

HOUSE BILL 283

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

INTRODUCED BY

Nathan P. Small and Mimi Stewart

AN ACT

RELATING TO UTILITIES; INCREASING THE REQUIREMENTS OF THE
RENEWABLE PORTFOLIO STANDARD FOR RURAL ELECTRIC COOPERATIVES
AND PUBLIC UTILITIES; AMENDING CERTAIN DEFINITIONS IN THE
RENEWABLE ENERGY ACT; CHANGING REPORTING REQUIREMENTS ON THE
PROCUREMENT OF RENEWABLE ENERGY; CREATING NEW REQUIREMENTS TO
TRANSFER RENEWABLE ENERGY CERTIFICATES; ELIMINATING AN
EXEMPTION TO THE RENEWABLE PORTFOLIO STANDARD FOR PUBLIC
UTILITIES THAT HAVE AN ALL-REQUIREMENTS ELECTRIC SUPPLY ON JULY
1, 2004; CHANGING REQUIREMENTS TO ALLOW THE PUBLIC REGULATION
COMMISSION TO REQUIRE A RURAL ELECTRIC COOPERATIVE TO OFFER A
PROGRAM FOR PURCHASING RENEWABLE ENERGY; REQUIRING THE HIRING
OF CERTAIN APPRENTICES FOR THE CONSTRUCTION OF FACILITIES THAT
PRODUCE OR PROVIDE ELECTRICITY.

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

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1 SECTION 1. Section 62-15-34 NMSA 1978 (being Laws 2007,
2 Chapter 4, Section 1, as amended by Laws 2014, Chapter 24,
3 Section 1, and by Laws 2014, Chapter 25, Section 1) is amended
4 to read:

5 "62-15-34. RENEWABLE PORTFOLIO STANDARD.--

6 A. Each distribution cooperative organized under
7 the Rural Electric Cooperative Act shall meet the renewable
8 portfolio standard requirements, as provided in this section,
9 to include renewable energy in its electric energy supply
10 portfolio as demonstrated by its retirement of renewable energy
11 certificates. Requirements of the renewable portfolio standard
12 are as follows:

13 (1) no later than January 1, 2015, renewable
14 energy shall comprise no less than five percent of each
15 distribution cooperative's total retail sales to New Mexico
16 customers;

17 (2) the renewable portfolio standard shall
18 increase by one percent per year thereafter until January 1,
19 2020, at which time the renewable portfolio standard shall be
20 ten percent of the distribution cooperative's total retail
21 sales to New Mexico customers;

22 (3) the renewable portfolio standard shall
23 increase so that renewable energy shall comprise the following
24 percentages of the distribution cooperative's total retail
25 sales to New Mexico:

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1 (a) twenty-five percent by January 1,
2 2025;

3 (b) forty percent by January 1, 2030;

4 (c) fifty-five percent by January 1,
5 2035;

6 (d) seventy percent by January 1, 2040;

7 and

8 (e) eighty percent by January 1, 2045;

9 [~~(3)~~] (4) the renewable portfolio standard of
10 each distribution cooperative shall be diversified as to the
11 type of renewable energy resource, taking into consideration
12 the overall reliability, availability and dispatch flexibility
13 and the cost of the various renewable energy resources made
14 available to the distribution cooperative by its suppliers of
15 electric power; and

16 [~~(4)~~] (5) renewable energy resources that are
17 in a distribution cooperative's energy supply portfolio on
18 January 1, 2008 shall be counted in determining compliance with
19 this section.

20 ~~[B. If a distribution cooperative determines that,~~
21 ~~in any given year, the cost of renewable energy that would need~~
22 ~~to be procured or generated for purposes of compliance with the~~
23 ~~renewable portfolio standard would be greater than the~~
24 ~~reasonable cost threshold, the distribution cooperative shall~~
25 ~~not be required to incur that cost; provided that the existence~~

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1 ~~of this condition excusing performance in any given year shall~~
2 ~~not operate to delay any renewable portfolio standard in~~
3 ~~subsequent years. For purposes of the Rural Electric~~
4 ~~Cooperative Act, "reasonable cost threshold" means an amount~~
5 ~~that shall be no greater than one percent of the distribution~~
6 ~~cooperative's gross receipts from business transacted in New~~
7 ~~Mexico for the preceding calendar year.~~

8 G.] B. By April 30 of each year, a distribution
9 cooperative shall file with the public regulation commission a
10 report on its purchases and generation of renewable energy
11 during the preceding calendar year. The report shall include
12 the cost of the renewable energy resources purchased and
13 generated by the distribution cooperative to meet the renewable
14 portfolio standard, an explanation of steps taken to minimize
15 those costs, including competitive procurement and comparison
16 of the price of electricity from renewable energy resources in
17 the bids received by the distribution cooperative to recent
18 prices for such electricity elsewhere in the southwestern
19 United States, and an annual compliance plan for meeting the
20 renewable portfolio standard for the following three years.

