

HOUSE BILL 311

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

## INTRODUCED BY

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10 | AN ACT

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

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

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

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

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

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

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

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

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

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

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

(5) ensure that:

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

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

(c) a distributed energy resource

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

(6) determine:

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

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

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

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

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

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

"[NEW MATERIAL] VIRTUAL POWER PLANT PROGRAM--  
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.

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."