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HOUSE BILL 643

47TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2006

INTRODUCED BY

Richard D. Vigil

AN ACT

RELATING TO MUNICIPALITIES; PROVIDING FOR CONDEMNATION OF
NATURAL GAS PIPELINES; DECLARING AN EMERGENCY.

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

Section 1. Section 3-23-3 NMSA 1978 (being Laws 1965,
Chapter 300, Section 14-22-3, as amended) is amended to read:

"3-23-3. MUNICIPAL UTILITY--APPROVAL OF [~~NEW MEXICO~~]
PUBLIC [~~UTILITY~~] REGULATION COMMISSION--EXCEPTIONS.--

A. If the acquisition of a utility is to be
financed from funds received from the issuance and sale of
revenue bonds, the price of the acquisition of the utility
shall be approved by the [~~New Mexico~~] public [~~utility~~]
regulation commission, and the commission shall require:

(1) a determination by appraisal or otherwise
of the true value of the utility to be purchased; or

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1 (2) an engineer's estimate of the cost of the
2 utility to be constructed.

3 B. No revenue bonds shall be issued for the
4 acquisition of such a utility until the [~~New Mexico~~] public
5 [~~utility~~] regulation commission has approved the issue and its
6 amount, date of issuance, maturity, rate of interest and
7 general provisions.

8 C. The provisions of Subsections A and B of this
9 section shall not apply to the condemnation by a municipality
10 having a population of twenty-five thousand or more persons
11 according to the 1990 federal decennial census of electricity
12 facilities as authorized by Chapter 3, Article 24 NMSA 1978,
13 sewer facilities as authorized by Chapter 3, Article 26 NMSA
14 1978 or water facilities as authorized by Chapter 3, Article 27
15 NMSA 1978.

16 D. The provisions of Subsections A and B of this
17 section shall not apply to the condemnation of natural gas
18 pipelines by a municipality that has owned and operated a
19 municipal natural gas utility for a period of more than ten
20 years."

21 Section 2. Section 3-25-2 NMSA 1978 (being Laws 1965,
22 Chapter 300, Section 14-24-2, as amended) is amended to read:

23 "3-25-2. NATURAL GAS OR GEOTHERMAL UTILITY--AUTHORIZATION
24 TO ACQUIRE OR CONDEMN--CHARGES.--

25 A. A municipality may, if a satisfactory supply is

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1 not otherwise obtainable as determined by ordinance:

2 (1) acquire and operate natural gas or
3 geothermal energy facilities for the distribution of natural
4 gas or heat; or

5 (2) acquire, operate, maintain, contract for
6 and condemn for use by a municipal utility natural gas
7 pipelines for the transportation of natural gas or heat,
8 whether or not the pipelines are privately owned.

9 B. A municipality owning and operating a natural
10 gas utility shall measure the natural gas used by the person
11 receiving the service by volume or energy content.

12 C. A municipality owning and operating a geothermal
13 utility shall measure the heat used by the person receiving the
14 service by fluid volume and temperature or energy content."

15 Section 3. Section 3-25-4 NMSA 1978 (being Laws 1965,
16 Chapter 300, Section 14-24-4, as amended) is amended to read:

17 "3-25-4. FINANCING [~~ACQUISITION~~] ACQUISITIONS OF AND
18 CONDEMNATIONS BY NATURAL GAS OR GEOTHERMAL [UTILITY]
19 UTILITIES.--The acquisition of facilities [~~of~~] or condemnation
20 of property, including pipelines, by a municipal natural gas or
21 geothermal utility shall only be financed from funds received
22 from the issuance and sale of bonds as authorized in Sections
23 3-30-5 through 3-30-8 and 3-31-1 through 3-31-12 NMSA 1978
24 except as provided in Section 3-23-4 NMSA 1978."

25 Section 4. Section 3-25-5 NMSA 1978 (being Laws 1965,

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1 Chapter 300, Section 14-24-5, as amended) is amended to read:
2 "3-25-5. NATURAL GAS OR GEOTHERMAL UTILITY--EMINENT
3 DOMAIN POWER--PROCEDURE.--Any municipality acquiring a natural
4 gas or geothermal utility or condemning property, including
5 pipelines, may exercise the power of eminent domain within or
6 without the municipal boundary for the purpose of acquiring
7 property, or interest in property, whether or not the property
8 is privately owned, for the location of or for the extension of
9 the facilities or property of a natural gas or geothermal
10 utility. Proceedings to obtain such condemnation shall be in
11 the manner provided by the Eminent Domain Code."

12 Section 5. EMERGENCY.--It is necessary for the public
13 peace, health and safety that this act take effect immediately.