HOUSE BILL 254

57TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2026

INTRODUCED BY

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AN ACT

RELATING TO PUBLIC UTILITIES; PERMITTING THE INCORPORATION OF THE VALUE OF AVOIDED GREENHOUSE GAS EMISSIONS IN THE PUBLIC REGULATION COMMISSION'S UTILITY COST TEST.

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

SECTION 1. Section 62-17-4 NMSA 1978 (being Laws 2005, Chapter 341, Section 4, as amended) is amended to read:

"62-17-4. DEFINITIONS.--As used in the Efficient Use of Energy Act:

A. "achievable" means those energy efficiency or load management resources available to the utility using its best efforts;

B. "advanced conductor" means a conductor that has a direct current electrical resistance at least ten percent lower than existing conductors of a similar diameter while

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simultaneously increasing the energy carrying capacity by at least seventy-five percent;

C. "advanced grid technology" means hardware or software technology that increases the efficiency, capacity or reliability of existing or new electric transmission and distribution systems, facilities and equipment and includes advanced conductors, thermal ratings, [~~grid enhancing~~] grid-enhancing technology and technology determined by the commission or the federal energy regulation commission to increase the efficiency, capacity or reliability of an existing or new transmission facility;

D. "advanced power flow controllers" means hardware or software technology used to push or pull electric power in a manner that balances overloaded lines and underused corridors within a distribution or transmission system;

E. "commission" means the public regulation commission;

F. "cost-effective" means that the energy efficiency or load management program meets the utility cost test;

G. "customer" means a utility customer at a single, contiguous field, location or facility, regardless of the number of meters at that field, location or facility;

H. "distribution cooperative utility" means a utility with distribution facilities organized as a rural

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electric cooperative pursuant to Laws 1937, Chapter 100 or the Rural Electric Cooperative Act or similarly organized in other states;

I. "dynamic line ratings" means hardware or software technology used to appropriately update the calculated thermal limits of existing distribution or transmission lines based on real-time and forecasted weather conditions;

J. "energy efficiency" means measures, including energy conservation measures, or programs that target consumer behavior, equipment or devices to result in a decrease in consumption of electricity and natural gas without reducing the amount or quality of energy services;

K. "[~~grid enhancing~~] grid-enhancing technology" means hardware or software technology that reduces congestion or enhances the flexibility of electric transmission and distribution systems by increasing the capacity of a line or rerouting electricity from overloaded to uncongested lines while maintaining industry safety standards and includes dynamic line ratings, advanced power flow controllers and topology optimization;

L. "large customer" means a customer with electricity consumption greater than seven thousand megawatt-hours per year or natural gas use greater than three hundred sixty thousand decatherms per year;

M. "load management" means measures or programs

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that target equipment or devices to result in decreased peak electricity demand or shift demand from peak to off-peak periods;

N. "program costs" means the prudent and reasonable costs of developing and implementing energy efficiency and load management programs; [~~but~~] "program costs" does not include charges for incentives or the removal of regulatory disincentives;

O. "public utility" means a public utility that is not also a distribution cooperative utility;

P. "topology optimization" means hardware or software technology that identifies reconfigurations of the distribution or transmission grid and can enable the routing of power flows around congested or overloaded distribution or transmission elements; and

Q. "utility cost test" means a standard that is met if the monetary costs that are borne by the public utility and that are incurred to develop, acquire and operate energy efficiency or load management resources on a life-cycle basis are less than the avoided monetary costs associated with developing, acquiring and operating the associated supply-side resources, <u>which for investor-owned electric utilities may incorporate the value of avoided greenhouse gas emissions</u>."

SECTION 2. Section 62-17-5 NMSA 1978 (being Laws 2005, Chapter 341, Section 5, as amended) is amended to read:

"62-17-5. COMMISSION APPROVAL--ENERGY EFFICIENCY AND LOAD MANAGEMENT PROGRAMS--DISINCENTIVES.--

A. Pursuant to the findings and purpose of the Efficient Use of Energy Act, the commission shall consider public utility acquisition of cost-effective energy efficiency and load management resources to be in the public interest.

