

1 SENATE BILL 282

2 **54TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2020**

3 INTRODUCED BY

4 George K. Munoz

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10 AN ACT

11 RELATING TO UTILITIES; AMENDING THE REQUIREMENTS TO PROTEST A  
12 PROPOSED GENERATION AND TRANSMISSION RATE CHANGE.

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

15 SECTION 1. Section 62-6-4 NMSA 1978 (being Laws 1941,  
16 Chapter 84, Section 17, as amended) is amended to read:

17 "62-6-4. SUPERVISION AND REGULATION OF UTILITIES.--

18 A. The commission shall have general and exclusive  
19 power and jurisdiction to regulate and supervise every public  
20 utility in respect to its rates and service regulations and in  
21 respect to its securities, all in accordance with the  
22 provisions and subject to the reservations of the Public  
23 Utility Act, and to do all things necessary and convenient in  
24 the exercise of its power and jurisdiction. Nothing in this  
25 section, however, shall be deemed to confer upon the commission

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1 power or jurisdiction to regulate or supervise the rates or  
2 service of any utility owned and operated by any municipal  
3 corporation either directly or through a municipally owned  
4 corporation or owned and operated by any H class county, by a  
5 class B county as [~~defined in~~] described by Section 4-36-8 NMSA  
6 1978 or by a class A county as described by Section 4-36-10  
7 NMSA 1978 either directly or through a corporation owned by or  
8 under contract with an H class county, by a class B county as  
9 [~~defined in~~] described by Section 4-36-8 NMSA 1978 or by a  
10 class A county as described by Section 4-36-10 NMSA 1978 or the  
11 rates, service, securities or Class I or Class II transactions  
12 of a generation and transmission cooperative. No inspection or  
13 supervision fees shall be paid by generation and transmission  
14 cooperatives, or by such municipalities or municipally owned  
15 corporations, a class B county as [~~defined in~~] described by  
16 Section 4-36-8 NMSA 1978, a class A county as described by  
17 Section 4-36-10 NMSA 1978 or H class counties or such  
18 corporation owned by or under contract with a class B county as  
19 [~~defined in~~] described by Section 4-36-8 NMSA 1978, a class A  
20 county as described by Section 4-36-10 NMSA 1978 or an H class  
21 county with respect to operations conducted in a class B county  
22 as [~~defined in~~] described by Section 4-36-8 NMSA 1978, in a  
23 class A county as described by Section 4-36-10 NMSA 1978 or in  
24 H class counties.

25 B. The sale, furnishing or delivery of gas, water

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1 or electricity by any person to a utility for resale to or for  
2 the public shall be subject to regulation by the commission but  
3 only to the extent necessary to enable the commission to  
4 determine that the cost to the utility of the gas, water or  
5 electricity at the place where the major distribution to the  
6 public begins is reasonable and that the methods of delivery of  
7 the gas, water or electricity are adequate; provided, however,  
8 that nothing in this subsection shall be construed to permit  
9 regulation by the commission with respect to a generation and  
10 transmission cooperative, except location control pursuant to  
11 Section 62-9-3 NMSA 1978 and limited rate regulation to the  
12 extent provided in Subsection D of this section, or of  
13 production or sale price at the wellhead of gas or petroleum.

14 C. The sale, furnishing or delivery of coal,  
15 uranium or other fuels by any affiliated interest to a utility  
16 for the generation of electricity for the public shall be  
17 subject to regulation by the commission but only to the extent  
18 necessary to enable the commission to determine that the cost  
19 to the utility of the coal, uranium or other fuels at the point  
20 of sale is reasonable and that the methods of delivery of the  
21 electricity are adequate; provided, however, that nothing in  
22 this subsection shall be construed to permit regulation by the  
23 commission of production or sale price at the wellhead of gas  
24 or petroleum. Nothing in this section shall be construed to  
25 permit regulation by the commission of production or sale price

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1 at the point of production of coal, uranium or other fuels.

2 D. New Mexico rates proposed by a generation and  
3 transmission cooperative shall be filed with the commission in  
4 the form of an advice notice, a copy of which shall be  
5 simultaneously served on all member utilities and transmission  
6 customers. Any member utility or transmission customer may  
7 file a protest of the proposed rates no later than twenty days  
8 after the generation and transmission cooperative files the  
9 advice notice. If [~~three~~] one or more New Mexico member  
10 utilities or transmission customers file protests and the  
11 commission determines there is just cause in at least [~~three~~]  
12 one of the protests for reviewing the proposed rates, the  
13 commission shall suspend the rates, conduct a hearing  
14 concerning reasonableness of the proposed rates and establish  
15 reasonable rates. Each protest must contain a clear and  
16 concise statement of the specific grounds upon which the  
17 protestant believes the proposed rates are unreasonable or  
18 otherwise unlawful; a brief description of the protestant's  
19 efforts to resolve its objections directly with the generation  
20 and transmission cooperative; a clear and concise statement of  
21 the relief the protestant seeks from the commission; and a  
22 formal resolution of the board of trustees of the protesting  
23 member utility or governing body of the transmission customer  
24 authorizing the filing of the protest. In order to determine  
25 whether just cause may exist for review, the commission shall

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1 consider whether each protestant has exhausted remedies with  
2 the generation and transmission cooperative or whether the  
3 generation and transmission cooperative has unreasonably  
4 rejected the protestant's objections to the proposed rates. A  
5 member utility or transmission customer shall present its  
6 objections to the generation and transmission cooperative in  
7 writing and allow a reasonable period for the generation and  
8 transmission cooperative to attempt resolution of, or otherwise  
9 respond to, those objections. A period of seven days after  
10 receipt of written objections will be deemed reasonable for the  
11 generation and transmission cooperative to provide a written  
12 response to the member utility or transmission customer, but a  
13 written response is not required if such time period extends  
14 beyond twenty days after the date on which the generation and  
15 transmission cooperative filed the advice notice. The  
16 generation and transmission cooperative and its members are  
17 expected to make a good faith effort to resolve the member  
18 utility's or transmission customer's objections to the proposed  
19 rates during that period of time.

20 E. As used in this section:

21 (1) "generation and transmission cooperative"  
22 means a person with generation or transmission facilities  
23 either organized as a rural electric cooperative pursuant to  
24 Laws 1937, Chapter 100 or the Rural Electric Cooperative Act or  
25 organized in another state and providing sales of electric

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power to member cooperatives in this state; and

(2) "transmission customer" means an entity that has a contractual transmission agreement with a generation and transmission cooperative but is not a member of the transmission and generation cooperative."

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2020.