

**FORTY-SEVENTH LEGISLATURE
FIRST SESSION, 2005**

February 20, 2005

Mr. Speaker:

Your **BUSINESS AND INDUSTRY COMMITTEE**, to whom has been referred

**HOUSE ENERGY AND NATURAL RESOURCES COMMITTEE
SUBSTITUTE FOR HOUSE BILL 200, as amended**

has had it under consideration and reports same with recommendation that it **DO PASS**, amended as follows:

1. Strike House Energy and Natural Resources Committee Amendment 1.
2. On page 3, line 16, strike "the" and insert in lieu thereof "a" and after "cooperative's" insert "or public utility's".
3. On page 3, line 17, strike "cooperative's" and insert in lieu thereof "lower of the".
4. On page 3, line 18, after "commission" insert "or of three cents (\$.03) per kilowatt-hour" and strike "production values" and strike lines 19 and 20 in their entirety and insert in lieu thereof "total number of kilowatt-hours that the commission estimates has been generated by all of the clean generation sources that are net metered by the public utility or rural electric cooperative".
5. On page 8, line 18, after "utility" insert "or rural electric cooperative".
6. On page 8, line 20, after "equipment" insert "and customer-owned facilities required by a public utility or rural electric cooperative for interconnection".
7. On page 8, line 21, after "utility" insert "or rural electric cooperative".
8. On page 8, line 25, after "B." insert "A public utility or a rural electric cooperative may charge a customer-generator for the installation of any metering equipment required for net metering that is in addition to equipment that is required for the rate tariff under which the customer

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is normally served."

9. On page 9, line 20, after "utility" insert "or rural electric cooperative".

10. On page 10, line 8, strike "a" and insert in lieu thereof "the".

11. On page 10, line 21, strike "public utility or".

12. On page 10, line 22, after "allow" insert ", with thirty days' notice to customers,".

13. On page 10, line 23, after "section" insert ", unless, within the thirty-day period after notice, the cooperative receives customer protests from customers representing a majority of the cooperative's load".

14. On page 11, line 3, strike "on January 1, 2006" and insert in lieu thereof "before June 1, 2006".

15. On page 11, line 8, strike "net" and insert in lieu thereof "operating".

16. On page 11, line 9, after "by" insert "public" and after "utilities" insert "and rural electric cooperatives, including reporting requirements for disapproved applications,".

17. On page 11, line 20, after "credit" insert "for net metering".

18. On page 11, lines 20 and 21, strike "or greater than".

19. On page 12, line 4, after "a" insert "net metering".

20. On page 12, line 8, after "a" insert "net metering".

21. On page 12, line 14, after "with" insert "all relevant public utility or rural electric cooperative interconnection requirements and all".

22. On page 12, line 24, after "utility's" insert "or rural electric cooperative's".

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23. On page 13, line 7, after "utility" insert "or rural electric cooperative".

24. On page 13, line 15, after "utility" insert "or rural electric cooperative".

25. On page 13, lines 16 and 17, strike "and the commission".

26. On page 13, line 18, after the period insert "The public utility or rural electric cooperative shall notify the commission of its approval or disapproval in accordance with the commission's rules.".

27. On page 13, between lines 18 and 19, insert the following new section to read:

"Section 5. Section 62-16-4 NMSA 1978 (being Laws 2004, Chapter 65, Section 4) is amended to read:

"62-16-4. RENEWABLE PORTFOLIO STANDARD.--

A. A public utility shall meet the renewable portfolio standard requirements, as provided in this section, to include renewable energy in its electric energy supply portfolio. Requirements of the renewable portfolio standard are:

(1) no later than January 1, 2006, renewable energy shall comprise no less than five percent of each public utility's total retail sales to New Mexico customers;

(2) the renewable portfolio standard shall increase by one percent per year thereafter until January 1, 2011, when the renewable portfolio standard shall reach a level of ten percent of a public utility's annual retail sales in New Mexico and shall remain fixed at ten percent for each year thereafter;

(3) the renewable portfolio standard established by this section shall be reduced, as necessary, to provide for the following specific procurement requirements for nongovernmental customers at a single location or facility, regardless of the number of meters at that location or facility, with consumption exceeding ten million kilowatt-

