F I S C A L I M P A C T R E P O R T

SPONSOR SCORC **DATE TYPED** 3/15/05 **HB**

SHORT TITLE Net Electric Co-op Metering System **SB** 1006/aSJC/aSFL#1

ANALYST Rosen

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
	NFI		NFI		

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to HB200, SB 627 and HB 748

SOURCES OF INFORMATION
Public Regulation Commission (PRC)
Energy, Minerals, and Natural Resources Department (EMNRD)
Department of Environment (DOE)
Department of Finance and Administration (DFA)
Attorney General's Office (AGO)

SUMMARY

Synopsis of SFL#1 Amendment

Senate Floor Amendment #1 to Senate Corporations and Transportation Committee substitute, as amended, for Senate Bill 1006 changes the rate of compensation for electricity returned to the grid from the retail rate, about 8 cents per kilowatt hour, to the wholesale rate, about 1.5 cents per kilowatt hour. The amendment also strikes the SJC amendment, thus providing again for indemnification and limitation of liability for public utilities and rural electric cooperatives, and further expands indemnification to include financial compensation or payment of additional charges against the customer-generator.

Synopsis of SJC Amendment

Senate Judiciary Committee amendment to Senate Corporations and Transportation Committee substitute for Senate Bill 1006 strikes the section that removed the public utility or rural electric cooperative's liability as it related to customer-generator actions and required the customer-generator to indemnify the utility or electric cooperative with regard to installation or operation

of a clean generation source.

Synopsis of Original Bill

Senate Corporations and Transportation Committee substitute for Senate Bill 1006 adds new sections to the Rural Electric Cooperative Act and directs public utilities and rural electric cooperatives to offer net-metering for customer generation of power by renewable energy systems, allowing customers to sell power they generate from renewable energy systems back to public utilities or rural electric cooperatives.

Public utilities and rural electric cooperatives must make net metering available to customer-generators with clean energy sources over 10 kW but not exceeding 100 kW, subject to specified limitations. For public utilities, the limitation is that such net metering cannot increase the cumulative peak generating capacity of all clean energy sources on a utility's distribution system above 1% of the average of that utility's peak retail demand over the past three calendar years. For rural electric cooperatives, the limitation is that such net metering must not increase the net metering revenue reduction above 1% of a rural electric cooperative's average operating margins.

Relating to this limitation for cooperatives, a new definition of "net metering revenue reduction" is included and defined as the difference between a public utility's or rural electric cooperative's applicable tariff energy charge and the lower of the entity's avoided cost or three cents per kilowatt-hour multiplied by the total number of kilowatt-hours that PRC estimates has been generated by all the clean energy generation sources that are net-metered on the utility or cooperative system. The significance is that the term "net metering revenue deduction" is used in a calculation to determine whether a rural electric cooperative is required to make net metering available to a customer-generator with a clean generation source that has a peak generating capacity between 10 and 100 kilowatts. It is also used in determining whether the Renewable Portfolio Standard should be reduced due to the cost impact on large electricity consumers.

The bill clarifies that a utility or cooperative may allow additional net metering beyond the above-specified limits. Rural electric cooperatives may include such additional net metering capacity upon 30 days' notice to its customers, provided that customers representing a majority of the cooperative's load don't object during the protest period.

Whenever a public utility or rural electric cooperative makes net metering available, the customer-generator is required to pay all costs for acquisition and installation of the necessary metering equipment, as well as all costs incurred by a utility or cooperative for equipment or services necessary to meet applicable safety and performance standards. A public utility or rural electric cooperative is authorized to install additional metering equipment it deems necessary. If the system is 10 kW or less, payment of the cost of the additional equipment is borne by the entity requesting it; and if the system exceeds 10 kW, the utility or cooperative may require the customer-generator to pay that cost. The bill specifies that the customer-generator is responsible for costs associated with operating, maintaining, or modifying a clean generation source.

Public utilities and rural electric cooperatives are directed to credit customer-generators for their production of electricity in an amount equal to or greater than the applicable tariff rate or charge for that generator's customer class (i.e., production credited at the retail rate). If a customer-generator's net aggregate bill from a utility or cooperative is less than zero, the credit must be carried over to future bills. A customer-generator is prohibited from claiming a credit that has

already been claimed from another public utility or rural cooperative.

The bill imposes safety and performance requirements on net metering systems. It specifies that such systems must comply with the Institute of Electrical and Electronics Engineers' interconnection standards. The substitute also clarifies that utilities and cooperatives are not liable, directly or indirectly, for any damages or losses caused by installation and operation of a clean generation source. Moreover, customer-generators must indemnify a public utility for damage to persons and property incurred as a result of installation or operation of said source. A customer-generator is required to notify its public utility or rural electric cooperative and PRC of the intent to install a clean energy source at least 60 days before its installation on an application form prescribed by PRC.

The bill modifies Section 62-16-4 of the Renewable Energy Act, which relates to the Renewable Portfolio Standard (RPS). Specifically, the amendment changes the calculation of the additional cost of the RPS to each customer by including the amount of the total net metering revenue reductions (as newly defined, above) that PRC determines should be recovered from that customer. The significance is that the additional cost calculation determines whether the RPS will effectively be reduced for a public utility.

