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SENATE BILL

**57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025**

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO ENERGY; ALPHABETIZING DEFINITIONS AND ADDING A  
DEFINITION FOR "LOW-INCOME CUSTOMER" TO THE PUBLIC UTILITY ACT;  
EXEMPTING LOW-INCOME CUSTOMERS FROM RATE RIDERS FOR NEW  
INTERCONNECTED CUSTOMERS; PROVIDING INSTRUCTIONS FOR THE  
QUALIFICATION OF LOW-INCOME CUSTOMERS.

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

SECTION 1. Section 62-3-3 NMSA 1978 (being Laws 1967,  
Chapter 96, Section 3, as amended) is amended to read:

"62-3-3. DEFINITIONS.--Unless otherwise specified, when  
used in the Public Utility Act:

A. "affiliated interest" means a person who  
directly or indirectly, through one or more intermediaries,  
controls or is controlled by or is under common control with a  
public utility. Control includes instances when:

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1 (1) a person is an officer, director, partner,  
2 trustee or person of similar status or function;

3 (2) a person owns directly or indirectly or  
4 has a beneficial interest in ten percent or more of voting  
5 securities of a person;

6 (3) a person has a level of ownership of  
7 securities other than voting securities that the commission  
8 establishes as creating a presumption of control; and

9 (4) the possession of the power to direct or  
10 cause the direction of the management and policies of a person  
11 exists in fact, notwithstanding the lack of ownership of ten  
12 percent or more of the person's voting securities;

13 ~~B. "commission" means the public regulation~~  
14 ~~commission;~~

15 ~~C. "commissioner" means a member of the commission;~~

16 ~~D. "municipality" means a municipal corporation~~  
17 ~~organized under the laws of the state, and H-class counties;~~

18 ~~E. "person" means an individual, firm, partnership,~~  
19 ~~company, rural electric cooperative organized under Laws 1937,~~  
20 ~~Chapter 100 or the Rural Electric Cooperative Act, corporation~~  
21 ~~or lessee, trustee or receiver appointed by any court.~~

22 ~~"Person" does not mean a class A county as described in Section~~  
23 ~~4-36-10 NMSA 1978 or a class B county as described in Section~~  
24 ~~4-36-8 NMSA 1978. "Person" does not mean a municipality as~~  
25 ~~defined in this section unless the municipality has elected to~~

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1 ~~come within the terms of the Public Utility Act as provided in~~  
2 ~~Section 62-6-5 NMSA 1978. In the absence of voluntary election~~  
3 ~~by a municipality to come within the provisions of the Public~~  
4 ~~Utility Act, the municipality shall be expressly excluded from~~  
5 ~~the operation of that act and from the operation of all its~~  
6 ~~provisions, and no such municipality shall for any purpose be~~  
7 ~~considered a public utility;~~

8 F. ~~"securities" means stock, stock certificates,~~  
9 ~~bonds, notes, debentures, mortgages or deeds of trust or~~  
10 ~~similar evidences of indebtedness issued, executed or assumed~~  
11 ~~by a utility;~~

12 G. ~~"public utility" or "utility" means every person~~  
13 ~~not engaged solely in interstate business and, except as stated~~  
14 ~~in Sections 62-3-4 and 62-3-4.1 NMSA 1978, that may own,~~  
15 ~~operate, lease or control:~~

16 (1) ~~any plant, property or facility for the~~  
17 ~~generation, transmission or distribution, sale or furnishing to~~  
18 ~~or for the public of electricity for light, heat or power or~~  
19 ~~other uses;~~

20 (2) ~~any plant, property or facility for the~~  
21 ~~manufacture, storage, distribution, sale or furnishing to or~~  
22 ~~for the public of natural or manufactured gas or mixed or~~  
23 ~~liquefied petroleum gas for light, heat or power or other uses;~~  
24 ~~but "public utility" or "utility" shall not include any plant,~~  
25 ~~property or facility used for or in connection with the~~

