

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website (www.nmlegis.gov). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

ORIGINAL DATE 01/28/13
 SPONSOR SCONC LAST UPDATED 02/22/13 HB _____
 SHORT TITLE Utility Company First Right of Refusal SB 175/SCONCS
 ANALYST Clark

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY13	FY14		
	NFI		

(Parenthesis () Indicate Expenditure Decreases)

Relates to HB 163

SOURCES OF INFORMATION

LFC Files

Responses Received From

Public Regulation Commission (PRC)

Other Responses

Conservation Voters New Mexico

SUMMARY

Synopsis of Bill

The Senate Conservation Committee Substitute for Senate Bill 175 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 transmission facilities to which it is interconnected.

Section A of the bill gives the incumbent interconnecting public utility or generation and transmission cooperative the right to elect to construct, own and operate a transmission facility which has been designated by a transmission planning authority as needed for purposes such as reliability and sharing reserves, production cost savings, and congestion relief, and which meets public policy requirements and has been identified as eligible for regional cost allocation or approved for construction by a regional transmission organization. If two or more incumbent utilities are involved in the interconnection(s), then the two or more utilities will determine which utility will build, own, and maintain which segments. Section A further requires the incumbent utility to notify the PRC in writing within 60 days if it elects to construct, own, or

maintain the facility, and within 18 months, or longer if approved by the PRC, to apply for a certificate of public convenience and necessity (“CCN”), if such an application is required under existing section 62-9-1 NMSA 1978. If the utility does not apply for a CCN, if required, the incumbent utility waives its first right.

Section B defines “electric transmission facility” and “transmission facility” as an electric transmission line and associated facilities designed for a nominal voltage of 69 kilovolts or more that will interconnect with public utility or generation and transmission cooperative transmission facilities, but does not include a transmission facility funded solely by the transmission facility participants and for which there has been no request for regional cost allocation. Section B also defines “generation and transmission cooperative” as defined in the existing Subsection E of Section 62-6-4 NMSA 1978 and “public utility” as defined in the existing Subsection G of Section 62-3-3 NMSA 1978. Section B also defines “regional transmission planning authority” as a regional transmission organization.

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 US Federal Energy Regulatory Commission (FERC) recently enacted Order 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.

The bill clarifies the conditions under which an incumbent utility can elect to construct, own, and operate transmission facilities to which it will be interconnected and which have been approved under FERC Order 1000 processes for construction and cost allocation. 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 prior review by any state agency.

There are no cost restrictions or cost containment provisions in this bill. 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. The PRC notes, however, the utility would still be required to get approval of cost recovery from the PRC and would risk approval of full cost recovery if the PRC were aware that there were other, lower cost options available.

OTHER SUBSTANTIVE ISSUES

Conservation Voters New Mexico provided analysis detailing an issue of concern with the potential environmental impact of failure to contain costs. Transmission facilities costs are rising, and 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.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The PRC states that because of the FERC Order 1000 process, absent this legislation, incumbent utilities and generation and transmission cooperatives could possibly not be afforded an opportunity to build, own, and maintain facilities to which they are interconnected and to which they might be allocated costs and benefits.

JC/svb:blm