

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

SENATE BILL 655

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

INTRODUCED BY

Carols R. Cisneros

AN ACT

RELATING TO POWER GENERATION; CREATING A PROGRAM TO CERTIFY  
RENEWABLE ENERGY FACILITIES; REQUIRING RECORDING OF RENEWABLE  
ENERGY PRODUCED; ENACTING THE RENEWABLE ENERGY CERTIFICATION  
ACT; MAKING AN APPROPRIATION.

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

Section 1. SHORT TITLE. -- This act may be cited as the  
"Renewable Energy Certification Act".

Section 2. FINDINGS AND PURPOSES. --

A. The legislature finds that:

(1) consumers are seeking sources from which  
to purchase renewable energy;

(2) renewable energy facilities are entering  
the market;

(3) as the state proceeds with deregulation

underscored material = new  
[bracketed material] = delete

1 of utilities, consumers will need a means of identifying  
2 legitimate sources of renewable energy;

3 (4) it is necessary to set the stage for a  
4 renewable energy units trading program; and

5 (5) it is in the best interest of the state  
6 to establish a program that will certify renewable energy  
7 units produced and sold in New Mexico and register the state's  
8 renewable energy facilities.

9 B. The purposes of the Renewable Energy  
10 Certification Act are to:

11 (1) establish a renewable energy  
12 certification program;

13 (2) require certification of renewable energy  
14 generating facilities so that the public can be certain they  
15 are obtaining power generated from a renewable energy source;

16 (3) monitor and record the production of  
17 renewable energy generated within the state; and

18 (4) encourage the development of a renewable  
19 energy generation sector in the state.

20 Section 3. DEFINITIONS. --As used in the Renewable Energy  
21 Certification Act:

22 A. "account" means a renewable energy unit account  
23 maintained by the director for the purpose of tracking a  
24 program participant's renewable energy unit production;

25 B. "applicant" means a power generation facility

1 for which certification is being sought;

2 C. "certification" means a determination by the  
3 director that a power generation facility meets the criteria  
4 to be a part of the program and may be identified as a  
5 renewable energy facility;

6 D. "competitive supplier" means a municipally  
7 owned utility, generation and transmission cooperative,  
8 distribution cooperative, investor-owned utility or  
9 investor-owned generation and transmission company located in  
10 New Mexico;

11 E. "director" means the director of the energy  
12 conservation and management division of the department of  
13 energy, minerals and natural resources;

14 F. "designated representative" means a natural  
15 person authorized by the owners or operators of a renewable  
16 energy facility to register that facility with the director.  
17 A designated representative shall have the authority to  
18 represent and legally bind the owners and operators of the  
19 renewable energy facility in all matters pertaining to the  
20 program;

21 G. "program" means the renewable energy  
22 certification program that involves recording by the director  
23 of renewable energy units generated within the state;

24 H. "power generation facility" means a facility  
25 that generates electric power by use of any energy source

underscored material = new  
[bracketed material] = delete

1 available to it;

2 I. "renewable energy facility" means a power  
3 generation facility located in New Mexico using renewable  
4 energy resources to generate electric power;

5 J. "renewable energy generator" means a person who  
6 generates electric power in New Mexico using a renewable  
7 energy resource;

8 K. "renewable energy resource" means the sun or  
9 wind;

10 L. "renewable energy technology" means a  
11 technology that exclusively relies on a renewable energy  
12 resource to generate power;

13 M. "renewable energy unit" means a block of one  
14 megawatt hour of power that is physically metered and verified  
15 in New Mexico and that is generated by a renewable energy  
16 facility;

17 N. "renewable energy units trading program" means  
18 a program that would allow a competitive supplier in its  
19 generation mix to meet a renewable energy portfolio standard  
20 if implemented pursuant to the Electric Utility Industry  
21 Restructuring Act of 1999; and

22 O. "small producer" means a renewable energy  
23 facility that is rated to generate ten kilowatts of power or  
24 less.

25 Section 4. CERTIFICATION REQUIRED.--No competitive

. 135312. 1

underscored material = new  
[bracketed material] = delete

1 supplier may sell power in the state that is identified as  
2 being generated from renewable energy resources unless that  
3 competitive supplier is certified pursuant to the provisions  
4 of the Renewable Energy Certification Act. No person may sell  
5 power identified as being generated from renewable energy  
6 resources to New Mexico unless the power sold is certified by  
7 the authoritative entity in the state in which the power is  
8 generated as having been generated from a renewable energy  
9 resource meeting the definition of renewable energy resource  
10 set forth in the Renewable Energy Certification Act.

11 Section 5. ELIGIBLE FACILITIES. -- Renewable energy  
12 generators who may participate in the program are small  
13 producers, producers of aggregated small amounts of renewable  
14 energy units, producers of large amounts of renewable energy  
15 units and any other producers of wholesale or retail renewable  
16 energy units. A competitive supplier may aggregate blocks of  
17 electricity from eligible renewable energy generators in order  
18 to constitute a renewable energy unit.

19 Section 6. CERTIFICATION PROGRAM --

20 A. The designated representative of a renewable  
21 energy facility may apply to the director for certification  
22 for the renewable energy facility.

23 B. The application shall be submitted on a form  
24 approved by the director and shall include the location,  
25 owner, operator, renewable energy technology, renewable energy

underscored material = new  
[bracketed material] = delete

1 resource and rated capacity of the power generation facility  
2 and any additional information required by the director.

