

HOUSE BILL 266

**51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

INTRODUCED BY

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AN ACT

RELATING TO RENEWABLE ENERGY; REMOVING LIMITATIONS ON THE SPECIFIC PROCUREMENT REQUIREMENTS LIMIT APPLICABLE TO THE RENEWABLE PORTFOLIO STANDARD; PROVIDING AN ADDITIONAL CRITERION ON WHICH THE PUBLIC REGULATION COMMISSION MAY ADJUST THE PROCUREMENT LIMIT FOR INFLATION.

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

SECTION 1. Section 62-16-4 NMSA 1978 (being Laws 2004, Chapter 65, Section 4, as amended) is amended to read:

"62-16-4. RENEWABLE PORTFOLIO STANDARD.--

A. A public utility shall meet the renewable portfolio standard requirements, as provided in this section, to include renewable energy in its electric energy supply portfolio. Requirements of the renewable portfolio standard are:

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1 (1) for public utilities other than rural  
2 electric cooperatives and municipalities:

3 (a) no later than January 1, 2006,  
4 renewable energy shall comprise no less than five percent of  
5 each public utility's total retail sales to New Mexico  
6 customers;

7 (b) no later than January 1, 2011,  
8 renewable energy shall comprise no less than ten percent of  
9 each public utility's total retail sales to New Mexico  
10 customers;

11 (c) no later than January 1, 2015,  
12 renewable energy shall comprise no less than fifteen percent of  
13 each public utility's total retail sales to New Mexico  
14 customers; and

15 (d) no later than January 1, 2020,  
16 renewable energy shall comprise no less than twenty percent of  
17 each public utility's total retail sales to New Mexico  
18 customers;

19 (2) the renewable portfolio standard  
20 established by this section shall be reduced, as necessary, to  
21 provide for the following specific procurement requirements for  
22 ~~[nongovernmental]~~ customers at a single location or facility,  
23 regardless of the number of meters at that location or facility  
24 ~~[with consumption exceeding ten million kilowatt-hours per~~  
25 ~~year]~~. On and after January 1, 2006, the kilowatt-hours of

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1 renewable energy procured for these customers shall be limited  
2 so that the additional cost of the renewable portfolio standard  
3 to each customer does not exceed the lower of one percent of  
4 that customer's annual electric charges or forty-nine thousand  
5 dollars (\$49,000). This procurement limit criteria shall  
6 increase by one-fifth percent or ten thousand dollars (\$10,000)  
7 per year until January 1, 2011, when the procurement limit  
8 criteria shall remain fixed at the lower of two percent of that  
9 customer's annual electric charges or ninety-nine thousand  
10 dollars (\$99,000). After January 1, 2012, the commission may  
11 adjust the two-percent limit or the ninety-nine-thousand-dollar  
12 (\$99,000) limit for inflation. Nothing contained in this  
13 paragraph shall be construed as affecting a public utility's  
14 right to recover all reasonable costs of complying with the  
15 renewable portfolio standard, pursuant to Section 62-16-6 NMSA  
16 1978. The commission may authorize deferred recovery of the  
17 costs of complying with the renewable portfolio standard,  
18 including carrying charges;

19 (3) any customer that is a political  
20 subdivision of the state, with consumption exceeding twenty  
21 million kilowatt-hours per year at any single location or  
22 facility, and that owns renewable energy generation is exempt  
23 from all charges by the utility for renewable energy  
24 procurements in a year, regardless of the number of customer  
25 locations or meters on the system, if that customer certifies

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1 to the state auditor and notifies the commission and its  
2 serving electric utility that it will expend two and one-half  
3 percent of that year's annual electricity charges to continue  
4 to develop within twenty-four months customer-owned renewable  
5 energy generation. That customer shall also certify that it  
6 will retire all renewable energy certificates associated with  
7 the energy produced from that expenditure;

8 (4) the renewable portfolio shall be  
9 diversified as to the type of renewable energy resource, taking  
10 into consideration the overall reliability, availability,  
11 dispatch flexibility and cost of the various renewable energy  
12 resources made available by suppliers and generators;

13 (5) upon a commission motion or application by  
14 a public utility, the commission shall open a docket to provide  
15 appropriate performance-based financial or other incentives to  
16 encourage public utilities to acquire renewable energy supplies  
17 that exceed the applicable annual renewable portfolio standard  
18 set forth in this section. The commission shall initiate rules  
19 by June 1, 2008 to implement this subsection; and

20 (6) renewable energy resources that are in a  
21 public utility's electric energy supply portfolio on July 1,  
22 2004 shall be counted in determining compliance with this  
23 section.

