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AN ACT

RELATING TO UTILITIES; AMENDING A PROVISION OF THE EFFICIENT USE OF ENERGY ACT; CLARIFYING THAT A RATE ADJUSTMENT MECHANISM MAY BE ADOPTED TO ENSURE THAT REVENUE PER CUSTOMER IN A RATE CASE REMAINS CONSTANT WITHOUT REGARD TO THE QUANTITY OF EITHER ELECTRICITY OR NATURAL GAS SOLD.

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

SECTION 1. Section 62-17-5 NMSA 1978 (being Laws 2005, Chapter 341, Section 5, as amended) is amended to read:

"62-17-5. COMMISSION APPROVAL--ENERGY EFFICIENCY AND LOAD MANAGEMENT PROGRAMS--DISINCENTIVES.--

A. Pursuant to the findings and purpose of the Efficient Use of Energy Act, the commission shall consider public utility acquisition of cost-effective energy efficiency and load management resources to be in the public interest.

B. The commission shall direct public utilities to evaluate and implement cost-effective programs that reduce energy demand and consumption.

C. Before the commission approves an energy efficiency and load management program for a public utility, it shall find that the portfolio of programs is cost-effective and designed to provide every affected customer class with the opportunity to participate and benefit

1 economically. The commission shall determine the cost-  
2 effectiveness of energy efficiency and load management  
3 measures using the utility cost test. In determining life-  
4 cycle costs and benefits of energy efficiency programs, the  
5 commission shall not adjust for taxes when selecting a  
6 discount rate. In determining life-cycle costs and benefits  
7 for energy efficiency and load management programs directed  
8 to low-income customers, the commission shall either quantify  
9 or assign a reasonable value to:

- 10 (1) reductions in working capital;
- 11 (2) reduced collection costs;
- 12 (3) lower bad-debt expense;
- 13 (4) improved customer service effectiveness;

14 and

15 (5) other appropriate factors as utility  
16 system economic benefits.

17 D. The commission shall act expeditiously on  
18 public utility requests for approval of energy efficiency or  
19 load management programs.

20 E. Public utilities shall obtain commission  
21 approval of energy efficiency and load management programs  
22 before they are implemented. Public utilities proposing new  
23 energy efficiency and load management programs shall, before  
24 seeking commission approval, solicit nonbinding  
25 recommendations on the design, implementation and use of

1 third-party energy service contractors through competitive  
2 bidding on the programs from commission staff, the attorney  
3 general, the energy, minerals and natural resources  
4 department and other interested parties. The commission may  
5 for good cause require public utilities to solicit  
6 competitive bids for energy efficiency and load management  
7 resources.

8 F. The commission shall:

9 (1) upon petition or its own motion,  
10 identify and remove regulatory disincentives or barriers for  
11 public utility expenditures on energy efficiency and load  
12 management measures in a manner that balances the public  
13 interest, consumers' interests and investors' interests;

14 (2) upon petition by a public utility,  
15 remove regulatory disincentives through the adoption of a  
16 rate adjustment mechanism that ensures that the revenue per  
17 customer approved by the commission in a general rate case  
18 proceeding is recovered by the public utility without regard  
19 to the quantity of electricity or natural gas actually sold  
20 by the public utility subsequent to the date the rate took  
21 effect. Regulatory disincentives removed through a rate  
22 adjustment mechanism shall be separately calculated for the  
23 rate class or classes to which the mechanism applies and  
24 collected or refunded by the utility through a separately  
25 identified tariff rider that shall not be used to collect

1 commission-approved energy efficiency and load management  
2 program costs and incentives;

3 (3) provide public utilities an opportunity  
4 to earn a profit on cost-effective energy efficiency and load  
5 management resource development that, with satisfactory  
6 program performance, is financially more attractive to the  
7 utility than supply-side utility resources; and

8 (4) not reduce a utility's return on equity  
9 based on approval of a disincentive removal mechanism or  
10 profit incentives pursuant to the Efficient Use of Energy  
11 Act.

12 G. Public utilities providing electricity and  
13 natural gas service to New Mexico customers shall, subject to  
14 commission approval, acquire the cost-effective and  
15 achievable energy efficiency and load management resources  
16 available in their service territories. This requirement,  
17 however, for public utilities providing electricity service,  
18 shall not be less than savings of five percent of 2020 total  
19 retail kilowatt-hour sales to New Mexico customer classes  
20 that have the opportunity to participate in calendar year  
21 2025 as a result of energy efficiency and load management  
22 programs implemented in years 2021 through 2025. No later  
23 than June 30, 2025, the commission shall adopt, through  
24 rulemaking, energy savings targets for electric utilities for  
25 years 2026 through 2030 based on cost-effective and

1 achievable energy savings and provide utility incentives  
2 based on savings achieved.

3 H. A public utility that determines it cannot  
4 achieve the minimum requirements established in Subsection G  
5 of this section shall report to the commission on why it  
6 cannot meet those requirements and shall propose alternative  
7 requirements based on acquiring cost-effective and achievable  
8 energy efficiency and load management resources. If the  
9 commission determines, after hearing, that the minimum  
10 requirements of Subsection G of this section exceed the  
11 achievable amount of energy efficiency and load management  
12 available to the public utility or that the program costs of  
13 energy efficiency and load management to achieve the minimum  
14 requirements of Subsection G of this section exceed the  
15 program costs funding established in Subsection A of Section  
16 62-17-6 NMSA 1978, the commission shall establish lower  
17 minimum energy savings requirements for the utility based on  
18 the maximum amount of energy efficiency and load management  
19 that it determines can be achieved." \_\_\_\_\_

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