

1 HOUSE BILL 314

2 **53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017**

3 INTRODUCED BY

4 Kelly K. Fajardo

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10 AN ACT

11 RELATING TO WATER UTILITIES; AMENDING A SECTION OF THE PUBLIC  
12 UTILITY ACT TO LIMIT RATE INCREASES BY SMALL WATER UTILITIES TO  
13 NO MORE THAN THE AVERAGE COST-OF-LIVING INCREASE OVER THE  
14 PREVIOUS FIVE YEARS.

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

17 SECTION 1. Section 62-8-7.1 NMSA 1978 (being Laws 1985,  
18 Chapter 221, Section 3, as amended) is amended to read:

19 "62-8-7.1. HEARING PROCEDURES FOR CHANGE OF RATES OF  
20 SMALL WATER AND SEWER UTILITIES.--

21 ~~[A. Whenever there is filed with the commission any~~  
22 ~~schedule proposing any new rates pursuant to Section 62-8-7~~  
23 ~~NMSA 1978 by any public utility as defined in Paragraph (3) or~~  
24 ~~(5) of Subsection G of Section 62-3-3 NMSA 1978 with equal to~~  
25 ~~or fewer than an aggregate of one thousand five hundred service~~

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1 ~~connections in any utility operating district or division in~~  
2 ~~New Mexico averaged over the previous three consecutive years,~~  
3 ~~the rates shall become effective as proposed by the utility~~  
4 ~~without a hearing; provided that the utility shall be required~~  
5 ~~to give written notice of the proposed rates to the ratepayers~~  
6 ~~receiving service from the utility at least sixty days prior to~~  
7 ~~filing the proposed rate change with the commission; and~~  
8 ~~provided further that the commission shall enter upon a hearing~~  
9 ~~concerning the reasonableness of any proposed rates filed by~~  
10 ~~such a utility pursuant to Subsections C and D of Section~~  
11 ~~62-8-7 NMSA 1978 when a rate increase would have the effect of~~  
12 ~~increasing the rates fifty percent or more in a twelve-month~~  
13 ~~period or upon the filing with the commission of a protest~~  
14 ~~seeking review of the proposed rates signed by ten percent or~~  
15 ~~more of the ratepayers or twenty-five ratepayers, whichever is~~  
16 ~~more, receiving service from such a utility if the commission~~  
17 ~~determines there is just cause for reviewing the proposed~~  
18 ~~rates. For purposes of this section, a "service connection"~~  
19 ~~means a metered hookup to the utility's water system or a sewer~~  
20 ~~tap to the utility's wastewater system, and each person who~~  
21 ~~receives a separate bill equals one ratepayer and each person~~  
22 ~~who receives multiple bills equals one ratepayer. The petition~~  
23 ~~shall be signed by the person in whose name service is carried.~~  
24 ~~The petition shall be filed no later than twenty days after the~~  
25 ~~filing with the commission of the schedule proposing the new~~

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1 ~~rates. In all other respects, Section 62-8-7 NMSA 1978 shall~~  
2 ~~apply to such water utilities. If a utility provides both~~  
3 ~~water and sewer service, the service connection revenues~~  
4 ~~attributable to the provision of water service only shall~~  
5 ~~determine whether the procedures specified in this subsection~~  
6 ~~shall apply to a schedule proposing new rates for water~~  
7 ~~service, and the service connection revenues attributable to~~  
8 ~~the provision of sewer service shall determine whether the~~  
9 ~~procedures specified in this subsection shall apply to a~~  
10 ~~schedule proposing new rates for sewer service. Nothing in~~  
11 ~~this subsection shall prevent a utility from filing for a rate~~  
12 ~~change pursuant to any other rule or procedure of the~~  
13 ~~commission.~~

