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SENATE BILL 651

**47TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2006**

INTRODUCED BY

Phil A. Griego

AN ACT

RELATING TO MUNICIPALITIES; PERMITTING MUNICIPAL UTILITIES TO ACQUIRE, OPERATE, MAINTAIN, CONDEMN AND CONTRACT FOR NATURAL GAS PIPELINES; MAKING AN APPROPRIATION; DECLARING AN EMERGENCY.

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

Section 1. Section 3-23-3 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-22-3, as amended) is amended to read:

"3-23-3. MUNICIPAL UTILITY--APPROVAL OF [~~NEW MEXICO~~] PUBLIC [~~UTILITY~~] REGULATION COMMISSION--EXCEPTIONS.--

A. If the acquisition of a utility is to be financed from funds received from the issuance and sale of revenue bonds, the price of the acquisition of the utility shall be approved by the [~~New Mexico~~] public [~~utility~~] regulation commission, and the commission shall require:

- (1) a determination by appraisal or otherwise

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1 of the true value of the utility to be purchased; or

2 (2) an engineer's estimate of the cost of the  
3 utility to be constructed.

4 B. No revenue bonds shall be issued for the  
5 acquisition of such a utility until the [~~New Mexico~~] public  
6 [~~utility~~] regulation commission has approved the issue and its  
7 amount, date of issuance, maturity, rate of interest and  
8 general provisions.

9 C. The provisions of Subsections A and B of this  
10 section shall not apply to the condemnation by a municipality  
11 having a population of twenty-five thousand or more persons  
12 according to the 1990 federal decennial census of electricity  
13 facilities as authorized by Chapter 3, Article 24 NMSA 1978,  
14 sewer facilities as authorized by Chapter 3, Article 26 NMSA  
15 1978 or water facilities as authorized by Chapter 3, Article 27  
16 NMSA 1978.

17 D. The provisions of Subsections A and B of this  
18 section shall not apply to the condemnation of natural gas  
19 pipelines by a municipality that has owned and operated a  
20 municipal natural gas utility for a period of more than ten  
21 years."

22 Section 2. Section 3-25-2 NMSA 1978 (being Laws 1965,  
23 Chapter 300, Section 14-24-2, as amended) is amended to read:

24 "3-25-2. NATURAL GAS OR GEOTHERMAL UTILITY--AUTHORIZATION  
25 TO ACQUIRE OR CONDEMN--CHARGES.--

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1           A. A municipality may, if a satisfactory supply is  
2 not otherwise obtainable as determined by ordinance:

3                 (1) acquire and operate natural gas or  
4 geothermal energy facilities for the distribution of natural  
5 gas or heat; or

6                 (2) acquire, operate, maintain, contract for  
7 and condemn for use by a municipal utility natural gas  
8 pipelines for the transportation of natural gas or heat,  
9 whether or not the pipelines are privately owned; provided that  
10 use of the pipelines, except by the municipal utility, is  
11 subject to the jurisdiction of the public regulation  
12 commission.

13           B. A municipality owning and operating a natural  
14 gas utility shall measure the natural gas used by the person  
15 receiving the service by volume or energy content.

16           C. A municipality owning and operating a geothermal  
17 utility shall measure the heat used by the person receiving the  
18 service by fluid volume and temperature or energy content."

19           Section 3. Section 3-25-4 NMSA 1978 (being Laws 1965,  
20 Chapter 300, Section 14-24-4, as amended) is amended to read:

21                 "3-25-4. FINANCING [~~ACQUISITION~~] ACQUISITIONS OF AND  
22 CONDEMNATIONS BY NATURAL GAS OR GEOTHERMAL [UTILITY]  
23 UTILITIES.--The acquisition of facilities [of] or condemnation  
24 of property, including pipelines, by a municipal natural gas or  
25 geothermal utility shall only be financed from funds received

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1 from the issuance and sale of bonds as authorized in Sections  
2 3-30-5 through 3-30-8 and 3-31-1 through 3-31-12 NMSA 1978  
3 except as provided in Section 3-23-4 NMSA 1978."

4 Section 4. Section 3-25-5 NMSA 1978 (being Laws 1965,  
5 Chapter 300, Section 14-24-5, as amended) is amended to read:

6 "3-25-5. NATURAL GAS OR GEOTHERMAL UTILITY--EMINENT  
7 DOMAIN POWER--PROCEDURE.--Any municipality acquiring a natural  
8 gas or geothermal utility or condemning property, including  
9 pipelines, may exercise the power of eminent domain within or  
10 without the municipal boundary for the purpose of acquiring  
11 property, or interest in property, whether or not the property  
12 is privately owned, for the location of or for the extension of  
13 the facilities or property of a natural gas or geothermal  
14 utility. Proceedings to obtain such condemnation shall be in  
15 the manner provided by the Eminent Domain Code."

16 Section 5. APPROPRIATION.--Seventy thousand dollars  
17 (\$70,000) is appropriated from the general fund to the public  
18 regulation commission for expenditure in fiscal year 2007 for  
19 oversight of natural gas pipelines owned by municipal  
20 utilities. Any unexpended or unencumbered balance remaining at  
21 the end of fiscal year 2007 shall revert to the general fund.

22 Section 6. EMERGENCY.--It is necessary for the public  
23 peace, health and safety that this act take effect immediately.