

1 SENATE BILL 357

2 **54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019**

3 INTRODUCED BY

4 Carlos R. Cisneros

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10 AN ACT

11 RELATING TO UTILITIES; AMENDING THE REQUIREMENTS TO PROTEST A
12 PROPOSED GENERATION AND TRANSMISSION RATE CHANGE.

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

15 SECTION 1. Section 62-6-4 NMSA 1978 (being Laws 1941,
16 Chapter 84, Section 17, as amended) is amended to read:

17 "62-6-4. SUPERVISION AND REGULATION OF UTILITIES.--

18 A. The commission shall have general and exclusive
19 power and jurisdiction to regulate and supervise every public
20 utility in respect to its rates and service regulations and in
21 respect to its securities, all in accordance with the
22 provisions and subject to the reservations of the Public
23 Utility Act, and to do all things necessary and convenient in
24 the exercise of its power and jurisdiction. Nothing in this
25 section, however, shall be deemed to confer upon the commission

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1 power or jurisdiction to regulate or supervise the rates or
2 service of any utility owned and operated by any municipal
3 corporation either directly or through a municipally owned
4 corporation or owned and operated by any H class county, by a
5 class B county as defined in Section 4-36-8 NMSA 1978 or by a
6 class A county as described by Section 4-36-10 NMSA 1978 either
7 directly or through a corporation owned by or under contract
8 with an H class county, by a class B county as defined in
9 Section 4-36-8 NMSA 1978 or by a class A county as described by
10 Section 4-36-10 NMSA 1978 or the rates, service, securities or
11 class I or class II transactions of a generation and
12 transmission cooperative. No inspection or supervision fees
13 shall be paid by generation and transmission cooperatives, or
14 by such municipalities or municipally owned corporations, a
15 class B county as defined in Section 4-36-8 NMSA 1978, a class
16 A county as described by Section 4-36-10 NMSA 1978 or H class
17 counties or such corporation owned by or under contract with a
18 class B county as defined in Section 4-36-8 NMSA 1978, a class
19 A county as described by Section 4-36-10 NMSA 1978 or an H
20 class county with respect to operations conducted in a class B
21 county as defined in Section 4-36-8 NMSA 1978, in a class A
22 county as described by Section 4-36-10 NMSA 1978 or in H class
23 counties.

24 B. The sale, furnishing or delivery of gas, water
25 or electricity by any person to a utility for resale to or for

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1 the public shall be subject to regulation by the commission but
2 only to the extent necessary to enable the commission to
3 determine that the cost to the utility of the gas, water or
4 electricity at the place where the major distribution to the
5 public begins is reasonable and that the methods of delivery of
6 the gas, water or electricity are adequate; provided, however,
7 that nothing in this subsection shall be construed to permit
8 regulation by the commission with respect to a generation and
9 transmission cooperative, except location control pursuant to
10 Section 62-9-3 NMSA 1978 and limited rate regulation to the
11 extent provided in Subsection D of this section, or of
12 production or sale price at the wellhead of gas or petroleum.

13 C. The sale, furnishing or delivery of coal,
14 uranium or other fuels by any affiliated interest to a utility
15 for the generation of electricity for the public shall be
16 subject to regulation by the commission but only to the extent
17 necessary to enable the commission to determine that the cost
18 to the utility of the coal, uranium or other fuels at the point
19 of sale is reasonable and that the methods of delivery of the
20 electricity are adequate; provided, however, that nothing in
21 this subsection shall be construed to permit regulation by the
22 commission of production or sale price at the wellhead of gas
23 or petroleum. Nothing in this section shall be construed to
24 permit regulation by the commission of production or sale price
25 at the point of production of coal, uranium or other fuels.

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1 D. New Mexico rates proposed by a generation and
2 transmission cooperative shall be filed with the commission in
3 the form of an advice notice, a copy of which shall be
4 simultaneously served on all member utilities and transmission
5 customers. Any member utility or transmission customer may
6 file a protest of the proposed rates no later than twenty days
7 after the generation and transmission cooperative files the
8 advice notice. If [~~three~~] one or more New Mexico member
9 utilities or transmission customers file protests and the
10 commission determines there is just cause in at least [~~three~~]
11 one of the protests for reviewing the proposed rates, the
12 commission shall suspend the rates, conduct a hearing
13 concerning reasonableness of the proposed rates and establish
14 reasonable rates. Each protest must contain a clear and
15 concise statement of the specific grounds upon which the
16 protestant believes the proposed rates are unreasonable or
17 otherwise unlawful; a brief description of the protestant's
18 efforts to resolve its objections directly with the generation
19 and transmission cooperative; a clear and concise statement of
20 the relief the protestant seeks from the commission; and a
21 formal resolution of the board of trustees of the protesting
22 member utility or transmission customer authorizing the filing
23 of the protest. In order to determine whether just cause may
24 exist for review, the commission shall consider whether each
25 protestant has exhausted remedies with the generation and

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1 transmission cooperative or whether the generation and
2 transmission cooperative has unreasonably rejected the
3 protestant's objections to the proposed rates. A member
4 utility shall present its objections to the generation and
5 transmission cooperative in writing and allow a reasonable
6 period for the generation and transmission cooperative to
7 attempt resolution of, or otherwise respond to, those
8 objections. A period of seven days after receipt of written
9 objections will be deemed reasonable for the generation and
10 transmission cooperative to provide a written response to the
11 member utility, but a written response is not required if such
12 time period extends beyond twenty days after the date on which
13 the generation and transmission cooperative filed the advice
14 notice. The generation and transmission cooperative and its
15 members are expected to make a good faith effort to resolve the
16 member utility's objections to the proposed rates during that
17 period of time.

18 E. As used in this section:

19 (1) "generation and transmission cooperative"
20 means a person with generation or transmission facilities
21 either organized as a rural electric cooperative pursuant to
22 Laws 1937, Chapter 100 or the Rural Electric Cooperative Act or
23 organized in another state and providing sales of electric
24 power to member cooperatives in this state; and

25 (2) "transmission customer" means an entity

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1 that has a contractual transmission agreement with a generation
2 and transmission cooperative but is not a member of the
3 transmission and generation cooperative."

4 SECTION 2. EFFECTIVE DATE.--The effective date of the
5 provisions of this act is July 1, 2019.

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