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FISCAL IMPACT REPORT

SPONSOR	SCORC	ORIGINAL DATE LAST UPDATED	НВ	
SHORT TITL	EGeneration & Trans	mission Rate Protests	SB	357/SCORCS

ANALYST Martinez

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		NFI	NFI	NFI	NFI	NFI

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

<u>Responses Received From</u> Public Regulation Commission (PRC)

SUMMARY

Synopsis of Bill

SB357 amends Section 62-6-4 of the Public Utility Act (PUA) by adding "transmission customers" to the G&T cooperative's member distribution cooperatives for those required to be notified by the G&T cooperative of proposed rates and who would, in turn, have an opportunity to protest the G&T cooperative's proposed rates.

FISCAL IMPLICATIONS

SB 357 carries no appropriation and will not have an impact on the PRC's operating budget.

SIGNIFICANT ISSUES

The following was provided by the Public Regulation Commission:

The PRC's authority over the wholesale power supply rates and electric transmission rates is an open question that is currently being litigated. Tri-State Transmission and Generation Association (Tri-State), a G&T that provides wholesale power supply and electric transmission to members and other customers in New Mexico, filed an action in the U.S. District Court of New Mexico seeking declarative and injunctive relief

challenging the PRC's authority over its wholesale electric rates. That action is still pending in federal district court. In a related case, Tri-State appealed to the New Mexico Supreme Court the PRC's rejection of Tri-State's subsequently-filed interim rates. The New Mexico Supreme Court in vacating the Commission's order discussed at length the basis for the different processes set forth by the Legislature in reviewing the rates of investor owned utilities and electric cooperatives. Tri-State Generation & Transmission Association's, Inc. v. New Mexico Public Regulation Commission, 2015-NMSC-013, 347 P.3d 274.

The Court noted that the Legislature had chosen a more "limited" form of PRC regulation because "the interests of the purchasers of electric power from a G & T Coop, who own the G & T Coop, are already addressed democratically through the owner-membership of the G & T Coop board." Id., ¶ 16, 347 P.3d at 278. This bill seeks to change that dynamic by allowing a single member or non-member transmission customer to initiate a rate proceeding before the Commission. In light of the still-pending federal court action, it is unclear as to whether the Commission even has the authority to entertain such a proceeding.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Transmission customers will not be added to the G&T cooperative's member distribution for those required to be notified by the G&T cooperative of proposed rates and who would, in turn, have an opportunity to protest the G&T cooperative's proposed rates.

JM/gb