

1 SENATE BILL 373

2 **53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017**

3 INTRODUCED BY

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10 AN ACT

11 RELATING TO UTILITIES; AMENDING A SECTION OF THE RENEWABLE
12 ENERGY ACT TO END, IN 2017, THE STATUTORY REQUIREMENT FOR A
13 PUBLIC UTILITY TO FILE A REPORT TO THE PUBLIC REGULATION
14 COMMISSION ON ITS PROCUREMENT AND GENERATION OF RENEWABLE
15 ENERGY.

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

18 SECTION 1. Section 62-16-4 NMSA 1978 (being Laws 2004,
19 Chapter 65, Section 4, as amended) is amended to read:

20 "62-16-4. RENEWABLE PORTFOLIO STANDARD.--

21 A. A public utility shall meet the renewable
22 portfolio standard requirements, as provided in this section,
23 to include renewable energy in its electric energy supply
24 portfolio. Requirements of the renewable portfolio standard
25 are:

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1 (1) for public utilities other than rural
2 electric cooperatives and municipalities:

3 (a) no later than January 1, 2006,
4 renewable energy shall comprise no less than five percent of
5 each public utility's total retail sales to New Mexico
6 customers;

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

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

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

19 (2) the renewable portfolio standard
20 established by this section shall be reduced, as necessary, to
21 provide for the following specific procurement requirements for
22 nongovernmental customers at a single location or facility,
23 regardless of the number of meters at that location or
24 facility, with consumption exceeding ten million kilowatt-hours
25 per year. On and after January 1, 2006, the kilowatt-hours of

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1 renewable energy procured for these customers shall be limited
2 so that the additional cost of the renewable portfolio standard
3 to each customer does not exceed the lower of one percent of
4 that customer's annual electric charges or forty-nine thousand
5 dollars (\$49,000). This procurement limit criterion shall
6 increase by one-fifth percent or ten thousand dollars (\$10,000)
7 per year until January 1, 2011, when the procurement limit
8 criterion shall remain fixed at the lower of two percent of
9 that customer's annual electric charges or ninety-nine thousand
10 dollars (\$99,000). After January 1, 2012, the commission may
11 adjust the ninety-nine-thousand-dollar (\$99,000) limit for
12 inflation. Nothing contained in this paragraph shall be
13 construed as affecting a public utility's right to recover all
14 reasonable costs of complying with the renewable portfolio
15 standard, pursuant to Section 62-16-6 NMSA 1978. The
16 commission may authorize deferred recovery of the costs of
17 complying with the renewable portfolio standard, including
18 carrying charges;

19 (3) any customer that is a political
20 subdivision of the state or any educational institution
21 designated in Article 12, Section 11 of the constitution of New
22 Mexico, with an enrollment of twenty-four thousand students or
23 more during the fall semester on its main campus, with
24 consumption exceeding twenty million kilowatt-hours per year at
25 any single location or facility, and that owns renewable energy

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1 generation is exempt from all charges by the utility for
2 renewable energy procurements in a year, regardless of the
3 number of customer locations or meters on the system, if that
4 customer certifies to the state auditor and notifies the
5 commission and its serving electric utility that it will expend
6 two and one-half percent of that year's annual electricity
7 charges to continue to develop within twenty-four months
8 customer-owned renewable energy generation. That customer
9 shall also certify that it will retire all renewable energy
10 certificates associated with the energy produced from that
11 expenditure;

12 (4) the renewable portfolio shall be
13 diversified as to the type of renewable energy resource, taking
14 into consideration the overall reliability, availability,
15 dispatch flexibility and cost of the various renewable energy
16 resources made available by suppliers and generators;

17 (5) upon a commission motion or application by
18 a public utility, the commission shall open a docket to provide
19 appropriate performance-based financial or other incentives to
20 encourage public utilities to acquire renewable energy supplies
21 that exceed the applicable annual renewable portfolio standard
22 set forth in this section. The commission shall initiate rules
23 by June 1, 2008 to implement this subsection; and

24 (6) renewable energy resources that are in a
25 public utility's electric energy supply portfolio on July 1,

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1 2004 shall be counted in determining compliance with this
2 section.

