

LFC Requester:

Julisa Rodriguez

AGENCY BILL ANALYSIS - 2026 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO

AgencyAnalysis.nmlegis.gov and email to billanalysis@dfa.nm.gov*(Analysis must be uploaded as a PDF)***SECTION I: GENERAL INFORMATION***{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*Date Prepared: 2/14/2026

Check all that apply:

Bill Number: HB 303aOriginal Correction Amendment Substitute Sponsor: Rep. Raymundo LaraAgency Name
and Code430 – Public Regulation
CommissionShort Title: Utility Certificate of Public

Number:

Person Writing J. BogatkoTitle: ConveniencePhone: (505)490-2696Email jerri.mares@prc.nm.gov**SECTION II: FISCAL IMPACT****APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY26	FY27		

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY26	FY27	FY28		

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:

Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: HB 303 amends Section 62-9-1 to allow public utilities to begin construction or operation of plant, systems, or extensions without having to prove they are actually needed and in the public interest. HB 303 eliminates the statute's existing prohibition against utilities beginning the construction or operation of plant, systems, or extensions without first obtaining from the PRC a certificate that the public convenience and necessity ("CCN") require or will require the same. To do this, HB 303 proposes as follows:

SECTION 1 – Addresses existing Paragraph A of Section 62-9-1 by deleting the phrase “begin construction or operation of” and inserting the new phrase “provide service to New Mexico customers from”. Similarly, and elsewhere in Paragraph A, the phrase “for the construction, development and extension” is deleted in favor of the inclusion of “service to New Mexico customers”. There are also several minor modifications throughout Paragraph A that are deployed to serve the aim of the substantive changes touched on above.

HB 303's SECTION 1 also addresses Paragraph B of Section 62-9-1 by removing the clause that reads, “for the construction or extension of a generating plant or transmission lines and associated facilities”.

The remainder of Section 62-9-1 is left untouched by HB 303.

SECTION 2 – Attempts to pose the proposed revisions to Section 62-9-1 as an “EMERGENCY”.

House Commerce & Economic Development Committee Amendment

On page 1, line 22, the amendment removes the “provide service to New Mexico customers from” language originally proposed in HB 303 and replace it with the new phrase, “begin operation of”.

On page 2, line 1, the amendment removes “the service” language originally proposed in HB 303 and replaces it with “such operation”.

On page 2, lines 23 and 24, the amendment would further modify HB 303 by removing the brackets and the line through “for the construction, development and extension” and also removing the underscored language.

FISCAL IMPLICATIONS

None to the PRC.

SIGNIFICANT ISSUES

HB 303's proposal to eliminate the statute's existing prohibition against utilities beginning the construction or operation of public utility plant, systems, or any extension without first obtaining approval from the PRC may create serious challenges both for utilities and ratepayers. Unlike private unregulated businesses, utilities are regulated to ensure, among other things, that expenses

are reasonable and prudent and the risks utilities take with their investments don't risk bankruptcy or other catastrophic outcomes. The purpose of this regulation is ultimately to protect the captive customers of the utility from the business failing. Using regulated funds to begin construction on a facility that has not been certificated by the PRC subjects both utilities and customers to unreasonable risk. From a utility perspective, if it proceeded under the no-demonstration-of-need regime proposed by HB 303, there is no guarantee the utility would be able to recover the costs incurred in the construction, operation or extension of the project.¹ In such a case, imprudent costs would have to be absorbed by the public utility and/or its owners and/or shareholders and not the ratepayers. In other words, without prior approval, the utility stands a real risk of stranded assets. This risk of stranded assets and limited cost recovery (or no cost recovery at all) runs counter to other provisions of the Public Utility Act. For example, Section 62-3-1(B) declares that the policy of the state is to regulate utilities so as to avoid "unnecessary duplication and economic waste."

Equally important, the removal of the requirement for prior approval risks significantly increasing costs for ratepayers. Currently, before beginning construction, the utility must show, among other things, that the proposed new plant or infrastructure is necessary and the lowest cost among viable options to address the needs of the public. If the bill were to pass and this prior approval requirement were to be removed, the statute could be interpreted as providing that the utility needs to demonstrate only that the *service* from the new plant is necessary, not necessarily that the plant itself was the least cost before it was built. Avoiding and reasonably controlling, then, for the materialization of excessive, runaway and imprudent project costs will likely become far more difficult to achieve.

House Commerce & Economic Development Committee Amendment

The amendment does not resolve the previously identified concern that public utilities could begin construction of plants, systems, or extensions without first demonstrating that such investments are necessary, cost-effective, and in the public interest. The utility, customer, and affordability impacts remain unchanged. Without prior approval, utilities face a significant risk of creating stranded assets with limited or no cost recovery. When a utility cannot attract shareholder investment because of stranded asset risk or inadequate cost recovery for high-risk projects, it must rely more heavily on debt financing, thereby increasing costs for ratepayers.

PERFORMANCE IMPLICATIONS

N/A

ADMINISTRATIVE IMPLICATIONS

N/A

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

N/A

¹ See *In the Matter of the Application of El Paso Elec. Co. for a Certificate of Pub. Convenience & Necessity to Construct a Util. Generating Plant at the Rio Grande Power Station, El Paso Elec. Co., Applicant.*, NMPRC Case No. 10-00301-UT, Certification of Stipulation at page 10, 2011 WL 11758959 (June 16, 2011) ("[17.3.580.6 NMAC] complements the CCN statute by providing that no cost overruns incurred in construction of new electric generating plant will be included in rates unless the Commission makes a determination that they were prudently incurred. (footnote omitted). Rule 580.11 states that no utility shall obtain rate recovery of any cost overrun in the construction of electric generating plant until the Commission determines, upon notice and hearing, whether those costs have been incurred prudently.") See also Final Order Adopting Certification of Stipulation (June 23, 2011).

TECHNICAL ISSUES

N/A

OTHER SUBSTANTIVE ISSUES

N/A

ALTERNATIVES

N/A

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS

N/A