

HOUSE ENERGY, ENVIRONMENT AND NATURAL RESOURCES
COMMITTEE SUBSTITUTE FOR
HOUSE BILL 445

52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015

AN ACT

RELATING TO RENEWABLE ENERGY; REDUCING RENEWABLE PORTFOLIO
STANDARDS; REMOVING LIMITATIONS ON THE SPECIFIC PROCUREMENT
REQUIREMENTS LIMIT APPLICABLE TO THE RENEWABLE PORTFOLIO
STANDARD.

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:

(1) for public utilities other than rural

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underscored material = new
[bracketed material] = delete

1 electric cooperatives and municipalities:

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

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

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

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

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

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

17 (3) any customer that is a political
18 subdivision of the state or any educational institution
19 designated in Article 12, Section 11 of the constitution of New
20 Mexico, with an enrollment of twenty-four thousand students or
21 more during the fall semester on its main campus, with
22 consumption exceeding twenty million kilowatt-hours per year at
23 any single location or facility, and that owns renewable energy
24 generation is exempt from all charges by the utility for
25 renewable energy procurements in a year, regardless of the

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

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

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

22 (6) renewable energy resources that are in a
23 public utility's electric energy supply portfolio on July 1,
24 2004 shall be counted in determining compliance with this
25 section.

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

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

25 (1) the price of renewable energy at the point

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1 of sale to the public utility;

2 (2) the transmission and interconnection costs
3 required for the delivery of renewable energy to retail
4 customers;

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

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

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

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

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

25 (2) testimony and exhibits that demonstrate

1 that the proposed procurement is reasonable as to its terms and
2 conditions considering price, availability, dispatchability,
3 any renewable energy certificate values and diversity of the
4 renewable energy resource; or

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

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

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

24 G. A public utility may file a transitional
25 procurement plan requesting that the commission determine that

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1 the costs of renewable energy resources that the public
2 utility has committed to, or may commit to, prior to the
3 commission's establishing a reasonable cost threshold, are
4 reasonable and recoverable pursuant to Section 62-16-6 NMSA
5 1978. The requirements of annual procurement plan filings
6 shall be applicable to any transitional procurement plan filing
7 pursuant to this section.

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