3 B. If a public utility finds that, in any given
4 year, the cost of renewable energy that would need to be
5 procured or generated for purposes of compliance with the
6 renewable portfolio standard would be greater than the
7 reasonable cost threshold as established by the commission
8 pursuant to this section, the public utility shall not be
9 required to incur that cost; provided that the existence of
10 this condition excusing performance in any given year shall not
11 operate to delay the annual increases in the renewable
12 portfolio standard in subsequent years. When a public utility
13 can generate or procure renewable energy at or below the
14 reasonable cost threshold, it shall be required to add
15 renewable energy resources to meet the renewable portfolio
16 standard applicable in the year when the renewable energy
17 resources are being added.

18 C. By December 31, 2004, the commission shall
19 establish, after notice and hearing, the reasonable cost
20 threshold above which level a public utility shall not be
21 required to add renewable energy to its electric energy supply
22 portfolio pursuant to the renewable portfolio standard. The
23 commission may thereafter modify the reasonable cost threshold
24 as changing circumstances warrant, after notice and hearing.
25 In establishing and modifying the reasonable cost threshold,

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1 the commission shall take into account:

2 (1) the price of renewable energy at the point
3 of sale to the public utility;

4 (2) the transmission and interconnection costs
5 required for the delivery of renewable energy to retail
6 customers;

7 (3) the impact of the cost for renewable
8 energy on overall retail customer rates;

9 (4) the overall diversity, reliability,
10 availability, dispatch flexibility, cost per kilowatt-hour and
11 life-cycle cost on a net present value basis of renewable
12 energy resources available from suppliers; and

13 (5) other factors, including public benefits,
14 that the commission deems relevant; provided that nothing in
15 the Renewable Energy Act shall be construed to permit
16 regulation by the commission of the production or sale price at
17 the point of production of the renewable energy.

18 D. By September 1, 2007 and July 1 of each year
19 thereafter until [~~2022~~] 2017, and thereafter as determined
20 necessary by the commission, a public utility shall file a
21 report to the commission on its procurement and generation of
22 renewable energy during the prior calendar year and a
23 procurement plan that includes:

24 (1) the cost of procurement for any new
25 renewable energy resource in the next calendar year required to

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1 comply with the renewable portfolio standard; and

2 (2) testimony and exhibits that demonstrate
3 that the proposed procurement is reasonable as to its terms and
4 conditions considering price, availability, dispatchability,
5 any renewable energy certificate values and diversity of the
6 renewable energy resource; or

7 (3) demonstration that the plan is otherwise
8 in the public interest.

9 E. The commission shall approve or modify a public
10 utility's procurement or transitional procurement plan within
11 ninety days and may approve the plan without a hearing, unless
12 a protest is filed that demonstrates to the commission's
13 reasonable satisfaction that a hearing is necessary. The
14 commission may modify a plan after notice and hearing. The
15 commission may, for good cause, extend the time to approve a
16 procurement plan for an additional ninety days. If the
17 commission does not act within the ninety-day period, the
18 procurement plan is deemed approved.

19 F. The commission may reject a procurement or
20 transitional procurement plan if it finds that the plan does
21 not contain the required information and, upon the rejection,
22 may suspend the public utility's obligation to procure
23 additional resources for the time necessary to file a revised
24 plan; provided that the total amount of renewable energy to be
25 procured by the public utility shall not change.

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1 G. A public utility may file a transitional
2 procurement plan requesting that the commission determine that
3 the costs of renewable energy resources that the public
4 utility has committed to, or may commit to, prior to the
5 commission's establishing a reasonable cost threshold, are
6 reasonable and recoverable pursuant to Section 62-16-6 NMSA
7 1978. The requirements of annual procurement plan filings
8 shall be applicable to any transitional procurement plan filing
9 pursuant to this section.

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