24 B. If a public utility finds that, in any given  
25 year, the cost of renewable energy that would need to be

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1 procured or generated for purposes of compliance with the  
2 renewable portfolio standard would be greater than the  
3 reasonable cost threshold as established by the commission  
4 pursuant to this section, the public utility shall not be  
5 required to incur that cost; provided that the existence of  
6 this condition excusing performance in any given year shall not  
7 operate to delay the annual increases in the renewable  
8 portfolio standard in subsequent years. When a public utility  
9 can generate or procure renewable energy at or below the  
10 reasonable cost threshold, it shall be required to add  
11 renewable energy resources to meet the renewable portfolio  
12 standard applicable in the year when the renewable energy  
13 resources are being added.

14 C. By December 31, 2004, the commission shall  
15 establish, after notice and hearing, the reasonable cost  
16 threshold above which level a public utility shall not be  
17 required to add renewable energy to its electric energy supply  
18 portfolio pursuant to the renewable portfolio standard. The  
19 commission may thereafter modify the reasonable cost threshold  
20 as changing circumstances warrant, after notice and hearing.  
21 In establishing and modifying the reasonable cost threshold,  
22 the commission shall take into account:

- 23 (1) the price of renewable energy at the point  
24 of sale to the public utility;
- 25 (2) the transmission and interconnection costs

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1 required for the delivery of renewable energy to retail  
2 customers;

3 (3) the impact of the cost for renewable  
4 energy on overall retail customer rates;

5 (4) the overall diversity, reliability,  
6 availability, dispatch flexibility, cost per kilowatt-hour and  
7 life-cycle cost on a net present value basis of renewable  
8 energy resources available from suppliers; and

9 (5) other factors, including public benefits,  
10 that the commission deems relevant; provided that nothing in  
11 the Renewable Energy Act shall be construed to permit  
12 regulation by the commission of the production or sale price at  
13 the point of production of the renewable energy.

14 D. By September 1, 2007 and July 1 of each year  
15 thereafter until 2022, and thereafter as determined necessary  
16 by the commission, a public utility shall file a report to the  
17 commission on its procurement and generation of renewable  
18 energy during the prior calendar year and a procurement plan  
19 that includes:

20 (1) the cost of procurement for any new  
21 renewable energy resource in the next calendar year required to  
22 comply with the renewable portfolio standard; and

23 (2) testimony and exhibits that demonstrate  
24 that the proposed procurement is reasonable as to its terms and  
25 conditions considering price, availability, dispatchability,

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1 any renewable energy certificate values and diversity of the  
2 renewable energy resource; or

3 (3) demonstration that the plan is otherwise  
4 in the public interest.

5 E. The commission shall approve or modify a public  
6 utility's procurement or transitional procurement plan within  
7 ninety days and may approve the plan without a hearing, unless  
8 a protest is filed that demonstrates to the commission's  
9 reasonable satisfaction that a hearing is necessary. The  
10 commission may modify a plan after notice and hearing. The  
11 commission may, for good cause, extend the time to approve a  
12 procurement plan for an additional ninety days. If the  
13 commission does not act within the ninety-day period, the  
14 procurement plan is deemed approved.

15 F. The commission may reject a procurement or  
16 transitional procurement plan if it finds that the plan does  
17 not contain the required information and, upon the rejection,  
18 may suspend the public utility's obligation to procure  
19 additional resources for the time necessary to file a revised  
20 plan; provided that the total amount of renewable energy to be  
21 procured by the public utility shall not change.

22 G. A public utility may file a transitional  
23 procurement plan requesting that the commission determine that  
24 the costs of renewable energy resources that the public utility  
25 has committed to, or may commit to, prior to the commission's

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1 establishing a reasonable cost threshold, are reasonable and  
2 recoverable pursuant to Section 62-16-6 NMSA 1978. The  
3 requirements of annual procurement plan filings shall be  
4 applicable to any transitional procurement plan filing pursuant  
5 to this section.

6 H. The commission shall determine if it is in the  
7 public interest for the commission to provide appropriate  
8 performance-based financial or other incentives to encourage  
9 public utilities to acquire renewable energy supplies in  
10 amounts that exceed the requirements of the renewable  
11 portfolio standard."

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