21 C. If, in any given year, a distribution
22 cooperative determines that the average annual levelized cost
23 of renewable energy that would need to be procured or generated
24 for purposes of compliance with the renewable portfolio
25 standard would be greater than sixty dollars (\$60.00) per

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1 megawatt-hour at the point of interconnection of the renewable
2 energy resource with the transmission system, adjusted for
3 inflation after 2020, the distribution cooperative shall not be
4 required to incur that excess cost; provided that the existence
5 of this condition excusing performance in any given year shall
6 not operate to delay compliance with the renewable portfolio
7 standard in subsequent years. The provisions of this
8 subsection do not preclude a distribution cooperative from
9 accepting a project that would exceed sixty dollars (\$60.00)
10 per megawatt-hour.

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

14 SECTION 2. Section 62-16-3 NMSA 1978 (being Laws 2004,
15 Chapter 65, Section 3, as amended) is amended to read:

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

18 A. "commission" means the public regulation
19 commission;

20 B. "energy storage" means batteries or other means
21 by which energy can be retained and delivered as electricity
22 for use at a later time;

23 [~~B-~~] C. "municipality" means a municipal
24 corporation, organized under the laws of the state, and H class
25 counties;

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1 ~~[G.]~~ D. "public utility" means an entity certified
2 by the commission to provide retail electric service in New
3 Mexico pursuant to the Public Utility Act but does not include
4 rural electric cooperatives;

5 ~~[D.]~~ E. "reasonable cost threshold" means ~~[the cost~~
6 ~~established by the commission, above which a public utility~~
7 ~~shall not be required to add renewable energy to its electric~~
8 ~~energy supply portfolio pursuant to the renewable portfolio~~
9 ~~standard]~~ an averaged annual levelized cost of sixty dollars
10 (\$60.00) per megawatt-hour at the point of interconnection of
11 the renewable energy resource with the transmission system,
12 adjusted for inflation after 2020;

13 ~~[E.]~~ F. "renewable energy" means electric energy
14 ~~[(1) generated by use of low- or zero-~~
15 ~~emissions generation technology with substantial long-term~~
16 ~~production potential; and~~

17 ~~(2)]~~ generated by use of renewable energy
18 resources ~~[that may include:~~

19 ~~(a) solar, wind and geothermal~~
20 ~~resources;~~

21 ~~(b) hydropower facilities brought in~~
22 ~~service after July 1, 2007;~~

23 ~~(c) fuel cells that are not fossil~~
24 ~~fueled; and~~

25 ~~(d) biomass resources, such as~~

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1 ~~agriculture or animal waste, small diameter timber, salt cedar~~
2 ~~and other phreatophyte or woody vegetation removed from river~~
3 ~~basins or watersheds in New Mexico, landfill gas and~~
4 ~~anaerobically digested waste biomass; but~~

5 ~~(3) does not include electric energy generated~~
6 ~~by use of fossil fuel or nuclear energy] and delivered to a~~
7 ~~public utility;~~

8 [F.] G. "renewable energy certificate" means a
9 certificate or other record, in a format approved by the
10 commission, that represents all the environmental attributes
11 from one [kilowatt-hour] megawatt-hour of electricity
12 [generation] generated from [a] renewable energy; [resource]

13 H. "renewable energy resource" means the following
14 energy resources, with or without energy storage:

15 (1) solar, wind and geothermal resources;

16 (2) hydropower facilities brought in service
17 after July 1, 2007;

18 (3) fuel cells that do not use fossil fuels to
19 create electricity; and

20 (4) landfill gas and anaerobically digested
21 waste biogas;

22 [G.] I. "renewable portfolio standard" means the
23 minimum percentage of retail sales of electricity by a public
24 utility to electric consumers in New Mexico that is required by
25 the Renewable Energy Act to be [supplied by] generated from

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1 renewable energy; and

2 [H.] J. "renewable purchased power agreement" means
3 an agreement that binds an entity generating power from
4 renewable energy resources to provide power at a specified
5 price and binds a public utility to purchase the power at that
6 price."

