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## FISCAL IMPACT REPORT

**BILL NUMBER:** House Bill 303/ec/aHCEDC

**SHORT TITLE:** Utility Certificate of Public Convenience

**SPONSOR:** Lara/Sanchez/Royball Caballero

**LAST ORIGINAL**  
**UPDATE:** 2/14/26      **DATE:** 2/13/26      **ANALYST:** Rodriguez

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

Agency/Program	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
PRC	No fiscal impact	No fiscal impact	No fiscal impact			

Parentheses ( ) indicate expenditure decreases.

\*Amounts reflect most recent analysis of this legislation.

### Sources of Information

LFC Files

Agency or Agencies Providing Analysis

Public Regulation Commission

New Mexico Attorney General

## SUMMARY

### Synopsis of HCEDC Amendment to House Bill 303

The House Commerce and Economic Development Committee amendment to House Bill 303 (HB303/aHCEDC) changes the trigger for a certificate of public convenience and necessity (CNN) from the Public Regulation Commission (PRC) to when a public utility begins the operation of any plant, system, or extension of them.

The amendment also restores the original language in Section 62-9-1 NMSA 1978, which outlines how PRC can resolve conflict when one utility's construction or expansion interferes with another utility's service territory.

### Synopsis of House Bill 303

House Bill 303 (HB303) amends the Public Utility Act to require public utilities to obtain a certificate of public convenience and necessity (CCN) from the Public Regulation Commission (PRC) when providing service to customers using any public utility plant, system, or extension of a plant or system, rather than when beginning construction or operation a plant or system.

This bill contains an emergency clause and would become effective immediately on signature by the governor.

## FISCAL IMPLICATIONS

HB303/aHCEDC would not likely increase PRC's workload and, therefore, does not contain a fiscal impact.

## SIGNIFICANT ISSUES

HB303/aHCEDC proposes a change to how PRC currently regulates a utility company's construction plans.

The changes proposed in the bill would allow public utilities to begin construction of plants, systems, or extensions without having to prove they are necessary, cost-effective, and in the public interest. Instead, HB303/aHCEDC only requires a public utility to obtain a CCN when beginning the operation of a plant or system. As such, the proposed changes in the bill would allow a public utility to construction a plant or system without obtaining a CCN from PRC.

As noted by PRC, HB303/aHCEDC may create serious challenges for both utilities and ratepayers. PRC notes:

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.

PRC further notes the changes in HB303/aHCEDC do not guarantee that a public utility company would be able to recover the costs incurred for construction a project. If those costs are not determined to be prudent by PRC, the utility company, through its owners and stakeholders, would have to absorb the cost. 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.

PRC notes the risk of stranded assets and limited cost recovery, or no cost recovery at all, runs counter to other provisions of the Public Utility Act.

As noted by PRC, currently, before beginning construction, a utility must show that the proposed new plant or infrastructure is necessary and is the lowest cost among viable options to address the public's needs. HB303/aHCEDC removes the prior approval requirement, which PRC argues could be interpreted as only requiring that utility only needs to demonstrate that beginning the operation of a plant is necessary—as opposed to the construction of the plant. PRC notes the proposed change would make it harder for PRC to prevent and control the materialization of excessive, runaway, and imprudent project costs.