

HOUSE BILL 218

56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023

INTRODUCED BY

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This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

AN ACT

RELATING TO PUBLIC UTILITIES; REQUIRING CERTAIN PUBLIC UTILITIES TO PROVIDE AFFORDABLE RATES TO LOW-INCOME RESIDENTIAL CUSTOMERS; REQUIRING THE PUBLIC REGULATION COMMISSION TO ESTABLISH CRITERIA FOR AFFORDABLE RATES.

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

SECTION 1. Section 62-8-1 NMSA 1978 (being Laws 1941, Chapter 84, Section 37) is amended to read:

"62-8-1. RATES.--

A. Every rate made, demanded or received by any

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public utility shall be just and reasonable.

B. Every public utility providing electric or natural gas service to residential customers shall offer an affordable rate for low-income residential customers; provided that rural electric cooperatives shall not be required to offer such a rate until their next rate adjustment after July 1, 2023 HCPAC→; and provided further that a rural electric cooperative that chooses to offer such a rate prior to its next general rate adjustment may recover any reasonable costs of implementing that rate through an existing rate adjustment mechanism or charge until its next general rate adjustment.←HCPAC

C. As used in this section:

(1) "affordable rate" means a rate for electric and natural gas utility service designed to prevent an average low-income customer from paying an unsustainable share of income toward these services, the design of which shall be further prescribed by the commission by rule or order and which may be based solely upon publicly available aggregate income data for New Mexico residents; and

(2) "low-income" means an annual household adjusted gross income, as defined in the Income Tax Act, equal to or less than two hundred percent of the current federal poverty level guidelines published by the United States department of health and human services, or for the purposes of

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an affordable rate offered by a rural electric cooperative, means an annual household adjusted gross income, as defined in the Income Tax Act, equal to or less than one hundred fifty percent of the current federal poverty level guidelines published by the United States department of health and human services."

SECTION 2. Section 62-8-6 NMSA 1978 (being Laws 1941, Chapter 84, Section 42, as amended) is amended to read:

"62-8-6. DISCRIMINATION.--

A. No public utility shall, as to rates or services, make or grant any unreasonable preference or advantage to any corporation or person within any classification or subject any corporation or person within any classification to any unreasonable prejudice or disadvantage. No public utility shall establish and maintain any unreasonable differences as to rates of service either as between localities or as between classes of service.

B. Nothing shall prohibit, however, the commission from approving:

- (1) economic development rates [~~and~~];
- (2) rates designed to retain load [~~or from approving~~]; and
- (3) energy efficiency programs designed to reduce the burden of energy costs on low-income customers pursuant to the Efficient Use of Energy Act.

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C. Notwithstanding Subsection A of this section, a public utility may make or grant a reasonable preference or advantage to low-income residential customers, and the commission may approve a rate, charge, service, program, classification or facility that includes such a preference or advantage. The implementation of such a commission-approved rate, charge, service, program, classification or facility by a public utility shall not be deemed to subject any person or corporation to any prejudice, disadvantage or undue discrimination."

SECTION 3. A new section of Chapter 62, Article 8 NMSA 1978 is enacted to read:

"[NEW MATERIAL] INVESTOR-OWNED PUBLIC UTILITY--AFFORDABLE RATES FOR LOW-INCOME RESIDENTIAL CUSTOMERS.--

A. Each investor-owned public utility shall file with the commission initial proposed affordable rates for low-income residential customers no later than January 1, 2024. The filing shall include information showing that the rates:

(1) are available to all low-income residential customers; HCPAC→and←HCPAC

(2) meet the definition of "affordable rate" as set forth in Paragraph (1) of Subsection I of this section HCPAC→.←HCPAC HCPAC→; and←HCPAC

HCPAC→(3) were developed after soliciting and considering nonbinding recommendations on the design and

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implementation of the rates from interested parties.←HCPAC

B. Initial proposed affordable rates shall go into effect thirty days after filing, unless suspended by the commission for a period not to exceed sixty days. If the commission has not acted to approve initial affordable rates by the end of the suspension period, the initial proposed affordable rates shall be deemed approved as a matter of law.

C. Each investor-owned public utility shall file proposed updated affordable rates, if an update is needed to maintain affordable rates for low-income residential customers, for approval in future general rate cases.

D. Nothing in this section shall prohibit the commission from:

(1) approving an affordable rate that is a flat dollar-amount rate reduction from general residential rates or a percentage rate reduction from residential rates; provided that the reduction is calculated to result in an affordable rate for the average low-income residential customer;

(2) approving affordable rates for low-income residential customers based on specified tiers of household income; or

(3) authorizing programs that seek to decrease or eliminate participating customer arrears or increase the frequency of participating customer payments; provided that

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such programs would be designed to increase affordability and continuity of service for participating customers and to reduce utility costs associated with customer account collection activities.

E. Each investor-owned public utility shall file affordable-rate evaluations every three years that measure the effect of the rates on:

(1) the estimated effect on energy burden for an average participating customer, based on publicly available income data and the utility's available billing and usage data;

(2) service disconnections;

(3) frequency of customer payments, utility collection costs, arrearage and bad debt; and

(4) any other relevant criterion that can be assessed with available data that the commission deems appropriate.

F. The commission shall promulgate rules and issue orders as necessary to implement, administer and evaluate affordable rates.

G. The commission shall allow an investor-owned public utility to recover:

(1) the reasonable cost of implementing affordable rates, including administrative costs, evaluation costs and start-up costs, on a timely basis; and

(2) costs incurred because of approved initial

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affordable rates in the investor-owned public utility's next general rate case.

H. Investor-owned public utilities may use information collected or created for the purpose of administering energy assistance programs to formulate affordable rates.

I. As used in this section:

(1) "affordable rate" has the same meaning as set forth in Paragraph (1) of Subsection C of Section 62-8-1 NMSA 1978;

(2) "energy burden" means the percentage of gross household income spent by a customer on an individual utility's bills;

(3) "investor-owned public utility" means a public utility subject to regulation by the commission that provides electric or natural gas service to residential customers, but "investor-owned public utility" does not mean a rural electric cooperative organized under the Rural Electric Cooperative Act; and

(4) "low-income" has the same meaning as set forth in Paragraph (2) of Subsection C of Section 62-8-1 NMSA 1978."

SECTION 4. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2023.