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HOUSE BILL 356

**51ST LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2014**

INTRODUCED BY

Carl Trujillo

AN ACT

RELATING TO UTILITIES; AMENDING A SECTION OF THE RURAL ELECTRIC  
COOPERATIVE ACT TO LIMIT PAYMENT OF ACCESS FEES.

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

SECTION 1. Section 62-15-3 NMSA 1978 (being Laws 1939,  
Chapter 47, Section 3, as amended) is amended to read:

"62-15-3. POWERS.--A cooperative shall have power to:

- A. sue and be sued, complain and defend, in its corporate name;
- B. have perpetual existence by its corporate name;
- C. adopt a corporate seal and alter the same at pleasure, and to use the seal by causing it or a facsimile of it to be impressed or affixed or in any other manner reproduced; but failure to have or to affix a corporate seal does not affect the validity of any instrument or any action

underscoring material = new  
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1 taken in pursuance of or in reliance on any instrument;

2 D. own, operate, lease or control plant, property  
3 and facilities for the generation, transmission or  
4 distribution, sale or furnishing of electricity for light, heat  
5 or power or other uses; ~~and~~ to generate, manufacture,  
6 purchase, acquire, accumulate and transmit electric energy; and  
7 to distribute, sell, supply and dispose of electric energy in  
8 rural areas to or for its members, governmental agencies and  
9 political subdivisions and the general public; provided that  
10 nothing in the Rural Electric Cooperative Act shall be  
11 interpreted to require a cooperative to provide service to any  
12 customer within the jurisdiction of a governmental entity,  
13 including an Indian nation, tribe or pueblo, if the provision  
14 of that service would result in the cooperative being in  
15 violation of the laws of the governmental entity;

16 E. make loans to persons to whom electric energy is  
17 or will be supplied by the cooperative for the purpose of, and  
18 otherwise to assist such persons in, wiring their premises and  
19 installing electric and plumbing fixtures, appliances,  
20 apparatus and equipment of any kind and character; ~~and~~ in  
21 connection therewith, to purchase, acquire, lease, sell,  
22 distribute, install and repair such electric and plumbing  
23 fixtures, appliances, apparatus and equipment; ~~and~~ to accept  
24 or otherwise acquire and to sell, assign, transfer, endorse,  
25 pledge, hypothecate and otherwise dispose of notes, bonds and

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1 other evidences of indebtedness and any type of security  
2 therefor; ~~and~~ to lend money for its corporate purposes,  
3 invest and reinvest its funds; and to take and hold real and  
4 personal property as security for the payment of funds so  
5 loaned or invested;

6 F. make loans to persons to whom electric energy is  
7 or will be supplied by the cooperative for the purpose of, and  
8 otherwise to assist such persons in, constructing, maintaining  
9 and operating electric refrigeration plants;

10 G. purchase, take, receive, subscribe for or  
11 otherwise acquire, own, hold, vote, exercise rights arising out  
12 of the ownership or possession thereof, use, employ, sell,  
13 assign, transfer, convey, mortgage, lend, pledge, hypothecate  
14 or otherwise dispose of and otherwise use and deal in and with  
15 shares, rights, memberships or other interests in, or notes,  
16 bonds, debentures, mortgages, passbooks, certificates of  
17 deposit or other obligations of, other domestic or foreign  
18 corporations, associations, partnerships, limited partnerships  
19 or individuals, or direct or indirect obligations or securities  
20 of individuals, associations, cooperatives, partnerships,  
21 corporations or of the United States or of any other  
22 government, state, territory, governmental district or  
23 municipality or of any instrumentality thereof;

24 H. construct, purchase, take, receive, lease as  
25 lessee or otherwise acquire, and to own, hold, improve, use,

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1 equip, maintain and operate, and to sell, assign, transfer,  
2 convey, exchange, lease as lessor, mortgage, pledge or  
3 otherwise dispose of or encumber electric transmission and  
4 distribution lines or systems, electric generating plants,  
5 electric refrigeration plants, property, buildings, structures,  
6 dams, plants and equipment and any kind and class of real or  
7 personal property [~~which~~] that shall be deemed necessary,  
8 convenient or appropriate to accomplish the purpose for which  
9 the cooperative is organized; provided that nothing in this  
10 subsection shall be interpreted to allow a cooperative to pay  
11 an access fee or trespass fine to a governmental entity,  
12 including an Indian nation, tribe or pueblo, for utility access  
13 to, on, over or under lands within that jurisdiction if that  
14 fee or fine is above the prevailing market value for comparable  
15 easements;

16 I. purchase or otherwise acquire, and to own, hold,  
17 use and exercise, and to sell, assign, transfer, convey,  
18 mortgage, pledge, hypothecate or otherwise dispose of or  
19 encumber franchises, rights, privileges, licenses, rights-of-  
20 way and easements;

21 J. make contracts and guarantees and incur  
22 liabilities, borrow money at such rates of interest as the  
23 board of trustees shall determine and otherwise contract  
24 indebtedness, and to issue its notes, bonds and other evidences  
25 of indebtedness therefor, and to secure the payment of any

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1       thereof by mortgage, pledge, deed of trust, assignment,  
2       security agreement or any other hypothecation or encumbrance  
3       upon any or all of its then-owned or after-acquired real or  
4       personal property, assets, franchises, revenues or income;

5               K.   construct, maintain and operate electric  
6       transmission and distribution lines along, upon, under and  
7       across all public thoroughfares, including without limitation  
8       all roads, highways, streets, alleys and bridges, and upon,  
9       under and across all publicly owned property;

10              L.   exercise the power of eminent domain in the  
11       manner provided by the Eminent Domain Code for the exercise of  
12       that power by corporations constructing or operating electric  
13       transmission and distribution lines or systems;

14              M.   conduct its business, carry on its operations,  
15       have offices and exercise the powers granted by the Rural  
16       Electric Cooperative Act in any state, territory, district or  
17       possession of the United States or in any foreign country;

18              N.   adopt, amend and repeal bylaws consistent with  
19       the Rural Electric Cooperative Act and the Public Utility Act;

20              O.   make donations for the public welfare or for  
21       charitable, scientific or educational purposes, and in time of  
22       war to make donations in aid of war activities;

23              P.   transact any lawful business in aid of  
24       governmental policy;

25              Q.   subject to any limitations set forth in the

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1 articles of incorporation or bylaws, do such other and further  
2 acts and undertake such other and further activities and  
3 transactions for the mutual benefit of its members and patrons  
4 as may be done and undertaken by a corporation organized under  
5 the Business Corporation Act for the same or any additional  
6 lawful purpose, including the indemnification of and the  
7 procurement of insurance for present and former trustees,  
8 officers, employees and agents of the cooperative as if those  
9 trustees and members were directors and shareholders  
10 respectively;

11 R. pay pensions and establish pension plans,  
12 pension trusts, bonus plans, health insurance plans, savings  
13 plans and any other incentive plans or employee relation plans  
14 customarily used by broadly held corporations for its trustees,  
15 officers and employees, or for its employees alone;

16 S. cease its corporate activities and surrender its  
17 corporate franchise; and

18 T. do and perform all other acts and things and  
19 have and exercise all other powers [~~which~~] that may be  
20 necessary, convenient or appropriate to accomplish the purpose  
21 for which the cooperative is organized, to effectuate the  
22 powers set forth in this section and to accept all the burdens  
23 and exercise all the benefits [~~which~~] that apply to public  
24 utilities under the laws of New Mexico."