

HOUSE BILL 303

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

INTRODUCED BY

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AN ACT

RELATING TO PUBLIC UTILITIES; PROVIDING THAT NO PUBLIC UTILITY SHALL PROVIDE SERVICE TO NEW MEXICO CUSTOMERS FROM ANY PUBLIC UTILITY PLANT OR SYSTEM WITHOUT OBTAINING A CERTIFICATE THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE SERVICE; DECLARING AN EMERGENCY.

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

SECTION 1. Section 62-9-1 NMSA 1978 (being Laws 1941, Chapter 84, Section 46, as amended) is amended to read:

"62-9-1. NEW CONSTRUCTION--RATEMAKING PRINCIPLES.--

A. No public utility shall [begin the construction or operation of] provide service to New Mexico customers from any public utility plant or system or [or] any extension of any plant or system without first obtaining from the commission a certificate that public convenience and necessity require or

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1 will require [~~such construction or operation~~] the service.
2 This section does not require a public utility to secure a
3 certificate for an extension within any municipality or
4 district within which [~~it~~] the utility lawfully commenced
5 operations before June 13, 1941 or for an extension within or
6 to territory already served by [~~it~~] the utility, necessary in
7 the ordinary course of its business, or for an extension into
8 territory contiguous to that already occupied by [~~it~~] the
9 utility and that is not receiving similar service from another
10 utility. If any public utility or mutual domestic water
11 consumer association in constructing or extending its line,
12 plant or system unreasonably interferes or is about to
13 unreasonably interfere with the service or system of any other
14 public utility or mutual domestic water consumer association
15 rendering the same type of service, the commission, on
16 complaint of the public utility or mutual domestic water
17 consumer association claiming to be injuriously affected, may,
18 upon and pursuant to the applicable procedure provided in
19 Chapter 62, Article 10 NMSA 1978, and after giving due regard
20 to public convenience and necessity, including reasonable
21 service agreements between the utilities, make an order and
22 prescribe just and reasonable terms and conditions in harmony
23 with the Public Utility Act to provide [~~for the construction,~~
24 ~~development and extension~~] service to New Mexico customers
25 without unnecessary duplication and economic waste.

B. If a certificate of public convenience and necessity is required pursuant to this section, [for the construction or extension of a generating plant or transmission lines and associated facilities] a public utility may include in the application for the certificate a request that the commission determine the ratemaking principles and treatment that will be applicable for the facilities that are the subject of the application for the certificate. If such a request is made, the commission shall, in the order granting the certificate, set forth the ratemaking principles and treatment that will be applicable to the public utility's stake in the certified facilities in all ratemaking proceedings on and after such time as the facilities are placed in service. The commission shall use the ratemaking principles and treatment specified in the order in all proceedings in which the cost of the public utility's stake in the certified facilities is considered. If the commission later decertifies the facilities, the commission shall apply the ratemaking principles and treatment specified in the original certification order to the costs associated with the facilities that were incurred by the public utility prior to decertification.

C. The commission may approve the application for the certificate without a formal hearing if no protest is filed within sixty days of the date that notice is given, pursuant to

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1 commission order, that the application has been filed. The
2 commission shall issue its order granting or denying the
3 application within nine months from the date the application is
4 filed with the commission. Failure to issue its order within
5 nine months is deemed to be approval and final disposition of
6 the application; provided, however, that the commission may
7 extend the time for granting approval for an additional six
8 months for good cause shown.

9 D. Notwithstanding the time lines contained in
10 Subsection C of this section, for applications certified by the
11 economic development department pursuant to Subsection F of
12 Section 62-6-26 NMSA 1978, the commission shall issue an order
13 granting or denying the application within six months from the
14 date the application is filed with the commission. Failure to
15 issue the commission's order within six months is deemed to be
16 approval and final disposition of the application; provided,
17 however, that the commission may extend the time for granting
18 approval for an additional three months for good cause shown.

19 E. In an application for a certificate of public
20 convenience and necessity for an energy storage system, the
21 commission shall approve energy storage systems that:

22 (1) reduce costs to ratepayers by avoiding or
23 deferring the need for investment in new generation and for
24 upgrades to systems for the transmission and distribution of
25 energy;

(2) reduce the use of fossil fuels for meeting demand during peak load periods and for providing ancillary services;

(3) assist with ensuring grid reliability, including transmission and distribution system stability, while integrating sources of renewable energy into the grid;

(4) support diversification of energy resources and enhance grid security;

(5) reduce greenhouse gases and other air pollutants resulting from power generation;

(6) provide the public utility with the discretion, subject to applicable laws and rules, to operate, maintain and control energy storage systems so as to ensure reliable and efficient service to customers; and

(7) are the most cost effective among feasible alternatives.

F. As used in this section:

(1) "energy storage system" means methods and technologies used to store electricity; and

(2) "mutual domestic water consumer association" means an association created and organized pursuant to the provisions of:

(a) Laws 1947, Chapter 206; Laws 1949, Chapter 79; or Laws 1951, Chapter 52; or

(b) the Sanitary Projects Act."

1 SECTION 2. EMERGENCY.--It is necessary for the public
2 peace, health and safety that this act take effect immediately.
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