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FISCAL IMPACT REPORT

SPONSOR HJC DATE TYPED 3/16/05 HB CS/CS/200/aHENRC

SHORT TITLE Net Electric Co-op Metering System SB _____

ANALYST Rosen

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
	NFI		NFI		

(Parenthesis () Indicate Expenditure Decreases)

Relates to SB1006, SB 627 and HB 748

SOURCES OF INFORMATION

Responses Received From

Public Regulation Commission (PRC)
 Energy, Minerals, and Natural Resources Department (EMNRD)
 Attorney General's Office (AGO)
 Department of Environment (DOE)

SUMMARY

Synopsis of Bill

House Judiciary Committee substitute for House Energy and Natural Resources Committee substitute, as amended, for House Bill 200, as amended, amends the Public Utility Act (Act) by adding new definitions and new sections to the statute. The bill requires public utilities and rural electric cooperatives to make net metering available to any customer-generator with a clean generation source of 10 kilowatts (kW) or less peak generating capacity that meets the Act's safety and interconnection requirements. "Net metering" is defined in the legislation and creates an opportunity for utility customers to produce their own electricity and be credited for any amount in excess of their consumption.

Public utilities and rural electric cooperatives must make net metering available to customer-generators with clean energy sources over 10 kW but not exceeding 100 kW, subject to specified limitations. For public utilities, the limitation is that such net metering cannot increase the cu-

mulative peak generating capacity of all clean energy sources on a utility's distribution system above 1% of the average of that utility's peak retail demand over the past three calendar years. For rural electric cooperatives, the limitation is that such net metering must not increase the net metering revenue reduction above 1% of a rural electric cooperative's average operating margins.

Relating to this limitation for cooperatives, a new definition of "net metering revenue reduction" is included and defined as the difference between a public utility's or rural electric cooperative's applicable tariff energy charge and the lower of the entity's avoided cost or three cents per kilowatt-hour multiplied by the total number of kilowatt-hours that PRC estimates has been generated by all the clean energy generation sources that are net-metered on the utility or cooperative system. The significance is that the term "net metering revenue deduction" is used in a calculation to determine whether a rural electric cooperative is required to make net metering available to a customer-generator with a clean generation source that has a peak generating capacity between 10 and 100 kilowatts. It is also used in determining whether the Renewable Portfolio Standard should be reduced due to the cost impact on large electricity consumers.

The bill clarifies that a utility or cooperative may allow additional net metering beyond the above-specified limits. Rural electric cooperatives may include such additional net metering capacity upon 30 days' notice to its customers, provided that customers representing a majority of the cooperative's load don't object during the protest period.

Whenever a public utility or rural electric cooperative makes net metering available, the customer-generator is required to pay all costs for acquisition and installation of the necessary metering equipment, as well as all costs incurred by a utility or cooperative for equipment or services necessary to meet applicable safety and performance standards. A public utility or rural electric cooperative is authorized to install additional metering equipment it deems necessary. If the system is 10 kW or less, payment of the cost of the additional equipment is borne by the entity requesting it; and if the system exceeds 10 kW, the utility or cooperative may require the customer-generator to pay that cost. The bill specifies that the customer-generator is responsible for costs associated with operating, maintaining, or modifying a clean generation source.

Public utilities and rural electric cooperatives are directed to credit customer-generators for their production of electricity in an amount equal to or greater than the applicable tariff rate or charge for that generator's customer class (i.e., production credited at the retail rate). If a customer-generator's net aggregate bill from a utility or cooperative is less than zero, the credit must be carried over to future bills. A customer-generator is prohibited from claiming a credit that has already been claimed from another public utility or rural cooperative.

The bill imposes safety and performance requirements on net metering systems, specifying that such systems must comply with the Institute of Electrical and Electronics Engineers' interconnection standards. A customer-generator is required to notify its public utility or rural electric cooperative and PRC of the intent to install a clean energy source at least 60 days before its installation on an application form prescribed by PRC.

The bill modifies Section 62-16-4 of the Renewable Energy Act, which relates to the Renewable Portfolio Standard (RPS). Specifically, the amendment changes the calculation of the additional cost of the RPS to each customer by including the amount of the total net metering revenue reductions (as newly defined, above) that the Commission determines should be recovered from

that customer. The significance is that the additional cost calculation determines whether the RPS will effectively be reduced for a public utility.

Significant Issues:

According to EMNRD, this bill is essentially identical to the HENRC substitute for HB 200, as amended by HBIC, with two important differences:

1. The HJC substitute deletes language which stipulated that utilities and cooperatives are not liable, directly or indirectly, for any damages or losses caused by installation and operation of a clean generation source; and
2. The HJC Substitute deletes language that required customer-generators to indemnify a public utility for damage to persons and property incurred as a result of installation or operation of said source. The referenced language was deleted at the insistence of HJC Chairman Joseph Cervantes, who believes it is not appropriate to include liability waivers or indemnification provisions in statute. It should be noted that PRC's existing Rules 570 and 571 relating to net metering include indemnification language comparable to that which was deleted by HJC.

EMNRD reports this bill will stimulate the installation and operation of clean generation systems throughout New Mexico, especially in the commercial sector and rural areas of the state. Such systems include those that use solar, wind, geothermal and biomass. This legislation will benefit New Mexico because:

- a) Utility customers will receive electricity production credit at retail rates for systems up to 100 kW.
- b) The state will be supporting wider use of New Mexico's abundant solar resource resulting in a cleaner environment, increased energy security and independence, economic development by expansion of New Mexico's solar industry, and the creation of 35 jobs per megawatt installed.
- c) Nationally and globally known solar businesses based in New Mexico will be utilized.
- d) New manufacturing ventures and their high-wage jobs will be attracted to New Mexico.
- e) "Distributed" power generation (generated at or near the electricity demand) helps alleviate electricity transmission constraints and reduce future transmission expansion needs.

PERFORMANCE IMPLICATIONS

Promotion, development, and implementation of renewable energy programs are key parts of the strategic plan of EMNRD's Energy Conservation and Management Division and EMNRD believes this bill will enhance EMNRD's related performance in this area.

ADMINISTRATIVE IMPLICATIONS

PRC and its Utility Division staff will have to amend PRC's existing net metering rule to conform to the provisions of this bill.

CONFLICT, DUPLICATION, COMPANIONSHIP OR RELATIONSHIP

EMNRD notes this bill is identical to SB1006, the Net Metering of Clean Energy Act. The Net Metering of Clean Energy Act is a result of the Distributed Solar Task Force recommendations to the Governor's Clean Energy Development Council and is included in the Governor's 2005 Clean Energy Legislative Agenda.

DOE notes this bill relates to SB 627 and HB 748, duplicate bills enacting the Renewable Energy and Transmission Act and creating a quasi-state agency specializing in electric transmission, storage and infrastructure financing.

OTHER SUBSTANTIVE ISSUES

According to DOE, it submitted a State Implementation Plan to U.S. Environmental Protection Agency in December 2003 pursuant to Section 309 of the federal Regional Haze Rule (40 CFR 51.309). According to this portion of the federal rule, the state is obligated to report every five years its progress in achieving the renewable energy goal of 10 percent of the regional power needs by 2005 and 20 percent by 2020.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL?

Net metering requirements will remain governed by PRC Rules 570 and 571, which limit the net metering of clean energy sources to systems 10 kW or less.

JR/lg:yr