

FORTY-FIFTH LEGISLATURE  
FIRST SESSION, 2001

SB 266/a

February 2, 2001

Mr. President:

Your CORPORATIONS & TRANSPORTATION COMMITTEE, to whom  
has been referred

SENATE BILL 266

has had it under consideration and reports same with recommendation  
that it DO PASS, amended as follows:

1. On page 1, between lines 15 and 16, insert the following  
section:

"Section 1. Section 62-3A-3 NMSA 1978 (being Laws 1999,  
Chapter 294, Section 3) is amended to read:

"62-3A-3. DEFINITIONS.--As used in the Electric Utility  
Industry Restructuring Act of 1999:

A. "ancillary services" means those services that are  
auxiliary to basic generation, transmission or distribution  
services, but are determined by the commission to be necessary for  
the provision of the basic generation, transmission or distribution  
service being provided;

B. "affiliate" means a person who directly or indirectly,  
through one or more intermediaries, controls or is controlled by, or  
is under common control with, another person. Control includes the  
possession of the power to direct or cause the direction of the  
management and policies of a person, whether directly or indirectly,  
through the ownership, control or holding with the power to vote ten  
percent or more of the person's voting securities;

C. "bundled service" means the combination of supply,  
distribution and transmission services provided to customers prior  
to customer choice;

D. "commission" means the public regulation commission or,  
before January 1, 1999, the New Mexico public utility commission;

FORTY-FIFTH LEGISLATURE  
FIRST SESSION, 2001

SCORC/SB 266

Page 2

E. "competitive power supplier" means any person offering competitive service to customers in the state, whether directly or as an intermediary or agent of the seller or purchaser;

F. "competitive service" means any supply service or energy-related service available to customers from multiple suppliers on an unregulated basis;

G. "customer" means a retail electric customer or consumer;

H. "customer choice" means the opportunity for an individual customer to purchase supply service or energy-related service from a competitive power supplier;

I. "distribution cooperative utility" means a utility with distribution facilities organized as a rural electric cooperative pursuant to Laws 1937, Chapter 100 or the Rural Electric Cooperative Act;

J. "distribution company" means a person who owns, operates, leases or controls distribution facilities for distribution of electricity to or for the public and is regulated by the commission;

K. "distribution facilities" means those facilities by and through which electricity is distributed to the customer and that are owned, operated, leased or controlled by a distribution company;

L. "distribution service" means the regulated component of service provided by distribution facilities and includes ancillary services;

M. "energy-related service" means any competitive service that relates to or supports the provision of electric energy, but does not include supply service;

FORTY-FIFTH LEGISLATURE  
FIRST SESSION, 2001

SCORC/SB 266

Page 3

N. "generation and transmission cooperative" means a person with generation or transmission facilities either organized as a rural electric cooperative pursuant to Laws 1937, Chapter 100 or the Rural Electric Cooperative Act or organized in another state and providing sales of electric power to member cooperatives in this state;

O. "monopoly coercion" means any action by a public utility or affiliate of a public utility, including any action of employees, officers or directors of those companies that the company permits or condones, that causes a customer to reasonably believe that regulated or gas service will be impaired or diminished if that customer acquires competitive goods or services from a person other than an affiliate of the public utility, or causes a customer to reasonably believe that regulated service will be augmented or improved if that customer acquires competitive goods or services from an affiliate rather than from another person;

P. "municipal utility" means an electric utility owned or controlled by a municipal corporation organized pursuant to the laws of the state or a class A or an H class county;

Q. "non-discriminatory" means that no preference or competitive advantage will be given to any person;

R. "open access" means non-discriminatory transmission and distribution services for the delivery of supply service by all competitive power suppliers to facilitate customer choice;

S. "person" means an individual, association, joint venture, organization, partnership, firm, syndicate, corporation, cooperative [~~and~~] or any other legal entity;

T. "public utility" means any person or that person's lessee, trustee or receiver, not engaged solely in interstate business and except as stated in Sections 62-3-4 and 62-3-4.1 NMSA 1978, that now does or hereafter may own, operate, lease or control

FORTY-FIFTH LEGISLATURE  
FIRST SESSION, 2001

SCORC/SB 266

Page 4

any plant, property or facility for regulated services to or for the public of electricity for light, heat or power or other uses, and includes a distribution company, a transmission company or both;

U. "regulated services" means bundled services prior to the date the involved class of service is granted customer choice pursuant to the Electric Utility Industry Restructuring Act of 1999; and, only standard offer, distribution and transmission services after customer choice begins, pursuant to that act and in any event, after [~~January 1, 2002~~] July 1, 2007;

V. "renewable energy" means electrical energy generated by means of a low- or zero-emissions generation technology that has substantial long-term production potential and may include, without limitation, solar, wind, hydropower, geothermal, landfill gas, anaerobically digested waste biomass or fuel cells that are not fossil fueled. "Renewable energy" does not include fossil fuel or nuclear energy;

W. "service customer" means a customer receiving supply service over a public utility's, distribution cooperative utility's or municipal utility's distribution or transmission facilities in areas served by the utility;