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1 ~~business of the manufacture, storage, distribution, sale or~~  
2 ~~furnishing of liquefied petroleum gas in enclosed containers or~~  
3 ~~tank truck for use by others than consumers who receive their~~  
4 ~~supply through any pipeline system operating under municipal~~  
5 ~~authority or franchise and distributing to the public;~~

6 ~~(3) any plant, property or facility for the~~  
7 ~~supplying, storage, distribution or furnishing to or for the~~  
8 ~~public of water for manufacturing, municipal, domestic or other~~  
9 ~~uses; provided, however, that nothing contained in this~~  
10 ~~paragraph shall be construed to apply to irrigation systems,~~  
11 ~~the chief or principal business of which is to supply water for~~  
12 ~~the purpose of irrigation;~~

13 ~~(4) any plant, property or facility for the~~  
14 ~~production, transmission, conveyance, delivery or furnishing to~~  
15 ~~or for the public of steam for heat or power or other uses;~~

16 ~~(5) any plant, property or facility for the~~  
17 ~~supplying and furnishing to or for the public of sanitary~~  
18 ~~sewers for transmission and disposal of sewage produced by~~  
19 ~~manufacturing, municipal, domestic or other uses; provided that~~  
20 ~~"public utility" or "utility" as used in the Public Utility Act~~  
21 ~~does not include any utility owned or operated by a class A~~  
22 ~~county as described in Section 4-36-10 NMSA 1978 either~~  
23 ~~directly or through a corporation owned by or under contract~~  
24 ~~with such a county; or~~

25 ~~(6) any plant, property or facility for the~~

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1 ~~sale or furnishing to or for the public of goods or services to~~  
2 ~~reduce the consumption of or demand for electricity or natural~~  
3 ~~gas, and is either a public utility under the definitions found~~  
4 ~~in Paragraph (1) or (2) of this subsection, or is an~~  
5 ~~alternative energy efficiency provider as described in Section~~  
6 ~~62-17-7 NMSA 1978;~~

7 ~~H. "rate" means every rate, tariff, charge or other~~  
8 ~~compensation for utility service rendered or to be rendered by~~  
9 ~~a utility and every rule, regulation, practice, act,~~  
10 ~~requirement or privilege in any way relating to such rate,~~  
11 ~~tariff, charge or other compensation and any schedule or tariff~~  
12 ~~or part of a schedule or tariff thereof;~~

13 ~~I. "renewable energy" means electrical energy~~  
14 ~~generated by means of a low- or zero-emission generation~~  
15 ~~technology that has substantial long-term production potential~~  
16 ~~and may include, without limitation, the following energy~~  
17 ~~sources: solar, wind, hydropower, geothermal, landfill gas,~~  
18 ~~anaerobically digested waste biomass or fuel cells that are not~~  
19 ~~fossil fueled. "Renewable energy" does not include fossil fuel~~  
20 ~~or nuclear energy;~~

21 ~~J. "service" or "service regulation" means every~~  
22 ~~rule, regulation, practice, act or requirement relating to the~~  
23 ~~service or facility of a utility;~~

24 ~~K. "class I transaction" means the sale, lease or~~  
25 ~~provision of real property, water rights or other goods or~~

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1 ~~services by an affiliated interest to a public utility with~~  
2 ~~which it is affiliated or by a public utility to its affiliated~~  
3 ~~interest;~~

4 L. ~~"class II transaction" means:~~

5 ~~(1) the formation after May 19, 1982 of a~~  
6 ~~corporate subsidiary by a public utility or a public utility~~  
7 ~~holding company by a public utility or its affiliated interest;~~

8 ~~(2) the direct acquisition of the voting~~  
9 ~~securities or other direct ownership interests of a person by a~~  
10 ~~public utility if such acquisition would make the utility the~~  
11 ~~owner of ten percent or more of the voting securities or other~~  
12 ~~direct ownership interests of that person;~~