Significant Issues:

According to EMNRD, this bill will stimulate the installation and operation of clean generation systems throughout New Mexico, especially in the commercial sector and rural areas of the state. Such systems include those that use solar, wind, geothermal and biomass. This bill will benefit New Mexico because:

a) Utility customers will receive electricity production credit at retail rates for systems up to 100 kW.
b) The state will be supporting wider use of New Mexico's abundant solar resource resulting in a cleaner environment, increased energy security and independence, economic development by expansion of New Mexico's solar industry, and the creation of 35 jobs per megawatt installed.
c) Nationally and globally known solar businesses based in New Mexico will be utilized.
d) New manufacturing ventures and their high-wage jobs will be attracted to New Mexico.
e) "Distributed" power generation (generated at or near the electricity demand) helps alleviate electricity transmission constraints and reduce future transmission expansion needs.

According to AGO, PRC already has net metering rules and the need for a statute is questionable. From a regulatory point of view, the bill mandates that electricity purchased from a renewable energy net metered facility be purchased at the utility's retail prices, rather than some lower value, such as the utility's average cost or avoided cost. To the degree that a utility purchases such power, it may increase rates to other customers. A similar national rule, found in the Public Utility Regulatory Policy Act in the 1970's, was responsible for rate increases.

According to DFA, the substitute bill adds the renewable portfolio standard but excludes rural cooperatives from participating in it. There are 19 rural cooperatives serving rural communities

throughout New Mexico, of which 12 are members of the Tri-State Generation and Transmission Association (TSG), an interstate business. By the definition of "public utility" or "utility" found on page 5, line 5, it appears the major interstate supplier of electricity, TGS, to the State would be exempt from participating in the renewable portfolio standard.

DFA indicates renewable energy will have a greater opportunity to develop in rural areas where land and renewable resources (biomass, solar and wind) are plentiful and/or exist. However, it appears rural cooperatives and TGS would be exempt from participating in the net metering programs to these clean generation sources.

DFA reports the bill targets in-situ home or small-scale renewable energy producers with excess electrical capacity of up to 100 kW to sell. It does not require a public utility to provide net metering for any substantial electrical capacity.

PERFORMANCE IMPLICATIONS

Promotion, development, and implementation of renewable energy programs are key parts of the strategic plan of EMNRD's Energy Conservation and Management Division and EMNRD believes this bill will enhance EMNRD's related performance in this area.

ADMINISTRATIVE IMPLICATIONS

PRC and its Utility Division staff will have to amend PRC's existing net metering rule to conform to the provisions of this bill.

CONFLICT, DUPLICATION, COMPANIONSHIP OR RELATIONSHIP

EMNRD notes this bill is a duplicate of HB200.

DOE notes this bill relates to SB 627 and HB 748, duplicate bills enacting the Renewable Energy and Transmission Act and creating a quasi-state agency specializing in electric transmission, storage and infrastructure financing.

TECHNICAL ISSUES

PRC notes several technical issues:

1. Page 2, lines 13 and 14: "substantial long-term production potential" is subjective. Is substantial 5,10,15 or 20 years? What is considered long-term by the producer may not be considered so by the public utility. Is it better to define long-term as more than 10 years?

2. Page 3, line 5: Public utility and rural electric cooperative are separated. On page 5, line 4, public utility is defined to include rural electric cooperatives, which appears redundant and confusing. Is it better to limit the use of rural electric cooperatives to those sections that only apply to the rural electric cooperatives?

3. Page 3, line 10: Is it better to limit the net metering definition to the energy component of the electricity generated by the customer-generator? Electricity generated generally would cover both kW and kWh. The kW component may or may not be accommodated under net meter-

ing.

4. Page 6, line 21: Is better to replace "that is a public utility" with "that is also a public utility"?

5. Page 7, line 6: "long-term production". Same comment as in item 1 above.

6. Page 9, line 10: Is it better to add " and commission rules" at the end of the sentence. The Public Utility Act may not explicitly state safety and performance standards. PRC rules do.

7. Page 10, line 4: Same comment as in item 6 above.

8. Page 10, line 19: Is it better to modify "Act and that" to "Act and commission rules and that"?

9. Page 11, line 5: Is it better to replace "Utility Act and that" with " Utility Act and commission rules and that"?

10. Page 12, line 13: Should "customer class" be replaced with "customer class without the customer-generator's generation", to provide clarity?

11. Page 12, Lines 14 to 19: A tariff of a utility or rural electric cooperative for customers with up to 100 kW of load may contain a customer charge (not dependent on energy consumption), an energy charge (dependent upon energy consumption), a demand charge (not dependent upon energy consumption). Sometimes the tariff may contain a KVAR charge (power factor charge). It is not clear from the language whether customer charge, demand charge and KVAR charges also are credited. Should the language clarify that non-energy related charges like customer charge, demand charge and any KVAR charges are not to be credited or paid back to the customer-generator?

12. Page 14, line 19: Should "public utility" be replaced with "public utility or rural electric cooperative"?

AGO notes some terms and usages in the bill are not totally congruent: "renewable energy", "clean generation source" and "clean energy source".

OTHER SUBSTANTIVE ISSUES

According to DOE, it submitted a State Implementation Plan to U.S. Environmental Protection Agency in December 2003 pursuant to Section 309 of the federal Regional Haze Rule (40 CFR 51.309). According to this portion of the federal rule, the state is obligated to report every five years its progress in achieving the renewable energy goal of 10 percent of the regional power needs by 2005 and 20 percent by 2020.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL?

Net metering requirements will remain governed by PRC Rule 571, which limits the net metering of clean energy sources to systems 10 kW or less.

JR/yr:lg