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SENATE BILL 326

56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023

INTRODUCED BY
Carrie Hamblen

AN ACT

RELATING TO UTILITIES; AMENDING THE RENEWABLE ENERGY ACT;
CLARIFYING CALCULATION OF RENEWABLE PORTFOLIO STANDARDS.

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

SECTION 1. Section 62-16-5 NMSA 1978 (being Laws 2004,
Chapter 65, Section 5, as amended) is amended to read:

"62-16-5. RENEWABLE ENERGY CERTIFICATES--COMMISSION
DUTIES.--

A. The commission shall establish:

(1) a system of renewable energy certificates
that can be used by a public utility to establish compliance
with the renewable portfolio standard and that may include
certificates that are monitored, accounted for or transferred
by or through a regional system or trading program for any
region in which a public utility is located; and

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1 (2) requirements and procedures concerning
2 requirements for renewable energy certificates pursuant to
3 Subsections B and C of this section.

4 B. Renewable energy certificates:

5 (1) are owned by the generator of the
6 renewable energy unless:

7 (a) the renewable energy certificates
8 are transferred to the purchaser of the electricity through
9 specific agreement with the generator;

10 (b) the generator is a qualifying
11 facility, as defined by the federal Public Utility Regulatory
12 Policies Act of 1978, in which case the renewable energy
13 certificates are owned by the public utility purchaser of the
14 renewable energy; provided that in the case of qualifying
15 facilities that are net metered, all of the energy generated by
16 the qualifying facility will be deemed to have been purchased
17 by the utility and all of the energy consumed on site by the
18 qualifying facility will be included in the determination of
19 total retail sales for the purposes of calculating the
20 renewable portfolio standard as described in Subsection A of
21 Section 62-16-4 NMSA 1978;

22 (c) a contract for the purchase of
23 renewable energy is in effect prior to July 1, 2019, in which
24 case the renewable energy certificates are owned by the
25 purchaser of the electricity for the term of such contract,

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1 unless otherwise agreed to in a contract approved by the
2 commission; or

3 (d) the generator is a community solar
4 facility, excluding a native community solar project, as those
5 terms are defined in the Community Solar Act, in which case the
6 renewable energy certificates are owned by the public utility
7 to whose electric distribution system the community solar
8 facility is interconnected;

9 (2) may be traded, sold or otherwise
10 transferred by their owner, unless the certificates are from a
11 rate-based public utility plant, in which case the entirety of
12 the renewable energy certificates from that plant shall be
13 retired by the utility on behalf of itself or its customers.
14 Any contract to purchase renewable energy entered into by a
15 public utility on or after July 1, 2019 shall include
16 conveyance to the purchasing utility of all renewable energy
17 certificates, and the entirety of those certificates shall be
18 retired by that utility on behalf of itself or its customers or
19 subsequently transferred to a retail customer for retirement
20 under a voluntary program for purchasing renewable energy
21 approved by the commission. A utility shall not claim that it
22 is providing renewable energy from generation resources for
23 which it has traded, sold or transferred the associated
24 renewable energy certificates. The commission shall not
25 disallow the recovery of the cost associated with any expired

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1 renewable energy certificate. The public utility shall
2 annually file a report with the commission discussing:

3 (a) its use, sale, trading or transfer
4 of renewable energy certificates; and

5 (b) whether and how its public claims of
6 renewable energy generation account for renewable energy
7 certificates that it has traded, sold or transferred;

8 (3) that are used for the purpose of meeting
9 the renewable portfolio standard shall be registered with a
10 renewable energy generation information system that is designed
11 to create and track ownership of renewable energy certificates
12 and that, through the use of independently audited generation
13 data, verifies the generation and delivery of electricity
14 associated with each renewable energy certificate and protects
15 against multiple counting of the same renewable energy
16 certificate; and

17 (4) may be carried forward for up to four
18 years from the date of issuance to establish compliance with
19 the renewable portfolio standard, after which they shall be
20 deemed retired by the public utility.

21 C. A public utility shall be responsible for
22 demonstrating that a renewable energy certificate used for
23 compliance with the renewable portfolio standard is derived
24 from eligible renewable energy resources."

25 SECTION 2. EFFECTIVE DATE.--The effective date of the

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1 provisions of this act is July 1, 2023.

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