

SENATE CONSERVATION COMMITTEE SUBSTITUTE FOR
SENATE BILL 357

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

AN ACT

RELATING TO UTILITIES; ALLOWING TRANSMISSION CUSTOMERS TO
PROTEST A PROPOSED GENERATION AND TRANSMISSION RATE CHANGE.

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

SECTION 1. Section 62-6-4 NMSA 1978 (being Laws 1941,
Chapter 84, Section 17, as amended) is amended to read:

"62-6-4. SUPERVISION AND REGULATION OF UTILITIES.--

A. The commission shall have general and exclusive
power and jurisdiction to regulate and supervise every public
utility in respect to its rates and service regulations and in
respect to its securities, all in accordance with the
provisions and subject to the reservations of the Public
Utility Act, and to do all things necessary and convenient in
the exercise of its power and jurisdiction. Nothing in this
section, however, shall be deemed to confer upon the commission

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underscored material = new
[bracketed material] = delete

1 power or jurisdiction to regulate or supervise the rates or
2 service of any utility owned and operated by any municipal
3 corporation either directly or through a municipally owned
4 corporation or owned and operated by any H class county, by a
5 class B county as defined in Section 4-36-8 NMSA 1978 or by a
6 class A county as described by Section 4-36-10 NMSA 1978 either
7 directly or through a corporation owned by or under contract
8 with an H class county, by a class B county as defined in
9 Section 4-36-8 NMSA 1978 or by a class A county as described by
10 Section 4-36-10 NMSA 1978 or the rates, service, securities or
11 class I or class II transactions of a generation and
12 transmission cooperative. No inspection or supervision fees
13 shall be paid by generation and transmission cooperatives, or
14 by such municipalities or municipally owned corporations, a
15 class B county as defined in Section 4-36-8 NMSA 1978, a class
16 A county as described by Section 4-36-10 NMSA 1978 or H class
17 counties or such corporation owned by or under contract with a
18 class B county as defined in Section 4-36-8 NMSA 1978, a class
19 A county as described by Section 4-36-10 NMSA 1978 or an H
20 class county with respect to operations conducted in a class B
21 county as defined in Section 4-36-8 NMSA 1978, in a class A
22 county as described by Section 4-36-10 NMSA 1978 or in H class
23 counties.

24 B. The sale, furnishing or delivery of gas, water
25 or electricity by any person to a utility for resale to or for

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1 the public shall be subject to regulation by the commission but
2 only to the extent necessary to enable the commission to
3 determine that the cost to the utility of the gas, water or
4 electricity at the place where the major distribution to the
5 public begins is reasonable and that the methods of delivery of
6 the gas, water or electricity are adequate; provided, however,
7 that nothing in this subsection shall be construed to permit
8 regulation by the commission with respect to a generation and
9 transmission cooperative, except location control pursuant to
10 Section 62-9-3 NMSA 1978 and limited rate regulation to the
11 extent provided in Subsection D of this section, or of
12 production or sale price at the wellhead of gas or petroleum.

13 C. The sale, furnishing or delivery of coal,
14 uranium or other fuels by any affiliated interest to a utility
15 for the generation of electricity for the public shall be
16 subject to regulation by the commission but only to the extent
17 necessary to enable the commission to determine that the cost
18 to the utility of the coal, uranium or other fuels at the point
19 of sale is reasonable and that the methods of delivery of the
20 electricity are adequate; provided, however, that nothing in
21 this subsection shall be construed to permit regulation by the
22 commission of production or sale price at the wellhead of gas
23 or petroleum. Nothing in this section shall be construed to
24 permit regulation by the commission of production or sale price
25 at the point of production of coal, uranium or other fuels.

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1 D. New Mexico rates proposed by a generation and
2 transmission cooperative shall be filed with the commission in
3 the form of an advice notice, a copy of which shall be
4 simultaneously served on all member utilities and transmission
5 customers. Any member utility or transmission customer may
6 file a protest of the proposed rates no later than twenty days
7 after the generation and transmission cooperative files the
8 advice notice. If three or more New Mexico member utilities or
9 transmission customers file protests and the commission
10 determines there is just cause in at least three of the
11 protests for reviewing the proposed rates, the commission shall
12 suspend the rates, conduct a hearing concerning reasonableness
13 of the proposed rates and establish reasonable rates. Each
14 protest must contain a clear and concise statement of the
15 specific grounds upon which the protestant believes the
16 proposed rates are unreasonable or otherwise unlawful; a brief
17 description of the protestant's efforts to resolve its
18 objections directly with the generation and transmission
19 cooperative; a clear and concise statement of the relief the
20 protestant seeks from the commission; and a formal resolution
21 of the board of trustees of the protesting member utility or
22 transmission customer authorizing the filing of the protest.
23 In order to determine whether just cause may exist for review,
24 the commission shall consider whether each protestant has
25 exhausted remedies with the generation and transmission

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1 cooperative or whether the generation and transmission
2 cooperative has unreasonably rejected the protestant's
3 objections to the proposed rates. A member utility shall
4 present its objections to the generation and transmission
5 cooperative in writing and allow a reasonable period for the
6 generation and transmission cooperative to attempt resolution
7 of, or otherwise respond to, those objections. A period of
8 seven days after receipt of written objections will be deemed
9 reasonable for the generation and transmission cooperative to
10 provide a written response to the member utility, but a written
11 response is not required if such time period extends beyond
12 twenty days after the date on which the generation and
13 transmission cooperative filed the advice notice. The
14 generation and transmission cooperative and its members are
15 expected to make a good faith effort to resolve the member
16 utility's objections to the proposed rates during that period
17 of time.

18 E. As used in this section:

19 (1) "generation and transmission cooperative"
20 means a person with generation or transmission facilities
21 either organized as a rural electric cooperative pursuant to
22 Laws 1937, Chapter 100 or the Rural Electric Cooperative Act or
23 organized in another state and providing sales of electric
24 power to member cooperatives in this state; and

25 (2) "transmission customer" means an entity

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1 that has a contractual transmission agreement with a generation
2 and transmission cooperative but is not a member of the
3 transmission and generation cooperative."

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