13 ~~(3) the agreement by a public utility to~~  
14 ~~purchase securities or other ownership interest of a person~~  
15 ~~other than a nonprofit corporation, contribute additional~~  
16 ~~equity to, acquire additional equity interest in or pay or~~  
17 ~~guarantee any bonds, notes, debentures, deeds of trust or other~~  
18 ~~evidence of indebtedness of any such person; provided, however,~~  
19 ~~that a public utility may honor all agreements entered into by~~  
20 ~~such utility prior to May 19, 1982; or~~

21 ~~(4) the divestiture by a public utility of any~~  
22 ~~affiliated interest that is a corporate subsidiary of the~~  
23 ~~public utility;~~

24 M. ~~"corporate subsidiary" means any person ten~~  
25 ~~percent or more of whose voting securities or other ownership~~

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1 ~~interests are directly owned by a public utility;~~

2 N. ~~"public utility holding company" means an~~  
3 ~~affiliated interest that controls a public utility through the~~  
4 ~~direct or indirect ownership of voting securities of that~~  
5 ~~public utility;~~

6 O. ~~"voting securities" means securities that carry~~  
7 ~~the present right to vote for the election of directors or~~  
8 ~~other members of the governing body ultimately responsible for~~  
9 ~~the management of the organization; and~~

10 P. ~~"future test period" means a twelve-month period~~  
11 ~~beginning no later than the date a proposed rate change is~~  
12 ~~expected to take effect]~~

13 B. "Class I transaction" means the sale, lease or  
14 provision of real property, water rights or other goods or  
15 services by an affiliated interest to a public utility with  
16 which it is affiliated or by a public utility to its affiliated  
17 interest;

18 C. "Class II transaction" means:

19 (1) the formation after May 19, 1982 of a  
20 corporate subsidiary by a public utility or a public utility  
21 holding company by a public utility or its affiliated interest;

22 (2) the direct acquisition of the voting  
23 securities or other direct ownership interests of a person by a  
24 public utility if the acquisition would make the utility the  
25 owner of ten percent or more of the voting securities or other

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1 direct ownership interests of that person;

2 (3) the agreement by a public utility to  
3 purchase securities or other ownership interest of a person  
4 other than a nonprofit corporation or contribute additional  
5 equity to, acquire additional equity interest in or pay or  
6 guarantee any bonds, notes, debentures, deeds of trust or other  
7 evidence of indebtedness of a person other than a nonprofit  
8 corporation; provided that a public utility may honor  
9 agreements entered into by that utility prior to May 19, 1982;  
10 or

11 (4) the divestiture by a public utility of any  
12 affiliated interest that is a corporate subsidiary of the  
13 public utility;

14 D. "commission" means the public regulation  
15 commission;

16 E. "commissioner" means a member of the commission;

17 F. "corporate subsidiary" means a person with ten  
18 percent or more of voting securities or other ownership  
19 interests that are directly owned by a public utility;

20 G. "future test period" means a twelve-month period  
21 beginning no later than the date a proposed rate change is  
22 expected to take effect;

23 H. "low-income customer" means a residential  
24 customer of an electric public utility with an annual household  
25 income at or below eighty percent of the county area median

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1 income, as published by the United States department of housing  
2 and urban development;

3 I. "municipality" means a municipal corporation  
4 organized under the laws of the state and H-class counties;

5 J. "person" means an individual, firm, partnership,  
6 company, rural electric cooperative organized under Laws 1937,  
7 Chapter 100 or the Rural Electric Cooperative Act, corporation  
8 or lessee, trustee or receiver appointed by any court.

9 "Person" does not mean a class A county as described in Section  
10 4-36-10 NMSA 1978 or a class B county as described in Section  
11 4-36-8 NMSA 1978. "Person" does not mean a municipality as  
12 defined in this section unless the municipality has elected to  
13 come within the terms of the Public Utility Act as provided in  
14 Section 62-6-5 NMSA 1978. In the absence of voluntary election  
15 by a municipality to come within the provisions of the Public  
16 Utility Act, the municipality shall be expressly excluded from  
17 the operation of that act and from the operation of all its  
18 provisions, and the municipality shall not be considered a  
19 public utility for any purpose;

