

**FIFTY-THIRD LEGISLATURE
FIRST SESSION, 2017**

March 11, 2017

Mr. Speaker:

Your **JUDICIARY COMMITTEE**, to whom has been referred

HOUSE BILL 338

has had it under consideration and reports same with recommendation that it **DO PASS**, amended as follows:

1. On page 3, line 2, after "facility", insert "constructed after the effective date of the Community Solar Gardens Act".

2. On page 4, line 3, strike "ten" and insert in lieu thereof "two".

3. On page 6, lines 3 through 12, strike Subsection A in its entirety and insert in lieu thereof the following new subsections:

"A. The output from a community solar garden shall be sold only to a public utility serving the geographic area where the community solar garden is located. The public utility shall purchase all of the electricity and renewable energy certificates generated by a community solar garden for a period of not less than twenty-five years at a rate equal to the average annual rate established by commission rules implementing 18 C.F.R. 292.304 for the year in which the community solar garden is placed into service. At the request of a subscriber organization, the public utility shall purchase the receivables associated with subscriptions from a community solar garden at a discount rate approved by the commission.

B. A public utility shall not be required to purchase electricity from a community solar garden that is interconnected to the public utility after the public utility's annual cap has been reached. The annual cap for each public utility shall be applied on a calendar year basis, based on the date a complete application for interconnection is submitted to the public utility. The annual cap shall be equal to one-half percent of the public utility's peak demand for New Mexico retail customers during the preceding year for each year through 2019, and thereafter shall be one percent of the public utility's peak

demand for New Mexico retail customers during the preceding year. Any unused portion of the annual cap shall not be carried forward. If the annual cap has been reached for a calendar year, a community solar garden may apply to be placed in a queue for priority interconnection with the public utility under a subsequent year's annual cap."

4. Reletter the succeeding subsections accordingly.

5. On page 6, line 14, strike "credits" and insert in lieu thereof "certificates".

6. On page 8, strike lines 1 through 6 in their entirety and insert in lieu thereof the following new subsection:

"F. Energy produced by a community solar garden shall qualify for the creation of renewable energy certificates that may be used for purposes of compliance with the renewable portfolio standard. These renewable energy certificates shall be owned by the public utility, which is required to purchase the electricity produced by the community solar garden."

7. On page 10, line 18, strike "and".

8. On page 10, line 23, strike the period and insert in lieu thereof "; and".

9. On page 10, between lines 23 and 24, insert the following:

"(6) develop a rule requiring each public utility to publish the current remaining amount of its annual cap, as described in Subsection B of Section 6 of the Community Solar Gardens Act.

E. The commission shall have jurisdiction to enforce the Community Solar Gardens Act and the commission's rules issued pursuant to that act with respect to the conduct of a public utility, as that conduct concerns the public utility's obligation to interconnect with a community solar garden, purchase electricity from a community solar garden or to resell electricity to a subscriber. The commission shall not have jurisdiction to enforce the Community Solar Gardens Act or the commission's rules issued pursuant to that act with respect to the conduct of community solar gardens, including claims between subscribers and community solar gardens.

F. As to claims against each other, subscribers and community solar gardens shall have the remedies otherwise available by law to persons claiming a breach of contract. All contracts for subscriptions to a community solar garden shall be deemed to incorporate applicable commission rules."

Respectfully submitted,

Gail Chasey, Chair

Adopted _____
(Chief Clerk)

Not Adopted _____
(Chief Clerk)

Date _____

The roll call vote was 7 For 4 Against
Yes: 7
No: Brown, Cook, Nibert, Rehm
Excused: Dines, Gentry
Absent: None

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