

LFC Requester:	
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AGENCY BILL ANALYSIS

**SECTION I: GENERAL INFORMATION**

*Check all that apply:*  
**Original**      X   **Amendment**            
**Correction**           **Substitute**          

**Date**   2/5/2026    
**Bill No:**   HB 311  

**Sponsor:**   Rep. Hochman-Vigil    
**Short**          Virtual Power Plant Act  

**Agency Name and Code**          EMNRD 521    
**Number:** \_\_\_\_\_  
**Person Writing**          Ben Bajema    
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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 Expenditure Decreases)

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

	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>						

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:  
Duplicates/Relates to Appropriation in the General Appropriation Act:

### **SECTION III: NARRATIVE**

**Synopsis:** HB 311 directs the Public Regulatory Commission (PRC) to adopt rules requiring Investor Owned Utilities (IOUs) to implement virtual power plant (VPP) programs that create a framework for aggregating distributed resources to provide grid services by the end of 2026.

Under this bill, VPP program rules promulgated by the PRC must:

- consider how VPPs would interact with other utility programs;
- identify strategies to maximize benefits from avoided generation, transmission, and distribution investments by aggregating distributed resources;
- require a tariff filing that establishes performance requirements and performance-based compensation for VPPs, and then locks in those values for five years;
- prescribe a methodology for setting and revising performance-based compensation;
- allow third parties as well as public utilities to serve as distributed energy resources (DER) aggregators, while ensuring that utilities do not have a competitive advantage over third parties based on access to customer data, marketing, or other advantages;
- ensure that recipients of other incentives are not disqualified from VPP participation;
- ensure that VPP program participants cannot be compensated more than one for providing a service;
- determine an initial VPP capacity parameter that is at least 15 percent of a utility's peak demand for the first five years;
- identify an appropriate regulatory process for review and revision of VPP program parameters;
- define customer, grid, and hosting capacity data access requirements for third party aggregators;
- set grid event parameters for when and how distributed resource owners/end-users shall respond to grid events, including frequency, duration and notice; and
- establish protocols for stakeholder engagement.

HB 311 requires electric utilities to file applications to implement a virtual power plant program by February 1, 2027, and enables cost recovery for VPPs through PRC-approved mechanisms.

### **FISCAL IMPLICATIONS**

None for EMNRD.

### **SIGNIFICANT ISSUES**

VPPs are defined by the U.S. Department of Energy as “[aggregated resources] used for flexing distributed demand and supply resources with a level of dexterity that has historically only been possible in flexing centralized supply.” In plain English, this means creating a system whereby utilities can use things like smart meters to quickly reduce how much power households and larger electricity consumers are using in a quick and coordinated way in order free up power to go elsewhere on the system. These quick, coordinated, and aggregated small reductions behave the

same way as turning on a new generating resource, hence the name “virtual power plant.” No new power is being generated, but the effect on the grid is essentially the same.

VPP-enabled demand flexibility is important for supporting grid affordability, reliability, and sustainability as electricity demand peaks continue to grow across New Mexico. By shifting load out of peak demand windows and encouraging consumption during hours of excess renewable production, VPPs:

1. coordinate distributed resources (such as rooftop solar and home batteries) to maximize the utilization of existing grid assets, saving ratepayer dollars from avoided infrastructure investments;
2. help ensure enough electricity is available when the grid is under considerable strain; and
3. provide utilities with alternatives to high-emission resources like natural gas peaker plants.

Moreover, with New Mexico’s growing presence in western energy markets, utilities and third-party aggregators will soon be able to bid demand response resources (including VPPs) into day-ahead auctions, facilitating new performance-based compensation streams for distributed resource owners (e.g., New Mexican homeowners could get paid for their rooftop solar, or garage battery).

While the timelines established by HB 311 reflect the urgent need to deploy new technologies on the grid, the uneven pace of smart meter rollouts and other technological deficiencies across different service territories may hinder some utilities’ abilities to establish new VPP programs by February 2027.<sup>1</sup>

The rulemaking proposed in HB 311 may require more than 10 months of deliberation, given current matters before the PRC. Stakeholders in Docket No. 25-00088-UT recently convinced a PRC hearing examiner to recommend dismissing the case without prejudice after pointing out that the Commission’s plate is full with:

1. two private equity mergers;
2. a number of outstanding rulemakings;
3. two significant system upgrade applications at PNM;
4. three significant matters at SPS;
5. a general rate case at EPE; and
6. PNM’s 2026 integrated resource plan.

Given knowledgeable intervenors (including EMNRD) are also active participants in these other dockets, the proposed timeline will likely not receive levels of stakeholder input suitable to crafting rules that are thoughtful and sound.

The Demand Savings Working Group, convened by the PRC in Docket No. 25-00046-UT, identified several solutions to facilitate VPPs that could simplify the process laid out in HB 311. For example, community stakeholders and utilities agreed in their December 2025 report that large-scale demand response (such as the 15% of system peaks proposed by HB 311, which would amount to over 300 MW at PNM) may be better procured through the integrated resource planning (IRP) process. And assessing VPP capacity procurement in IRPs would automatically fulfill multiple conditions for the proposed rulemaking in HB 311. For example:

1. VPPs would be assessed in the context of the wider system planning process (as opposed

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<sup>1</sup>See Demand Savings Working Group Summary Report from December 3, 2025. Page 11 Utility Comments on Technology Changes and Adoption. NMPRC Docket No. 25-00046-UT.

to in a silo). This wider process could help underscore avoided cost benefits from avoided transmission and generation investments, and help determine how VPPs would interact with other utility programs.

2. Because the IRP rule prescribes certain requirements for future Requests for Proposals (RFPs), VPPs assessed via IRP would open opportunities for third-party aggregators to bid into RFPs that fulfill utility action plans.
3. Stakeholder engagement offered by the IRP process could alleviate longstanding information asymmetry problems between utilities and third-parties in terms of data access, and thus reduce utilities' inherent competitive advantage (deriving from their monopoly).
4. Assessing system-wide resource adequacy contingencies in the IRP would identify how VPPs should respond to grid events.

PRC Staff comments on the December 2025 report called out the success of EPE's innovative 2025 IRP process, which incorporated sophisticated Distributed Energy Resource modeling, suggesting that power-flow and capacity expansion modeling is already capable of evaluating VPPs as system resources.

#### **PERFORMANCE IMPLICATIONS**

None for EMNRD.

#### **ADMINISTRATIVE IMPLICATIONS**

None for EMNRD.

#### **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

#### **TECHNICAL ISSUES**

#### **OTHER SUBSTANTIVE ISSUES**

#### **ALTERNATIVES**

Implementing VPPs could be strengthened by amending the integrated resource planning statute in 62-17-10 NMSA 1978 to require utilities to procure enough VPP capacity such that total system costs are minimized via avoided investments in transmission, generation, and distribution, while compensating distributed resources for performance. Language could also direct the PRC to require tariff filings for VPP resources. This alternative would require a less onerous rulemaking process while achieving similar results. Additionally, this amendment would consolidate two separate compliance filings for each utility into one filing per utility every three years, reducing red tape that is ultimately paid by ratepayers.

#### **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

The PRC will not have to promulgate rules for VPP programs at utilities by the end of the year. Utilities will not have to file applications for VPP programs by February 2027.

#### **AMENDMENTS**