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## FISCAL IMPACT REPORT

ORIGINAL DATE 02/05/11  
 LAST UPDATED 02/21/11    **HB** \_\_\_\_\_

SPONSOR Harden

SHORT TITLE Adjust Water Utility Rates Without Notice    **SB** 209/aSCORC

ANALYST Lucero

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY11	FY12	FY13	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
<b>Total</b>		NFI	NFI	NFI		

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

Responses Received From  
 Public Regulation Commission (PRC)

### SUMMARY

#### Synopsis of SCORC Amendment

The amendment clarifies that “water resource acquisition,” does not include “the purchase or other permanent acquisition of water rights.”

#### Synopsis of Original Bill

Senate Bill 209 proposes to amend Section 62-8-7 NMSA 1978, the Public Utility Act to allow water utilities to recover the cost of acquiring water resources through an adjustment clause like the ones currently in place for tax, fuel, gas and purchased power costs. The bill would avoid the necessity of a notice and hearing rate proceeding every time those costs change.

### FISCAL IMPLICATIONS

None at this time

### SIGNIFICANT ISSUES

SCORC amends the bill to clarify that the acquisition clause would only apply to “wet water” as needed by a utility on a short term basis, and would not affect the responsibility of the utility to provide a stable source of long term supply, in the form of water rights.

Specifically, the bill directs the Public Regulation Commission (“PRC”) to promulgate rules governing the use of such adjustment clauses. These requirements exactly duplicate the ones presently in place for the other adjustment clauses. The only new thing in this bill is the introduction of the phrase “water resource acquisition.”

## **PERFORMANCE IMPLICATIONS**

The PRC reports:

Currently, costs for water resources are but one of the factors considered in a ratemaking proceeding. This bill could be considered “piecemeal ratemaking,” as other costs may vary in either direction, and so all factors should be considered as a whole when rates are determined.

## **ADMINISTRATIVE IMPLICATIONS**

Modifications would be necessary to the PRC’s rules on adjustment clauses.

## **TECHNICAL ISSUES**

The phrase “water resource acquisition” is not defined. It could apply to water rights, delivery systems, the commodity itself, or all of the above. Typically a fuel clause allows a utility to adjust for circumstances that are variable and beyond the control of the utility, such as the price of natural gas for generating electricity. In the case of water utilities, securing a reliable supply of good quality water is incumbent on the utility and should be subject of advance planning, so it is neither variable nor uncertain.

There may be circumstances, however, wherein a water utility and its customers could benefit from a secondary source to buffer or backup the primary source, in which case the quantity and timing of delivery would be variable and therefore reasonable to recover by means of an adjustment clause. The PRC would have to address these concerns through the proposed rulemaking, which is designed to insure that any adjustment clause is in the public interest and consistent with the standards of the Public Utility Act to provide reasonable and proper service at fair, just and reasonable rates.

## **ALTERNATIVES**

Streamlined proceedings to adjust rates to changing conditions.

DL/svb:bym