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AN ACT

RELATING TO PUBLIC REGULATION; PROVIDING FOR A REFUND OF FEES  
IN CERTAIN SITUATIONS; REMOVING ENFORCEMENT DUTIES OF THE  
ATTORNEY GENERAL.

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

Section 1. A new section of the Public Utility Act,  
Section 62-13-2.1 NMSA 1978, is enacted to read:

"62-13-2.1. REFUND OF FEES.--If the commission  
dismisses a complaint for lack of probable cause, the  
commission may refund a fee paid pursuant to Subsection B of  
Section 62-13-2 NMSA 1978 if the commission determines that  
the dismissed complaint was filed in good faith."

Section 2. Section 70-3-19 NMSA 1978 (being Laws 1969,  
Chapter 71, Section 9, as amended) is amended to read:

"70-3-19. ENFORCEMENT--PENALTIES.--

A. If as a result of investigation the commission  
has good cause to believe that any person is violating any  
provision of Subsection A of Section 70-3-18 NMSA 1978 or any  
regulation adopted by the commission under the Pipeline  
Safety Act, the commission shall, when practicable and except  
in the case of a knowing and willful violation, give the  
person notice of the violation and an opportunity to comply.  
If the commission is unable within a reasonable time to  
obtain voluntary cooperation to prevent the continuing

1 violation, the commission may apply for an injunction in the  
2 district court of the county in which the violation occurs to  
3 secure compliance. The failure to give notice and afford an  
4 opportunity to comply shall not preclude the granting of  
5 injunctive relief.

6 B. The trial before the district court shall be  
7 before the court without jury, and the court shall enter  
8 judgment and orders enforcing the judgment as the public  
9 interest and equities of the case may require.

10 C. Any person owning or operating gas pipeline  
11 facilities or engaged in the transportation of gas or owning  
12 or operating oil pipeline facilities or engaged in the  
13 transportation of oil who has been determined by order of the  
14 commission after hearing to have violated any provision of  
15 Subsection A of Section 70-3-18 NMSA 1978 or any regulation  
16 promulgated under the Pipeline Safety Act applicable to  
17 intrastate pipeline facilities shall be subject to a civil  
18 penalty in an amount not to exceed twenty-five thousand  
19 dollars (\$25,000) for each violation for each day that the  
20 violation persists, except that the maximum civil penalty  
21 shall not exceed five hundred thousand dollars (\$500,000) for  
22 any related series of violations.

23 D. In determining the amount of the penalty, the  
24 commission shall consider the nature, circumstances and  
25 gravity of the violation and, with respect to the person

1 found to have committed the violation, the degree of  
2 culpability, any history of prior violations, the effect on  
3 ability to continue to do business, any good faith in  
4 attempting to achieve compliance, ability to pay the penalty  
5 and other matters as justice may require.

6 E. Judicial review of any provision of this  
7 section may be accomplished in the same manner as is found in  
8 Section 70-3-15 NMSA 1978.

9 F. Any person who willfully and knowingly injures  
10 or destroys or attempts to injure or destroy an intrastate  
11 pipeline facility shall upon conviction be subject for each  
12 offense to a fine not to exceed twenty-five thousand dollars  
13 (\$25,000) or imprisonment for a term not to exceed fifteen  
14 years, or both.

15 G. Any person who willfully and knowingly damages,  
16 removes or destroys any pipeline sign, right-of-way marker  
17 required by the Pipeline Safety Act or any regulation or  
18 order issued pursuant to that act shall upon conviction be  
19 subject for each offense to a fine of not more than five  
20 thousand dollars (\$5,000) or imprisonment for a term not to  
21 exceed one year, or both." \_\_\_\_\_