14 ~~B. Whenever there is filed with the commission a~~  
15 ~~schedule proposing new rates pursuant to Section 62-8-7 NMSA~~  
16 ~~1978 by a public utility as defined in Paragraph (3) or (5) of~~  
17 ~~Subsection G of Section 62-3-3 NMSA 1978, with more than an~~  
18 ~~aggregate of one thousand five hundred service connections and~~  
19 ~~fewer than an aggregate of five thousand service connections in~~  
20 ~~any utility operating district or division in New Mexico~~  
21 ~~averaged over the previous three consecutive years, the rates~~  
22 ~~shall become effective as proposed by the public utility~~  
23 ~~without a hearing; provided that the public utility shall be~~  
24 ~~required to give written notice of the proposed rates to the~~  
25 ~~ratepayers receiving service from the public utility at least~~

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1 ~~sixty days prior to filing the proposed rate change with the~~  
2 ~~commission; and provided further that the commission shall~~  
3 ~~enter upon a hearing concerning the reasonableness of proposed~~  
4 ~~rates filed by such a public utility pursuant to Subsections C~~  
5 ~~and D of Section 62-8-7 NMSA 1978 when a rate increase would~~  
6 ~~have the effect of increasing rates more than eight percent in~~  
7 ~~a twelve-month period, or upon the commission staff's motion or~~  
8 ~~upon the filing with the commission of a protest seeking review~~  
9 ~~of the proposed rates signed by ten percent or more of the~~  
10 ~~ratepayers receiving service from the public utility, if the~~  
11 ~~commission determines there is just cause for reviewing the~~  
12 ~~proposed rates. The petition shall be signed by the person in~~  
13 ~~whose name service is carried. The petition shall be filed no~~  
14 ~~later than twenty days after the filing with the commission of~~  
15 ~~the schedule proposing the new rates. In all other respects,~~  
16 ~~Section 62-8-7 NMSA 1978 shall apply to such water utilities.~~  
17 ~~If a public utility provides both water and sewer service, the~~  
18 ~~service connection revenues attributable to the provision of~~  
19 ~~water service only shall determine whether the procedure~~  
20 ~~specified in this subsection shall apply to a schedule~~  
21 ~~proposing new rates for water service, and the service~~  
22 ~~connection revenues attributable to the provision of sewer~~  
23 ~~service shall determine whether the procedures specified in~~  
24 ~~this subsection shall apply to a schedule proposing new rates~~  
25 ~~for sewer service. Nothing in this subsection shall prevent a~~

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1 ~~public utility from filing for a rate change pursuant to any~~  
2 ~~other rule or procedure of the commission.~~

3 ~~G. Notwithstanding the provisions of Subsections A~~  
4 ~~and B of this section]~~ A public utility, as defined in  
5 Paragraph (3) or (5) of Subsection G of Section 62-3-3 NMSA  
6 1978, with fewer than an aggregate of five thousand service  
7 connections in any utility operating district or division in  
8 New Mexico averaged over the previous three consecutive years,  
9 that is currently in good standing with all applicable  
10 requirements of the commission, may adjust its charges for  
11 commodity and service by up to two percent in any calendar year  
12 without a hearing; provided that no increase in rates or  
13 charges of a water or sewer utility shall exceed the average  
14 cost-of-living increase over the immediately preceding five  
15 years; provided further that the public utility shall not have  
16 changed its rates in the prior twelve-month period; and  
17 provided further that the public utility shall be required to  
18 give written notice of the proposed rate adjustments to the  
19 ratepayers receiving service from the public utility prior to  
20 its effective date. The increased rates shall not become  
21 effective until at least thirty days after notice and filing  
22 with the commission. If a public utility provides both water  
23 and sewer service, the service connection revenues attributable  
24 to the provision of water service only shall determine whether  
25 the procedure specified in this subsection shall apply to any

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1 schedule proposing any new rate or rates for water service, and  
2 the service connection revenues attributable to the provision  
3 of sewer service shall determine whether the procedures  
4 specified in this subsection shall apply to any schedule  
5 proposing any new rate or rates for sewer service. [~~Nothing in~~  
6 ~~this subsection shall prevent a public utility from filing for~~  
7 ~~a rate change pursuant to any other rule or procedure of the~~  
8 ~~commission.~~] As used in this section, "cost-of-living increase"  
9 means the increase in the consumer price index, west region,  
10 published by the bureau of labor statistics of the United  
11 States department of labor."

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