

1 SENATE BILL 370

2 **53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017**

3 INTRODUCED BY

4 William P. Soules

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10 AN ACT

11 RELATING TO PUBLIC UTILITIES; CREATING A PRESUMPTION, AND A
12 REBUTTAL TO THAT PRESUMPTION, THAT A UTILITY'S LITIGATION
13 EXPENSES IN EARLY RATE CASES ARE NOT PRUDENTLY INCURRED;
14 DEFINING "EARLY RATE CASE".

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

17 SECTION 1. Section 62-13-3 NMSA 1978 (being Laws 1941,
18 Chapter 84, Section 82, as amended) is amended to read:

19 "62-13-3. COSTS.--

20 A. Except as otherwise provided by law, in all
21 proceedings before the commission and in the courts, each party
22 to the controversy shall bear [~~his~~] its own costs, and no costs
23 shall be taxed against either party.

24 B. In [~~any~~] a commission rate proceeding in which
25 the utility seeks a change in rates to recover adjusted test-

.206878.1

underscored material = new
[bracketed material] = delete

underscored material = new
[bracketed material] = delete

1 year litigation expenses, there shall be no presumption that
2 the litigation expenses are [~~prudent~~] prudently incurred.
3 Nothing in this section shall be construed to create or imply a
4 presumption of prudence for any utility expenditures not
5 addressed in this section.

6 C. In a commission proceeding to decide an early
7 rate case:

8 (1) there shall be a presumption that a
9 utility's litigation expenses are not prudently incurred; and

10 (2) that presumption may be rebutted by a
11 showing of extraordinary circumstances.

12 [~~G.~~] D. As used in this section:

13 (1) "early rate case" means a petition:

14 (a) by a utility for an increase in its
15 rates or charges;

16 (b) filed with the commission sooner
17 than three years following the filing by the utility of a
18 general rate case that resulted in increased rates or charges;
19 and

20 (c) filed after the effective date of
21 this 2017 act; and

22 (2) "litigation expenses" means all
23 [~~attorneys'~~] attorney fees, consulting fees and other costs of
24 litigation, including in-house expenditures."