B. The commission shall direct public utilities to evaluate and implement cost-effective programs that reduce energy demand and consumption.

C. Before the commission approves an energy efficiency and load management program for a public utility, it shall find that the portfolio of programs is cost-effective and designed to provide every affected customer class with the opportunity to participate and benefit economically. The commission shall determine the cost-effectiveness of energy efficiency and load management measures using the utility cost test, which for investor-owned electric utilities may incorporate the value of avoided greenhouse gas emissions. In determining life-cycle costs and benefits of energy efficiency programs, the commission shall not adjust for taxes when selecting a discount rate. In determining life-cycle costs and benefits for energy efficiency and load management programs directed to low-income customers, the commission shall either quantify or assign a reasonable value to:

(1) reductions in working capital;

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(2) reduced collection costs;

(3) lower bad-debt expense;

(4) improved customer service effectiveness; and

(5) other appropriate factors as utility system economic benefits.

D. The commission shall act expeditiously on public utility requests for approval of energy efficiency or load management programs.

E. Public utilities shall obtain commission approval of energy efficiency and load management programs before they are implemented. Public utilities proposing new energy efficiency and load management programs shall, before seeking commission approval, solicit nonbinding recommendations on the design, implementation and use of third-party energy service contractors through competitive bidding on the programs from commission staff, the attorney general, the energy, minerals and natural resources department and other interested parties. The commission may for good cause require public utilities to solicit competitive bids for energy efficiency and load management resources.

F. The commission shall:

(1) upon petition or its own motion, identify and remove regulatory disincentives or barriers for public utility expenditures on energy efficiency and load management

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measures in a manner that balances the public interest, consumers' interests and investors' interests;

(2) upon petition by a public utility, remove regulatory disincentives through the adoption of a rate adjustment mechanism that ensures that the revenue per customer approved by the commission in a general rate case proceeding is recovered by the public utility without regard to the quantity of electricity or natural gas actually sold by the public utility subsequent to the date the rate took effect. Regulatory disincentives removed through a rate adjustment mechanism shall be separately calculated for the rate class or classes to which the mechanism applies and collected or refunded by the utility through a separately identified tariff rider that shall not be used to collect commission-approved energy efficiency and load management program costs and incentives;

(3) provide public utilities an opportunity to earn a profit on cost-effective energy efficiency and load management resource development that, with satisfactory program performance, is financially more attractive to the utility than supply-side utility resources; and

(4) not reduce a utility's return on equity based on approval of a disincentive removal mechanism or profit incentives pursuant to the Efficient Use of Energy Act.

G. Public utilities providing electricity and

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natural gas service to New Mexico customers shall, subject to commission approval, acquire the cost-effective and achievable energy efficiency and load management resources available in their service territories. This requirement, however, for public utilities providing electricity service, shall not be less than savings of five percent of 2020 total retail kilowatt-hour sales to New Mexico customer classes that have the opportunity to participate in calendar year 2025 as a result of energy efficiency and load management programs implemented in years 2021 through 2025. No later than June 30, 2025, the commission shall adopt, through rulemaking, energy savings targets for electric utilities for years 2026 through 2030 based on cost-effective and achievable energy savings and provide utility incentives based on savings achieved.

H. A public utility that determines it cannot achieve the minimum requirements established in Subsection G of this section shall report to the commission on why it cannot meet those requirements and shall propose alternative requirements based on acquiring cost-effective and achievable energy efficiency and load management resources. If the commission determines, after hearing, that the minimum requirements of Subsection G of this section exceed the achievable amount of energy efficiency and load management available to the public utility or that the program costs of energy efficiency and load management to achieve the minimum

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requirements of Subsection G of this section exceed the program costs funding established in Subsection A of Section 62-17-6 NMSA 1978, the commission shall establish lower minimum energy savings requirements for the utility based on the maximum amount of energy efficiency and load management that it determines can be achieved."

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