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HOUSE BILL 93

54TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2020

INTRODUCED BY

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AN ACT

RELATING TO UTILITIES; AMENDING A PROVISION OF THE EFFICIENT USE OF ENERGY ACT; CLARIFYING THAT A RATE ADJUSTMENT MECHANISM MAY BE ADOPTED TO ENSURE THAT REVENUE PER CUSTOMER IN A RATE CASE REMAINS CONSTANT WITHOUT REGARD TO THE QUANTITY OF EITHER ELECTRICITY OR NATURAL GAS SOLD.

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

SECTION 1. Section 62-17-5 NMSA 1978 (being Laws 2005, Chapter 341, Section 5, as amended) is amended to read:

"62-17-5. COMMISSION APPROVAL--ENERGY EFFICIENCY AND LOAD MANAGEMENT PROGRAMS--DISINCENTIVES.--

A. Pursuant to the findings and purpose of the Efficient Use of Energy Act, the commission shall consider public utility acquisition of cost-effective energy efficiency and load management resources to be in the public interest.

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1 B. The commission shall direct public utilities to
2 evaluate and implement cost-effective programs that reduce
3 energy demand and consumption.

4 C. Before the commission approves an energy
5 efficiency and load management program for a public utility, it
6 shall find that the portfolio of programs is cost-effective and
7 designed to provide every affected customer class with the
8 opportunity to participate and benefit economically. The
9 commission shall determine the cost-effectiveness of energy
10 efficiency and load management measures using the utility cost
11 test. In determining life-cycle costs and benefits of energy
12 efficiency programs, the commission shall not adjust for taxes
13 when selecting a discount rate. In determining life-cycle
14 costs and benefits for energy efficiency and load management
15 programs directed to low-income customers, the commission shall
16 either quantify or assign a reasonable value to:

- 17 (1) reductions in working capital;
- 18 (2) reduced collection costs;
- 19 (3) lower bad-debt expense;
- 20 (4) improved customer service effectiveness;

21 and

- 22 (5) other appropriate factors as utility
23 system economic benefits.

24 D. The commission shall act expeditiously on public
25 utility requests for approval of energy efficiency or load

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1 management programs.

2 E. Public utilities shall obtain commission
3 approval of energy efficiency and load management programs
4 before they are implemented. Public utilities proposing new
5 energy efficiency and load management programs shall, before
6 seeking commission approval, solicit nonbinding recommendations
7 on the design, implementation and use of third-party energy
8 service contractors through competitive bidding on the programs
9 from commission staff, the attorney general, the energy,
10 minerals and natural resources department and other interested
11 parties. The commission may for good cause require public
12 utilities to solicit competitive bids for energy efficiency and
13 load management resources.

14 F. The commission shall:

15 (1) upon petition or its own motion, identify
16 and remove regulatory disincentives or barriers for public
17 utility expenditures on energy efficiency and load management
18 measures in a manner that balances the public interest,
19 consumers' interests and investors' interests;

20 (2) upon petition by a public utility, remove
21 regulatory disincentives through the adoption of a rate
22 adjustment mechanism that ensures that the revenue per customer
23 approved by the commission in a general rate case proceeding is
24 recovered by the public utility without regard to the quantity
25 of electricity or natural gas actually sold by the public

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1 utility subsequent to the date the rate took effect.
2 Regulatory disincentives removed through a rate adjustment
3 mechanism shall be separately calculated for the rate class or
4 classes to which the mechanism applies and collected or
5 refunded by the utility through a separately identified tariff
6 rider that shall not be used to collect commission-approved
7 energy efficiency and load management program costs and
8 incentives;

9 (3) provide public utilities an opportunity to
10 earn a profit on cost-effective energy efficiency and load
11 management resource development that, with satisfactory program
12 performance, is financially more attractive to the utility than
13 supply-side utility resources; and

14 (4) not reduce a utility's return on equity
15 based on approval of a disincentive removal mechanism or profit
16 incentives pursuant to the Efficient Use of Energy Act.

17 G. Public utilities providing electricity and
18 natural gas service to New Mexico customers shall, subject to
19 commission approval, acquire the cost-effective and achievable
20 energy efficiency and load management resources available in
21 their service territories. This requirement, however, for
22 public utilities providing electricity service, shall not be
23 less than savings of five percent of 2020 total retail
24 kilowatt-hour sales to New Mexico customer classes that have
25 the opportunity to participate in calendar year 2025 as a

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1 result of energy efficiency and load management programs
2 implemented in years 2021 through 2025. No later than June 30,
3 2025, the commission shall adopt, through rulemaking, energy
4 savings targets for electric utilities for years 2026 through
5 2030 based on cost-effective and achievable energy savings and
6 provide utility incentives based on savings achieved.

7 H. A public utility that determines it cannot
8 achieve the minimum requirements established in Subsection G of
9 this section shall report to the commission on why it cannot
10 meet those requirements and shall propose alternative
11 requirements based on acquiring cost-effective and achievable
12 energy efficiency and load management resources. If the
13 commission determines, after hearing, that the minimum
14 requirements of Subsection G of this section exceed the
15 achievable amount of energy efficiency and load management
16 available to the public utility or that the program costs of
17 energy efficiency and load management to achieve the minimum
18 requirements of Subsection G of this section exceed the program
19 costs funding established in Subsection A of Section 62-17-6
20 NMSA 1978, the commission shall establish lower minimum energy
21 savings requirements for the utility based on the maximum
22 amount of energy efficiency and load management that it
23 determines can be achieved."