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## FISCAL IMPACT REPORT

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| <b>SPONSOR</b> <u>HENRC</u>                        | <b>LAST UPDATED</b> _____                   |
|  | <b>ORIGINAL DATE</b> <u>2/23/2023</u>       |
| <b>SHORT TITLE</b> <u>Grid Modernization Plans</u> | <b>BILL</b> <u>CS/House Bill</u>            |
|  | <b>NUMBER</b> <u>243/HENRCS</u>             |
|  | <b>ANALYST</b> <u>Dick-Peddie/Torres, J</u> |

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT\* (dollars in thousands)

|              | FY23             | FY24    | FY25    | 3 Year Total Cost | Recurring or Nonrecurring | Fund Affected |
|--------------|------------------|---------|---------|-------------------|---------------------------|---------------|
| PRC          | No fiscal impact | \$190.0 | \$190.0 | \$280.0           | Recurring                 | General Fund  |
| NMAG         | No fiscal impact | \$95.0  | \$95.0  | \$190.0           | Recurring                 | General Fund  |
| <b>Total</b> |                  | \$285.0 | \$285.0 | \$470.0           | Recurring                 | General Fund  |

Parentheses ( ) indicate expenditure decreases.  
\*Amounts reflect most recent version of this legislation.

### Sources of Information

LFC Files

#### Responses Received From

Public Regulation Commission (PRC) [Original bill]  
 New Mexico Attorney General (NMAG) [Both bills]  
 Energy, Minerals and Natural Resources Department (EMNRD) [Both bills]  
 New Mexico Renewable Energy Transmission Authority (NMRETA) [Original bill]  
 Environment Department (NMED) [Does not affect NMED]

## SUMMARY

### Synopsis of HENRC Substitute for House Bill 243

The House Energy, Environment and Natural Resources Committee substitute for House Bill 243 eliminates all the proposed amendments to Section 62-8-13 NMSA 1978 included in the bill's prior Section 1. That section required an applicant's demonstration that grid modernization projects were cost effective: "pursuant to a least-cost, best-fit analysis and minimize the net present value of revenue requirements." The substitute also removed another provision calling for "a least-cost, best-fit analysis."

The bill's prior Section 2 entitled "[NEW MATERIAL] Grid Modernization Plan" is significantly modified in the substitute. The revision indicates that the utility will file a grid modernization plan pursuant to the "commission's rulemaking authority", which "may include measures of cost-effectiveness and reliability of the distribution grid and how the plans are consistent with the state's roadmap for grid modernization." The substitute also requires that the commission rules be adopted as of October 1, 2024. Finally, it states that it does not apply to a "distribution cooperative organized pursuant to the Rural Electric Cooperative Act."

The committee substitute is a clear response to agency feedback provided on the original bill.

The substitute will likely result in a favorable cost savings for the PRC and NMAG. It will also provide PRC more latitude in governing grid modernization projects.

The bill amends Section 62-8-13 NMSA 1978 to require that public utilities demonstrate that grid modernization projects are cost effective pursuant to a “least-cost, best fit” analysis, and minimize the net present value of revenue requirements. The legislation defines “least-cost best fit” analysis as an analysis that identifies the options that minimize the net present value of revenue requirements associated with the electric public utility's distribution system and compares the total costs of investment alternatives over a period of time. The legislation defines net present value of revenue requirements as the current worth of the total expected future revenue requirements associated with a particular resource portfolio, expressed in dollars in the year the application is submitted as discounted by the appropriate discount rate.

The bill also mandates that every four years, on or before March 2025, any public utility subject to the rate making jurisdiction of the Public Regulation Commission (PRC) shall file a grid modernization plan. The plan is required to include an assessment of the utility’s planned operation, maintenance, project expenditures, reliability analysis and the following statistics:

- A system average interruption duration index that measures outages more than five minutes for each customer per year;
- A system average interruption frequency index that measures the number of outages more than five minutes for each customer per year;
- A momentary average interruption frequency index that measures the number of outages of less than five minutes for each customer per year;
- a customer average interruption duration index that measures the average outage duration for a customer served by the utility;
- The top 10 percent of worst performing circuits in the electric public utility's service area, including the number of customers served by each circuit; and
- The electric public utility's plan for any investments or maintenance necessary to improve the performance of the utility's worst performing circuits.

