AN ACT
RELATING TO ELECTRIC UTILITIES; ENACTING SECTIONS OF THE
RURAL ELECTRIC COOPERATIVE ACT; AMENDING AND ENACTING
SECTIONS OF THE RENEWABLE ENERGY ACT; AMENDING SECTIONS OF
THE EFFICIENT USE OF ENERGY ACT; PROVIDING FOR INCREASES IN
THE RENEWABLE ENERGY PORTFOLIO OF PUBLIC UTILITIES AND RURAL
ELECTRIC COOPERATIVES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:
Section 1. A new section of the Rural Electric
Cooperative Act is enacted to read:
"RENEWABLE PORTFOLIO STANDARD.--
A. Each distribution cooperative organized under
the Rural Electric Cooperative Act 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, 2015, renewable
energy shall comprise no less than five percent of each
distribution cooperative's total retail sales to New Mexico
customers;
   (2) the renewable portfolio standard shall
increase by one percent per year thereafter until January 1,
2020, at which time the renewable portfolio standard shall be
ten percent of the distribution cooperative's total retail
sales to New Mexico customers;

(3) the renewable portfolio standard of each
distribution cooperative shall be diversified as to the type
of renewable energy resource, taking into consideration the
overall reliability, availability, dispatch flexibility and
the cost of the various renewable energy resources made
available to the distribution cooperative by its suppliers of
electric power; and

(4) renewable energy resources that are in a
distribution cooperative's energy supply portfolio on January
1, 2008 shall be counted in determining compliance with this
section.

B. If a distribution cooperative determines 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, the distribution cooperative
shall not be required to incur that cost; provided that the
existence of this condition excusing performance in any given
year shall not operate to delay any renewable portfolio
standard in subsequent years. For purposes of the Rural
Electric Cooperative Act, "reasonable cost threshold" means
an amount that shall be no greater than one percent of the
distribution cooperative's gross receipts from business
transacted in New Mexico for the preceding calendar year.

C. By March 1 of each year, a distribution cooperative shall file with the public regulation commission a report on its purchases and generation of renewable energy during the preceding calendar year. The report shall include the cost of the renewable energy resources purchased and generated by the distribution cooperative to meet the renewable portfolio standard.

D. A distribution cooperative shall report to its membership a summary of its purchases and generation of renewable energy during the preceding calendar year."

Section 2. A new section of the Rural Electric Cooperative Act is enacted to read:

"RENEWABLE ENERGY CERTIFICATES--COMMISSION DUTIES.--The public regulation commission shall establish:

A. a system of renewable energy certificates that can be used by a distribution cooperative to establish compliance with the renewable portfolio standard and that may include certificates that are monitored, accounted for or transferred by or through a regional system or trading program for any region in which a rural electric cooperative is located. The kilowatt-hour value of renewable energy certificates may be varied by renewable energy resource or technology; provided that each renewable energy certificate shall have a minimum value of one kilowatt-hour for purposes
of compliance with the renewable portfolio standard; and

B. requirements and procedures concerning renewable energy certificates that include the provisions that:

(1) renewable energy certificates:

(a) are owned by the generator of the renewable energy unless: 1) the renewable energy certificates are transferred to the purchaser of the energy through specific agreement with the generator; 2) the generator is a qualifying facility, as defined by the federal Public Utility Regulatory Policies Act of 1978, in which case the renewable energy certificates are owned by the distribution cooperative purchaser of the renewable energy unless retained by the generator through specific agreement with the distribution cooperative purchaser of the energy; or 3) a contract for the purchase of renewable energy is in effect prior to January 1, 2004, in which case the renewable energy certificates are owned by the purchaser of the energy for the term of such contract;

(b) may be traded, sold or otherwise transferred by their owner to any other party; provided that the transfers and use of the certificate by a distribution cooperative for compliance with the renewable energy portfolio standard shall require the electric energy represented by the certificate to be contracted for delivery
or consumed, or generated by an end-use customer of the
distribution cooperative in New Mexico unless the commission
determines that the distribution cooperative is participating
in a national or regional market for exchanging renewable
energy certificates;

(c) that are used for the purpose of
meeting the renewable portfolio standard shall be registered,
beginning January 1, 2008, with a renewable energy generation
information system that is designed to create and track
ownership of renewable energy certificates and that, through
the use of independently audited generation data, verifies
the generation and delivery of electricity associated with
each renewable energy certificate and protects against
multiple counting of the same renewable energy certificate;