7 SECTION 3. Section 62-16-4 NMSA 1978 (being Laws 2004,
8 Chapter 65, Section 4, as amended) is amended to read:

9 "62-16-4. RENEWABLE PORTFOLIO STANDARD.--

10 A. A public utility shall meet the renewable
11 portfolio standard requirements, as provided in this section,
12 to include renewable energy in its electric energy supply
13 portfolio as demonstrated by its retirement of renewable energy
14 certificates; provided that the renewable energy is delivered
15 to the public utility. For public utilities other than rural
16 electric cooperatives and municipalities, requirements of the
17 renewable portfolio standard are:

18 [~~(1) for public utilities other than rural~~
19 ~~electric cooperatives and municipalities:~~

20 ~~(a) no later than January 1, 2006,~~
21 ~~renewable energy shall comprise no less than five percent of~~
22 ~~each public utility's total retail sales to New Mexico~~
23 ~~customers;~~

24 ~~(b) no later than January 1, 2011,~~
25 ~~renewable energy shall comprise no less than ten percent of~~

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1 ~~each public utility's total retail sales to New Mexico~~
2 ~~customers;~~

3 ~~(e)] (1) no later than January 1, 2015,~~
4 ~~renewable energy shall comprise no less than fifteen percent of~~
5 ~~each public utility's total retail sales to New Mexico~~
6 ~~customers; [and~~

7 ~~(d)] (2) no later than January 1, 2020,~~
8 ~~renewable energy shall comprise no less than twenty percent of~~
9 ~~each public utility's total retail sales to New Mexico~~
10 ~~customers;~~

11 ~~[(2) the renewable portfolio standard~~
12 ~~established by this section shall be reduced, as necessary, to~~
13 ~~provide for the following specific procurement requirements for~~
14 ~~nongovernmental customers at a single location or facility,~~
15 ~~regardless of the number of meters at that location or~~
16 ~~facility, with consumption exceeding ten million kilowatt-hours~~
17 ~~per year. On and after January 1, 2006, the kilowatt-hours of~~
18 ~~renewable energy procured for these customers shall be limited~~
19 ~~so that the additional cost of the renewable portfolio standard~~
20 ~~to each customer does not exceed the lower of one percent of~~
21 ~~that customer's annual electric charges or forty-nine thousand~~
22 ~~dollars (\$49,000). This procurement limit criterion shall~~
23 ~~increase by one-fifth percent or ten thousand dollars (\$10,000)~~
24 ~~per year until January 1, 2011, when the procurement limit~~
25 ~~criterion shall remain fixed at the lower of two percent of~~

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1 ~~that customer's annual electric charges or ninety-nine thousand~~
2 ~~dollars (\$99,000). After January 1, 2012, the commission may~~
3 ~~adjust the ninety-nine-thousand-dollar (\$99,000) limit for~~
4 ~~inflation. Nothing contained in this paragraph shall be~~
5 ~~construed as affecting a public utility's right to recover all~~
6 ~~reasonable costs of complying with the renewable portfolio~~
7 ~~standard, pursuant to Section 62-16-6 NMSA 1978. The~~
8 ~~commission may authorize deferred recovery of the costs of~~
9 ~~complying with the renewable portfolio standard, including~~
10 ~~carrying charges;]~~

11 (3) no later than January 1, 2025, renewable
12 energy shall comprise no less than forty percent of each public
13 utility's total retail sales to New Mexico customers;

14 (4) no later than January 1, 2030, renewable
15 energy shall comprise no less than fifty percent of each public
16 utility's total retail sales to New Mexico customers;

17 (5) no later than January 1, 2035, renewable
18 energy shall comprise no less than sixty-five percent of each
19 public utility's total retail sales to New Mexico customers;

20 and

21 (6) after January 1, 2040 and each year
22 thereafter, renewable energy shall comprise no less than eighty
23 percent of each public utility's total retail sales to New
24 Mexico customers.

