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HOUSE BILL 393

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

W. Ken Martinez

AN ACT

RELATING TO UTILITIES; ENACTING THE CITIZENS' UTILITY REVIEW ACT; CREATING THE CITIZENS' UTILITY REVIEW BOARD; CREATING A FUND; MAKING AN APPROPRIATION.

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

Section 1. SHORT TITLE.--This act may be cited as the "Citizens' Utility Review Act".

Section 2. DEFINITIONS.--As used in the Citizens' Utility Review Act:

A. "board" means the citizens' utility review board;

B. "commission" means the public regulation commission;

C. "counsel" means the consumer counsel employed by the board pursuant to the provisions of the Citizens' Utility

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1 Review Act; and

2 D. "fund" means the citizens' utility review fund.

3 Section 3. CITIZENS' UTILITY REVIEW BOARD CREATED--POWERS
4 AND DUTIES.--

5 A. The "citizens' utility review board" is created
6 to represent the interest of residential and small business
7 ratepayers in utility proceedings before the public regulation
8 commission.

9 B. The board shall:

10 (1) employ and direct the activities of a
11 consumer counsel;

12 (2) make recommendations on legislation that
13 affects the interests of utility consumers; and

14 (3) establish, maintain and operate an
15 internet web site for consumer education on utility issues.

16 C. The board shall consist of five members
17 appointed by the governor with the consent of the senate.
18 Members shall only be replaced for good cause. At least one
19 member shall be appointed from each congressional district and
20 no more than three members shall be members of the same
21 political party. Members shall represent residential, small
22 business and agricultural consumers and, to the extent
23 possible, shall have expertise or experience in consumer-
24 related utility matters, including management, economics,
25 accounting, financing, engineering, planning or utilities law.

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1 A member of the board shall not own stocks or bonds in a
2 corporation subject to regulation by the commission or have
3 pecuniary interest in a corporation subject to regulation by
4 the commission. A board member may have interest in a
5 retirement fund from a utility if the retirement fund is not
6 subject to divestiture for acts of disloyalty to the utility.

7 D. The board shall submit an annual report to the
8 attorney general on the accomplishments of the board.

9 E. Members of the board shall be paid per diem and
10 mileage as provided in the Per Diem and Mileage Act but shall
11 receive no other compensation, perquisite or allowance.

12 F. The board shall meet each July to select a chair
13 and a vice chair who shall serve as officers of the board for
14 one year. The board shall meet at least six times a year and
15 may hold additional meetings at the call of the chair or, in
16 absence of the chair, at the call of the vice chair. Three
17 members constitutes a quorum for the transaction of business.
18 The affirmative vote of at least a majority of a quorum present
19 shall be necessary for an action to be taken by the board.

20 G. Each member of the board shall serve a four-year
21 term. To provide for staggered terms, three of the initially
22 appointed members shall serve terms of two years and two
23 members for terms of four years. Thereafter, all members shall
24 serve four-year terms. Vacancies shall be filled by
25 appointment by the governor with confirmation by the senate for

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1 the remainder of the unexpired term. A member who is absent
2 from three consecutive meetings shall be removed and a
3 replacement appointed to fill the term.

4 Section 4. CONSUMER COUNSEL--EMPLOYMENT BY THE BOARD.--
5 The board shall employ an attorney as consumer counsel. The
6 counsel shall:

7 A. have at least two years of full-time experience
8 in consumer-related utility issues or in the operation,
9 management or regulation of utilities as either an attorney, an
10 engineer, an economist or an accountant;

11 B. not own stocks or bonds or have pecuniary
12 interest in a corporation subject to regulation by the
13 commission, but may have interest in a retirement fund from a
14 utility if the retirement fund is not subject to divestiture
15 for acts of disloyalty to the utility;

16 C. employ additional personnel, including two
17 attorneys, one paralegal, one secretary and one file clerk;

18 D. be notified by the commission of all proposed
19 tariffs and orders by the commission that may affect
20 residential or small business consumers;

21 E. have all rights and powers of a party in
22 interest before the commission, including the right of
23 examination and cross-examination of witnesses and presentation
24 of evidence;

25 F. institute, intervene in or otherwise participate

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1 in proceedings before the courts or in administrative
2 procedures on behalf of residential or small business utility
3 consumers concerning review of decisions by, or inaction of,
4 the commission;

5 G. conduct long-range studies relevant to rates and
6 tariffs charged to residential or small business utility
7 consumers; and

8 H. administer energy efficiency programs involving
9 the interests of residential and small business utility
10 consumers.

11 Section 5. CITIZENS' UTILITY REVIEW FUND.--The "citizens'
12 utility review fund" is created in the state treasury. The
13 fund shall consist of six percent of the commission's
14 inspection and carrier fees. The fund shall be administered by
15 the board. Income from investment of money in the fund shall
16 be credited to the fund. Balances in the fund at the end of
17 any fiscal year shall not revert to the general fund. The
18 board may establish procedures and adopt rules as required to
19 administer the fund and to recover from the fund costs of
20 administering the fund. Money in the fund is appropriated to
21 the board to carry out the provisions of the Citizens' Utility
22 Review Act, and disbursements of the fund shall be made by
23 warrant of the department of finance and administration
24 pursuant to vouchers signed by the chair of the board or the
25 chair's designee.

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