(d) that are used once by a
distribution cooperative to satisfy the renewable portfolio
standard and are retired or that are traded, sold or
otherwise transferred by the distribution cooperative shall
not be further used by the distribution cooperative; and

(e) that are not used by a distribution
cooperative to satisfy the renewable portfolio standard or
that are not traded, sold or otherwise transferred by the
distribution cooperative may be carried forward for up to
four years from the date of issuance and, if not used by that
time, shall be retired by the distribution cooperative; and
(2) a distribution cooperative shall be responsible for demonstrating that a renewable energy certificate used for compliance with the renewable portfolio standard is derived from eligible renewable energy resources and has not been retired, traded, sold or otherwise transferred to another party."

Section 3. A new section of the Rural Electric Cooperative Act is enacted to read:

"RENEWABLE ENERGY AND CONSERVATION FEE.--

A. A distribution cooperative may collect from its customers a renewable energy and conservation fee of no more than one percent of the customer's bill. In no event shall a distribution cooperative collect more than seventy-five thousand dollars ($75,000) annually through the renewable energy and conservation fee from any single customer. Money collected through the renewable energy and conservation fee shall be segregated in a separate renewable energy and conservation account from other distribution cooperative funds and shall be expended only on programs or projects to promote the use of renewable energy, load management or energy efficiency. A distribution cooperative that collects a renewable energy and conservation fee from its customers shall report to the public regulation commission by March 1 of the following year the following information:

(1) the amount of money collected through
the renewable energy and conservation fee in the previous

calendar year;

(2) the programs or projects on which the
funds collected were expended; and

(3) the determination of the distribution
cooperative as to whether and in what amount to assess a
renewable energy and conservation fee in the next calendar
year.

B. Each distribution cooperative that collects a
renewable energy and conservation fee from its customers
shall deduct from the fees paid to the state pursuant to
Section 62-8-8 NMSA 1978 an amount equal to fifty percent of
the amount of money collected through the renewable energy
and conservation fee during the preceding calendar year. The
money shall be included in the account with other money from
the renewable energy and conservation fee and expended only
on programs or projects to promote the use of renewable
energy, load management or energy efficiency."

Section 4. A new section of the Rural Electric
Cooperative Act is enacted to read:

" DEFINITIONS--ENERGY EFFICIENCY--RENEWABLE ENERGY.--As
used in the Rural Electric Cooperative Act:

A. "energy efficiency" means measures, including
energy conservation measures, or programs that target
consumer behavior, equipment or devices to result in a
decrease in consumption of electricity without reducing the amount or quality of energy services; and

B. "renewable energy" means electric energy:
   (1) generated by use of low- or zero-emissions generation technology with substantial long-term production potential; and
   (2) generated by use of renewable energy resources that may include:
       (a) solar, wind and geothermal resources;
       (b) hydropower facilities brought in service after July 1, 2007;
       (c) fuel cells that are not fossil fueled; and
       (d) biomass resources, such as agriculture or animal waste, small diameter timber, salt cedar and other phreatophyte or woody vegetation removed from river basins or watersheds in New Mexico, landfill gas and anaerobically digested waste biomass; but
       (3) does not include electric energy generated by use of fossil fuel or nuclear energy."

Section 5. Section 62-16-1 NMSA 1978 (being Laws 2004, Chapter 65, Section 1) is amended to read:

"62-16-1. SHORT TITLE.--Chapter 62, Article 16 NMSA 1978 may be cited as the "Renewable Energy Act"."
Section 6. Section 62-16-2 NMSA 1978 (being Laws 2004, Chapter 65, Section 2) is amended to read:

"62-16-2. FINDINGS AND PURPOSES.—

A. The legislature finds that:

(1) the generation of electricity through the use of renewable energy presents opportunities to promote energy self-sufficiency, preserve the state's natural resources and pursue an improved environment in New Mexico;

(2) the use of renewable energy by public utilities subject to commission oversight in accordance with the Renewable Energy Act can bring significant economic benefits to New Mexico;

(3) public utilities should be required to include prescribed amounts of renewable energy in their electric energy supply portfolios for sales to retail customers in New Mexico by prescribed dates;

(4) public utilities should be able to recover their reasonable costs incurred to procure or generate energy from renewable energy resources used to meet the requirements of the Renewable Energy Act;

(5) a public utility should have incentives to go beyond the minimum requirements of the renewable portfolio standard;

(6) public utilities should not be required to acquire energy generated from renewable energy resources
that could result in costs above a reasonable cost threshold; and

(7) it may serve the public interest for public utilities to participate in national or regional renewable energy trading.