25 [~~3~~] B. Any customer that is a political

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1 subdivision of the state, or any educational institution
2 designated in Article 12, Section 11 of the constitution of New
3 Mexico with an enrollment of twenty-four thousand students or
4 more during the fall semester on its main campus, with
5 consumption exceeding twenty [~~million kilowatt-hours~~] thousand
6 megawatt-hours per year at any single location or facility and
7 that owns facilities that produce renewable energy [~~generation~~]
8 is exempt from all incremental charges by the utility for
9 utility-supplied renewable energy procurements in a year,
10 regardless of the number of customer locations or meters on the
11 system, if that customer certifies to the state auditor and
12 notifies the commission and its serving electric utility that
13 it will [~~expend two and one-half percent of that year's annual~~
14 ~~electricity charges to continue to~~] develop within twenty-four
15 months customer-owned facilities that generate renewable energy
16 [~~generation~~] sufficient to meet the percentages required by
17 Subsection A of this section for the combined total energy
18 consumption of all of its customer locations and meters. That
19 customer shall also certify that it will retire all renewable
20 energy certificates associated with [~~the energy produced from~~
21 ~~that expenditure;~~

22 ~~(4) the renewable portfolio shall be~~
23 ~~diversified as to the type of renewable energy resource, taking~~
24 ~~into consideration the overall reliability, availability,~~
25 ~~dispatch flexibility and cost of the various renewable energy~~

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1 ~~resources made available by suppliers and generators;~~ the
2 renewable energy produced by those facilities.

3 ~~(5)~~ C. Upon a ~~commission~~ motion or application
4 by a public utility or any other person, the commission shall
5 open a docket to develop and provide ~~[appropriate performance-~~
6 ~~based]~~ financial or other incentives to encourage public
7 utilities to produce or acquire electricity generated from
8 renewable energy ~~[supplies]~~ that ~~[exceed]~~ exceeds the
9 applicable annual renewable portfolio standard set forth in
10 this section. ~~[The commission shall initiate rules by June 1,~~
11 ~~2008 to implement this subsection; and~~

12 ~~(6) renewable energy resources that are in a~~
13 ~~public utility's electric energy supply portfolio on July 1,~~
14 ~~2004 shall be counted in determining compliance with this~~
15 ~~section.~~

16 ~~B.]~~ D. If, in any given year, a public utility
17 ~~[finds]~~ determines that ~~[in any given year]~~ the average annual
18 levelized cost of renewable energy that would need to be
19 procured or generated for purposes of compliance with the
20 renewable portfolio standard would be greater than the
21 reasonable cost threshold ~~[as established by the commission~~
22 ~~pursuant to this section]~~, the public utility shall not be
23 required to incur that excess cost; provided that the existence
24 of this condition excusing performance in any given year shall
25 not operate to delay ~~[the annual increases in]~~ compliance with

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1 the renewable portfolio standard in subsequent years. The
2 provisions of this subsection do not preclude a public utility
3 from accepting a project that would exceed the reasonable cost
4 threshold. When a public utility can generate or procure
5 renewable energy at or below the reasonable cost threshold, it
6 shall be required to ~~[add renewable energy resources]~~ do so to
7 the extent necessary to meet the applicable renewable portfolio
8 standard ~~[applicable in the year when the renewable energy~~
9 ~~resources are being added.~~

10 ~~G. By December 31, 2004, the commission shall~~
11 ~~establish, after notice and hearing, the reasonable cost~~
12 ~~threshold above which level a public utility shall not be~~
13 ~~required to add renewable energy to its electric energy supply~~
14 ~~portfolio pursuant to the renewable portfolio standard. The~~
15 ~~commission may thereafter modify the reasonable cost threshold~~
16 ~~as changing circumstances warrant, after notice and hearing.~~
17 ~~In establishing and modifying the reasonable cost threshold,~~
18 ~~the commission shall take into account:~~

19 ~~(1) the price of renewable energy at the point~~
20 ~~of sale to the public utility;~~

21 ~~(2) the transmission and interconnection costs~~
22 ~~required for the delivery of renewable energy to retail~~
23 ~~customers;~~

24 ~~(3) the impact of the cost for renewable~~
25 ~~energy on overall retail customer rates;~~

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

5 ~~(5) other factors, including public benefits,~~
6 ~~that the commission deems relevant; provided that nothing in~~
7 ~~the Renewable Energy Act shall be construed to permit~~
8 ~~regulation by the commission of the production or sale price at~~
9 ~~the point of production of the renewable energy] and shall not~~
10 ~~be precluded from exceeding the standard.~~

11 ~~[D.]~~ E. By September 1, 2007 ~~[and July 1 of each~~
12 ~~year thereafter until 2022, and thereafter as determined~~
13 ~~necessary by the commission] and until June 30, 2020, a public~~
14 utility shall file a report to the commission on its
15 procurement and generation of renewable energy during the prior
16 calendar year and a procurement plan that includes:

17 (1) the cost of procurement for any new
18 renewable energy resource in the next calendar year required to
19 comply with the renewable portfolio standard; and

20 (2) testimony and exhibits that demonstrate
21 that the proposed procurement is reasonable as to its terms and
22 conditions considering price, availability, ~~[dispatchability]~~
23 reliability, any renewable energy certificate values and
24 diversity of the renewable energy resource; or

25 (3) demonstration that the plan is otherwise

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1 in the public interest.

