

HOUSE BILL 246

51ST LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2014

INTRODUCED BY

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AN ACT

RELATING TO UTILITIES; AMENDING A SECTION OF THE PUBLIC UTILITY ACT TO GIVE THE PUBLIC REGULATION COMMISSION AUTHORITY OVER EXTENSIONS INTO SERVICE AREAS OF A PUBLIC UTILITY BY MUNICIPALITIES WITH POPULATIONS OF MORE THAN NINETY-FIVE THOUSAND.

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

SECTION 1. Section 62-9-1.1 NMSA 1978 (being Laws 1991, Chapter 143, Section 2) is amended to read:

"62-9-1.1. ADDITIONAL AUTHORITY WITH RESPECT TO WATER AND SEWER UTILITIES.--

A. Notwithstanding any other provision of the Public Utility Act or any provision of the Municipal Code or any privilege granted under either act, if any municipality that has not elected to come within the terms of the Public

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underscoring material = new
[bracketed material] = delete

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1 Utility Act, as provided in Section 62-6-5 NMSA 1978,
2 constructs or extends or proposes to construct or extend its
3 water or sewer line or system or water pumping station or
4 reservoir into a geographical area described in a certificate
5 of public convenience and necessity granted by the commission
6 to a public utility rendering the same type of service, the
7 commission, on complaint of the public utility claiming to be
8 injuriously affected thereby, shall, after giving notice to the
9 municipality and affording the municipality an opportunity for
10 a hearing with respect to the issue of whether its water or
11 sewer line, plant or system actually intrudes or will intrude
12 into the area certificated to the public utility, determine
13 whether such intrusion has occurred or will occur. If the
14 commission determines such an intrusion has occurred or will
15 occur, the municipality owning or operating the water or sewer
16 utility shall cease and desist from making such construction or
17 extension in the absence of written consent of the public
18 utility involved and approval of the commission.

19 B. The authority and jurisdiction conferred by
20 Subsection A of this section shall be in addition and
21 cumulative to the independent authority of the commission to
22 determine territorial disputes between public utilities and
23 between mutual domestic water consumer associations and public
24 utilities as provided in Section 62-9-1 NMSA 1978, which
25 provisions shall govern the resolution of a territorial dispute

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[bracketed material] = delete

1 between a municipality that has elected to come within the
2 terms of the Public Utility Act, as provided in Section 62-6-5
3 NMSA 1978, and any other public utility rendering the same type
4 of service. Provided, however, in the event that a certificate
5 of public convenience and necessity granted to such a
6 municipality overlaps or conflicts with a valid certificate
7 previously issued by the commission and exercised within the
8 term required under Section 62-9-4 NMSA 1978, the municipal
9 utility shall be permitted to continue operation of its plant,
10 line and system in existence upon the effective date of this
11 1991 act and the other public utility may continue service in
12 the area covered by its certificate, subject to the other
13 provisions of the Public Utility Act.

14 C. For purposes of this section, "municipality"
15 means any municipality that has a population of more than [~~two~~
16 ~~hundred~~] ninety-five thousand as determined in the most recent
17 federal decennial census and is located in a class A county."