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SENATE BILL 389

**47TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2006**

INTRODUCED BY

Phil A. Griego

AN ACT

RELATING TO MUNICIPALITIES; PROVIDING FOR CONDEMNATION OF  
NATURAL GAS FACILITIES; DECLARING AN EMERGENCY.

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

Section 1. Section 3-23-3 NMSA 1978 (being Laws 1965,  
Chapter 300, Section 14-22-3, as amended) is amended to read:

"3-23-3. MUNICIPAL UTILITY--APPROVAL OF [~~NEW MEXICO~~]  
PUBLIC [~~UTILITY~~] REGULATION COMMISSION--EXCEPTIONS.--

A. If the acquisition of a utility is to be  
financed from funds received from the issuance and sale of  
revenue bonds, the price of the acquisition of the utility  
shall be approved by the [~~New Mexico~~] public [~~utility~~]  
regulation commission, and the commission shall require:

(1) a determination by appraisal or otherwise  
of the true value of the utility to be purchased; or

underscored material = new  
[bracketed material] = delete

1 (2) an engineer's estimate of the cost of the  
2 utility to be constructed.

3 B. No revenue bonds shall be issued for the  
4 acquisition of such a utility until the [~~New Mexico~~] public  
5 [~~utility~~] regulation commission has approved the issue and its  
6 amount, date of issuance, maturity, rate of interest and  
7 general provisions.

8 C. The provisions of Subsections A and B of this  
9 section shall not apply to the condemnation by a municipality  
10 having a population of twenty-five thousand or more persons  
11 according to the 1990 federal decennial census of electricity  
12 facilities as authorized by Chapter 3, Article 24 NMSA 1978,  
13 sewer facilities as authorized by Chapter 3, Article 26 NMSA  
14 1978 or water facilities as authorized by Chapter 3, Article 27  
15 NMSA 1978.

16 D. The provisions of Subsections A and B of this  
17 section shall not apply to the condemnation of natural gas  
18 facilities by a municipality that has owned and operated a  
19 municipal natural gas utility for a period of more than ten  
20 years."

21 Section 2. Section 3-25-2 NMSA 1978 (being Laws 1965,  
22 Chapter 300, Section 14-24-2, as amended) is amended to read:

23 "3-25-2. NATURAL GAS OR GEOTHERMAL UTILITY--AUTHORIZATION  
24 TO ACQUIRE OR CONDEMN--CHARGES.--

25 A. A municipality may [~~if a satisfactory supply is~~

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1 ~~not otherwise obtainable as determined~~] by ordinance acquire  
2 [~~and~~], operate, maintain, contract for and condemn for use as a  
3 municipal utility, natural gas or geothermal energy facilities  
4 whether or not the facilities are privately owned for the  
5 transportation and distribution of natural gas or heat.

6 B. A municipality owning and operating a natural  
7 gas utility shall measure the natural gas used by the person  
8 receiving the service by volume or energy content.

9 C. A municipality owning and operating a geothermal  
10 utility shall measure the heat used by the person receiving the  
11 service by fluid volume and temperature or energy content."

12 Section 3. Section 3-25-4 NMSA 1978 (being Laws 1965,  
13 Chapter 300, Section 14-24-4, as amended) is amended to read:

14 "3-25-4. FINANCING ACQUISITION AND CONDEMNATION OF  
15 NATURAL GAS OR GEOTHERMAL UTILITY.--The acquisition or  
16 condemnation of facilities [øf] by a municipal natural gas or  
17 geothermal utility shall only be financed from funds received  
18 from the issuance and sale of bonds as authorized in Sections  
19 3-30-5 through 3-30-8 and 3-31-1 through 3-31-12 NMSA 1978  
20 except as provided in Section 3-23-4 NMSA 1978."

21 Section 4. Section 3-25-5 NMSA 1978 (being Laws 1965,  
22 Chapter 300, Section 14-24-5, as amended) is amended to read:

23 "3-25-5. NATURAL GAS OR GEOTHERMAL UTILITY OR  
24 FACILITIES--EMINENT DOMAIN POWER--PROCEDURE.--Any municipality  
25 acquiring or condemning a natural gas or geothermal utility or

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underscoring material = new  
[bracketed material] = delete

1 facilities may exercise the power of eminent domain within or  
2 without the municipal boundary for the purpose of acquiring  
3 property or facilities or interest in property or facilities  
4 whether or not the property or facilities are privately owned  
5 for the location of or for the extension of the facilities of a  
6 natural gas or geothermal utility. Proceedings to obtain such  
7 condemnation shall be in the manner provided by the Eminent  
8 Domain Code."

9 Section 5. EMERGENCY.--It is necessary for the public  
10 peace, health and safety that this act take effect immediately.

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