2 F. By July 1, 2020, and each July 1 thereafter, a
3 public utility shall file a report to the commission on the
4 public utility's procurement and generation of renewable energy
5 since the last report and a procurement plan made to the
6 commission that includes:

7 (1) the cost of procurement for new renewable
8 energy required to comply with the renewable portfolio
9 standard;

10 (2) the capital, operating and fuel costs on a
11 per-megawatt-hour basis during the preceding calendar year of
12 each nonrenewable generation resource rate-based by the
13 utility, or dedicated to the utility through a power purchase
14 agreement of one year or longer, and the nonrenewable
15 generation resources' emissions on a per-megawatt-hour basis
16 during that same year;

17 (3) testimony and exhibits that demonstrate
18 that the proposed procurement:

19 (a) was the result of competitive
20 procurement;

21 (b) has a cost that is reasonable as
22 evidenced by a comprehensive comparison of the price of
23 electricity from renewable energy resources in the bids
24 received by the public utility to recent prices for such
25 electricity elsewhere in the southwestern United States; and

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1 (c) is in the public interest,
2 considering factors such as overall cost and economic
3 development opportunities; and

4 (4) strategies used to minimize costs of
5 integration, including diversity, balancing area, demand and
6 management.

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

17 [~~F.~~] H. The commission may reject a [~~procurement or~~
18 ~~transitional~~] procurement plan if [~~it~~], within forty days of
19 filing, the commission finds that the plan does not contain the
20 required information and, upon the rejection, [~~may suspend the~~
21 ~~public utility's obligation to procure additional resources~~
22 ~~for~~] shall provide the public utility the time necessary to
23 file a revised plan; provided that the total amount of
24 renewable energy required to be procured by the public utility
25 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 utility~~
4 ~~has committed to, or may commit to, prior to the commission's~~
5 ~~establishing a reasonable cost threshold, are reasonable and~~
6 ~~recoverable pursuant to Section 62-16-6 NMSA 1978. The~~
7 ~~requirements of annual procurement plan filings shall be~~
8 ~~applicable to any transitional procurement plan filing pursuant~~
9 ~~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 portfolio~~
15 ~~standard.]"~~

16 SECTION 4. Section 62-16-5 NMSA 1978 (being Laws 2004,
17 Chapter 65, Section 5, as amended) is amended to read:

18 "62-16-5. RENEWABLE ENERGY CERTIFICATES--COMMISSION
19 DUTIES.--The commission shall establish:

20 A. a system of renewable energy certificates that
21 can be used by a public utility to establish compliance with
22 the renewable portfolio standard and that may include
23 certificates that are monitored, accounted for or transferred
24 by or through a regional system or trading program for any
25 region in which a public utility is located ~~[The kilowatt-hour~~

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1 ~~value of renewable energy certificates may be varied by~~
2 ~~renewable energy resource or technology; provided that each~~
3 ~~renewable energy certificate shall have a minimum value of one~~
4 ~~kilowatt-hour of renewable energy represented by the~~
5 ~~certificate for purposes of compliance with the renewable~~
6 ~~portfolio standard]; and~~

7 B. requirements and procedures concerning renewable
8 energy certificates that include [the] provisions that:

9 (1) renewable energy certificates:

10 (a) are owned by the generator of the
11 renewable energy unless: 1) the renewable energy certificates
12 are transferred to the purchaser of the [energy] electricity
13 through specific agreement with the generator; 2) the generator
14 is a qualifying facility, as defined by the federal Public
15 Utility Regulatory Policies Act of 1978, in which case the
16 renewable energy certificates are owned by the public utility
17 purchaser of the renewable energy [~~unless retained by the~~
18 ~~generator through specific agreement with the public utility~~
19 ~~purchaser of the energy~~]; or 3) a contract for the purchase of
20 renewable energy is in effect prior to [~~January 1, 2004~~] July
21 1, 2019, in which case the renewable energy certificates are
22 owned by the purchaser of the [energy] electricity for the term
23 of such contract, unless otherwise agreed to in a public
24 utility contract approved by the commission;