B. The purposes of the Renewable Energy Act are to:

(1) prescribe the amounts of renewable energy resources that public utilities shall include in their electric energy supply portfolios for sales to retail customers in New Mexico by prescribed dates;

(2) allow public utilities to recover costs through the rate-making process incurred for procuring or generating renewable energy used to comply with the prescribed amount; and

(3) protect public utilities and their ratepayers from renewable energy costs that are above a reasonable cost threshold."

Section 7. Section 62-16-3 NMSA 1978 (being Laws 2004, Chapter 65, Section 3) is amended to read:

"62-16-3. DEFINITIONS.--As used in the Renewable Energy Act:

A. "commission" means the public regulation commission;

B. "municipality" means a municipal corporation,
organized under the laws of the state, and H class counties;

C. "public utility" means an entity certified by the commission to provide retail electric service in New Mexico pursuant to the Public Utility Act but does not include rural electric cooperatives;

D. "reasonable cost threshold" means the cost established by the commission above which a public utility shall not be required to add renewable energy to its electric energy supply portfolio pursuant to the renewable portfolio standard;

E. "renewable energy" means electric energy:
   (1) generated by use of low- or zero-emissions generation technology with substantial long-term production potential; and
   (2) generated by use of renewable energy resources that may include:
      (a) solar, wind and geothermal resources;
      (b) hydropower facilities brought in service after July 1, 2007;
      (c) fuel cells that are not fossil fueled; and
      (d) biomass resources, such as agriculture or animal waste, small diameter timber, salt cedar and other phreatophyte or woody vegetation removed from
river basins or watersheds in New Mexico, landfill gas and
anaerobically digested waste biomass; but

(3) does not include electric energy
generated by use of fossil fuel or nuclear energy;

F. "renewable energy certificate" means a
certificate or other record, in a format approved by the
commission, that represents all the environmental attributes
from one kilowatt-hour of electricity generation from a
renewable energy resource;

G. "renewable portfolio standard" means the
percentage of retail sales by a public utility to electric
consumers in New Mexico that is required by the Renewable
Energy Act to be supplied by renewable energy; and

H. "renewable purchased power agreement" means an
agreement that binds an entity generating power from
renewable energy resources to provide power at a specified
price and binds a public utility to purchase the power at
that price."

Section 8. 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) for public utilities other than rural electric cooperatives and municipalities:

(a) 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;

(b) no later than January 1, 2011, renewable energy shall comprise no less than ten percent of each public utility's total retail sales to New Mexico customers;

(c) no later than January 1, 2015, renewable energy shall comprise no less than fifteen percent of each public utility's total retail sales to New Mexico customers; and

(d) no later than January 1, 2020, renewable energy shall comprise no less than twenty percent of each public utility's total retail sales to New Mexico customers;

(2) 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-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). 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 62-16-6 NMSA 1978. The commission may authorize deferred recovery of the costs of complying with the renewable portfolio standard, including carrying charges;

(3) 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;

(4) upon a commission motion or application by a public utility, the commission shall open a docket to provide appropriate performance-based financial or other incentives to encourage public utilities to acquire renewable energy supplies that exceed the applicable annual renewable portfolio standard set forth in this section. The commission shall initiate rules by June 1, 2008 to implement this subsection; 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 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 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, that 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, 2007 and July 1 of each year thereafter until 2022, and thereafter as determined necessary by the commission, a public utility shall file a report to the commission on its procurement and generation of renewable energy during the prior calendar year and a procurement plan that includes:

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 ninety 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 ninety days. If the commission does not act within the ninety-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 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.

H. The commission shall determine if it is in the public interest for the commission to provide appropriate performance-based financial or other incentives to encourage public utilities to acquire renewable energy supplies in
amounts that exceed the requirements of the renewable portfolio standard."

