

1 HOUSE BILL 176

2 **55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021**

3 INTRODUCED BY

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10 AN ACT

11 RELATING TO UTILITIES; PROVIDING THAT COMPLIANCE WITH RENEWABLE  
12 PORTFOLIO STANDARDS SHALL NOT RESULT IN AN INCREASE IN RATES TO  
13 CUSTOMERS OF MORE THAN A CERTAIN PERCENTAGE.  
14

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

16 SECTION 1. Section 62-16-4 NMSA 1978 (being Laws 2004,  
17 Chapter 65, Section 4, as amended) is amended to read:

18 "62-16-4. RENEWABLE PORTFOLIO STANDARD.--

19 A. A public utility shall meet the renewable  
20 portfolio standard requirements, as provided in this section,  
21 to include renewable energy in its electric energy supply  
22 portfolio as demonstrated by its retirement of renewable energy  
23 certificates; provided that the associated renewable energy is  
24 delivered to the public utility and assigned to the public  
25 utility's New Mexico customers. For public utilities other

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1 than rural electric cooperatives and municipalities,  
2 requirements of the renewable portfolio standard are:

3 ~~[(1) no later than January 1, 2015, renewable~~  
4 ~~energy shall comprise no less than fifteen percent of each~~  
5 ~~public utility's total retail sales to New Mexico customers;~~

6 ~~(2) no later than January 1, 2020, renewable~~  
7 ~~energy shall comprise no less than twenty percent of each~~  
8 ~~public utility's total retail sales to New Mexico customers;~~

9 ~~(3)]~~ (1) no later than January 1, 2025,  
10 renewable energy shall comprise no less than forty percent of  
11 each public utility's total retail sales of electricity to New  
12 Mexico customers;

13 ~~[(4)]~~ (2) no later than January 1, 2030,  
14 renewable energy shall comprise no less than fifty percent of  
15 each public utility's total retail sales of electricity to New  
16 Mexico customers;

17 ~~[(5)]~~ (3) no later than January 1, 2040,  
18 renewable energy resources shall supply no less than eighty  
19 percent of all retail sales of electricity in New Mexico;  
20 provided that compliance with this standard until December 31,  
21 2047 shall not require the public utility to displace zero  
22 carbon resources in the utility's generation portfolio on the  
23 effective date of this 2019 act; and

24 ~~[(6)]~~ (4) no later than January 1, 2045, zero  
25 carbon resources shall supply one hundred percent of all retail

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1 sales of electricity in New Mexico. Reasonable and consistent  
2 progress shall be made over time toward this requirement.

3 B. In administering the standards required by  
4 Paragraphs [~~(5) and (6)~~] (3) and (4) of Subsection A of this  
5 section, the commission shall:

6 (1) not jeopardize the operation of a sewage  
7 treatment facility that captures and combusts methane gas in  
8 the facility's operations;

9 (2) maintain and protect the safety, reliable  
10 operation and balancing of loads and resources on the electric  
11 system;

12 (3) prevent unreasonable impacts to customer  
13 electricity bills, taking into consideration the economic and  
14 environmental costs and benefits of renewable energy resources  
15 and zero carbon resources;

16 (4) prevent carbon dioxide emitting  
17 electricity-generating resources from being reassigned,  
18 redesignated or sold as a means of complying with the standard;

19 (5) in consultation with the energy, minerals  
20 and natural resources department, undertake programs not  
21 prohibited by law to achieve the standard;

22 (6) in consultation with the department of  
23 environment, ensure that the standard does not result in  
24 material increases to greenhouse gas emissions from entities  
25 not subject to commission oversight and regulation; and

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1 (7) in consultation with electricity  
2 transmission system operators responsible for balancing New  
3 Mexico electricity loads and resources, issue a report to the  
4 legislature by ~~[July 1, 2020, and each]~~ July 1 ~~[every four~~  
5 ~~years thereafter]~~ of each year. The report shall include:

6 (a) review of the standard, with a focus  
7 on technologies, forecasts, existing transmission,  
8 environmental protection, public safety, affordability and  
9 electricity transmission and distribution system reliability;

10 (b) evaluation of the anticipated  
11 financial costs and benefits to electric utilities in  
12 implementing the standard, including the impacts and benefits  
13 to customer electricity bills; and

14 (c) identification of the barriers to,  
15 and benefits of, achieving the standard.

16 C. Any customer that is a political subdivision of  
17 the state, or any educational institution designated in Article  
18 12, Section 11 of the constitution of New Mexico with an  
19 enrollment of twenty thousand students or more during the fall  
20 semester on its main campus, with consumption exceeding twenty  
21 thousand megawatt-hours per year at any single location or  
22 facility and that owns facilities that produce renewable energy  
23 or hosts such facilities through a renewable purchased power  
24 agreement, shall not be charged by the utility for power  
25 purchases of one year or less or fuel on the amount of

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1 electricity purchased from the utility equal to the amount of  
2 renewable energy produced or hosted by the customer. The  
3 customer shall annually certify to the state auditor and notify  
4 the commission and the customer's serving electric utility of  
5 the amount of renewable energy produced at the customer-owned  
6 or customer-hosted facilities that generate renewable energy.  
7 The customer shall also certify to the state auditor and notify  
8 the commission that the customer will retire all renewable  
9 energy certificates associated with the renewable energy  
10 produced by those facilities. Any financial benefits as a  
11 result of the provisions of this subsection shall accrue to the  
12 customer immediately ~~[upon the effective date of this 2019 act]~~  
13 on June 14, 2019 and shall be reflected in customer bills each  
14 month, subject to annual true-up and reconciliation. The  
15 provisions of this subsection shall not prevent the utility  
16 from recovering all of its reasonable and prudent fuel and  
17 purchased power costs.

