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SENATE BILL 762

42ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1996

INTRODUCED BY

MANNY M ARAGON

AN ACT

RELATING TO PUBLIC UTILITIES; ABOLISHING THE NEW MEXICO PUBLIC
UTILITY COMMISSION; TRANSFERRING POWERS, DUTIES, APPROPRIATIONS,
PROPERTY, EMPLOYEES AND FUNCTIONS OF THE NEW MEXICO PUBLIC
UTILITY COMMISSION TO THE STATE CORPORATION COMMISSION;
AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. [NEW MATERIAL] NEW MEXICO PUBLIC UTILITY
COMMISSION ABOLISHED. --The New Mexico public utility commission,
created pursuant to Section 62-5-1 NMSA 1978, is abolished.

Section 2. [NEW MATERIAL] TRANSFERS TO THE STATE
CORPORATION COMMISSION.

A. The powers, duties and functions of the New
Mexico public utility commission existing on June 30, 1996 are
transferred to the state corporation commission on July 1, 1996.

Underscored material = new
[bracketed material] = delete

1 B. Appropriations made to the New Mexico public
2 utility commission for expenditure in fiscal year 1997 and
3 subsequent fiscal years, funds budgeted pursuant to those
4 appropriations and the authority to spend the funds are
5 transferred to the state corporation commission.

6 C. Unexpended funds from appropriations for fiscal
7 year 1996 and previous fiscal years made to the New Mexico
8 public utility commission are transferred to the state
9 corporation commission on July 1, 1996, together with the
10 authority to spend those funds for the purposes authorized.

11 D. Employees, records and property of the New Mexico
12 public utility commission existing on June 30, 1996 are
13 transferred to the state corporation commission on July 1, 1996.

14 Section 3. Section 62-3-3 NMSA 1978 (being Laws 1967,
15 Chapter 96, Section 3, as amended by Laws 1993, Chapter 282,
16 Section 21 and by Laws 1993, Chapter 308, Section 3 and also by
17 Laws 1993, Chapter 351, Section 2) is amended to read:

18 "62-3-3. DEFINITIONS, WORDS AND PHRASES. -- Unless otherwise
19 specified, when used in the Public Utility Act [~~as amended~~]:

20 A. "affiliated interest" means a person who directly
21 or indirectly, through one or more intermediaries, controls or
22 is controlled by or is under common control with a public
23 utility. Control includes instances where a person is an
24 officer, director, partner, trustee or person of similar status
25 or function or who owns directly or indirectly or has a

Underscored material = new
[bracketed material] = delete

1 beneficial interest in ten percent or more of any class of
2 securities of a person;

3 B. "commission" [~~means the~~], "New Mexico public
4 [~~service~~] utility commission" or "public utility commission"
5 means the state corporation commission;

6 C. "commissioners" means any member of the
7 commission;

8 D. "municipality" means any municipal corporation
9 organized under the laws of the state and H class counties;

10 E. "person" means individuals, firms, partnerships,
11 companies, rural electric cooperatives organized under Laws
12 1937, Chapter 100 or the Rural Electric Cooperative Act, as
13 amended, corporations and lessees, trustees or receivers
14 appointed by any court. It shall not mean any municipality as
15 defined in this section unless the municipality has elected to
16 come within the terms of the Public Utility Act [~~as amended~~] as
17 provided in Section 62-6-5 NMSA 1978. In the absence of such
18 voluntary election by any municipality to come within the
19 provisions of the Public Utility Act [~~as amended~~], the
20 municipality shall be expressly excluded from the operation of
21 that act and from the operation of all of its provisions, and no
22 such municipality shall for any purpose be considered a public
23 utility;

24 F. "securities" means stock, stock certificates,
25 bonds, notes, debentures, mortgages or deeds of trust or other

Underscored material = new
[bracketed material] = delete

1 evidences of indebtedness issued, executed or assumed by any
2 utility;

3 G. "public utility" or "utility" means every person
4 not engaged solely in interstate business and, except as stated
5 in Sections 62-3-4 and 62-3-4.1 NMSA 1978, that now does or
6 hereafter may own, operate, lease or control:

7 (1) any plant, property or facility for the
8 generation, transmission or distribution, sale or furnishing to
9 or for the public of electricity for light, heat or power or
10 other uses;

11 (2) any plant, property or facility for the
12 manufacture, storage, distribution, sale or furnishing to or for
13 the public of natural or manufactured gas or mixed or liquefied
14 petroleum gas, for light, heat or power or for other uses; but
15 the term "public utility" or "utility" shall not include any
16 plant, property or facility used for or in connection with the
17 business of the manufacture, storage, distribution, sale or
18 furnishing of liquefied petroleum gas in enclosed containers or
19 tank truck for use by others than consumers who receive their
20 supply through any pipeline system operating under municipal
21 authority or franchise, and distributing to the public;

22 (3) any plant, property or facility for the
23 supplying, storage, distribution or furnishing to or for the
24 public of water for manufacturing, municipal, domestic or other
25 uses; provided, however, nothing contained in this paragraph

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Underscored material = new
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1 shall be construed to apply to irrigation systems, the chief or
2 principal business of which is to supply water for the purpose
3 of irrigation;

4 (4) any plant, property or facility for the
5 production, transmission, conveyance, delivery or furnishing to
6 or for the public of steam for heat or power or other uses; or

7 (5) any plant, property or facility for the
8 supplying and furnishing to or for the public of sanitary sewers
9 for transmission and disposal of sewage produced by
10 manufacturing, municipal, domestic or other uses;

11 H. "rate" means every rate, tariff, charge or other
12 compensation for utility service rendered or to be rendered by
13 any utility and every rule, regulation, practice, act,
14 requirement or privilege in any way relating to such rate,
15 tariff, charge or other compensation and any schedule or tariff
16 or part of a schedule or tariff thereof;

