

SENATE CONSERVATION COMMITTEE SUBSTITUTE FOR  
SENATE BILL 57

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

AN ACT

RELATING TO ENERGY; ENACTING A NEW SECTION OF THE PUBLIC  
UTILITY ACT TO PROVIDE FOR ELECTRIC UTILITIES TO RECOVER ALL  
REASONABLE NEW TRANSMISSION INFRASTRUCTURE IMPROVEMENT COSTS  
AND CHANGES IN CERTAIN WHOLESALE TRANSMISSION CHARGES.

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

SECTION 1. A new section of the Public Utility Act is  
enacted to read:

"[NEW MATERIAL] RECOVERY OF CERTAIN TRANSMISSION COSTS.--

A. The commission shall adopt rules that provide  
for an investor-owned electric utility to recover on an annual  
basis, through a transmission cost adjustment clause, certain  
of its reasonable and necessary transmission infrastructure  
improvement costs and changes in wholesale transmission charges  
to the electric utility under a regional transmission tariff

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1 approved by a federal regulatory authority. The commission's  
2 rules shall provide for the electric utility to recover the  
3 costs and charges on an annual basis through a transmission  
4 cost recovery clause, but only to the extent that the costs or  
5 charges have been incurred since the end of the test year in  
6 the electric utility's most recent base-rate case. The  
7 requirements and procedures for a transmission cost recovery  
8 clause are:

9 (1) the electric utility must be an  
10 investor-owned person with at least one hundred thousand  
11 electric retail customers in the state;

12 (2) the commission may allow the electric  
13 utility to recover only those transmission infrastructure  
14 improvement costs for facilities placed into operation by the  
15 electric utility for its reliability and load growth needs to  
16 serve its own customers;

17 (3) the commission may allow the electric  
18 utility to recover only the costs or charges allocable to its  
19 retail customers in the state and shall not allow the electric  
20 utility to recover more revenue through the transmission cost  
21 adjustment clause than authorized;

22 (4) an electric utility shall not apply to  
23 amend its transmission cost adjustment clause more frequently  
24 than once each calendar year;

25 (5) the rates under a transmission cost

1 adjustment clause shall be in effect for a maximum of  
2 thirty-six months, but the electric utility may file an  
3 application for new rates to be collected under a new  
4 transmission cost adjustment clause;

5 (6) upon completion of a base-rate case for an  
6 electric utility, the transmission cost adjustment clause shall  
7 be set to zero; and

8 (7) after the rates under a transmission cost  
9 adjustment clause expire at the end of a thirty-six-month  
10 period or the transmission cost adjustment clause is set to  
11 zero at the completion of a base-rate case, the commission may  
12 order the refund of any over-recovery that occurred during the  
13 period the transmission cost adjustment clause was in effect,  
14 but the commission shall not order the surcharge of any  
15 under-recovery. An over-recovery shall be considered to have  
16 occurred if the revenues collected under the transmission cost  
17 adjustment clause were greater than the costs and charges that  
18 the transmission cost adjustment clause was intended to  
19 recover.

20 B. An electric utility that meets the criteria in  
21 Subsection A of this section is subject to the following  
22 limitation and reporting requirements:

23 (1) an electric utility's retail customers in  
24 the state shall be held harmless in a base-rate case or a  
25 transmission cost recovery case in the event that the electric

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1 utility, when an electric utility to which it has been  
2 designated to provide new transmission facilities under the  
3 guidelines of the regional transmission organization of which  
4 it is a member, declined the opportunity to construct or own  
5 the new transmission facilities itself, and the electric  
6 utility shall not be allowed to recover from its retail  
7 customers any higher costs due to an alternative transmission  
8 provider constructing or owning the transmission facilities the  
9 electric utility declined to own or construct;

10 (2) the electric utility shall make an annual  
11 report to the commission and to any wholesale transmission  
12 customer that is a rural electric cooperative that directly  
13 provides retail electric service to customers in the state that  
14 are within the eastern interconnection power grid to show that  
15 any such higher costs due to declining to own or construct a  
16 designated transmission facility that are not recovered from  
17 its retail customers in the state pursuant to this subsection  
18 are not recovered from its wholesale transmission customers;  
19 and

20 (3) if an electric utility declines the  
21 opportunity to construct or own the new transmission facilities  
22 itself, the electric utility shall, for informational purposes,  
23 report the decision to decline to the commission and to any  
24 wholesale transmission customer that is a rural electric  
25 cooperative that directly provides retail electric service to

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1 customers in the state that are within the eastern  
2 interconnection power grid."

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