

LFC Requester:

Joseph Simon

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: January 28, 2026 *Check all that apply:*
Bill Number: SM 9 Original Correction
Amendment Substitute

Sponsor: Senator Pope **Agency Name and Code Number:** 430 – Public Regulation Commission
Short Title: STUDY STATE PURCHASE OF UTILITIES **Person Writing:** Jerri Mares
Phone: (505)490-2696 **Email:** 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: See Significant Issues

FISCAL IMPLICATIONS

N/A

SIGNIFICANT ISSUES

SM 9 requests that the Legislative Finance Committee work with several state agencies, including the Public Regulation Commission, to study the benefits and drawbacks of one or more of the state's investment funds purchasing equity interests in New Mexico Gas Company and TXNM Energy, Inc., the parent company of PNM. The memorial cites that this concept has arisen because "private equity firms are currently seeking approval" from the PRC to purchase both NMGC and PNM (p. 1). The memorial further emphasizes that "allowing private equity firms to acquire the utilities may preclude New Mexico's ability to acquire a potentially beneficial ownership interest in the utilities" (p. 3). Importantly, the memorial requests not only that the PRC be an agency participant in the LFC-led study, but also that the PRC "refrain from approving any private equity acquisition" of NMGC or PNM until no sooner than "the conclusion of the first session of the fifty-eighth legislature" (p. 4). Both requests conflict with the PRC's responsibility to serve as a fair and impartial adjudicatory body in utility matters.

Unlike the other agencies identified by SM 9 as requested participants in the study, the PRC is, by statute, an adjudicatory body required to preside over and issue rulings upon contested proceedings involving the state's utilities. The PRC's adjudications take place through a trial-type process where a variety of parties representing diverse stakeholders (such as the utilities themselves, affected consumer interests, environmental groups, and advocates for the public interest generally) file testimony and make legal arguments urging the Commission to rule in their favor. The types of cases adjudicated by the PRC include mergers and acquisition cases where private-sector owners of utilities seek to sell or otherwise divest their interests in the companies. In these cases, the utilities and their private-sector owners have property interests at stake, as do many of the other litigants, and this requires (as a constitutional matter) that all participants in the process be afforded due process. *See Archuleta v. Santa Fe Police Dep't ex rel. City of Santa Fe*, 2005-NMSC-006, ¶ 31, 137 N.M. 161, 172 ("Administrative hearings that affect a property or liberty interest must comply with due process.").

Basic constitutional due process concerns require the Commission to not only remain impartial but also maintain the appearance of impartiality. *See Reid v. New Mexico Board of Examiners in Optometry*, 1979-NMSC-005, ¶ 8, 92 N.M. 414 ("The inquiry is not whether the Board members are actually biased or prejudiced, but whether, in the natural course of events, there is an indication of a possible temptation to an average man sitting as a judge to try the case with bias for or against any issue presented to him."). Here, these constitutional considerations require the PRC to be fair and impartial in adjudicating the NMGC and PNM acquisition cases: the agency must weigh the potential benefits and drawbacks of these acquisitions in an evenhanded way that affords all parties an opportunity to be heard. This impartiality, or at least the appearance of impartiality, would be compromised if the agency were to participate in the requested study of the benefits of the state investment funds purchasing the same utilities, especially given that the concept is promoted expressly as an alternative to private equity ownership. Moreover, if the PRC were to refrain from

deciding these cases in anticipation of the study's recommendations and subsequent legislative action, and effectively prevent the acquisitions from occurring, the agency would clearly no longer appear to be a fair and even-handed adjudicator.

There is no constitutional flaw in a legislative study of the concept of public ownership of New Mexico's utilities and directing such a study is within the Legislature's purview. However, for the PRC to participate in this study while adjudicating private equity acquisitions of those same utilities—and for the PRC to refrain from ruling on those cases pending alternative recommendations from the study—is incompatible with the Commission's statutory role and constitutional obligations.

PERFORMANCE IMPLICATIONS

N/A

ADMINISTRATIVE IMPLICATIONS

N/A

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Relates to HM 6 Private Equity Infrastructure Ownership

TECHNICAL ISSUES

N/A

OTHER SUBSTANTIVE ISSUES

N/A

ALTERNATIVES

N/A

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

N/A

AMENDMENTS

N/A