20 K. "public utility" or "utility" means every person  
21 not engaged solely in interstate business and, except as stated  
22 in Sections 62-3-4 and 62-3-4.1 NMSA 1978, that may own,  
23 operate, lease or control a plant, property or facility for  
24 the:

25 (1) generation, transmission or distribution,

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1 sale or furnishing to or for the public of electricity for  
2 light, heat or power or other uses;

3 (2) manufacture, storage, distribution, sale  
4 or furnishing to or for the public of natural or manufactured  
5 gas or mixed or liquefied petroleum gas for light, heat or  
6 power or other uses; but "public utility" or "utility" shall  
7 not include a plant, property or facility used for or in  
8 connection with the business of the manufacture, storage,  
9 distribution, sale or furnishing of liquefied petroleum gas in  
10 enclosed containers or tank trucks for use by others than  
11 consumers who receive their supply through a pipeline system  
12 operating under municipal authority or franchise and  
13 distributing to the public;

14 (3) supplying, storage, distribution or  
15 furnishing to or for the public of water for manufacturing,  
16 municipal, domestic or other uses; provided that nothing  
17 contained in this paragraph shall be construed to apply to  
18 irrigation systems, the chief or principal business of which is  
19 to supply water for the purpose of irrigation;

20 (4) production, transmission, conveyance,  
21 delivery or furnishing to or for the public of steam for heat  
22 or power or other uses;

23 (5) supplying and furnishing to or for the  
24 public of sanitary sewers for transmission and disposal of  
25 sewage produced by manufacturing, municipal, domestic or other

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1 uses; provided that "public utility" or "utility" as used in  
2 the Public Utility Act does not include any utility owned or  
3 operated by a class A county as described in Section 4-36-10  
4 NMSA 1978 either directly or through a corporation owned by or  
5 under contract with such a county; or

6 (6) sale or furnishing to or for the public of  
7 goods or services to reduce the consumption of or demand for  
8 electricity or natural gas and is either a public utility under  
9 the definitions found in Paragraph (1) or (2) of this  
10 subsection or is an alternative energy efficiency provider as  
11 described in Section 62-17-7 NMSA 1978;

12 L. "public utility holding company" means an  
13 affiliated interest that controls a public utility through the  
14 direct or indirect ownership of voting securities of that  
15 public utility;

16 M. "rate" means every rate, tariff, charge or other  
17 compensation for utility service rendered or to be rendered by  
18 a utility and every rule, regulation, practice, act,  
19 requirement or privilege in any way relating to the rate,  
20 tariff, charge or other compensation, including a relating  
21 schedule or tariff or a part of a schedule or tariff;

22 N. "renewable energy" means electrical energy  
23 generated by means of a low- or zero-emission generation  
24 technology that has substantial long-term production potential  
25 and may include, without limitation, the following energy

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1 sources: solar, wind, hydropower, geothermal, landfill gas,  
2 anaerobically digested waste biomass or fuel cells that are not  
3 fossil fueled. "Renewable energy" does not include fossil fuel  
4 or nuclear energy;

5 O. "securities" means stock, stock certificates,  
6 bonds, notes, debentures, mortgages or deeds of trust or  
7 similar evidences of indebtedness issued, executed or assumed  
8 by a utility;

9 P. "service" or "service regulation" means every  
10 rule, regulation, practice, act or requirement relating to the  
11 service or facility of a utility; and

12 Q. "voting securities" means securities that carry  
13 the present right to vote for the election of directors or  
14 other members of the governing body ultimately responsible for  
15 the management of the organization."