This bill does not contain an effective date and, as a result, would go into effect June 16, 2023, (90 days after the Legislature adjourns) if signed into law.

## **FISCAL IMPLICATIONS**

The Public Regulation Commission would likely need additional personnel resources to review these modernization plans and enforce these requirements. This analysis assumes PRC would need an additional three technical staff, at an average rate including benefits of \$95 thousand per person, for a total recurring cost of \$285 thousand. Though the requirement would not go into effect until 2025, LFC assumes the PRC would need funding for the positions in FY24 to recruit and properly train staff.

The fiscal estimate for the HENRC substitute includes two additional PRC positions at \$95 thousand per year, commencing in 2024, totaling \$190.00. NMAG will likely require one additional staff position at \$95 thousand per year, commencing in 2024, to perform the increased legal representation required under the HENRC substitute.

PRC states:

It is difficult to quantify direct cost to the PRC to implement this bill, however, it is clear that if enacted into law, HB243 will result in every four years...grid modernization additional review of utility grid modernization plans and likely additional proceedings to litigate the least-cost, best fit analysis and the net present value of revenue requirements.

NMRETA states:

HB243 would add operational costs to the PRC due to additional administrative tasks in overseeing electric utilities' submission of Grid Modernization Plans every four years, beginning in FY25.

NMAG states the following regarding the HENRC substitute:

The Attorney General is charged with representing the interests of residential and small business consumers in proceedings before the Public Regulation Commission under NMSA 1978, Section 8-5-17. The rulemaking and other proceedings related to changes made in HB 243 would likely involve resources from the OAG.

## **SIGNIFICANT ISSUES**

House Bill 233 of the 2020 Regular Legislative Session directed the Energy, Minerals and Natural Resources Department (EMNRD) to develop a strategic plan for energy grid modernization and to establish a competitive grant program to support implementation of eligible grid modernization projects and added a new section to the Public Utility Act (PUA) allowing Investor Owned Utilities (IOUs) to submit applications to the Public Regulation Commission (PRC) for review and approval of investments into grid modernization projects. House Bill 243 amends the statute to require grid modernization plans from utilities beginning March, 2025. The Public Regulation Commission would likely need significant additional personnel resources to review these modernization plans and enforce the requirement.

PRC states:

The addition of the standard “least-cost, best fit” as defined above is a standard that has not been used previously in the Public Utility Act. To date, the standard used in the Integrated Resource Planning statute is “most cost effective” which is very different from “least-cost”. In particular, Section 62-17-10 NMSA 1978 requires integrated resource plans be designed “to identify the most cost-effective portfolio of resources to supply the energy needs of customers.” There may be a conflict between “most cost effective” and “least-cost, best fit.” In other words, there may be some grid modernization projects that are not the least-cost but are the most cost effective due to the amount of benefits far exceeding some additional cost. As noted above, there will likely be additional litigation before the PRC regarding the least-cost, best fit analysis and the net present value of revenue requirements, as different parties will likely have different perspectives on these determinations.

The performance metrics required to be reported under Section 2 of the bill should probably include a reporting time period; e.g., the metrics should be provided annually for each calendar year over the four year reporting period.

The identification of the top 10 worst performing circuits should probably include an identification of the metric to be used to identify such circuits, and as above should be provided annually for each calendar year over the four year reporting period.

NMRETA states:

The current grid modernization oversight by the PRC is only to review public utilities' proposals for grid modernization projects and costs. With only project cost as a metric, it is challenging for the PRC to weigh utilities' system benefits against rate-payer impact, resulting in innovative projects not being approved by the PRC. The NPV metric would use a consistently level floor for comparison of projects, an objective improvement of the process.

