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FISCAL IMPACT REPORT

ORIGINAL DATE 1/19/07

SPONSOR Heaton LAST UPDATED _____ HB 47

SHORT TITLE Transmission Line Cost Recovery SB _____

ANALYST Earnest

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
NFI	NFI	NA	NA

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Energy, Minerals and Natural Resources Department (EMNRD)

Public Regulation Commission (PRC)

SUMMARY

Synopsis of Bill

House Bill 47 amends sections of the Public Utility Act to allow a utility to recover the cost of new electric transmission facilities before actual completion and operation of the facility. The facilities would have to be certified and approved by PRC to facilitate economic development and development of renewable energy. HB 47 requires the PRC to adopt rules that provides a transmission rate adjustment outside a general rate case to reflect investment and costs incurred for these facilities. The bill also provides for guaranteed recovery in rates of such facilities regardless of the extent of utility's actual use of the facilities.

FISCAL IMPLICATIONS

None identified.

SIGNIFICANT ISSUES

According to EMNRD, traditional electric transmission lines do not often serve areas that are rich in renewable energy resources, impeding development of these resources. Planning and construction of transmission lines takes much longer than development of renewable energy electric power plants. Investment in beneficial projects might not occur if cost recovery is delayed for many years. Therefore, in order to encourage development of the state's renewable energy resources, it would be beneficial that utilities are allowed to recover costs of the transmission projects as they progress, and before completion of the transmission lines and connection of the generators.

According to PRC, the proposed recovery of costs outside of a general rate case (proposed Section F) constitutes piecemeal ratemaking, a process that is inefficient and inconsistent with sound regulatory procedure. The costs of a utility's new transmission investment is only one component of utility's total cost of service that is analyzed in a general rate case. Without examining the total cost in a general rate case, allowing expedited recovery of a single cost factor through an automatic monthly rate adjustment is contrary to well established regulatory principles and is not in the public interest.

PERFORMANCE IMPLICATIONS

According to EMNRD, HB 47 would enhance efforts to encourage the development of renewable energy in the state. Other states, including Texas, are already providing similar incentives to remedy the shortage of transmission.

ADMINISTRATIVE IMPLICATIONS

The legislation may result in additional regulatory proceedings, record keeping and compliance filings at the PRC.

TECHNICAL ISSUES

PRC identified two technical issues:

1. Page 4, lines 18-25 and page 5, lines 1-2 (proposed Section F), conflicts with existing language in NMSA 1978 Section 62-8-7 E, which provides in part, "Except as otherwise provided by law, any increase in rates or charges for the utility commodity based upon cost factors other than taxes or cost of fuel, gas or purchased power, filed for after April 4, 1991, shall be permitted only after notice and hearing as provided by this section."

2. Page 2, lines 2-13 (proposed Section C): The proposed language appears to contradict itself. A Certificate of Public Convenience and Necessity ("CCN") is given by the Commission after the need for, and use of, the proposed transmission facility is proven by the applicant utility. The proposed language appears to suggest that CCN's can be given to certain facilities without establishing the need for such facilities. Furthermore, the proposed language provides that, once certified, the utility would be guaranteed recovery of costs associated with such facilities regardless of whether they are actually used and useful to the customers of that utility. These proposed provisions are not consistent with well-established regulatory principles and do not promote the public interest. In addition, such a proposal is contrary to existing NMSA 1978

Section 62-8-7 A. which provides that “At any hearing involving an increase in rates or charges sought by a public utility, the burden of proof to show that the increased rate or charge is just and reasonable shall be upon the utility.” The proposed language in Section C would shift the burden of proof away from the utility.

According to EMNRD, the language on page 9 paragraph C, first sentence, is contrary to the title of the bill. The title indicates an intention directed at transmission facilities for economic development and renewable energy. But the first sentence of paragraph C. would broaden the applicability to all transmission facilities with a certificate of convenience and necessity; i.e. virtually all transmission facilities.

OTHER SUBSTANTIV ISSUES

According to PRC, the bill:

- Changes traditional principles or powers granted to the NMPRC to oversee various aspects of electric utility transmission facilities.
- Transfers risk of imprudent decisions from shareholder to ratepayers.
- Restricts ability of PRC to review utility investment decisions.
- Sufficient incentives already exist for utilities to invest in electric transmission.
- No factual evidence supports the need for this legislation.
- Regulatory paradigm subverted.
- Additional transmission can be built and upgraded/enhanced under existing regulatory regime.
- Likelihood of higher rates for consumers who may not receive any direct benefits.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

A new regulatory process for certain transmission facilities would not be created.

BE/csd