16 SECTION 2. Section 62-13-13.2 NMSA 1978 (being Laws 2010,  
17 Chapter 102, Section 2 and Laws 2010, Chapter 103, Section 2)  
18 is amended to read:

19 "62-13-13.2. INTERCONNECTED CUSTOMERS--UTILITY COST  
20 RECOVERY.--

21 A. Upon request of an investor-owned utility in any  
22 general rate case, the commission shall approve interconnected  
23 customer rate riders to recover the costs of ancillary and  
24 standby services pursuant to this section only for new  
25 interconnected customers, except that a utility may seek

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1 approval of interconnected customer rate riders in the  
2 utility's renewable energy procurement plan filing before  
3 January 1, 2011, to be in effect until the conclusion of the  
4 utility's next general rate case. In establishing  
5 interconnected customer rate riders, the commission shall  
6 assure that costs to be recovered through the rate riders are  
7 not duplicative of costs to be recovered in underlying rates  
8 and shall give due consideration to the reasonably determinable  
9 embedded and incremental costs of the utility to serve new  
10 interconnected customers and the reasonably determinable  
11 benefits to the utility system provided by new interconnected  
12 customers during each three-year period after which new  
13 interconnected customer rate riders go into effect. The  
14 benefits to the utility system, as applicable, include avoided  
15 renewable energy certificate procurement costs, reduced capital  
16 investment costs resulting from the avoidance or deferral of  
17 capital expenditures, reduced energy and capacity costs and  
18 line loss reductions.

19 B. In a filing made pursuant to Subsection [G] H of  
20 Section 62-8-7 NMSA 1978, a rural electric cooperative may  
21 implement rates or rate riders by customer class, giving due  
22 consideration to reasonably determinable costs and benefits of  
23 interconnected systems, that are specifically designed to  
24 recover from interconnected customers the fixed costs of  
25 providing electric services to those customers.

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1 C. Nothing in this section shall be interpreted as  
2 preventing the utility from charging rates designed to recover  
3 all of its reasonable costs of providing service to customers.

4 D. As used in this section:

5 (1) "ancillary and standby services" means  
6 services that are essential to maintain electric system  
7 reliability and are required by or are a consequence of  
8 interconnecting distributed generation facilities to a  
9 utility's system and may include, among other services,  
10 regulation and frequency response, regulation and voltage  
11 support, spinning reserves and supplemental reserves;

12 (2) "interconnected customer" means a utility  
13 customer that is also interconnected to non-utility distributed  
14 generation facilities; and

15 (3) "new interconnected customer" means a  
16 customer that became an interconnected customer after December  
17 31, 2010 or a customer whose renewable energy certificate  
18 purchase agreement entered into prior to January 1, 2011 is no  
19 longer in effect, but does not include a low-income customer."

20 SECTION 3. A new section of the Public Utility Act is  
21 enacted to read:

22 "[NEW MATERIAL] QUALIFICATION AS A LOW-INCOME CUSTOMER--  
23 NOTICE.--

24 A. A customer of an electric public utility may  
25 qualify as a low-income customer by providing to the utility

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1 that provides the customer's service:

2 (1) a signed self-attestation that the  
3 customer's household income and household size qualify the  
4 customer as a low-income customer;

5 (2) proof of residence in a low-income or  
6 affordable housing facility; or

7 (3) proof of current enrollment in a low-  
8 income program facilitated or administered by the state or  
9 federal government, including:

10 (a) the federal medicaid program;

11 (b) the federal supplemental nutrition  
12 assistance program;

13 (c) the federal low income home energy  
14 assistance program;

15 (d) a state or federal first-time  
16 homeowner or housing rehabilitation program;

17 (e) the federal temporary assistance for  
18 needy families program;

19 (f) the federal supplemental security  
20 income program;

21 (g) the federal special supplemental  
22 nutrition program for women, infants and children;

23 (h) the federal food distribution  
24 program on Indian reservations;

25 (i) the federal section eight housing

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1 choice voucher program;

2 (j) the federal solar for all program;

3 or

4 (k) any other state or federal program  
5 that provides assistance for people who would qualify as low-  
6 income customers, as determined by the commission.

7 B. By December 31, 2025 and in the month of  
8 December of each year thereafter, an electric public utility  
9 shall notify its customers of the requirements to qualify as a  
10 low-income customer and instructions on how to submit any  
11 required documentation. An electric public utility shall not  
12 require a customer who has qualified as a low-income customer  
13 to requalify as a low-income customer within five years of the  
14 customer's last qualification."