25 (b) may be traded, sold or otherwise

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1 transferred by their owner [~~to any other party; provided that~~
2 ~~the transfers and use of the certificate by a public utility~~
3 ~~for compliance with the renewable energy portfolio standard~~
4 ~~shall require the electric energy represented by the~~
5 ~~certificate to be contracted for delivery, or consumed or~~
6 ~~generated by an end-use customer of the public utility in New~~
7 ~~Mexico unless the commission determines that there is a~~
8 ~~national or regional market for exchanging renewable energy~~
9 ~~certificates] unless the certificates are from a rate-based
10 public utility plant, in which case the entirety of the
11 renewable energy certificates from that plant shall be retired
12 by the utility on behalf of itself or its customers. Any
13 contract to purchase renewable energy entered into by a public
14 utility on or after July 1, 2019 shall include conveyance to
15 the purchasing utility of all renewable energy certificates,
16 and the entirety of those certificates shall be retired by that
17 utility on behalf of itself or its customers or subsequently
18 transferred to a retail customer for retirement under a
19 voluntary program for purchasing renewable energy approved by
20 the commission. A utility shall not claim that it is providing
21 renewable energy from generation resources for which it has
22 traded, sold or transferred the associated renewable energy
23 certificates;~~

24 (c) that are used for the purpose of
25 meeting the renewable portfolio standard shall be registered

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1 ~~[beginning January 1, 2009]~~ with a renewable energy generation
2 information system that is designed to create and track
3 ownership of renewable energy certificates and that, through
4 the use of independently audited generation data, verifies the
5 generation and delivery of electricity associated with each
6 renewable energy certificate and protects against multiple
7 counting of the same renewable energy certificate;

8 ~~[(d) that are used once by a public~~
9 ~~utility to satisfy the renewable portfolio standard and are~~
10 ~~retired or that are traded, sold or otherwise transferred by~~
11 ~~the public utility shall not be further used by the public~~
12 ~~utility; and~~

13 ~~(e) that are not used by a public~~
14 ~~utility to satisfy the renewable portfolio standard or that are~~
15 ~~not traded, sold or otherwise transferred by the public~~
16 ~~utility] and~~

17 (d) may be carried forward for up to
18 four years from the date of issuance ~~[and, if not used by that~~
19 ~~time]~~ to establish compliance with the renewable portfolio
20 standard, after which they shall be deemed retired by the
21 public utility; and

22 (2) a public utility shall be responsible for
23 demonstrating that a renewable energy certificate used for
24 compliance with the renewable portfolio standard is derived
25 from eligible renewable energy resources ~~[and has not been~~

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1 ~~retired, traded, sold or otherwise transferred to another~~
2 ~~party]."~~

3 SECTION 5. Section 62-16-6 NMSA 1978 (being Laws 2004,
4 Chapter 65, Section 6, as amended) is amended to read:

5 "62-16-6. COST RECOVERY FOR RENEWABLE ENERGY.--

6 A. A public utility that procures or generates
7 renewable energy shall recover, through the rate-making
8 process, the reasonable costs of complying with the renewable
9 portfolio standard. Costs that are consistent with commission
10 approval of procurement plans or transitional procurement plans
11 shall be deemed to be reasonable.

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

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

23 SECTION 6. Section 62-16-7 NMSA 1978 (being Laws 2004,
24 Chapter 65, Section 7) is amended to read:

25 "62-16-7. COMMISSION--ADDITIONAL POWERS AND DUTIES.--The

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1 commission:

2 A. shall adopt rules regarding the renewable
3 portfolio standard, including a provision for public utility
4 records and reports; and

5 B. ~~may~~ shall require that a public utility offer
6 its retail customers a voluntary program for purchasing
7 renewable energy that is in addition to ~~energy~~ electricity
8 provided by the public utility pursuant to the renewable
9 portfolio standard, under rates and terms that are approved by
10 the commission ~~and~~

11 ~~C. may exempt from compliance with the renewable~~
12 ~~portfolio standard a public utility that has an all-~~
13 ~~requirements electric supply contract on July 1, 2004, and the~~
14 ~~contract would not reasonably permit it to procure renewable~~
15 ~~energy for purposes of meeting the renewable portfolio~~
16 ~~standard. When the electricity supply contract is amended or~~
17 ~~renegotiated, the commission may require that a renewable~~
18 ~~portfolio standard become applicable]."~~

