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FISCAL IMPACT REPORT

BILL NUMBER: Senate Bill 39

SHORT TITLE: Microgrid Oversight Act

SPONSOR: Steinborn

LAST UPDATE: _____ **ORIGINAL DATE:** 02/04/2026 **ANALYST:** Rodriguez

REVENUE* (dollars in thousands)

Type	FY26	FY27	FY28	FY29	FY30	Recurring or Nonrecurring	Fund Affected
		Indeterminate but minimal gain	Recurring	General Fund			

Parentheses indicate revenue decreases.

*Amounts reflect most recent analysis of this legislation.

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

Agency/Program	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
PRC		Up to \$700.0	Up to \$700.0	Up to \$1,000.0	Recurring	General Fund

Parentheses () indicate expenditure decreases.

*Amounts reflect most recent analysis of this legislation.

Relates to Senate Bill 78 and House Bill 70

Sources of Information

LFC Files

Agency or Agencies Providing Analysis

Economic Development Department

New Mexico Attorney General

Public Regulation Commission

Agency or Agencies That Were Asked for Analysis but did not Respond

Energy, Minerals and Natural Resources Department

Department of Energy

University of New Mexico

SUMMARY

Synopsis of Senate Bill 39

Senate Bill 39 (SB39) enacts the Microgrid Oversight Act, giving the Public Regulation Commission (PRC) authority over the approval, operation, and oversight of microgrids, and establishes renewable portfolio standards (RPS) for microgrids.

The bill establishes renewable portfolio standards for microgrids as such:

Target Date	Minimum Renewable and Zero-Carbon Requirement	Notes
January 1, 2028	40 percent renewable	For microgrids that begin operation prior to May 20, 2026
Upon startup	40 percent renewable	For new microgrids that begin operation on or after May 20, 2026
January 1, 2030	50 percent renewable	Applies to all microgrids
January 1, 2040	80 percent renewable	Applies to all microgrids
January 1, 2045	100 percent zero-carbon	Applies to all microgrids

SB39 authorizes PRC to collect fees to cover oversight costs, to promulgate rules for microgrid RPS, and to approve new microgrids only if the owner demonstrates that the microgrid will comply with the standards. Microgrid owners must submit an annual compliance report to PRC by July 1 each year. These provisions apply only to investor-owned utilities (IOUs) and do not apply to rural electric cooperatives.

SB39 also amends Section 62-17-12 NMSA 1978, which governs public utilities' acquisition of self-source generation resources and energy. The bill removes the existing requirement that rates for self-source generation consider public interest, need, reliability, and affordability. Instead, SB39 directs PRC to deny approval for the acquisition of self-source generation resources or energy if doing so would raise rates or otherwise harm ratepayers. Additionally, SB39 permits microgrid owners to purchase energy from utilities, provided that such purchases do not increase rates or negatively impact existing utility customers. Finally, SB39 strikes definitions in Section 62-17-12 that are duplicated elsewhere in the bill.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns, which is May 20, 2026.

FISCAL IMPLICATIONS

SB39 could have a positive impact on the general fund by authorizing the PRC to collect fees from microgrid owners and operators to cover the cost of agency oversight. However, the amount of fee revenue that would be generated is difficult to estimate. See "Technical Issues" for additional discussion of fee collection.

SB39 would increase the administrative responsibilities of PRC. Currently, PRC regulates microgrids if they seek to sell power to public utilities. SB39 expands oversight to microgrid approval and operation. As outlined in the bill, PRC would be responsible for promulgating rules related to microgrid renewable portfolio standards, including compliance, accurate metering, energy auditing, record keeping, and reporting. It also authorizes PRC to approve new microgrids and the acquisition of microgrids by utility companies, provided such acquisitions do not increase rates or otherwise adversely affect ratepayers. As such, PRC would have to review and approve rates related to microgrids. The estimated additional operating budget impact anticipates PRC's responsibilities would be similar to those required to implement the Community Solar Act.

SIGNIFICANT ISSUES

Microgrids. A microgrid is a self-sourced power generation facility, capable of operating

independently of the grid but able to be connected to the grid to dispose of surplus power. Microgrids are not limited to renewable energy and may include a combination of renewable and nonrenewable generation resources, such as natural gas, diesel, or nuclear, particularly to ensure reliability, resiliency, and continuous operation. Microgrids do not require a certificate of convenience and necessity from PRC but do require zoning approval of the local jurisdiction and a building permit.

Recent Legislation on Microgrids. Chapter 93, Laws 2025, addressed public utilities' ability to acquire self-source generation resources and energy. Chapter 93 allows public utilities to acquire and dedicate self-source generation resources for retail, wholesale, or self-generation purposes, subject to PRC approval. Notably, Chapter 93 specifies that energy generated or sold from a self-source generation resource that is owned in whole or in part by a qualified microgrid are not considered retail sales or energy under the renewable portfolio standards (Section 62-16-4) and the section of the Energy Transition Act that outlines energy transition bonds (Section 62-18-10) until 2035. Essentially, the legislation provided an exception to such energy transactions from being regulated as traditional retail sales until 2035, allowing utility companies to still meet renewable portfolio standards despite purchasing energy from microgrids, which may not be from renewable resources. After 2035, utility companies will consider such energy as part of their retail sales and, therefore, pursuant to renewable portfolio standards. Current statute requires that by 2045, all energy generated and sold by a qualified microgrid must come from net-zero carbon resources.