X. "small business customer" means a customer that purchases less than two hundred thousand kilowatt-hours per year or at a demand level that does not exceed fifty kilowatts;

Y. "standard offer service" means supply service acquired and delivered by a public utility after [~~December 31, 2000~~] the date customer choice begins to residential and small business customers that are eligible for customer choice after that date but do not elect to acquire their power supplies from the retail competitive marketplace; and as to a distribution cooperative utility, means supply service acquired and delivered by the distribution cooperative utility to residential and small business customers that either do not elect to acquire their supply service from a

FORTY-FIFTH LEGISLATURE  
FIRST SESSION, 2001

SCORC/SB 266

Page 5

competitive power supplier or are not eligible to make such election pursuant to the terms of the Electric Utility Industry Restructuring Act of 1999;

Z. "stranded costs" means the net present value of the difference between:

(1) the regulated revenue requirements for all utility-generation-related functions, including purchased power, fuel contracts and lease and lease-related obligations, which as of the date of open access, were being recovered in rates or, if not previously recovered in rates, which the commission determines would be recoverable in rates; and

(2) the revenues that could be earned from selling the same generation-related services as specified in Paragraph (1) of this subsection at competitive retail market rates pursuant to retail competition.

Regulated revenue requirements include all regulatory assets, net liabilities, deferred taxes, costs associated with construction, operation and decommissioning or removal from service of generation facilities, costs associated with purchased power, water and fuel contracts, lease and lease-related costs, gains or benefits to which ratepayers are entitled and all other accounting categories of costs and credits, including credit for taxes already recovered by the utility, recognized under cost-of-service regulation and attributable to the generation function of each utility. "Stranded costs" shall not include costs that are unreasonable, imprudent or mitigable or that have been determined to not be recoverable in rates. "Stranded costs" shall be calculated for the period ending when the useful lives for all generation assets or obligations of the particular utility [~~existing on the effective date of the Electric Utility Industry Restructuring Act of 1999~~] as described in Paragraph (1) of this subsection are anticipated to expire. Retiring assets are presumed to be replaced at market prices;

FORTY-FIFTH LEGISLATURE  
FIRST SESSION, 2001

SCORC/SB 266

Page 6

AA. "supply service" means the unregulated electric energy or capacity component of electric service;

BB. "system benefits charges" means costs to benefit customers and the public that are collected and disbursed by a public utility ~~[or]~~, a distribution cooperative utility or a municipal utility pursuant to law;

CC. "transition costs" means those prudent, reasonable and unmitigable costs other than stranded costs, not recoverable elsewhere under either federally approved rates or rates approved by the commission, that a public utility would not have incurred but for its compliance with the requirements of the Electric Utility Industry Restructuring Act of 1999 and ~~[regulations]~~ rules promulgated ~~[thereunder]~~ in accordance with that act relating to the transition to open access, and the prudent cost of severance, early and enhanced retirement benefits, retraining, placement services, unemployment benefits and health care coverage to public utility nonmanagerial employees who are laid off on or before January 1, ~~[2003]~~ 2009, that are not otherwise recovered as a stranded salary and benefits cost. "Transition costs" shall not include costs that the public utility would have incurred notwithstanding the Electric Utility Industry Restructuring Act of 1999;

DD. "transition period" means that period of time during which a public utility is permitted to charge customers for stranded costs or transition costs;

EE. "transmission company" means a person who owns, operates, leases or controls transmission facilities for transmission of electricity to or for the public and is regulated by the commission;

FF. "transmission facilities" means those facilities that are used to provide transmission service as determined by the commission or the federal energy regulatory commission;

FORTY-FIFTH LEGISLATURE  
FIRST SESSION, 2001

SCORC/SB 266

Page 7

GG. "transmission service" means the regulated component of service provided by transmission facilities and includes ancillary services; and

HH. "unbundled services" means the separation of electric power supply service into separate components, including supply, distribution and transmission services. "".

2. Renumber succeeding sections accordingly.
3. On page 2, line 4, strike "2008" and insert in lieu thereof "2007".
4. On page 3, line 10, strike "October 1" and insert in lieu thereof "June 1".
5. On page 6, line 23, strike "September 1" and insert in lieu thereof "January 1".
6. On page 6, line 24, strike "2006" and insert in lieu thereof "2005".
7. On page 10, line 4, strike "Before" and insert in lieu thereof "Not before September 1, 2005, but before".
8. On page 10, line 4, strike "July 2" and insert in lieu thereof "January 1".,

and thence referred to the FINANCE COMMITTEE.

FORTY-FIFTH LEGISLATURE  
FIRST SESSION, 2001

SCORC/SB 266

Page 8

Respectfully submitted,

\_\_\_\_\_  
Roman M. Maes, III, Chairman

Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_  
(Chief Clerk) (Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 5 For 3 Against

Yes: 5

No: Aragon, Robinson, Snyder

Excused: Kidd

Absent: None

S0266CT1

. 135952. 1