

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website (legis.state.nm.us). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

## FISCAL IMPACT REPORT

ORIGINAL DATE 01/31/10  
 SPONSOR Heaton LAST UPDATED 02/15/10 HB 85/aHFL#1  
 SHORT TITLE Electricity Transmission Cost Recovery SB \_\_\_\_\_  
 ANALYST Lucero

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

	FY10	FY11	FY12	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
<b>Total</b>		Indeterminate, but possibly moderately-high	Indeterminate, but possibly moderately-high	Indeterminate, but possibly moderately-high	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Public Regulation Commission (PRC)  
 New Mexico Environment Department (NMED)  
 Economic Development Department (EDD)

### SUMMARY

#### Synopsis of House Floor Amendment

House Floor Amendment to House Bill 85 clarifies that PRC may issue an order and a certificate of convenience and necessity for construction or enlargement of transmission facilities for facilities “used to serve” the utilities in the New Mexico service area.

#### Synopsis of Original Bill

House Bill 85 proposes to amend the Public Utility Act by directing the Public Regulation Commission (PRC) to adopt rules that would allow electric utilities to recover, on an annual basis, its reasonable and necessary transmission infrastructure improvement costs and changes in wholesale transmission charges, through a “transmission cost adjustment clause,” for costs and charges incurred since the end of the utility’s rate case test year.

Ratepayers would be held harmless if a utility declines to construct transmission as directed by its regional transmission organization, and the resultant charges are higher than the utility’s costs would have been.

The bill provides that the PRC may issue a certificate of convenience and necessity (“CCN”) for construction or enlargement of transmission facilities in the utility’s New Mexico service territory, or may order the utility to construct such facilities as are necessary for economic development or renewable energy projects. In either event, the PRC is directed to find that the facilities are used and useful and should be included in rate base.

### **FISCAL IMPLICATIONS**

According to the PRC, additional cost recovery could result in higher utility rates for government facilities, resulting in the additional estimated operating budget impact.

The bill limits the cost recovery to only the costs or charges allocable to its retail customers in the state. However, the bill is silent to cost recovery rate increases for low and fixed income individuals.

The bill does not provide guidance to the PRC regarding whether the commission should consider other factors such as job creation, tax revenue, etc when considering cost recovery.

### **SIGNIFICANT ISSUES**

The bill isolates transmission facilities from other elements of the overall utility plant or system and provides for a separate regulatory treatment for those facilities. However, the intent of the bill seems to be to reduce regulatory impediments to the development of transmission resources, particularly for renewable energy and economic development projects. The bill does not limit recovery to renewable energy and economic development project transmission facilities, except as separately ordered by the PRC.

### **PERFORMANCE IMPLICATIONS**

The bill may help facilitate the construction of new transmission lines as well as enhancement of existing lines in New Mexico.

### **ADMINISTRATIVE IMPLICATIONS**

The PRC would be required to implement a new rulemaking and open new dockets to deal with the additional issues raised by the bill.

### **TECHNICAL ISSUES**

The bill is silent to cost recovery rate increases for low and fixed income individuals.

### **OTHER SUBSTANTIVE ISSUES**

The lack of sufficient transmission capacity is one of the biggest impediments to developing significant amounts of utility-scale renewable energy in New Mexico. Adjacent renewable energy producing states are ahead of New Mexico in providing transmission capacity for renewable energy. Texas has already authorized the recovery of the cost of transmission into their rate base.

Renewable Energy Transmission Authority (RETA) is charged with advancing renewable energy transmission in New Mexico.

However, noted under the Fiscal Implications section, the bill language does not provide any explicit limits on how much transmission could be cost recovered, or limits on the increase to rates allowable under this bill. This seems to open the door to potentially large rate increases that could adversely affect New Mexico rate payers, especially low and fixed income individuals.

This reviewer is not an expert on utility law, so it may be possible that the Utility Act places limits on the rate increases allowable elsewhere that this new bill would also be subject to. Legal review should be solicited to provide advice on this matter.

This bill does not provide any oversight or guidance roles to RETA or to EDD. It may be prudent to require the oversight of these agencies, or otherwise require an economic development analysis that demonstrates that the negative impact to ratepayers would be more than offset by the economic development benefits (e.g. new stat tax revenue, new jobs).

### **AMENDMENTS**

Possible amendments include:

- Placing an explicit cap on the amount of cost recovery allowed under this provision.
- Give RETA and/or EDD the authority to provide input/recommendations or to explicitly have decision making authority on whether a particular transmission project serves the economic development interests of the state and should be allowed cost recovery.
- Require a professional economic development study for each proposed project to evaluate whether the economic development benefits outweigh the costs of the proposed transmission and should be allowed for cost recovery.

### **ALTERNATIVES**

The Renewable Energy Transmission Authority has been created to implement some of the same objectives as would be accomplished by this bill.

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

Status quo. Utilities would continue to be able to petition the PRC for cost recovery from ratepayers for any system improvement construction which is proven to be prudent, used and useful.

DL/svb:mew