Cost-Sharing. PRC notes the bill's requirement that PRC approve any microgrid purchase of energy from utilities absent higher rates or harm to the ratepayer would conflict with PRC's framework for cost-sharing for interconnection upgrades outlined in New Mexico Administrative Code 17.9.568.19, which provides the possibility of cost-sharing of distribution system upgrades if PRC determines there are broader system benefits.

Enforcement of Orders. PRC notes that SB39 does not expressly describe enforcement tools for noncompliance, such as administrative remedies or penalties. However, Article 12 in the Public Utility Act authorizes PRC's enforcement authority and remedies when a person or utility violates the act. Article 12 allows PRC to impose civil penalties for violations to the act or other PRC requirements and direct the New Mexico Attorney General to file for a mandamus or injunction to prevent a violation. Essentially, Article 12 provides PRC with the authority to hold microgrids accountable to the requirements proposed in SB39.

Similarly, the Renewable Energy Act (Chapter 62, Article 16), which establishes renewable portfolio standards for investor-owned utilities, paralleling the standards proposed by SB39 for microgrids, does not include provisions for enforcement.

Microgrids Purchasing Power. SB39 allows the owner or operator of a microgrid to purchase energy from an electric public utility. The PRC notes, however, that the bill does not specify whether, or under what conditions, a microgrid may purchase power from other sources, such as wholesale transactions. However, under SB39, microgrid owners may only purchase energy from an electric public utility, which is defined as a utility certified by the PRC to provide retail electric service in New Mexico and not also a distribution cooperative utility. This definition excludes wholesale-only providers, private microgrids, and any electricity sellers that are not certified by PRC.

Energy Needs. The Economic Development Department (EDD) notes that the current microgrid policy infrastructure, established in Laws 2025, Chapter 93, creates the opportunity for expedient deployment of electric microgrids that can appease the needs high-energy-intensive industries, such as advanced manufacturing and data centers, as long as the developer is willing to pay for the infrastructure. EDD also notes that microgrids are attractive to companies looking to become operational quickly. EDD argues that the regulatory processes outlined in SB39 can add years to electric infrastructure deployment and make the state less competitive for investment.

Other Types of Generation. EDD notes the portfolio requirements outlined in SB39 could hinder the opportunity for microgrids to test next generation energy technologies without a risk to ratepayers. EDD argues the requirement of renewable energy resources eliminates the possibility of microgrids using technologies like nuclear, fusion, or small modular reactors.

ADMINISTRATIVE IMPLICATIONS

Additional Rulemaking. SB39 requires PRC to promulgate rules regarding the microgrid renewable portfolio standard. PRC notes it would have to address renewable energy certificates, tracking and retirement of plants, and protections against double counting. PRC notes the agency would likely have to undergo one to two rulemaking procedures to implement SB39.

New Proceedings. PRC notes the agency would need to have new, separate proceedings to approve new microgrids. The agency notes while the demand for microgrids is uncertain, the number of proceedings could be substantial.

Additionally, PRC would be required to undertake ratemaking proceedings to comply with SB39's requirement that the purchase of microgrid energy and purchase of energy by microgrids not increase rates or adversely affect ratepayers. PRC notes this language is challenging to administer and would require a ratemaking procedure anytime a public utility brough energy from a microgrid or vice versa.

Inspections. SB39 allows PRC to enter microgrid premises to exercise duties outlined in the act. PRC notes that this would require additional staff to perform these inspections. For electric systems, PRC rules generally place the inspection obligation on the utility rather than PRC staff.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

SB39 relates to Senate Bill 78, which amends the Renewable Energy Act (Chapter 62, Article 16) and Rural Electric Cooperative Act and would allow public utilities and rural electric cooperatives to include nuclear energy in their electric energy supply portfolio to meet the renewable portfolio standard requirements.

SB39 relates to House Bill 70, which amends Chapter 62, relating to PRC's powers and duties.

TECHNICAL ISSUES

Collection of Fees. SB39 would benefit from clearer language specifying how fees are calculated, collected, and remitted. For example, PRC currently collects inspection and oversight

fees from utilities doing business in New Mexico equal to 0.59 percent of the utility's total New Mexico gross receipts from the previous calendar year, with fees collected on the last day of July, remitted to the State Treasurer the following day, and credited to the general fund. SB39 could benefit from similar fee-related provisions.

Zero Carbon Resources. As noted by the New Mexico Attorney General (NMAG), SB39 provides a definition for “zero carbon resources” that is different than the one established in the Renewable Energy Act. The renewable energy act defines “zero carbon resource” as an “electricity generation resource that emits no carbon dioxide into the atmosphere, or that reduces methane emitted into the atmosphere in an amount equal to no less than one-tenth of the tons of carbon dioxide emitted into the atmosphere, as a result of electricity production.” SB39 defines “zero carbon resource” as electricity generating resource that emits no carbon dioxide into the atmosphere. NMAG notes that it would not likely create a conflict of law, as it is not uncommon for terms to have slightly varied definitions throughout statute.

JR/hg/sgs