

LFC Requester:

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AGENCY BILL ANALYSIS - 2026 REGULAR SESSION

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Date Prepared: 2/6/2026

Check all that apply:

Bill Number: HB 311

Original Correction
Amendment Substitute

Sponsor: Rep. Dayan Hochman-Vigil

Agency Name and Code Number: 305 – New Mexico Department of Justice

Short Title: Virtual Power Plant Act

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY26	FY27		

(Parenthesis () indicate expenditure decreases)

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

This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator’s request. The analysis does not represent any official policy or legal position of the NM Department of Justice.

BILL SUMMARY

Synopsis:

HB 311 seeks to establish a statutory scheme governing the creation, implementation, and regulation of virtual power plants, i.e., an aggregation of energy resources organized to provide grid services. HB 311 would require all electric public utilities to initiate virtual power plant programs, and further designates the public regulation commission as the regulating entity of those efforts. The bill is divided into six sections.

Section 1 provides the short title of HB 311, i.e., the “Virtual Power Plant Act.”

Section 2 provides the definitions used within the Virtual Power Plant Act for the following terms:

- Commission
- Distributed energy resource
- Distributed energy resource aggregator
- Electric public utility
- Grid service
- Performance-based compensation
- Performance requirements
- Virtual power plant

Section 3 establishes the authority of the public regulation commission to advance rules requiring public utilities to implement a virtual power plant program (“VPPP”). Among the rules which the public regulation would be required to advance include regulations on setting performance-based compensation; ensuring fair competition among utilities; and establishing VPPP parameters.

Section 4 requires all electric public utilities to apply to implement a VPPP for commission review.

Section 5 sets forth requirements that high-capacity energy storage resource owners adhere to specific minimum wage and benefit rate requirements, as well as requirements that a resource aggregator file and update a corresponding affidavit of compliance.

Section 6 allows electric public utilities to recover reasonable costs related to the implementation

of a VPPP.

FISCAL IMPLICATIONS

None for this office.

SIGNIFICANT ISSUES

Subsection 3.B.5 contemplates electric public utilities “serving as a distributed energy resource aggregator.” To the extent that an electric public utility is not considered a person, this appears to conflict with the definition of a distributed energy resource aggregator in Section 2.

There is a slight discrepancy within Section 5 between the conditions for filing or updating an affidavit of compliance. Generally, Section 5 seems mainly concerned with energy storage resources with “a usable energy capacity of one megawatt or higher.” As an example, the affidavit of compliance required under 5.B only verifies the compliance of energy storage resources of that capacity. However, an update to the affidavit appears to trigger under 5.C when the aggregator later adds energy storages of *any* capacity. It is not clear whether the original focus on higher-scale capacities was to apply to 5.C. And if storages of any capacity are to trigger an update to the affidavit of compliance, it is less clear what ought to be added to the affidavit.

Section 6 allows for cost recovery by electric public utilities through recovery mechanisms “approved by the commission,” but appears unclear as to the process of approval.

PERFORMANCE IMPLICATIONS

None.

ADMINISTRATIVE IMPLICATIONS

None.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None.

TECHNICAL ISSUES

None.

OTHER SUBSTANTIVE ISSUES

None.

ALTERNATIVES

None.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS

None.