

SENATE CONSERVATION COMMITTEE SUBSTITUTE FOR
SENATE BILL 336

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

AN ACT

RELATING TO PUBLIC UTILITIES; REQUIRING A PUBLIC UTILITY TO
SUBMIT AN APPLICATION TO THE PUBLIC REGULATION COMMISSION TO
EXPAND THE USE OF ELECTRICITY TO POWER VEHICLES AND OTHER
EQUIPMENT THAT TRANSPORT GOODS OR PEOPLE; PROVIDING THAT A
PERSON WHO ENGAGES IN THE RETAIL DISTRIBUTION OF ELECTRICITY
FOR VEHICULAR FUEL IS NOT A PUBLIC UTILITY.

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

SECTION 1. A new section of the Public Utility Act is
enacted to read:

"[NEW MATERIAL] APPLICATIONS TO EXPAND TRANSPORTATION
ELECTRIFICATION.--

A. No later than January 1, 2021, and thereafter
upon request by the commission, but no more frequently than
every two years, a public utility shall file with the

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1 commission an application to expand transportation
2 electrification. Applications may include investments or
3 incentives to facilitate the deployment of charging
4 infrastructure and associated electrical equipment that support
5 transportation electrification, including electrification of
6 public transit and publicly owned vehicle fleets, rate designs
7 or programs that encourage charging that supports the operation
8 of the electric grid and customer education and outreach
9 programs that increase awareness of such programs and of the
10 benefits of transportation electrification.

11 B. When considering applications for approval, the
12 commission shall consider whether the investments, incentives,
13 programs and expenditures are:

14 (1) reasonably expected to improve the public
15 utility's electrical system efficiency, the integration of
16 variable resources, operational flexibility and system
17 utilization during off-peak hours;

18 (2) reasonably expected to increase access to
19 the use of electricity as a transportation fuel, with
20 consideration given for increasing such access to low-income
21 users and users in underserved communities;

22 (3) designed to contribute to the reduction of
23 air pollution and greenhouse gases;

24 (4) reasonably expected to support increased
25 consumer choices in electric vehicle charging and related

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1 infrastructure and services; allow for private capital
2 investments and skilled jobs in related services; and provide
3 customer information and education;

4 (5) reasonable and prudent, as determined by
5 the commission; and

6 (6) transparent, incorporating public
7 reporting requirements to inform program design and commission
8 policy.

9 C. A public utility that undertakes measures to
10 expand transportation electrification pursuant to this section
11 shall have the option of recovering the public utility's
12 reasonable costs for the expansion through a commission-
13 approved tariff rider or base rate or both.

14 D. The provisions of this section do not apply to a
15 distribution cooperative organized pursuant to the Rural
16 Electric Cooperative Act.

17 E. As used in this section:

18 (1) "low-income" means annual household
19 adjusted gross income, as defined in the Income Tax Act, of
20 equal to or less than two hundred percent of the federal
21 poverty level;

22 (2) "transportation electrification" means the
23 use of electricity from external sources to power all or part
24 of passenger vehicles, trucks, buses, trains, boats or other
25 equipment that transport goods or people; and

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1 (3) "underserved community" means an area in
2 this state, including a county, municipality or neighborhood,
3 or subset of such area, where the median income of the area is
4 low-income."

5 SECTION 2. Section 62-3-4 NMSA 1978 (being Laws 1967,
6 Chapter 96, Section 4, as amended) is amended to read:

7 "62-3-4. LIMITATIONS AND EXCEPTIONS.--

8 A. The term "public utility" or "utility", when
9 used in the Public Utility Act, shall not include:

10 (1) any person not otherwise a public utility
11 who furnishes the service or commodity only to [~~himself, his~~]
12 that person or that person's employees or tenants, when such
13 service or commodity is not resold to or used by others, or who
14 engages in the retail distribution of natural gas or
15 electricity for vehicular fuel; or

16 (2) a corporation engaged in the business of
17 operating a railroad and that does not primarily engage in the
18 business of selling the service or commodity but that only
19 incidentally to its railroad business or occasionally furnishes
20 the service or commodity to another under a separate limited or
21 revocable agreement or sells to a utility or municipality for
22 resale, or that sells the service or commodity to another
23 railroad, the state or federal government or a governmental
24 agency, or that sells or gives for a consideration under
25 revocable agreements or permits quantities of water out of any

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1 surplus of water supply acquired and held by it primarily for
2 railroad purposes; and such railroad corporation shall not be
3 subject to any of the provisions of the Public Utility Act.

4 B. The business of any public utility other than of
5 the character defined in Subsection G of Section 62-3-3 NMSA
6 1978 is not subject to provisions of the Public Utility Act."

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