18 D. Upon a motion or application by a public utility  
19 the commission shall, or upon a motion or application by any  
20 other person the commission may, open a docket to develop and  
21 provide financial or other incentives to encourage public  
22 utilities to produce or acquire renewable energy that exceeds  
23 the applicable annual renewable portfolio standard set forth in  
24 this section; results in reductions in carbon dioxide emissions  
25 earlier than required by Subsection A of this section; or

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1 causes a reduction in the generation of electricity by coal-  
2 fired generating facilities, including coal-fired generating  
3 facilities located outside of New Mexico. The incentives may  
4 include additional earnings and capital investment  
5 opportunities for resources used in furtherance of the outcomes  
6 described in this subsection.

7 E. If, in any given year, a public utility  
8 determines that the average annual levelized cost of renewable  
9 energy that would need to be procured or generated for purposes  
10 of compliance with the renewable portfolio standard would be  
11 greater than the reasonable cost threshold, the public utility  
12 shall not be required to incur that excess cost; provided that  
13 the existence of this condition excusing performance in any  
14 given year shall not operate to delay compliance with the  
15 renewable portfolio standard in subsequent years. The  
16 provisions of this subsection do not preclude a public utility  
17 from accepting a project with a cost that would exceed the  
18 reasonable cost threshold. When a public utility can generate  
19 or procure renewable energy at or below the reasonable cost  
20 threshold, it shall be required to do so to the extent  
21 necessary to meet the applicable renewable portfolio standard  
22 and shall not be precluded from exceeding the standard.

23 ~~[F. By September 1, 2007 and until June 30, 2019, a~~  
24 ~~public utility shall file a report to the commission on its~~  
25 ~~procurement and generation of renewable energy during the prior~~

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1 ~~calendar year and a procurement plan that includes:~~

2 ~~(1) the cost of procurement for any new~~  
3 ~~renewable energy resource in the next calendar year required to~~  
4 ~~comply with the renewable portfolio standard; and~~

5 ~~(2) testimony and exhibits that demonstrate~~  
6 ~~that the proposed procurement is reasonable as to its terms and~~  
7 ~~conditions considering price, availability, reliability, any~~  
8 ~~renewable energy certificate values and diversity of the~~  
9 ~~renewable energy resource; or~~

10 ~~(3) demonstration that the plan is otherwise~~  
11 ~~in the public interest.]~~

12 F. Compliance with the renewable portfolio standard  
13 shall not result in an increase in rates for residential or  
14 commercial customers of more than two percent in any one year  
15 or more than five percent in any three-year period.

16 G. By ~~[July 1, 2020, and each]~~ July 1 ~~[thereafter]~~  
17 of each year, a public utility shall file a report to the  
18 commission on the public utility's procurement and generation  
19 of renewable energy since the last report and a procurement  
20 plan that includes:

21 (1) the cost of procurement for new renewable  
22 energy required to comply with the renewable portfolio  
23 standard;

24 (2) the capital, operating and fuel costs on a  
25 per-megawatt-hour basis during the preceding calendar year of

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1 each nonrenewable generation resource rate-based by the  
2 utility, or dedicated to the utility through a power purchase  
3 agreement of one year or longer, and the nonrenewable  
4 generation resources' carbon dioxide emissions on a per-  
5 megawatt-hour basis during that same year;

6 (3) information, including exhibits, as  
7 applicable, that demonstrates that the proposed procurement:

8 (a) was the result of competitive  
9 procurement that included opportunities for bidders to propose  
10 purchased power, facility self-build or facility build-transfer  
11 options;

12 (b) has a cost that is reasonable as  
13 evidenced by a comparison of the price of electricity from  
14 renewable energy resources in the bids received by the public  
15 utility to recent prices for comparable energy resources  
16 elsewhere in the southwestern United States; and

17 (c) is in the public interest,  
18 considering factors such as overall cost and economic  
19 development opportunities; and

20 (4) strategies used to minimize costs of  
21 renewable energy integration, including location, diversity,  
22 balancing area activity, demand-side management and load  
23 management.

24 H. The commission shall approve or modify a public  
25 utility's procurement plan within ninety days and may approve

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1 the plan without a hearing, unless a protest is filed that  
2 demonstrates to the commission's reasonable satisfaction that a  
3 hearing is necessary. The commission may modify a plan after  
4 notice and hearing. The commission may, for good cause, extend  
5 the time to approve a procurement plan for an additional ninety  
6 days. If the commission does not act within the ninety-day  
7 period, the procurement plan is deemed approved.

8 I. The commission may reject a procurement plan  
9 if, within forty days of filing, the commission finds that the  
10 plan does not contain the required information and, upon the  
11 rejection, shall provide the public utility the time necessary  
12 to file a revised plan; provided that the total amount of  
13 renewable energy required to be procured by the public utility  
14 shall not change."