3 C. Within thirty days from the date on which the  
4 director receives an application for certification of a  
5 renewable energy facility, the director shall certify the  
6 applicant as a renewable energy facility if he determines  
7 that:

8 (1) the source of the energy generated is a  
9 renewable energy resource;

10 (2) the power generation facility is capable  
11 of generating one megawatt hour or more from the renewable  
12 energy resource; and

13 (3) the energy generated from the power  
14 generation facility is separately metered so that all power  
15 delivered from it into a transmission line can be identified.

16 D. The director may make on-site visits to an  
17 applicant or a certified renewable energy facility to inspect  
18 its operation.

19 E. No power generation facility may be certified  
20 by the director if it produces energy that is delivered into a  
21 transmission system without separate metering to identify the  
22 quantity of the renewable portion of energy generated and  
23 transmitted.

24 F. The director may deny an application for a  
25 power generation facility to be certified as a renewable

. 135312. 1

1 energy facility. If the director determines that the  
2 applicant cannot be certified, he shall set forth in writing  
3 the deficiencies that support his decision and provide for a  
4 time period in which the deficiencies may be remedied.

5 G. The director may suspend or revoke a  
6 certification for cause, which shall be set forth in writing,  
7 allowing the certified renewable energy facility a specified  
8 amount of time to remedy the cause for the suspension or  
9 revocation of the certification.

10 H. The director shall develop a system to record  
11 the power produced by certified renewable energy facilities in  
12 renewable energy units and shall establish an account for each  
13 certified renewable energy facility so that he can record the  
14 renewable energy units produced and transmitted by the  
15 facility.

16 I. During the period of time that a certified  
17 renewable energy facility has its certification suspended or  
18 revoked, the director shall not record the quantity of power  
19 generated by the power generation facility.

20 J. The director shall develop a means to allow  
21 competitive suppliers to aggregate amounts of power smaller  
22 than one megawatt hour from small producers to create a  
23 renewable energy unit.

24 K. No fee shall be imposed by the director on an  
25 applicant, renewable energy facility or a designated

underscored material = new  
[bracketed material] = delete

1 representative to enable participation in any part of the  
2 program

3 L. Disputes arising from the implementation or  
4 process set forth in the Renewable Energy Certification Act  
5 shall be resolved by arbitration pursuant to the rules of the  
6 American arbitration association.

7 M. The director shall adopt rules necessary to  
8 implement the provisions of the Renewable Energy Certification  
9 Act.

10 Section 7. PRODUCTION AND TRANSFER OF RENEWABLE ENERGY  
11 UNITS. --The director shall:

12 A. record all transfers of renewable energy units  
13 between certified renewable energy facilities or between  
14 certified renewable energy facilities and consumers;

15 B. require that all renewable energy units are  
16 adequately identified by recording:

17 (1) all certified renewable energy facilities  
18 involved in the transfer;

19 (2) the renewable energy credit transfer date  
20 and the renewable resource that produced the credit;

21 (3) the identification number assigned to the  
22 renewable energy credit;

23 (4) the number of credits transferred; and

24 (5) the renewable energy unit generation  
25 date; and

. 135312. 1



underscored material = new  
[bracketed material] = delete

1 C. publish at least annually a list of certified  
2 renewable energy facilities and the way in which consumers can  
3 contact them and provide an annual accounting of renewable  
4 energy units produced in New Mexico for public information.

5 Section 8. ENFORCEMENT--AUDITS--PENALTIES.--

6 A. The director may conduct audits on the power  
7 produced, the method of production or any other facet of the  
8 production of the renewable energy units recorded by him for  
9 renewable energy facilities in the program whenever he  
10 determines that a need for an audit exists.

11 B. The director may impose a fine of no less than  
12 five hundred dollars (\$500) and no more than one hundred  
13 thousand dollars (\$100,000) on the owner, operator or  
14 designated representative of:

15 (1) an applicant for falsifying information  
16 on an application;

17 (2) a certified renewable energy facility  
18 for:

19 (a) misrepresenting information  
20 provided to the director;

21 (b) altering the source of energy used  
22 to produce the power generated so that the power generation  
23 facility would not be able to retain its certification;

24 (c) reporting the same renewable energy  
25 units multiple times; or

underscored material = new  
[bracketed material] = delete

1 (d) including in its reporting of  
2 renewable energy units energy generated by nonrenewable  
3 sources; or

4 (3) any certified renewable energy facility  
5 for substantial discrepancies in reporting of generation or  
6 transmission discovered in an audit.

7 B. The director may impose a fine of no less than  
8 five hundred dollars (\$500) and no more than one hundred  
9 thousand dollars (\$100,000) on the owner, operator or  
10 designated representative of a power generating facility:

11 (1) holding itself out to be a certified  
12 renewable energy facility when it has not been certified by  
13 the director; or

14 (2) misrepresenting power sold to residents  
15 or businesses in the state as being generated from renewable  
16 energy sources when the power has been generated from some  
17 other energy source.

18 Section 9. APPROPRIATION. --Ninety thousand dollars  
19 (\$90,000) is appropriated from the general fund to the energy  
20 conservation and management division of the energy, minerals  
21 and natural resources department for expenditure in fiscal  
22 year 2002 for the purpose of administering the Renewable  
23 Energy Certification Act. Any unexpended or unencumbered  
24 balance remaining at the end of fiscal year 2002 shall revert  
25 to the general fund.

. 135312. 1