Section 9. Section 62-16-5 NMSA 1978 (being Laws 2004, Chapter 65, Section 5) is amended to read:

"62-16-5. RENEWABLE ENERGY CERTIFICATES--COMMISSION DUTIES.--The commission shall establish:

A. a system of renewable energy certificates that can be used by a public utility to establish compliance with the renewable portfolio standard and that may include certificates that are monitored, accounted for or transferred by or through a regional system or trading program for any region in which a public utility is located. The kilowatt-hour value of renewable energy certificates may be varied by renewable energy resource or technology; provided that each renewable energy certificate shall have a minimum value of one kilowatt-hour of renewable energy represented by the certificate for purposes of compliance with the renewable portfolio standard; and

B. requirements and procedures concerning renewable energy certificates that include the provisions that:

(1) renewable energy certificates:

(a) are owned by the generator of the renewable energy unless: 1) the renewable energy certificates are transferred to the purchaser of the energy..."
through specific agreement with the generator; 2) the
generator is a qualifying facility, as defined by the federal
Public Utility Regulatory Policies Act of 1978, in which case
the renewable energy certificates are owned by the public
utility purchaser of the renewable energy unless retained by
the generator through specific agreement with the public
utility purchaser of the energy; or 3) a contract for the
purchase of renewable energy is in effect prior to January 1,
2004, in which case the renewable energy certificates are
owned by the purchaser of the energy for the term of such
contract;

(b) may be traded, sold or otherwise
transferred by their owner to any other party; provided that
the transfers and use of the certificate by a public utility
for compliance with the renewable energy portfolio standard
shall require the electric energy represented by the
certificate to be contracted for delivery, or consumed or
generated by an end-use customer of the public utility in New
Mexico unless the commission determines that there is a
national or regional market for exchanging renewable energy
certificates;

(c) that are used for the purpose of
meeting the renewable portfolio standard shall be registered,
beginning January 1, 2009, with a renewable energy generation
information system that is designed to create and track
ownership of renewable energy certificates and that, through
the use of independently audited generation data, verifies
the generation and delivery of electricity associated with
each renewable energy certificate and protects against
multiple counting of the same renewable energy certificate;
    (d) that are used once by a public
utility to satisfy the renewable portfolio standard and are
retired or that are traded, sold or otherwise transferred by
the public utility shall not be further used by the public
utility; and
    (e) that are not used by a public
utility to satisfy the renewable portfolio standard or that
are not traded, sold or otherwise transferred by the public
utility may be carried forward for up to four years from the
date of issuance and, if not used by that time, shall be
retired by the public utility; and
    (2) a public utility shall be responsible
for demonstrating that a renewable energy certificate used
for compliance with the renewable portfolio standard is
derived from eligible renewable energy resources and has not
been retired, traded, sold or otherwise transferred to
another party."

Section 10. Section 62-16-6 NMSA 1978 (being Laws 2004,
Chapter 65, Section 6) is amended to read:

"62-16-6. COST RECOVERY FOR RENEWABLE ENERGY.--
A. A public utility that procures or generates renewable energy shall recover, through the rate-making process, the reasonable costs of complying with the renewable portfolio standard. Costs that are consistent with commission approval of procurement plans or transitional procurement plans shall be deemed to be reasonable.

B. The commission shall not exclude from such recovery reasonable interconnection and transmission costs incurred by the public utility in order to deliver renewable energy to retail New Mexico customers.

C. Upon a commission motion or application by a public utility, the commission shall open a docket to provide appropriate performance-based financial or other incentives to encourage public utilities to acquire renewable energy supplies that exceed the applicable annual renewable portfolio standard pursuant to the Renewable Energy Act. The commission shall initiate rules by June 1, 2008 to implement this subsection."

Section 11. Section 62-16-8 NMSA 1978 (being Laws 2004, Chapter 65, Section 8) is amended to read:

"62-16-8. RURAL ELECTRIC COOPERATIVE--VOLUNTARY TARIFFS.--

A. The commission may require that a rural electric cooperative:

(1) offer its retail customers a voluntary
program for purchasing renewable energy under rates and terms that are approved by the commission, but only to the extent that the cooperative's suppliers make renewable energy available under wholesale power contracts;

(2) report to the commission the demand for renewable energy pursuant to a voluntary program; and

(3) comply with the requirements for the procurement of renewable energy set forth in the Rural Electric Cooperative Act.