19 SECTION 7. Section 62-16-8 NMSA 1978 (being Laws 2004,
20 Chapter 65, Section 8, as amended) is amended to read:

21 "62-16-8. RURAL ELECTRIC COOPERATIVE--VOLUNTARY
22 TARIFFS.--

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

25 (1) offer its retail customers a voluntary

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1 program for purchasing renewable energy under rates and terms
2 that are approved by the commission [~~but only to the extent~~
3 ~~that the cooperative's suppliers make renewable energy~~
4 ~~available under wholesale power contracts~~];

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

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

10 B. The commission may require that renewable energy
11 purchased by a retail customer through an approved voluntary
12 program:

13 (1) have all associated renewable energy
14 credits retired by the customer or on that customer's behalf by
15 the public utility and may not be utilized to meet the public
16 utility's renewable portfolio standard requirements pursuant to
17 Subsection A of Section 62-16-4 NMSA 1978;

18 (2) be excluded from the total retail sales to
19 New Mexico customers used to determine the renewable portfolio
20 standard requirements pursuant to Subsection A of Section
21 62-16-4 NMSA 1978; and

22 (3) reduce the energy sales to the customer
23 that are subject to charges by the public utility for renewable
24 energy to meet the renewable portfolio standard requirements.

25 [~~B.~~] C. The commission shall establish and amend

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1 rules and regulations for the implementation of renewable
2 portfolio standards consistent with the Rural Electric
3 Cooperative Act."

4 SECTION 8. Section 62-16-9 NMSA 1978 (being Laws 2004,
5 Chapter 65, Section 9) is amended to read:

6 "62-16-9. EXISTING RULES.--The commission shall
7 [~~establish and amend~~] promulgate rules [~~and regulations for the~~
8 ~~implementation of renewable portfolio standards consistent~~
9 ~~with~~] to implement the provisions of the Renewable Energy Act."

10 SECTION 9. Section 62-16-10 NMSA 1978 (being Laws 2004,
11 Chapter 65, Section 10) is amended to read:

12 "62-16-10. FEDERAL REQUIREMENTS.--Renewable energy
13 procured or generated by a public utility to [~~meet~~] comply with
14 a federal [~~renewable portfolio standard~~] law, rule or
15 regulation may be used to satisfy the required procurements of
16 the Renewable Energy Act."

17 SECTION 10. A new section of the Renewable Energy Act is
18 enacted to read:

19 "[NEW MATERIAL] REQUIRING THE HIRING OF APPRENTICES FOR
20 THE CONSTRUCTION OF FACILITIES THAT PRODUCE OR PROVIDE
21 ELECTRICITY.--

22 A. The construction of New Mexico facilities that
23 produce or provide electricity for New Mexico retail customers,
24 and that are not located on the customer side of an electricity
25 meter, shall be subject to the requirements provided in

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1 Subsection B of this section if the facilities are built as a
2 result of competitive solicitations issued after July 1, 2020.

3 B. Subject to availability of qualified applicants,
4 the construction of facilities that produce or provide
5 electricity for New Mexico retail customers shall employ
6 apprentices from an apprenticeship program during the
7 construction phase of a project at a minimum level of the
8 following percentages of all persons employed for the project:

9 (1) ten percent for projects for which on-site
10 construction commences beginning January 1, 2020, and prior to
11 January 1, 2024;

12 (2) seventeen and one-half percent for
13 projects for which on-site construction commences beginning
14 January 1, 2024, and prior to January 1, 2026; and

15 (3) twenty-five percent for projects for which
16 on-site construction commences beginning January 1, 2026.

17 C. Apprenticeship programs used for purposes of
18 this section shall encourage diversity among participants,
19 participation by those underrepresented in the industry
20 associated with that apprenticeship program and participation
21 from disadvantaged communities, as determined by the workforce
22 solutions department. The department shall promulgate rules to
23 ensure compliance with this section.

24 D. As used in this section, "apprenticeship
25 program" means an apprenticeship program registered pursuant to

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~~[bracketed material] = delete~~

1 the Apprenticeship Assistance Act."

2 SECTION 11. EFFECTIVE DATE.--The effective date of the
3 provisions of this act is July 1, 2019.

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