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HOUSE BILL 546

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

INTRODUCED BY

James R.J. Strickler

AN ACT

RELATING TO ENERGY; AMENDING THE RENEWABLE PORTFOLIO STANDARDS.

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

SECTION 1. Section 62-16-4 NMSA 1978 (being Laws 2004, Chapter 65, Section 4, as amended) is amended to read:

"62-16-4. RENEWABLE PORTFOLIO STANDARD.--

A. A public utility shall meet the renewable portfolio standard requirements, as provided in this section, to include renewable energy in its electric energy supply portfolio. Requirements of the renewable portfolio standard are:

(1) for public utilities other than rural electric cooperatives and municipalities:

(a) no later than January 1, 2006, renewable energy shall comprise no less than five percent of

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1 each public utility's total retail sales to New Mexico
2 customers;

3 (b) no later than January 1, 2011,
4 renewable energy shall comprise no less than [~~ten~~] five percent
5 of each public utility's total retail sales to New Mexico
6 customers;

7 (c) no later than January 1, 2015,
8 renewable energy shall comprise no less than [~~fifteen~~] seven
9 percent of each public utility's total retail sales to New
10 Mexico customers; and

11 (d) no later than January 1, 2020,
12 renewable energy shall comprise no less than [~~twenty~~] ten
13 percent of each public utility's total retail sales to New
14 Mexico customers;

15 (2) the renewable portfolio standard
16 established by this section shall be reduced, as necessary, to
17 provide for the following specific procurement requirements for
18 nongovernmental customers at a single location or facility,
19 regardless of the number of meters at that location or
20 facility, with consumption exceeding ten million kilowatt-hours
21 per year. On and after January 1, 2006, the kilowatt-hours of
22 renewable energy procured for these customers shall be limited
23 so that the additional cost of the renewable portfolio standard
24 to each customer does not exceed the lower of one percent of
25 that customer's annual electric charges or forty-nine thousand
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1 dollars (\$49,000). This procurement limit [~~criteria~~] criterion
2 shall increase by one-fifth percent or ten thousand dollars
3 (\$10,000) per year until January 1, 2011, when the procurement
4 limit [~~criteria~~] criterion shall remain fixed at the lower of
5 two percent of that customer's annual electric charges or
6 ninety-nine thousand dollars (\$99,000). After January 1, 2012,
7 the commission may adjust the ninety-nine-thousand-dollar
8 (\$99,000) limit for inflation. Nothing contained in this
9 paragraph shall be construed as affecting a public utility's
10 right to recover all reasonable costs of complying with the
11 renewable portfolio standard, pursuant to Section 62-16-6 NMSA
12 1978. The commission may authorize deferred recovery of the
13 costs of complying with the renewable portfolio standard,
14 including carrying charges;

15 (3) the renewable portfolio shall be
16 diversified as to the type of renewable energy resource, taking
17 into consideration the overall reliability, availability,
18 dispatch flexibility and cost of the various renewable energy
19 resources made available by suppliers and generators;

20 (4) upon a commission motion or application by
21 a public utility, the commission shall open a docket to provide
22 appropriate performance-based financial or other incentives to
23 encourage public utilities to acquire renewable energy supplies
24 that exceed the applicable annual renewable portfolio standard
25 set forth in this section. The commission shall initiate rules

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1 by June 1, 2008 to implement this subsection; and

2 (5) renewable energy resources that are in a
3 public utility's electric energy supply portfolio on July 1,
4 2004 shall be counted in determining compliance with this
5 section.

6 B. If a public utility finds that, in any given
7 year, the cost of renewable energy that would need to be
8 procured or generated for purposes of compliance with the
9 renewable portfolio standard would be greater than the
10 reasonable cost threshold as established by the commission
11 pursuant to this section, the public utility shall not be
12 required to incur that cost; provided that the existence of
13 this condition excusing performance in any given year shall not
14 operate to delay the annual increases in the renewable
15 portfolio standard in subsequent years. When a public utility
16 can generate or procure renewable energy at or below the
17 reasonable cost threshold, it shall be required to add
18 renewable energy resources to meet the renewable portfolio
19 standard applicable in the year when the renewable energy
20 resources are being added.

21 C. By December 31, 2004, the commission shall
22 establish, after notice and hearing, the reasonable cost
23 threshold above which level a public utility shall not be
24 required to add renewable energy to its electric energy supply
25 portfolio pursuant to the renewable portfolio standard. The

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1 commission may thereafter modify the reasonable cost threshold
2 as changing circumstances warrant, after notice and hearing.
3 In establishing and modifying the reasonable cost threshold,
4 the commission shall take into account:

5 (1) the price of renewable energy at the point
6 of sale to the public utility;

7 (2) the transmission and interconnection costs
8 required for the delivery of renewable energy to retail
9 customers;

10 (3) the impact of the cost for renewable
11 energy on overall retail customer rates;

12 (4) the overall diversity, reliability,
13 availability, dispatch flexibility, cost per kilowatt-hour and
14 life-cycle cost on a net present value basis of renewable
15 energy resources available from suppliers; and

16 (5) other factors, including public benefits,
17 that the commission deems relevant; provided that nothing in
18 the Renewable Energy Act shall be construed to permit
19 regulation by the commission of the production or sale price at
20 the point of production of the renewable energy.

21 D. By September 1, 2007 and July 1 of each year
22 thereafter until 2022, and thereafter as determined necessary
23 by the commission, a public utility shall file a report to the
24 commission on its procurement and generation of renewable
25 energy during the prior calendar year and a procurement plan

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1 that includes:

2 (1) the cost of procurement for any new
3 renewable energy resource in the next calendar year required to
4 comply with the renewable portfolio standard; and

5 (2) testimony and exhibits that demonstrate
6 that the proposed procurement is reasonable as to its terms and
7 conditions considering price, availability, dispatchability,
8 any renewable energy certificate values and diversity of the
9 renewable energy resource; or

10 (3) demonstration that the plan is otherwise
11 in the public interest.

12 E. The commission shall approve or modify a public
13 utility's procurement or transitional procurement plan within
14 ninety days and may approve the plan without a hearing, unless
15 a protest is filed that demonstrates to the commission's
16 reasonable satisfaction that a hearing is necessary. The
17 commission may modify a plan after notice and hearing. The
18 commission may, for good cause, extend the time to approve a
19 procurement plan for an additional ninety days. If the
20 commission does not act within the ninety-day period, the
21 procurement plan is deemed approved.

22 F. The commission may reject a procurement or
23 transitional procurement plan if it finds that the plan does
24 not contain the required information and, upon the rejection,
25 may suspend the public utility's obligation to procure

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1 additional resources for the time necessary to file a revised
2 plan; provided that the total amount of renewable energy to be
3 procured by the public utility shall not change.

4 G. A public utility may file a transitional
5 procurement plan requesting that the commission determine that
6 the costs of renewable energy resources that the public utility
7 has committed to, or may commit to, prior to the commission's
8 establishing a reasonable cost threshold, are reasonable and
9 recoverable pursuant to Section 62-16-6 NMSA 1978. The
10 requirements of annual procurement plan filings shall be
11 applicable to any transitional procurement plan filing pursuant
12 to this section.

13 H. The commission shall determine if it is in the
14 public interest for the commission to provide appropriate
15 performance-based financial or other incentives to encourage
16 public utilities to acquire renewable energy supplies in
17 amounts that exceed the requirements of the renewable portfolio
18 standard."