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FISCAL IMPACT REPORT

ORIGINAL DATE 2/11/15
SPONSOR Rue **LAST UPDATED** _____ **HB** _____

SHORT TITLE Limit Utility Costs Without Notice & Hearing **SB** 498

ANALYST Clark

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

| | FY15 | FY16 | FY17 | 3 Year Total Cost | Recurring or Nonrecurring | Fund Affected |
|--------------|-------------|-------------|-------------|------------------------------|--------------------------------------|--------------------------|
| Total | Minimal | Minimal | Minimal | Minimal | Recurring | General Fund |

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Public Regulation Commission (PRC)

SUMMARY

Synopsis of Bill

Senate Bill 498 amends Section 62-8-7 NMSA 1978 to require notice and hearing prior to any increase in rates or charges based upon cost factors other than taxes by an electric investor owned utility (IOU). Currently, notice and hearing are required only for increases in rates or charges based upon cost factors other than taxes or cost of fuel, gas, or purchased power. The bill then removes language requiring PRC to enact rules governing the use of tax, fuel, gas, or purchased power adjustment clauses by utilities.

FISCAL IMPLICATIONS

The Public Regulation Commission (PRC) projects the additional filings and hearings would require one new staff member to process the filings, and the agency estimates the cost at \$150 thousand annually. However, LFC files indicate the average annual cost for 1 FTE at PRC is \$84.2 thousand. Furthermore, LFC documents note PRC's Policy and Regulation Program and Program Support were more fully-staffed at the beginning of FY15 than at any time in the prior two years, so it might be possible to handle the additional filings with existing staff, particularly since the bill only requires increased numbers of filings and hearings for electric IOUs rather than all utilities.

SIGNIFICANT ISSUES

Section 62-8-7 NMSA 1978 (“Change in Rates”) currently allows utilities, including electric IOUs, to increase rates or charges “based upon cost factors other than taxes or cost of fuel, gas or purchased power” after notice and hearing. In other words, utilities can increase costs based upon cost factors such as taxes or cost of fuel, gas, or purchased power without notice and hearing. The current statute provides PRC shall enact rules governing the use of tax, fuel, gas, or purchased power adjustment clauses (“fuel adjustment clause”).

The proposed changes would not allow electric IOUs to increase rates for any reason other than taxes unless there is notice and hearing. However, the proposed changes would still allow electric IOUs to utilize fuel adjustment clauses to recover taxes, fuel, or purchased power costs; the difference is that notice and hearing must first take place.

ADMINISTRATIVE IMPLICATIONS

PRC submitted the following administrative implications in its analysis.

Administratively, there are potential issues regarding the continuous nature of notice and hearing that would be required by the investor owned utilities having to file notice and have a hearing for changes to the fuel adjustment clause. This could require a significant number of administrative proceedings, and would place a burden on PRC staff, hearing examiners, and the commission in order to hear the cases that would result from this legislation. All three New Mexico electric IOUs currently take advantage of fuel adjustment clauses, which would also be affected by this legislation. In each case, it is likely this legislation would require that the IOUs would be required to file notice and require a hearing in order to change the amount of the fuel adjustment cost factors applied to customer bills.

JC/bb