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hours per year. On and after January 1, 2006, the kilowatt-hours of renewable energy procured for these customers shall be limited so that the additional cost of the renewable portfolio standard to each customer does not exceed the lower of one percent of that customer's annual electric charges or forty-nine thousand dollars (\$49,000). The calculation of the additional cost of the renewable portfolio standard to each customer shall include the amount of the total net metering revenue reductions, as defined by the Public Utility Act, that the commission determines should be recovered from that customer. This procurement limit criteria shall increase by one-fifth percent or ten thousand dollars (\$10,000) per year until January 1, 2011, when the procurement limit criteria shall remain fixed at the lower of two percent of that customer's annual electric charges or ninety-nine thousand dollars (\$99,000). After January 1, 2012, the commission may adjust the ninety-nine-thousand-dollar (\$99,000) limit for inflation. Nothing contained in this paragraph shall be construed as affecting a public utility's right to recover all reasonable costs of complying with the renewable portfolio standard, pursuant to Section ~~[6 of the Renewable Energy Act]~~ 62-16-6 NMSA 1978. The commission may authorize deferred recovery of the costs of complying with the renewable portfolio standard, including carrying charges;

(4) the renewable portfolio shall be diversified as to the type of renewable energy resource, taking into consideration the overall reliability, availability, dispatch flexibility and cost of the various renewable energy resources made available by suppliers and generators; and

(5) renewable energy resources that are in a public utility's electric energy supply portfolio on July 1, 2004 shall be counted in determining compliance with this section.

B. If a public utility finds that, in any given year, the cost of renewable energy that would need to be procured or generated for purposes of compliance with the renewable portfolio standard would be greater than the reasonable cost threshold as established by the commission pursuant to this section, the public utility shall not be required to incur that cost; provided that the existence of this condition excusing performance in any given year shall

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not operate to delay the annual increases in the renewable portfolio standard in subsequent years. When a public utility can generate or procure renewable energy at or below the reasonable cost threshold, it shall be required to add renewable energy resources to meet the renewable portfolio standard applicable in the year when the renewable energy resources are being added.

C. By December 31, 2004, the commission shall establish, after notice and hearing, the reasonable cost threshold above which level a public utility shall not be required to add renewable energy to its electric energy supply portfolio pursuant to the renewable portfolio standard. The commission may thereafter modify the reasonable cost threshold as changing circumstances warrant, after notice and hearing. In establishing and modifying the reasonable cost threshold, the commission shall take into account:

(1) the price of renewable energy at the point of sale to the public utility;

(2) the transmission and interconnection costs required for the delivery of renewable energy to retail customers;

(3) the impact of the cost for net metering and renewable energy on overall retail customer rates;

(4) the overall diversity, reliability, availability, dispatch flexibility, cost per kilowatt-hour and life cycle cost on a net present value basis of renewable energy resources available from suppliers; and

(5) other factors, including public benefits, the commission deems relevant; provided that nothing in the Renewable Energy Act shall be construed to permit regulation by the commission of the production or sale price at the point of production of the renewable energy.

D. By September 1 of each year until 2012, and thereafter as determined necessary by the commission, a public utility shall file a report to the commission on its purchases of renewable energy during the prior calendar year and a procurement plan that includes:

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(1) the cost of procurement for any new renewable energy resource in the next calendar year required to comply with the renewable portfolio standard; and

(2) testimony and exhibits that demonstrate that the proposed procurement is reasonable as to its terms and conditions considering price, availability, dispatchability, any renewable energy certificate values and diversity of the renewable energy resource; or

(3) demonstration that the plan is otherwise in the public interest.

E. The commission shall approve or modify a public utility's procurement or transitional procurement plan within sixty days and may approve the plan without a hearing, unless a protest is filed that demonstrates to the commission's reasonable satisfaction that a hearing is necessary. The commission may modify a plan after notice and hearing. The commission may, for good cause, extend the time to approve a procurement plan for an additional sixty days. If the commission does not act within the sixty-day period, the procurement plan is deemed approved.

F. The commission may reject a procurement or transitional procurement plan if it finds that the plan does not contain the required information and, upon the rejection, may suspend the public utility's obligation to procure additional resources for the time necessary to file a revised plan; provided that the total amount of renewable energy to be procured by the public utility shall not change.

G. A public utility may file a transitional procurement plan requesting that the commission determine that the costs of renewable energy resources that the public utility has committed to, or may commit to, prior to the commission's establishing a reasonable cost threshold, are reasonable and recoverable pursuant to Section ~~[6 of the Renewable Energy Act]~~ 62-16-6 NMSA 1978. The requirements of annual procurement plan filings shall be applicable to any transitional procurement plan filing pursuant to this section."",

and thence referred to the **JUDICIARY COMMITTEE**.

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Respectfully submitted,

Fred Luna, Chairman

Adopted _____
(Chief Clerk)

Not Adopted _____
(Chief Clerk)

Date _____

The roll call vote was 12 For 0 Against
Yes: 12
No: 0
Excused: Taylor, T.
Absent: None

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