17 I. "service" or "service regulation" means every
18 rule, regulation, practice, act or requirement in any way
19 relating to the service or facility of a utility;

20 J. "Class I transaction" means the sale, lease or
21 provision of real property, water rights or other goods or
22 services by an affiliated interest to any public utility with
23 which it is affiliated or by a public utility to its affiliated
24 interest;

25 K. "Class II transaction" means:

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Underscored material = new
[bracketed material] = delete

1 (1) the formation after [~~the effective date of~~
2 ~~this 1982 act~~] May 19, 1982 of a corporate subsidiary by a
3 public utility or a public utility holding company by a public
4 utility or its affiliated interest;

5 (2) the direct acquisition of the voting
6 securities or other direct ownership interests of a person by a
7 public utility if such acquisition would make the
8 utility the owner of ten percent or more of the voting
9 securities or other direct ownership interests of that person;

10 (3) the agreement by a public utility to
11 purchase securities or other ownership interest of a person
12 other than a nonprofit corporation, contribute additional equity
13 to, acquire additional equity interest in or pay or guarantee
14 any bonds, notes, debentures, deeds of trust or other evidence
15 of indebtedness of any such person; provided, however, that a
16 public utility may honor all agreements entered into by such
17 utility prior to [~~the effective date of this 1982 act~~] May 19,
18 1982; or

19 (4) the divestiture by a public utility of any
20 affiliated interest which is a corporate subsidiary of the
21 public utility;

22 L. "corporate subsidiary" means any person ten
23 percent or more of whose voting securities or other ownership
24 interests are directly owned by a public utility; and

25 M "public utility holding company" means an

Underscored material = new
[bracketed material] = delete

1 affiliated interest which controls a public utility through the
2 direct or indirect ownership of voting securities of such public
3 utility."

4 Section 4. SAVING CLAUSE. --

5 A. Contracts in existence on June 30, 1996 that are
6 binding upon the New Mexico public utility commission remain in
7 effect and are binding on and inure to the benefit of the state
8 corporation commission on and after July 1, 1996.

9 B. Valid regulations, rules, directives, orders and
10 similar actions taken by the New Mexico public utility
11 commission remain valid and enforceable by the state corporation
12 commission until properly replaced, superseded, amended or
13 repealed.

14 Section 5. REPEAL. -- Sections 62-5-1 through 62-5-11 NMSA
15 1978 (being Laws 1941, Chapter 84, Section 3, Laws 1977, Chapter
16 255, Section 121 and Laws 1941, Chapter 84, Sections 4 through 8
17 and 10 through 13, as amended) are repealed.

18 Section 6. EFFECTIVE DATE. -- The effective date of the
19 provisions of this act is July 1, 1996.

1 FORTY- SECOND LEGI SLATURE
2 SECOND SESSI ON, 1996

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5 JANUARY 31, 1996

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7 Mr. Presi dent:

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9 Your COMMI TTEES' COMMI TTEE, to whom has been referred

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11 SENATE BILL 762

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13 has had it under consideration and finds same to be GERMANE, PURSUANT
14 TO CONSTITUTIONAL PROVISIONS, and thence referred to the
15 CORPORATIONS AND TRANSPORTATION COMMI TTEE.

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17 Respectfully submi tted,

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23 SENATOR MANNY M. ARAGON, Chai rman
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Adopted _____

Not Adopted _____

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(Chief Clerk)

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1 FORTY- SECOND LEGI SLATURE
2 SECOND SESSI ON, 1996
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5 February 9, 1996
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7 Mr. President:
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9 Your CORPORATIONS & TRANSPORTATION COMMITTEE, to whom
10 has been referred
11

12 SENATE BILL 762
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14 has had it under consideration and reports same with recommendation that
15 it DO PASS, and thence referred to the FINANCE COMMITTEE.
16

17 Respectfully submitted,
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21 Roman M. Maes, III, Chairman
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Adopted _____ Not Adopted _____

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Date _____

The roll call vote was 4 For 1 Against

Yes: 4

No: Rawson

Excused: Kidd, Maloof, McKibben, Reagan

Absent: None

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[bracketed material] = delete~~

1 FORTY- SECOND LEGI SLATURE
2 SECOND SESSI ON, 1996
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5 February 9, 1996
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7 Mr. President:
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9 Your CORPORATIONS & TRANSPORTATION COMMITTEE, to whom
10 has been referred
11

12 SENATE BILL 762
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14 has had it under consideration and reports same with recommendation that
15 it DO PASS, and thence referred to the FINANCE COMMITTEE.
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17 Respectfully submitted,
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21 Roman M. Maes, III, Chairman
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Adopted _____ Not Adopted _____

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Date _____

The roll call vote was 4 For 1 Against

Yes: 4

No: Rawson

Excused: Kidd, Maloof, McKibben, Reagan

Absent: None

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~~Underscored material = new
[bracketed material] = delete~~

1 FORTY-SECOND LEGISLATURE
2 SECOND SESSION, 1996
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5 February 14, 1996
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7 Mr. President:
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9 Your FINANCE COMMITTEE, to whom has been referred
10

11 SENATE BILL 762
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13 has had it under consideration and reports same with recommendation that
14 it DO PASS.
15

16 Respectfully submitted,
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21 Ben D. Altamirano, Chairman
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25 Adopted _____

(Chief Clerk)

Not Adopted _____

(Chief Clerk)

Underscored material = new
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Date _____

The roll call vote was 8 For 0 Against

Yes: 8

No: 0

Excused: Doni sthorpe, Duran, Ingle, Kidd, Kysar

Absent: None

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