

1 SENATE BILL 109

2 **57TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2026**

3 INTRODUCED BY

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10 AN ACT

11 RELATING TO UTILITIES; PROVIDING THAT A QUALIFYING UTILITY THAT
12 IS ABANDONING OR THAT HAS ABANDONED A QUALIFYING GENERATING
13 FACILITY SHALL NOT BE ELIGIBLE TO APPLY TO RECOVER ENERGY
14 TRANSITION COSTS IF THE QUALIFYING UTILITY CONSTRUCTS NEW
15 NATURAL GAS RESOURCES.

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

18 SECTION 1. Section 62-18-4 NMSA 1978 (being Laws 2019,
19 Chapter 65, Section 4) is amended to read:

20 "62-18-4. FINANCING ORDER--APPLICATION CONTENTS--PENDING
21 APPLICATIONS.--

22 A. A qualifying utility that is abandoning a
23 qualifying generating facility may apply to the commission for
24 a financing order pursuant to this section to recover all of
25 its energy transition costs through the issuance of energy

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1 transition bonds. To obtain a financing order, a qualifying
2 utility shall obtain approval to abandon a qualifying
3 generating facility pursuant to Section 62-9-5 NMSA 1978. The
4 application for the financing order may be filed as part of the
5 application for approval to abandon a qualifying generating
6 facility.

7 B. An application for a financing order shall
8 include:

9 (1) a description of the facility that the
10 qualifying utility proposes to abandon or for which abandonment
11 authority was granted after December 31, 2018;

12 (2) an estimate of the energy transition costs
13 and shall:

14 (a) identify the severance pay and job
15 training expenses for affected employees losing their jobs as a
16 result of an abandoned qualifying generating facility and any
17 associated mine that only services the abandoned qualifying
18 generating facility;

19 (b) identify costs not previously
20 collected from the qualifying utility's customers for plant
21 decommissioning and mine reclamation costs, subject to any
22 limitations ordered by the commission prior to January 1, 2019
23 and affirmed by the New Mexico supreme court prior to the
24 effective date of the Energy Transition Act, associated with
25 the abandoned qualifying generating facility; and

(c) include an estimate of the financing costs associated with each series of energy transition bonds proposed to be issued;

(3) an estimate of the amount of energy transition charges necessary to recover the costs in Paragraph (2) of this subsection and the proposed calculation thereof, based on the estimated date of issuance and estimated principal amount of each series of energy transition bonds proposed to be issued;

(4) a description of the proposed adjustment mechanism that complies with the provisions of Section [6 of the Energy Transition Act] 62-18-6 NMSA 1978;

(5) a memorandum with supporting exhibits from a securities firm, such firm to be attested to by the state board of finance as being experienced in the marketing of bonds and capable of providing such a memorandum, that the proposed issuance satisfies the current published AAA rating or equivalent rating criteria of at least one nationally recognized statistical rating organization for issuances similar to the proposed energy transition bonds. The request for such attestation may be made by a qualifying utility prior to an application for a financing order, and the state board of finance shall act upon such a request promptly;

(6) a commitment by the qualifying utility to file with the commission following the issuance of the energy

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1 transition bonds:

2 (a) a description of the final structure

3 and pricing of the bonds;

4 (b) updated financing costs and payment

5 amount required pursuant to Section [16 of the Energy

6 Transition Act] 62-18-6 NMSA 1978; and

7 (c) an updated calculation of the energy

8 transition charges;

9 (7) an estimate of timing of the issuance and

10 term of the energy transition bonds, or series of bonds;

11 provided that the scheduled final maturity for each bond

12 issuance shall be no longer than twenty-five years;

13 (8) identification of plans to sell, assign,

14 transfer or convey, other than as a security, interest in

15 energy transition property, including identification of an

16 assignee, and demonstration that the assignee will be a

17 financing entity wholly owned, directly or indirectly, by the

18 qualifying utility that will be initially capitalized by the

19 qualifying utility in such a way that equity interests in the

20 financing entity are at least one-half percent of the total

21 capital of the assignee;

22 (9) identification of ancillary agreements

23 that may be necessary or appropriate;

24 (10) a description of a proposed ratemaking

25 process to reconcile and recover or refund any difference

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between the energy transition costs financed by the energy transition bonds and the actual final energy transition costs incurred by the qualifying utility or the assignee;

(11) a proposed ratemaking method to account for the reduction in the qualifying utility's cost of service associated with the amount of undepreciated investments being recovered by the energy transition charge at the time that charge becomes effective; and

(12) a statement from the qualifying utility committing that the qualifying utility will use commercially reasonable efforts to obtain the lowest cost objective.

C. The application may include requests for approvals for new resources necessitated by the abandonment of a qualifying generating facility.

D. The qualifying utility or the commission may defer applications for needed approvals for new resources to a separate proceeding; provided that the application identifies adequate potential new resources sufficient to provide reasonable and proper service to retail customers.

E. If an application for approval to abandon a qualifying generating facility is pending before the commission on the effective date of the Energy Transition Act, the qualifying utility may file a separate application for a financing order, and the commission may join or consolidate the application for a financing order with the pending proceeding

1 involving abandonment of the qualifying generating facility,
2 with the consent of the applicant. On such joinder or
3 consolidation, the time periods prescribed by the Energy
4 Transition Act shall become applicable to the joined or
5 consolidated case as of the date of the joinder or
6 consolidation.

7 F. If a qualifying utility does not recover energy
8 transition costs pursuant to the Energy Transition Act, the
9 energy transition costs may be recovered pursuant to other
10 applicable provisions of the Public Utility Act. The
11 provisions of this subsection shall not apply to a qualifying
12 generating facility described in Subsection G of this section.

13 G. A qualifying utility that is abandoning or has
14 abandoned a qualifying generating facility shall not be
15 eligible to apply to the commission for a financing order
16 pursuant to this section to recover its energy transition costs
17 if the qualifying utility is investing in, constructing,
18 acquiring or operating new natural gas resources."