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HOUSE BILL 311

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

INTRODUCED BY

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AN ACT

RELATING TO UTILITIES; ENACTING THE VIRTUAL POWER PLANT ACT;
REQUIRING ELECTRIC PUBLIC UTILITIES TO IMPLEMENT VIRTUAL POWER
PLANT PROGRAMS; PROVIDING AUTHORITY FOR THE PUBLIC REGULATION
COMMISSION TO PROMULGATE RULES RELATED TO VIRTUAL POWER PLANT
PROGRAMS; ESTABLISHING PARTICIPATION AND COST RECOVERY
CONDITIONS FOR A VIRTUAL POWER PLANT PROGRAM.

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

SECTION 1. A new section of Chapter 62 NMSA 1978 is
enacted to read:

"[NEW MATERIAL] SHORT TITLE.--This act may be cited as the
"Virtual Power Plant Act".

SECTION 2. A new section of Chapter 62 NMSA 1978 is
enacted to read:

"[NEW MATERIAL] DEFINITIONS.--As used in the Virtual Power
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1 Plant Act:

2 A. "commission" means the public regulation
3 commission;

4 B. "distributed energy resource" means distributed
5 generation, energy storage systems, electric vehicles,
6 microgrids, smart panels, fuel cells and demand-side management
7 measures that are deployed at the distribution system level on
8 either the customer or utility side of the meter;

9 C. "distributed energy resource aggregator" means a
10 person that manages customer enrollment, participation and
11 performance-based compensation and ensures the delivery of grid
12 services from the distributed energy resources in a virtual
13 power plant;

14 D. "electric public utility" means an electric
15 public utility regulated by the commission pursuant to the
16 provisions of the Public Utility Act that is not also a
17 cooperative nonprofit membership corporation organized pursuant
18 to the provisions of the Rural Electric Cooperative Act;

19 E. "grid service" means a capacity, an energy or an
20 ancillary service, including avoided or deferred infrastructure
21 costs, that supports grid operations;

22 F. "performance-based compensation" means payments
23 made in return for, and in proportion to, the provision of grid
24 services by a virtual power plant;

25 G. "performance requirements" means the terms by

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1 which a distributed energy resource aggregator is eligible for
2 performance-based compensation; and

3 H. "virtual power plant" means an aggregation of
4 distributed energy resources that are collectively organized
5 via software to provide grid services, reducing or shifting
6 customer load or exporting power as needed."

7 SECTION 3. A new section of Chapter 62 NMSA 1978 is
8 enacted to read:

9 "[NEW MATERIAL] VIRTUAL POWER PLANT PROGRAMS--RULEMAKING
10 AUTHORITY.--

11 A. On or before December 31, 2026, the commission
12 shall promulgate rules to require an electric public utility to
13 implement a virtual power plant program that creates a
14 framework enabling distributed energy resources to be
15 aggregated, by the utility or a third party, as a virtual power
16 plant to provide grid services.

17 B. In promulgating rules regarding virtual power
18 plant programs, the commission shall:

19 (1) consider the potential interaction between
20 a virtual power plant program and other programs an electric
21 public utility is required to implement;

22 (2) identify strategies to maximize benefits
23 in avoided generation, transmission and distribution
24 investments through the implementation of virtual power plant
25 programs;

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1 (3) require electric public utilities to file
2 tariffs establishing performance requirements and performance-
3 based compensation specific to the applicable technologies that
4 may be used as part of a virtual power plant program; provided
5 that the tariff shall allow owners or end-users of distributed
6 energy resources to lock in the compensation levels in effect
7 at the time that the commission approves the virtual power
8 plant program for a period of five years;

9 (4) prescribe methods for setting and revising
10 performance-based compensation that reflect the full value of
11 grid services provided by a virtual power plant program;

12 (5) ensure that:

13 (a) an electric public utility serving
14 as a distributed energy resource aggregator does not have a
15 competitive advantage over a third-party aggregator based on
16 access to customer data, marketing or other information to
17 which the electric public utility has access;

18 (b) a distributed energy resource
19 aggregator or an owner or end-user of a distributed energy
20 resource is not disqualified from participation in a virtual
21 power plant program based on that distributed energy resource
22 aggregator's or owner's or end-user's underlying rate schedule
23 or receipt of other incentives; and

24 (c) a distributed energy resource
25 aggregator or an owner or end-user of a distributed energy

1 resource shall not be compensated more than once for providing
2 a service; and

3 (6) determine:

4 (a) an initial virtual power program
5 parameter that shall be set at no less than fifteen percent of
6 peak demand during the first five years of the program;

7 (b) an appropriate regulatory process
8 for review and revision of virtual power plant program
9 parameters, including expanding the program size after the
10 first five years of the program;

11 (c) data access requirements for
12 distributed energy resource aggregators, including third-party
13 aggregator access to customer data, grid data and hosting
14 capacity analysis;

15 (d) grid event parameters for when and
16 how the owner or end-user of a distributed energy resource
17 shall respond to a grid event, including frequency, duration
18 and notice; and

19 (e) protocols for stakeholders to
20 provide input on the virtual power plant programs proposed by
21 electric utilities."

22 SECTION 4. A new section of Chapter 62 NMSA 1978 is
23 enacted to read:

24 "[NEW MATERIAL] VIRTUAL POWER PLANT PROGRAM--
25 APPLICATIONS.--

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1 A. No later than February 1, 2027, an electric
2 public utility shall submit an application to implement a
3 virtual power plant program.

4 B. The commission shall approve, deny or order
5 revisions to an electric public utility's application to
6 implement a virtual power plant program."

7 **SECTION 5.** A new section of Chapter 62 NMSA 1978 is
8 enacted to read:

9 "[NEW MATERIAL] ELIGIBILITY OF ENERGY STORAGE SYSTEMS.--

10 A. To be eligible to participate in a virtual power
11 plant program, an owner or end-user of an energy storage
12 resource with a usable energy capacity of one megawatt or
13 higher shall be subject to minimum wage and benefit rate
14 requirements pursuant to the provisions of the Public Works
15 Minimum Wage Act.

16 B. The distributed energy resource aggregator
17 administering a virtual power plant program shall file an
18 affidavit with the commission and the workforce solutions
19 department stating that all energy storage resources with a
20 usable energy capacity of one megawatt or higher participating
21 in the program are in compliance with this section.

22 C. If the distributed resource aggregator adds
23 additional energy storage resources to a virtual power plant
24 program after an affidavit has been filed, the aggregator shall
25 file an updated affidavit with the commission.

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1 D. The commission may request additional
2 information related to compliance with this section from an
3 electric public utility or a distributed energy resource
4 aggregator."

5 SECTION 6. A new section of Chapter 62 NMSA 1978 is
6 enacted to read:

7 "[NEW MATERIAL] COST RECOVERY FOR ELECTRIC PUBLIC
8 UTILITIES.--

9 A. An electric public utility may recover
10 reasonable costs resulting from the implementation of a virtual
11 power plant program through cost recovery mechanisms approved
12 by the commission.

13 B. Recoverable costs include:

14 (1) foundational, operating and information
15 technology costs or investments; and

16 (2) operating technology costs or
17 investments."