the 2011 Acequia and Community Ditch Fund. The meeting will be held on Monday, July 11, 2011, at 1:00 p.m. in Santa Fe, New Mexico, Room 326, State Capitol Building.

Copies of the agenda may be obtained by contacting the New Mexico Department of Agriculture, at (575) 646-1091, or by writing New Mexico Department of Agriculture, Agricultural Programs and Resources, MSC-APR, P O Box 30005, Las Cruces, New Mexico 88003-8005.

NOTICE TO PERSONS WITH DISABILITIES: If you have a disability and require special assistance to participate in this meeting, please contact the New Mexico Department of Agriculture at least three (3) days prior to the meeting, at (575) 646-1091. Disabled persons who need documents such as agendas or minutes in accessible form should contact the New Mexico Department of Agriculture.

**End of Other Related Material
Section**

Submittal Deadlines and Publication Dates 2011

Volume XXII	Submittal Deadline	Publication Date
Issue Number 1	January 4	January 14
Issue Number 2	January 18	January 31
Issue Number 3	February 1	February 14
Issue Number 4	February 15	February 28
Issue Number 5	March 1	March 15
Issue Number 6	March 16	March 31
Issue Number 7	April 1	April 15
Issue Number 8	April 18	April 29
Issue Number 9	May 2	May 16
Issue Number 10	May 17	May 31
Issue Number 11	June 1	June 15
Issue Number 12	June 16	June 30
Issue Number 13	July 1	July 15
Issue Number 14	July 18	July 29
Issue Number 15	August 1	August 15
Issue Number 16	August 16	August 31
Issue Number 17	September 1	September 15
Issue Number 18	September 16	September 30
Issue Number 19	October 3	October 17
Issue Number 20	October 18	October 31
Issue Number 21	November 1	November 15
Issue Number 22	November 16	November 30
Issue Number 23	December 1	December 15
Issue Number 24	December 16	December 30