HB243 is built on the work of the PRC and the Energy, Minerals and Natural Resources Department (EMNRD) in positioning grid modernization for the next step forward. EMNRD convened a Grid Modernization Advisory Group in 2020-2021. Then the PRC conducted a grid modernization implementation workshop in 2022, facilitated by GridWorks. This workshop yielded a GridWorks report recommending actions for New Mexico and utilities to take based on input from stakeholders and subject matter experts. The actions from this report<sup>1</sup> that could be implemented through HB243 are:

- Require regulated utilities to develop and file comprehensive Grid Modernization Plans;
- Specify how the Commission will evaluate, approve, or reject utility Grid Modernization Plans and projects.

EMNRD states:

Overall, EMNRD finds HB243 to be duplicative of current authorities and current law. HB 243 stipulates that a grid modernization plan include “an assessment of the electric public utility's planned expenditures for operations, maintenance and proposed projects and how the planned expenditures are consistent with the state's roadmap for grid modernization.” This requirement will be tricky to implement in practice. The state's Grid Modernization Roadmap, produced by EMNRD and a large group of stakeholders pursuant to 2020's Grid Modernization Act, is a high-level overview of eleven whitepapers written by participating stakeholders. As explained in the overview, the stakeholders did not always agree on what the grid of the future should look like, and the roadmap therefore leaves substantial room for further policymaking decisions at the state, PRC, or federal level. Using the Roadmap as an evaluative criteria may therefore be unnecessarily limiting – or unnecessarily broad, depending on the topic and the approach taken by the stakeholders.

As to the HENRC substitute, EMNRD states:

Overall, EMNRD finds that HB243/cs supports the goals of the 2020 Grid Modernization Act, and – *contra* the original bill – to allow for further policymaking decisions regarding the shape of New Mexico's future grid to be made at the state, PRC, and federal levels, and for the PRC to establish through rulemaking a process for utilities to submit grid modernization plans.

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<sup>1</sup> [Gridworks, 2022. Investing in a Modern Electric Grid for New Mexico.](#)

EMNRD does, on the other hand, repeat our previous comment that HB243/cs may be duplicative of parts of the Grid Modernization Act of 2020. That Act created a mechanism by which utilities could present applications to the PRC for cost recovery for grid modernization projects. The plans required by HB243/cs could result in duplicative work for both the PRC staff and the submitting utility. However, the rulemaking process required from the PRC may mitigate this potential duplication.

As to the HENRC substitute NMAG states:

While the substitute bill directs the PRC to create rules that would require Investor Owned Utilities to file periodic reports (which are referred to interchangeably as plans), the language concerning what must be included in the reports is permissive, using only the term “may.” Page 1, line 24. It is uncertain what basic information must be included in reports and additional detail or requirements is needed to ensure consistent and useful information is regularly provided by these utilities.

## **PERFORMANCE IMPLICATIONS**

NMRETA states:

Currently, a public utility’s application for a grid modernization project requires a cost estimate for the project. HB243 would augment the economic evaluation of a project by requiring a least-cost, best-fit analysis, using NPV as the metric for comparing alternatives. This will make decisions by the PRC easier to make, with an NPV analysis already developed by each utility for review.

NMAG states the following regarding the HENRC substitute:

The Attorney General is charged with representing the interests of residential and small business consumers in proceedings before the Public Regulation Commission under NMSA 1978, Section 8-5-17. The rulemaking and other proceedings related to changes made in HB243 would likely involve resources from the OAG.

The fiscal impact to PRC and NMAG will likely be much lower with the HENRC substitute. EMNRD repeats that the substitute could result in duplicative work for the PRC and public utility due to the work required under the existing Grid Modernization Act. PRC may be able to cure this duplication through its rulemaking process. As noted, both PRC and NMAG will experience a fiscal impact regarding the HENRC substitute.

## **ALTERNATIVES**

With regard to the HENRC substitute, NMAG states:

Drafters may wish to consider authorizing the PRC to determine the appropriate measures for cost-effectiveness and reliability through the same rule-making the bill contemplates be used to determine the frequency of the periodic reports.

ADP/JT/rl/mg/ne/al