

AN ACT

RELATING TO GENERATION AND TRANSMISSION COOPERATIVES;  
LIMITING PUBLIC REGULATION COMMISSION REGULATION OF ELECTRIC  
GENERATION AND TRANSMISSION COOPERATIVES; DECLARING AN  
EMERGENCY.

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

Section 1. Section 62-6-4 NMSA 1978 (being Laws 1941,  
Chapter 84, Section 17, as amended) is amended to read:

"62-6-4. SUPERVISION AND REGULATION OF UTILITIES.--

A. The commission shall have general and  
exclusive power and jurisdiction to regulate and supervise  
every public utility in respect to its rates and service  
regulations and in respect to its securities, all in  
accordance with the provisions and subject to the  
reservations of the Public Utility Act, and to do all things  
necessary and convenient in the exercise of its power and  
jurisdiction. Nothing in this section, however, shall be  
deemed to confer upon the commission power or jurisdiction  
to regulate or supervise the rates or service of any utility  
owned and operated by any municipal corporation either  
directly or through a municipally owned corporation or owned  
and operated by any H class county, by a class B county as  
defined in Section  
4-36-8 NMSA 1978 or by a class A county as described by  
Section 4-36-10 NMSA 1978 either directly or through a  
corporation owned by or under contract with an H class  
county, by a class B county as defined in Section 4-36-8

NMSA 1978 or by a class A county as described by Section 4-36-10 NMSA 1978 or the rates, service, securities or class I or class II transactions of a generation and transmission cooperative as defined in the Electric Utility Industry Restructuring Act of 1999. No inspection or supervision fees shall be paid by generation and transmission cooperatives, or by such municipalities or municipally owned corporations, a class B county as defined in Section 4-36-8 NMSA 1978, a class A county as described by Section 4-36-10 NMSA 1978 or H class counties or such corporation owned by or under contract with a class B county as defined in Section 4-36-8 NMSA 1978, a class A county as described by Section 4-36-10 NMSA 1978 or an H class county with respect to operations conducted in a class B county as defined in Section 4-36-8 NMSA 1978, in a class A county as described by Section 4-36-10 NMSA 1978 or in H class counties.

B. The sale, furnishing or delivery of gas, water or electricity by any person to a utility for resale to or for the public shall be subject to regulation by the commission but only to the extent necessary to enable the commission to determine that the cost to the utility of the gas, water or electricity at the place where the major distribution to the public begins is reasonable and that the methods of delivery of the gas, water or electricity are adequate; provided, however, that nothing in this subsection shall be construed to permit regulation by the commission with respect to a generation and transmission cooperative as defined in the Electric Utility Industry Restructuring Act

of 1999, except location control pursuant to Section 62-9-3 NMSA 1978 and limited rate regulation to the extent provided in Subsection D of this section, or of production or sale price at the wellhead of gas or petroleum.

C. The sale, furnishing or delivery of coal, uranium or other fuels by any affiliated interest to a utility for the generation of electricity for the public shall be subject to regulation by the commission but only to the extent necessary to enable the commission to determine that the cost to the utility of the coal, uranium or other fuels at the point of sale is reasonable and that the methods of delivery of the electricity are adequate; provided, however, that nothing in this subsection shall be construed to permit regulation by the commission of production or sale price at the wellhead of gas or petroleum. Nothing in this section shall be construed to permit regulation by the commission of production or sale price at the point of production of coal, uranium or other fuels.

D. New Mexico rates proposed by a generation and transmission cooperative shall be filed with the commission in the form of an advice notice, a copy of which shall be simultaneously served on all member utilities. Any member utility may file a protest of the proposed rates no later than twenty days after the generation and transmission cooperative files the advice notice. If three or more New Mexico member utilities file protests and the commission determines there is just cause in at least three of the

protests for reviewing the proposed rates, the commission shall suspend the rates, conduct a hearing concerning reasonableness of the proposed rates and establish reasonable rates. Each protest must contain a clear and concise statement of the specific grounds upon which the protestant believes the proposed rates are unreasonable or otherwise unlawful; a brief description of the protestant's efforts to resolve its objections directly with the generation and transmission cooperative; a clear and concise statement of the relief the protestant seeks from the commission; and a formal resolution of the board of trustees of the protesting member utility authorizing the filing of the protest. In order to determine whether just cause may exist for review, the commission shall consider whether each protestant has exhausted remedies with the generation and transmission cooperative or whether the generation and transmission cooperative has unreasonably rejected the protestant's objections to the proposed rates. A member utility shall present its objections to the generation and transmission cooperative in writing and allow a reasonable period for the generation and transmission cooperative to attempt resolution of, or otherwise respond to, those objections. A period of seven days after receipt of written objections will be deemed reasonable for the generation and transmission cooperative to provide a written response to the member utility, but a written response is not required if such time period extends beyond twenty days after the date on which the generation and transmission cooperative

filed the advice notice. The generation and transmission cooperative and its members are expected to make a good faith effort to resolve the member utility's objections to the proposed rates during that period of time."

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