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

SPONSOR Fischmann **ORIGINAL DATE** 02/12/09 **LAST UPDATED** **HB**

SHORT TITLE PRC Utility Cost Risk-Sharing Rule **SB** 320

ANALYST Lucero

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY09	FY10	FY11	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		Indeterminate but expected to be Moderate	Indeterminate but expected to be Moderate	Indeterminate but expected to be Moderate	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

SOURCES OF INFORMATION
LFC Files

Responses Received From
Public Regulation Commission (PRC)
Energy, Minerals and Natural Resources Department (EMNRD)

SUMMARY

Synopsis of Bill

Senate Bill 320 (SB 320) requires the Public Regulation Commission (PRC) to adopt rules requiring that fuel adjustment clauses include cost risk sharing when buying fuel, gas or purchased power to encourage utility companies to address volatility and uncertainty in their economic analyses and to otherwise encourage efficient operations.

The bill also removes the qualification on eliminating or conditioning a utility fuel clause relating to placing the utility at a competitive disadvantage.

SIGNIFICANT ISSUES

Most states regulate the price of electric utility services using mechanisms that separate the review, approval, and recovery of certain frequently changing costs, such as fuel and purchased power costs, from the more fixed and predictable capital and operating costs associated with financing and maintaining the assets of the utility. The more variable, unpredictable costs are recovered in rate components that are allowed to change periodically (at least every year and in some cases more frequently) without the need for a full rate case that reviews all of a utility's cost of service The remaining fixed or more predictable costs are recovered in "base rates" that are typically modified only every few years in formal rate cases.

To encourage efficient operations, this amendment to 62-8-7 requires utilities that implement a fuel, gas or purchased power adjustment clause to share with consumers cost volatility and uncertainty.

The Commission currently has the authority to condition fuel and purchase power clauses when consistent with the purposes of the Public Utility Act, including serving the goal of providing reasonable and proper service at fair, just and reasonable rates to all customer classes. Pursuant to the authority, the Commission imposed conditions on fuel clauses that shift certain risks on utilities.

With regard to the bill's removal of the clause that limits the PRC's authority to condition or eliminate a utility's fuel clause if the condition or elimination would place the utility at a competitive disadvantage, it is not clear what impact, if any, that such removal would have on the PRC's ability to protect the public interest.

PERFORMANCE IMPLICATIONS

SB 320 would assist the Energy, Minerals and Natural Resources Department (EMNRD) to meet its strategic goal to promote energy conservation in New Mexico's economy including the residential, commercial, institutional, and industrial sectors. It also would help meet executive order 2007-053, which requires New Mexico to reduce per capita energy consumption 10 percent by 2012 and 20 percent by 2020, relative to 2005 levels.

ADMINISTRATIVE IMPLICATIONS

There may be an administrative cost that will require rulemaking by the PRC to incorporate the proposed amendments to 62-8-7 into its rules, 17.9.550 NMAC and 17.10.640 NMAC. With this amendment, a different form of evaluating fuel clause testimony by the PRC would be required in all cases.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Relates to SB319

OTHER SUBSTANTIVE ISSUES

According to EMNRD, SB320 amends current law to tighten up the use by utilities of the fuel adjustment clause. It is not unusual for a utility to file a fuel adjustment clause, claiming it has no control over natural gas or other fuel prices. SB320 would require that utilities adopt risk-sharing practices such as increased emphasis on energy efficiency to decrease rate spikes attributable to market volatility and uncertainty.

TECHNICAL ISSUES

As provided in other substantive issues by EMNRD, the intent of the bill may be the adoption of risk-sharing practices that emphasize energy efficiency; however, other risk-sharing or risk-management methods could involve hedging contracts. It is unclear if the bill would allow utilities to share risk by hedging which may result in utility rates that are more volatile or unstable for consumers.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The PRC would continue to assess the reasonableness of the utilities' fuel and purchased power cost adjustment clauses to ensure that the clauses are consistent with the purposes of the Public Utility Act.

Utilities will continue to be able to request and receive fuel adjustments without energy efficiency incentives.

DL/svb