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FISCAL IMPACT REPORT

BILL NUMBER: House Bill 311/aHENRC

SHORT TITLE: Virtual Power Plant Act

SPONSOR: Hochman-Vigil

LAST ORIGINAL
UPDATE: 2/13/26 **DATE:** 2/09/2026 **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	At least \$152.0	At least \$152.0	At least \$304.0	Recurring	General Fund

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
Energy, Minerals, and Natural Resources Department

Agency or Agencies That Were Asked for Analysis but did not Respond

New Mexico Attorney General

SUMMARY

Synopsis of HENRC Amendment to House Bill 311

The House Energy, Environment and Natural Resources Committee (HENRC) amendment to House Bill 311 (HB311) pushes the deadline for the Public Regulation Commission to regulate rules relating the virtual power plant program from December 31, 2026, to December 31, 2027, and pushes the timeline for investor-owned utilities to submit applications to implement those programs from February 1, 2027, to February 1, 2030.

Synopsis of House Bill 311

House Bill 311 (HB311) enacts the Virtual Power Plant Act, enabling the Public Regulation Commission (PRC) to create rules requiring electric public utilities to implement a virtual power plan program, allowing public utilities companies to recover costs related to implementation of those programs, and specifying requirements for energy storage resources in the program. A virtual power plant is an aggregation of distributed energy resources that are collectively

organized via software to provide grid services, reducing or shifting customer load or exporting power as needed.

Detailed Synopsis of House Bill 311

Allowed Cost Recovery. HB311 allows electric public utilities to recover reasonable costs related to the implementation of a virtual power plant program through recovery costs approved by PRC.

Energy Storage Resources. HB311 specifies requirements for owners or end-users of an energy storage resource to participate in the virtual power plant program. Energy storage resources of one megawatt or more must meet public works minimum wage and benefit requirements, and aggregators must file and update affidavits confirming compliance, with the commission allowed to request supporting information.

Application Process. Public utilities must submit an application to implement a virtual power plant program no later than February 1, 2027, and PRC must approve, deny, or ask for revisions.

Rulemaking. When creating rules related to the virtual power plant program, HB311 requires PRC to:

- Consider the potential interaction between the virtual power plant programs and other programs;
- Identify strategies to maximize benefits;
- Requires public utilities to file tariffs that set technology-specific performance standards and performance-based compensation for the program, while allowing distributed energy resource owners or users to lock in the approved compensation rates for five years;
- Set and update the way payments are calculated so they fairly reflect the total benefit that a virtual power plant program provides to the electric grid;
- Ensure utilities do not gain an unfair advantage over third-party aggregators, participants are not excluded based on rate plans or other incentives, and no one is paid more than once for the same service; and
- Set key rules for the virtual power plant program, including a minimum initial size equal to at least 15 percent of peak demand for the first five years, a process to review and expand the program, data access standards for aggregators, requirements for how participants respond to grid events, and procedures for stakeholder input.

The act is only pertinent to New Mexico’s investor-owned utilities, not electric cooperatives. This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns, which is May 20, 2026.

FISCAL IMPLICATIONS

Enactment of HB311 would require staff hours at PRC to adopt rules for the virtual power plant program, review applications submitted by companies, review tariffs and cost recovery mechanisms, and ensure compliance with act. The LFC analysis assumes the agency would require additional staff hours for attorneys, economists, analysts, and hearing examiners.

SIGNIFICANT ISSUES

Virtual Power Plant Programs. As defined by the U.S. Department of Energy, virtual power plants (VPPs) are “aggregations of distributed energy resources, such as rooftop solar with behind-the-meter batteries, electric vehicles (EVs) and chargers, electric water heaters, smart buildings and their controls, and flexible commercial and industrial loads, that can balance electricity demand and supply and provide utility-scale and utility-grade grid services like a traditional power plant”. As noted by the Energy, Minerals, and Natural Resources Department (EMNRD), virtual power plants are systems that allow public utilities to quickly reduce how much power households and larger electricity consumers are using, via technology such as smart meters, to free power for use in other parts of the systems. EMNRD elaborates that the quick, coordinated, and aggregated small reductions in power 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.

EMNRD notes that virtual power plant-enabled demand flexibility is important for supporting grid affordability, reliability, and sustainability as electricity demand peaks continue to grow across New Mexico. EMNRD notes that virtual power plants can 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.

EMNRD also notes that New Mexico will soon be able to start bidding demand response resources, such as virtual power plants, into day-ahead auctions through western energy marketing, which will create new performance-based compensation streams for distributed resource owners, such as homeowners getting paid for their rooftop solar or garage battery.

For previous similar legislation, EMNRD noted that by 2030, New Mexico is forecast to install over 160MWs of potential VPP capacity in the form of behind-the-meter storage, smart thermostats, and electric water heaters. Discounted cash flow analysis suggests that these resources, if aggregated, would serve the top yearly demand hours at a fraction of the cost of equivalent natural gas peaker plants or utility-scale storage capacity.

Compliance with Public Works Minimum Wage Act. Section 5 of HB311 requires owners of energy storage resources to comply with the minimum wages and benefit rate requirements outlined in the Public Works Minimum Wage Act. PRC notes HB311 could require PRC to determine whether a user is in compliance with the act, which the agency does not have expertise in.

ALTERNATIVES

Tariff Filings. EMNRD notes HB311 could be amended to direct PRC to require tariff filings for virtual power plant 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.

Amending Integrated Resource Planning. EMNRD suggests that implementation of virtual power plants could be strengthened by amending statute related to integrated resource planning (Section 62-17-10 NMSA 1978) to require public utilities to procure enough virtual power plant capacity such that that total system costs are minimized via avoided investments in transmission, generation, and distribution, while compensating distributed resources for performance.

As noted by EMNRD, the demand savings working group, convened by PRC in Docket No. 25-00046-UT, identified several solutions to facilitate the implementation of virtual power plants that could simplify the process laid out in HB311.

EMNRD notes:

Community stakeholders and utilities agreed in their December 2025 report that large-scale demand response, such as the 15 percent of system peaks proposed by HB311, which would amount to over 300 MW at PNM, may be better procured through the integrated resource planning process.

Assessing virtual power plant capacity procurement in integrated resource planning would automatically fulfill multiple conditions for the proposed rulemaking in HB311. For example:

1. VPPs would be assessed in the context of the wider system planning process (as opposed 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 El Paso Electric's innovative 2025 integrated resource planning process, which incorporated sophisticated Distributed Energy Resource modeling, suggesting that power-flow and capacity expansion modeling is already capable of evaluating virtual power plants as system resources.

JR/cf/dw/sgs