F I S C A L   I M P A C T   R E P O R T

ORIGINAL DATE 2/20/07
SPONSOR McSorely **LAST UPDATED** **HB**

SHORT TITLE Low-Income Energy Assistance Act **SB** 480

ANALYST Earnest

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
NFI	NFI		

(Parenthesis ( ) Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From
Human Services Department (HSD)
Public Regulation Commission (PRC)

SUMMARY

Synopsis of Bill

Senate Bill 480 (SB 480) creates the "Low-Income Energy Assistance Act", which requires the Public Regulation Commission (PRC) to promulgate rules by January 1, 2009, to

- Permit a public utility regulated by the PRC to charge a reduced electric and gas utility rate for low-income customers in households where at least one person is eligible for a needs-based program administered by the Human Services Department (HSD); and
- Permit a public utility regulated by the PRC to provide energy efficiency and weatherization programs and services at reduced rates for low-income customers.

FISCAL IMPLICATIONS

None identified, but there may be some administrative impact on the Human Services Department if their data is required to implement the bill.

SIGNIFICANT ISSUES

HSD and PRC find that the definition of “low-income customer” is vague. The “needs-based” component may place constraints PRC to promulgate the rulemaking contemplated by this bill. Under the commission’s energy efficiency rule, adopted on December 26, 2006, low-income customer means a customer that lives with an annual household income at or below 200% of the federal poverty level as published each year by the U.S. Department of Health and Human Services.

HSD indicates that it is unclear how individuals would qualify and apply for this new program. “<u>Eligible</u>” for needs-based program administered by HSD may be different from <u>receiving</u> or <u>eligible and receiving</u> a needs-based program administered by HSD. It is unclear whether utility companies would be making the determination of eligibility under SB 480 so that they may apply the discount or whether there would be some HSD involvement. Any eligibility determinations will be extremely complicated, time-consuming and problematic since there are over 40 needs-based programs administered by HSD ranging in eligibility from 85% of Poverty in the Temporary Assistance to Needy Families (TANF) Program to the Breast and Cervical Cancer Medicaid Program at 250% of poverty. HSD caseloads are quite extensive. Any automatic data match through an information technology system would be limited to current recipients rather than those that could be “eligible”. There would be IT costs associated with a data match.

PRC considered low-income programs as a part of its energy efficiency rule, 17.7.2 NMAC. The adopted language adopted reflects a compromise between mandated, low-income only programs and a rule with guidelines or requirements for low-income residential programs. Instead, this Rule reflects the importance of making energy efficiency programs widely available to all members of the residential rate class, regardless of income. It does not preclude the utility from designing and proposing low-income programs.

In addition, PRC states:

> Utilities have reported to the Commission that it will be burdensome for them to identify and verify on an ongoing basis which customers are eligible for reduced rates. The Commission would have to evaluate the cost-effectiveness of any such low income program proposed by a public utility.
>
> The objective of traditional utility rate design is to promote just and reasonable rates under which each class of customers (e.g., residential, small commercial, etc.) is responsible for its fair share of the costs incurred by the utility to provide services. Great effort is taken to prevent, or to minimize in situations to reduce rate shock, cross subsidies within and across utility customer classes. Existing statutes reflect traditional rate design principles, under which discrimination in utility rates charged to consumers within customer classes is not allowed without an express exception.
>
> One concern of offering reduced rates to low income customers is it may be necessary for the utility to charge all other customers higher rates to recover all its costs. A "hidden tax" on utility ratepayers may not be the most effective or fairest way of supporting access to utility services among vulnerable populations.

> Proponents of low income affordability programs have reported that such programs can be cost-effective and provide system benefits by reducing the costs associated with arrearages and bad debts.
>
> If low income rates are reduced significantly, it is feared that the financial incentives on these customers to engage in energy efficiency or conservation measures will be reduced if affordability programs are not accompanied by an education component.

HSD is concerned that because SB 480 uses the term "permit" public utilities would not opt to charge a reduced rate to low-income customers.

TECHNICAL ISSUES

PRC notes that Section 62-8-6 prohibits any unreasonable preference or advantage to any corporation or person as to rates or service. The statute expressly allows the commission's approval of "economic development rates and rates designed to retain load." For consistency the inclusion of low-income energy programs into NMSA §62-8-6 might be considered.

BE/mt