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AN ACT

RELATING TO UTILITIES; AMENDING A SECTION OF THE PUBLIC  
UTILITY ACT TO PROVIDE FOR ECONOMIC DEVELOPMENT RATES NO  
LOWER THAN THE INCREMENTAL COST OF PROVIDING SERVICE.

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

SECTION 1. Section 62-6-26 NMSA 1978 (being Laws 1989,  
Chapter 5, Section 1, as amended) is amended to read:

"62-6-26. ECONOMIC DEVELOPMENT RATES FOR GAS AND  
ELECTRIC UTILITIES--AUTHORIZATION.--

A. The commission may approve or otherwise allow  
to become effective, as provided in Subsection B of this  
section, applications from utilities or persons subject to  
regulation pursuant to Subsection B of Section 62-6-4 NMSA  
1978 or filings by cooperative utilities pursuant to  
Section 62-8-7 NMSA 1978, as appropriate, for special rates  
or tariffs in order to prevent the loss of customers, to  
encourage customers to expand present facilities and  
operations in New Mexico and to attract new customers where  
necessary or appropriate to promote economic development in  
New Mexico. Any such special rates or tariffs shall be  
designed so as to recover at least the incremental cost of  
providing service to such customers.

B. The commission may approve or otherwise allow  
to become effective applications from utilities or persons

1 subject to regulation pursuant to Subsection B of  
2 Section 62-6-4 NMSA 1978 and filings by cooperative utilities  
3 pursuant to Section 62-8-7 NMSA 1978 for economic development  
4 rates and rates designed to retain load for gas and electric  
5 utility customers. For purposes of this section and  
6 Section 62-8-6 NMSA 1978, economic development rates and  
7 rates designed to retain load are rates set at a level lower  
8 than the corresponding service rate for which a customer  
9 would otherwise qualify.

10 C. Except as provided in Subsection D of this  
11 section, economic development rates shall be approved or  
12 otherwise allowed to become effective for an electric utility  
13 or persons subject to regulation pursuant to Subsection B of  
14 Section 62-6-4 NMSA 1978 or filings by cooperative utilities  
15 pursuant to Section 62-8-7 NMSA 1978 only when the utility or  
16 the substantially full requirements supplier of the utility  
17 has excess capacity. For purposes of this section, "excess  
18 capacity" means the amount of electric generating and  
19 purchased power capacity available to the utility or such  
20 supplier that is greater than the utility's or such  
21 supplier's peak load plus a fixed percentage reserve margin  
22 set by the commission.

23 D. Economic development rates may be approved or  
24 otherwise allowed to become effective for electric utilities  
25 or persons subject to regulation pursuant to Subsection B of

1 Section 62-6-4 NMSA 1978 or filings by cooperative utilities  
2 pursuant to Section 62-8-7 NMSA 1978 that do not meet the  
3 qualifications of Subsection C of this section; provided that  
4 the following conditions are met:

5 (1) economic development rates approved  
6 under this subsection shall not be lower than the incremental  
7 cost of providing service to the economic development rate  
8 customer as determined by the commission. As used in this  
9 subsection, "economic development rate customer" means a  
10 customer that directly benefits from the economic development  
11 rate established pursuant to this subsection; and

12 (2) an economic development rate approved  
13 for any customer under this subsection shall last no longer  
14 than four years, except that the commission may approve the  
15 rate for up to twelve additional months if it finds that the  
16 additional period is necessary to attract a particular  
17 economic development rate customer to New Mexico.

18 E. For purposes of this section, "incremental  
19 cost" at a minimum shall include all additional costs incurred  
20 to serve the economic development rate customer that would not  
21 otherwise have been incurred to serve other customers, fuel  
22 and purchased power costs, costs recoverable from customers  
23 pursuant to the Renewable Energy Act and the Efficient Use of  
24 Energy Act and the direct costs of facilities necessary to  
25 provide service to the customer. The commission shall not

1 impute to the electric utility revenues that would have been  
2 received from the economic development rate or load retention  
3 customer if they had been provided service under the  
4 corresponding rate for which they would have otherwise  
5 qualified." \_\_\_\_\_

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