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FISCAL IMPACT REPORT

ORIGINAL DATE 01/28/13
 SPONSOR HENRC LAST UPDATED 03/11/13 HB 163/HENRCS
 SHORT TITLE Utility Company First Right of Refusal SB _____
 ANALYST Clark

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY13	FY14		
	NFI		

(Parenthesis () Indicate Expenditure Decreases)

Relates to SB 175

SOURCES OF INFORMATION

LFC Files

Responses Received From

Public Regulation Commission (PRC)

Other Responses

Conservation Voters New Mexico

SUMMARY

Synopsis of Bill

The House Energy and Natural Resources Committee substitute for House Bill 163 provides for the incumbent public electric utility or incumbent generation and transmission cooperative to exercise a right of first refusal to construct, own, and maintain a transmission facility that has been identified as being eligible for regional cost allocation and that has been approved for construction by a regional transmission organization. This bill defines transmission to be a nominal voltage of 69 kilovolts or more.

FISCAL IMPLICATIONS

There are no significant fiscal implications.

SIGNIFICANT ISSUES

The PRC reports many proposals have been made to build major transmission facilities to carry electrical power from one New Mexico location to another or from a New Mexico location to out-of-state locations. Little attention and discussion has been directed to the matter of interconnection with local incumbent electric utilities and to the impacts that such projects may have on current and future reliability and operational considerations that such facilities would have on the local incumbent utility. The U.S. Federal Energy Regulatory Commission (FERC) recently enacted Rule 1000, whereby planning for transmission projects must now be accomplished at the regional and interregional level. The FERC order also contains a provision where some or all of the cost for these proposed projects could be allocated to the local incumbent utility based on reliability and benefits apportionment criteria, even though the incumbent utility may not be the owner or operators of the transmission project and regardless of the incumbent utility's need. These bills do not affect the PRC's authority for location control of transmission projects of 230 kilovolts or more and associated with a power plant equal to or greater than 300 megawatts proposed by any entity, utility or not.

Without this bill, the FERC order would allow any other transmission project proposed by a non-incumbent utility to be built without that utility's participation and could result in costs to be imposed upon the utility without any prior review of any state agency.

However, there are no cost restrictions or cost containment provisions in the bill, and opponents view it as anti-competitive. By providing a utility the right of first refusal, the construction of transmission facilities might cost more than if the facilities were to be built and operated by another entity able to do so more cheaply, provided the entity met minimum standards. The utility might then be able to pass any increased costs onto the ratepayers. However, the PRC notes the utility would still be required to get approval of cost recovery from the Commission and would risk approval of full cost recovery if the Commission were aware that there were other lower cost options available. In the alternative, if the utility opts out the first right of refusal, the utility may be put into a position of buying capacity on a line they don't own, or may have to build to provide the service they need.

The PRC also notes the bill would afford the incumbent utility the option to own and operate any transmission project which is proposed and which interconnects within the incumbent utility's service territory and facilities. The bill also requires the PRC to be notified when a utility exercises such options.

OTHER SUBSTANTIVE ISSUES

Conservation Voters New Mexico provided analysis detailing an issue of concern with the language in this bill -- specifically the potential environmental impact of failure to contain costs. Transmission facilities are getting more and more expensive at the same time as the desire for renewable energy transmission is increasing. A significant obstacle to the renewable energy industry right now is the lack of transmission capacity and the costs involved with developing such capacity. Given the importance of, and additional potential for, the renewable energy industry in New Mexico, cost containment for transmission is critical to nurturing the industry and seeing it thrive.