B. The commission shall establish and amend rules and regulations for the implementation of renewable portfolio standards consistent with the Rural Electric Cooperative Act."

Section 12. Section 62-17-1 NMSA 1978 (being Laws 2005, Chapter 341, Section 1) is amended to read:

"62-17-1. SHORT TITLE.--Chapter 62, Article 17 NMSA 1978 may be cited as the "Efficient Use of Energy Act"."

Section 13. Section 62-17-5 NMSA 1978 (being Laws 2005, Chapter 341, Section 5) is amended to read:

"62-17-5. COMMISSION APPROVAL--ENERGY EFFICIENCY AND LOAD MANAGEMENT PROGRAMS--DISINCENTIVES.--

A. Pursuant to the findings and purpose of the Efficient Use of Energy Act, the commission shall consider public utility investments in cost-effective energy efficiency and load management to be an acceptable use of
ratepayer money.

B. The commission shall direct public utilities to evaluate and implement cost-effective programs that reduce energy demand and consumption.

C. Before the commission approves an energy efficiency and load management program for a public utility, it must find that the portfolio of programs is cost-effective and designed to provide every affected customer class with the opportunity to participate and benefit economically. The commission shall determine the cost-effectiveness of energy efficiency and load management measures using the total resource cost test.

D. The commission shall act expeditiously on public utility requests for approval of energy efficiency or load management programs.

E. Public utilities shall obtain commission approval of energy efficiency and load management programs before they are implemented. Public utilities proposing new energy efficiency and load management programs shall, before seeking commission approval, solicit nonbinding recommendations on the design and implementation of the programs from commission staff, the attorney general, the energy, minerals and natural resources department and other interested parties.

F. The commission shall, upon petition or its own
motion, open a docket to identify any disincentives or barriers that may exist for public utility expenditures on energy efficiency and load management measures and, if found, ensure that they are eliminated and that an appropriate ratemaking treatment and performance-based, financial or other incentives are considered in order that public utilities are financially neutral in their preference for acquiring demand- or supply-side utility resources.

G. Public utilities shall set a goal of at least five percent reduction by January 1, 2020 in total retail sales to New Mexico customers, adjusted for load growth."

Section 14. Section 62-17-6 NMSA 1978 (being Laws 2005, Chapter 341, Section 6) is amended to read:

"62-17-6. COST RECOVERY.--

A. A public utility that undertakes cost-effective energy efficiency and load management programs shall recover the costs of all the programs implemented after the effective date of the Efficient Use of Energy Act through an approved tariff rider. Program costs may be deferred for future recovery through creation of a regulatory asset, provided that the deferred recovery does not cause the tariff rider to exceed the limits imposed by this section. The tariff rider for any utility customer shall not exceed the lower of the commission's approved tariff for that customer's bill or seventy-five thousand dollars ($75,000) per year except that,
upon application by a public utility with the advice and consent of the entity designated by law to represent residential and commercial utility customers, the commission may approve a tariff rider in excess of the commission's approved tariff for customers other than large customers and may approve a tariff rider in excess of the lower of the commission's approved tariff or seventy-five thousand dollars ($75,000) per year for a large customer that consents to such a rider. The commission shall approve such applications upon finding that the proposed energy efficiency and load management programs are cost-effective and that the cost recovery proposal is just and reasonable.

B. The tariff rider shall provide for the recovery, on a monthly basis or otherwise, of all reasonable costs of approved energy efficiency and load management programs.

C. A tariff rider proposed by a public utility to fund approved energy efficiency and load management programs shall go into effect thirty days after filing, unless suspended by the commission for a period not to exceed one hundred eighty days. If the tariff rider is not approved or suspended within thirty days after filing, it shall be deemed approved as a matter of law. If the commission has not acted to approve or disapprove the tariff rider by the end of an ordered suspension period, it shall be deemed approved as a...
matter of law. The commission shall approve utility reconciliations of the tariff rider annually based upon recovery of the reasonable costs of the utility's programs.

D. The commission shall ensure that there are no cross-subsidies between a public utility's energy efficiency and load management activities and the public utility's supply-side activities and shall ensure that the existence of a tariff rider does not permit a public utility to earn an excessive rate of return."

Section 15. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.