

HOUSE BILL 267

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

INTRODUCED BY

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AN ACT

RELATING TO UTILITIES; REQUIRING PUBLIC UTILITIES TO ACQUIRE
AVAILABLE COST-EFFECTIVE AND ACHIEVABLE ENERGY EFFICIENCY AND
LOAD MANAGEMENT RESOURCES; LIMITING PUBLIC UTILITY COST
RECOVERY OPTIONS.

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

SECTION 1. Section 62-17-5 NMSA 1978 (being Laws 2005,
Chapter 341, Section 5, as amended) is amended to read:

"62-17-5. COMMISSION APPROVAL--ENERGY EFFICIENCY AND LOAD
MANAGEMENT PROGRAMS--DISINCENTIVES.--

A. Pursuant to the findings and purpose of the
Efficient Use of Energy Act, the commission shall consider
public utility acquisition of cost-effective energy efficiency
and load management resources to be in the public interest.

B. The commission shall direct public utilities to

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1 evaluate and implement cost-effective programs that reduce
2 energy demand and consumption.

3 C. Before the commission approves an energy
4 efficiency and load management program for a public utility, it
5 must find that the portfolio of programs is cost-effective and
6 designed to provide every affected customer class with the
7 opportunity to participate and benefit economically. The
8 commission shall determine the cost-effectiveness of energy
9 efficiency and load management measures using the total
10 resource cost test.

11 D. The commission shall act expeditiously on public
12 utility requests for approval of energy efficiency or load
13 management programs.

14 E. Public utilities shall obtain commission
15 approval of energy efficiency and load management programs
16 before they are implemented. Public utilities proposing new
17 energy efficiency and load management programs shall, before
18 seeking commission approval, solicit nonbinding recommendations
19 on the design, implementation and use of third-party energy
20 service contractors through competitive bidding on the programs
21 from commission staff, the attorney general, the energy,
22 minerals and natural resources department and other interested
23 parties. The commission may for good cause require utilities
24 to solicit competitive bids for energy efficiency and load
25 management resources.

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1 F. The commission shall, upon petition or its own
2 motion, identify regulatory disincentives or barriers for
3 public utility expenditures on energy efficiency and load
4 management measures and ensure that they are removed in a
5 manner that balances the public interest, consumers' interests
6 and investors' interests. The commission shall also provide
7 public utilities an opportunity to earn a profit on cost-
8 effective energy efficiency and load management resource
9 development that, with satisfactory program performance, is
10 financially more attractive to the utility than supply-side
11 utility resources.

12 G. Public utilities providing electricity and
13 natural gas service to New Mexico customers shall, subject to
14 commission approval, acquire ~~[all]~~ cost-effective and
15 achievable energy efficiency and load management resources
16 available in their service territories. This requirement,
17 however, for public utilities providing electricity service,
18 shall not be less than savings of five percent of 2005 total
19 retail kilowatt-hour sales to New Mexico customers in calendar
20 year 2014 and ten percent of 2005 total retail kilowatt-hour
21 sales to New Mexico customers in 2020 as a result of energy
22 efficiency and load management programs implemented starting in
23 2007.

24 H. A utility that determines it cannot achieve the
25 minimum requirements established in Subsection G of this

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1 section shall report to the commission on why it cannot meet
2 those requirements and shall propose alternative requirements
3 based on acquiring ~~[all]~~ cost-effective and achievable energy
4 efficiency and load management resources. If the commission
5 determines, after hearing, that the minimum requirements of
6 Subsection G of this section exceed the achievable amount of
7 energy efficiency and load management available to the utility,
8 the commission shall establish lower minimum energy savings
9 requirements for the utility based on the maximum amount of
10 energy efficiency and load management that it determines can be
11 achieved."

12 SECTION 2. Section 62-17-6 NMSA 1978 (being Laws 2005,
13 Chapter 341, Section 6, as amended) is amended to read:

14 "62-17-6. COST RECOVERY.--

15 A. A public utility that undertakes cost-effective
16 energy efficiency and load management programs shall have the
17 option of recovering its prudent and reasonable costs along
18 with commission-approved incentives for demand-side resources
19 and load management programs implemented after the effective
20 date of the Efficient Use of Energy Act through an approved
21 tariff rider or in base rates, or by a combination of the two.
22 Program costs and incentives may be deferred for future
23 recovery through creation of a regulatory asset. The only
24 limit to the tariff rider or customer impact for any utility
25 customer is that it shall not exceed one percent of the

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1 customer's bill or seventy-five thousand dollars (\$75,000) per
2 year, whichever is less, without the customer's consent.

3 Unless otherwise ordered by the commission, a tariff rider
4 approved by the commission shall require language on customer
5 bills explaining program benefits.

6 B. The tariff rider shall be applied on a monthly
7 basis, unless otherwise allowed by the commission.

8 C. A tariff rider proposed by a public utility to
9 fund approved energy efficiency and load management programs
10 shall go into effect thirty days after filing, unless suspended
11 by the commission for a period not to exceed one hundred eighty
12 days. If the tariff rider is not approved or suspended within
13 thirty days after filing, it shall be deemed approved as a
14 matter of law. If the commission has not acted to approve or
15 disapprove the tariff rider by the end of an ordered suspension
16 period, it shall be deemed approved as a matter of law. The
17 commission shall approve utility reconciliations of the tariff
18 rider annually."

19 SECTION 3. EFFECTIVE DATE.--The effective date of the
20 provisions of this act is July 1, 2013.

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